



STAFF REPORT ACTION REQUIRED

Knob Hill Plaza Business Improvement Area – Dissolution of Board of Management and Repeal of Designating By-law

Date:	April 3, 2008
To:	Economic Development Committee
From:	Small Business & Local Partnerships
Wards:	35
Reference Number:	P:/2008/Cluster A/EDCT/ECON DEV/ed0805-012 (AFS # 7518)

SUMMARY

To recommend the dissolution of the Knob Hill Plaza Business Improvement Area (BIA) Board of Management and the repeal of By-laws 46-2003 and 97-2004, which established the Knob Hill Plaza BIA and the Board of Management, respectively. The report also recommends that Council authorize the Deputy City Manager and Chief Financial Officer to obtain the 2006 and 2007 financial records of the Knob Hill Plaza BIA from the BIA's bank branch in order to allow for completion of the 2006 and 2007 audits and to use any remaining funds to cover outstanding BIA financial liabilities, if any.

RECOMMENDATIONS

The Director of Small Business & Local Partnerships recommends that:

1. the Knob Hill Plaza Business Improvement Area (BIA) Board of Management be dissolved and By-law 97-2004, which established the board of management, be repealed;
2. By-law 46-2003, which designated the Knob Hill Plaza Business Improvement Area (BIA), be repealed;
3. Municipal Code Chapter 19, Business Improvement Areas, be amended to delete all references to the Knob Hill Plaza Business Improvement Area (BIA);
4. the City Solicitor be authorized to prepare the by-laws necessary to dissolve the Board of Management, repeal the by-laws noted above and make the necessary amendments to Municipal Code Chapter 19;

5. the Deputy City Manager and Chief Financial Officer be authorized to obtain the 2006 and 2007 financial records of the Knob Hill Plaza Business Improvement Area (BIA) from the BIA's bank branch;
6. the Deputy City Manager and Chief Financial Officer use the remainder of the BIA's 2006 levy to cover the cost of the preparation of the BIA's 2006 and 2007 audits and any other outstanding financial liability of the BIA, pay any bank charges related to the retrieval of BIA financial records, and fund any assessment appeal overruns; and
7. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The recommendations will have no financial impact on the City.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

BACKGROUND

The Knob Hill Plaza, located on the south side of Eglinton Avenue East, just west of Brimley Road, is a two-storey strip mall consisting of 39 separate properties, most under individual ownership. Each property includes a portion of the parking lot located in front of the Plaza buildings and a portion of the rear lane. The Plaza has primarily retail, office and restaurant uses on the ground floor and residential apartments on the second floor.

For several years, the Plaza had been in a state of decline. Issues with respect to property maintenance and public safety had been identified by plaza property owners and tenants, and by area residents. Efforts to establish a BIA for the Knob Hill Plaza began early in 2001 and culminated when Council, at its meeting held on February 4-7, 2003, adopted Clause 12 of Report 2 of the Economic Development and Parks Committee, thereby designating the Knob Hill Plaza Business Improvement Area. Due to the receipt of an objection letter from a business owner within the Plaza, an Ontario Municipal Board hearing was held on July 2, 2003. The OMB issued an Order on July 8, 2003, approving By-law 46-2003 and the establishment of the Knob Hill Plaza BIA. Subsequently, the first Board of Management for the Knob Hill Plaza BIA was established through By-law 97-2004. The BIA's first budget year was 2004.

COMMENTS

In its 2003 report to Council, the City's BIA Office advised that it considered the proposed Knob Hill Plaza BIA a non-traditional and experimental initiative due to the strip mall built form and property ownership pattern (each lot within plaza individually

owned). The report acknowledged that most of the issues facing the Plaza, such as the condition and on-going maintenance of its shared parking lot, were not issues the BIA was at liberty to address through direct budget expenditure since BIAs are permitted to improve and enhance City-owned lands only, not private property. However, both staff and the Plaza's Steering Committee, formed to help establish the BIA, believed that a BIA would provide an organizational framework and opportunities for dialogue that may foster greater co-operation between property owners and business tenants to better maintain the shared parking area and rear lane.

The report also identified opportunities for the BIA to participate in addressing off-site improvements to the road allowances around the Plaza, including the potential landscaping of the south-east corner of Eglinton Avenue East and Falmouth Avenue. Pole-mounted banners and advertising to local residents to help shed the negative image of the Plaza were considered as other initiatives the BIA could undertake.

Unfortunately, the Knob Hill Plaza BIA has not succeeded as hoped. Over the past four years, the BIA's Board of Management has rarely met and regularly did not achieve quorum. The former Ward Councillor and the City's BIA Office attempted several times to encourage the Board to become more active and comply with the requirements of the City's Municipal Code Chapter 19 for BIAs, and in 2005 had to organize the BIA's annual general meeting (AGM) on behalf of the Board. The Board failed to hold an AGM in 2006 to elect a new board for the 2007-2010 term and adopt a budget for 2007. No interest has been demonstrated on behalf of board members or other stakeholders in the plaza to continue with the BIA.

The only action taken by the BIA since its creation was to retain a private contractor to undertake litter and snow removal on the plaza property. A letter dated November 9, 2004, was received by the City from a member of the BIA advising that the BIA had been undertaking maintenance activities within the privately-owned plaza parking lot in contravention of the *Municipal Act, 2001*, which authorized BIAs to improve and maintain municipally-owned lands only.

In a letter dated December 10, 2004, the BIA Office advised the BIA Board of Management chair that any expenditure undertaken by the BIA respecting the maintenance or improvement of privately-owned lands would contravene both the Municipal Act and the City's Municipal Code for BIAs.

On June 13, 2006, the BIA Office sent a letter to the Board chair regarding several concerns staff had regarding the operation of the BIA, including the lack of board meetings and the on-going expenditure of BIA funds toward the maintenance of private property. The letter advised that, given the concerns noted regarding the operation and expenditures of the BIA, that the Revenue Services Division would be requested to withhold the second and final instalments (totalling 50%) of the BIA's 2006 levy. In November, 2006, BIA Office and Revenue Services Division staff arranged to remit sufficient 2006 levy funds to the BIA to pay outstanding bills and to cover the cost of the BIA's 2005 audit.

Over the past several months, BIA Office staff have spoken with several members of the BIA's Board of Management to explain the proposed repeal of the establishing by-law. The general consensus is that without the legal authority to maintain the privately owned lands of the plaza, the BIA is of no value to the business tenants or property owners within the plaza. It is therefore recommended that the Knob Hill Plaza Board of Management be dissolved and the by-laws which created the BIA and the Board of Management be repealed.

The City continues to hold \$1,557.72 of the BIA's 2006 levy. Under regulation 589/06 of the *City of Toronto Act, 2006*, all rights, claims, obligations, assets and liabilities of the BIA vest in the City once the BIA board of management is dissolved. To the best knowledge of staff, the only existing outstanding liability of the BIA are the costs for the required 2006 and 2007 audits, which the BIA has not undertaken. The estimated cost of preparing both audits is approximately \$1,200. The proposed repeal of By-law 46-2003 will not negate the need for the audits to be prepared by the BIA.

Unfortunately, BIA Office staff has been unable to obtain 2006 and 2007 financial records from the BIA necessary to undertake the 2006 and 2007 audits. It is therefore recommended that the Deputy City Manager and Chief Financial Officer be authorized to take the necessary actions to obtain the 2006 and 2007 financial records of the Knob Hill Plaza BIA from the BIA's bank branch.

In addition, the City is holding \$192.93 in provisions required to offset the estimated future cost for the processing of outstanding pending assessment appeals. The actual costs for the outstanding pending appeals will not be known until the Assessment Review Board (ARB) renders a decision sometime in the future. If the ARB decision results in costs which exceed the \$192.93 amount provided for in the provision, then any remaining 2006 BIA levy held by the City can be used to offset these cost overruns.

Staff expect the remaining levy held by the City will be sufficient to cover the outstanding financial liabilities of the BIA as noted above. It is therefore recommended that the Deputy City Manager and Chief Financial Officer use the remainder of the BIA's 2006 levy to cover the cost of the preparation of the BIA's 2006 and 2007 audits and any other outstanding financial liability of the BIA, pay any bank charges related to the retrieval of BIA financial records, and fund any assessment appeal overruns.

However, in the event that the remaining levy is not sufficient to cover the outstanding liabilities, staff may recommend issuing a levy to all members of the BIA in order to generate the necessary funds, provided the amount outstanding makes it financially practical for the City to do so. If such a situation were to occur, staff will prepare a follow-up report for Council's consideration.

CONCLUSION

The original hope that the creation of a BIA in the Knob Hill Plaza would provide an organizational framework and opportunities for greater co-operation between property owners and tenants has not come to fruition. As there is no commitment from members to carry on as a BIA, staff recommend the dissolution of the Board of Management and the repeal of the establishing by-laws for the BIA and the Board.

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SIGNATURE

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