

To: Council in Committee of the Whole

From: Paul Ralph, Chief Administrative Officer,  
Office of the C.A.O.

Report Number: CNCL-20-169

Date of Report: October 16, 2020

Date of Meeting: October 22, 2020

Subject: Review of the Finances, Management and Operations of the  
Oshawa Central Business District Improvement Area

File: A-2100

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## **1.0 Purpose**

The purpose of this report is to respond to the following direction of City Council from its meeting of June 9, 2020:

“That the City of Oshawa formally demands the release of all financial records and other documentation as required by law, and that the staff of the City of Oshawa undertake a comprehensive review of the finances, management and operations of the Oshawa BIA and bring a report back to Council at a future meeting prior to consideration of the 2021 Operational Budget.”

Attachment 1 – Sections 204 to 215 inclusive of the Municipal Act, 2001 related to the creation, membership and operation of a Business Improvement Area.

Attachment 2 – Consolidated Version of By-law 94-74, as amended, being a by-law to designate an area in the Oshawa Central Business District as an Improvement Area and to establish a Board of Management for the Oshawa Central Business District Improvement Area (O.C.B.D.I.A.).

Attachment 3 – Report CORP-13-24-CM “Oshawa Central Business District Improvement Area Governing Documents” (includes former governance documents and those endorsed by Council and approved by the O.C.B.D.I.A. in 2013).

Attachment 4 – Constitution adopted by the Board of Management of the O.C.B.D.I.A. in September 2019.

Attachment 5 – Policy and Procedure Manual, adopted by the O.C.B.D.I.A. Membership in August 2019.

Attachment 6 – Revised Terms of Reference, adopted by the O.C.B.D.I.A. Membership in December 2018.

Attachment 7 – Proposed Procedure By-law.

Attachment 8 – Comparison Table: Procedure By-law to highlight the changes in the 2013 to 2020 versions.

Attachment 9 – Code of Conduct for Oshawa City Council and the Board of Management of the Oshawa Central Business District Improvement Area By-law 51-2015, as amended.

Attachment 10 – Financial Review of Oshawa Central Business District Improvement Area.

Attachment 11 – Findings and Recommendations Related to Compensation  
[Closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f)].

## **2.0 Recommendation**

It is recommended to City Council:

That in accordance with Report CNCL-20-169, dated October 16, 2020, concerning a review of the finances, management and operations of the Oshawa Central Business District Improvement Area (O.C.B.D.I.A.):

1. That the Board of Management of the O.C.B.D.I.A. be directed to work with City staff to amend the Terms of Reference approved in 2018, the Policy and Procedure Manual and the Constitution both adopted in 2019 to ensure compliance with legislation, to reflect best practices, and to ensure consistency with Council approved by-laws and policies; and,
2. That the new Procedure By-law as set out in Attachment 7 to Report CNCL-20-169 be endorsed and the Board of Management of the O.C.B.D.I.A. be directed to place the By-law on a Board agenda for adoption; and,
3. That the recommendations contained in Attachment 10 and Confidential Attachment 11 related to the financial review be endorsed and the Board of Management of the O.C.B.D.I.A. be directed to work with the City's Finance Services staff to implement them; and,
4. That City staff be directed to review By-law 94-74 and report back to Council with an updated By-law; and,
5. That City staff provide training to the Board of Management of the O.C.B.D.I.A. with respect to such matters as the By-law establishing the O.C.B.D.I.A. financial oversight, the holding of open and closed meetings, declarations of conflict of interest, the Code of Conduct By-law 51-2015 and rules of procedure in the first quarter of 2021 and thereafter in the commencement of each new term following a municipal election; and,

6. That the City Clerk provide on-going training to O.C.B.D.I.A. staff with respect to compliance with the City's Records Retention By-law and best practices concerning publication of complete Board meeting agenda packages and minutes online.

### **3.0 Executive Summary**

This report responds to Council's direction to undertake a comprehensive review of the finances, management and operations of the downtown business improvement area. This review identified a number of concerns and areas for improvement. The recommendations in this report are intended to help improve the overall operation of the O.C.B.D.I.A. as well as increase accountability, transparency, financial oversight and to ensure compliance with applicable legislation.

#### **3.1 Key Findings: Management and Operations**

- When reviewing the documents, City Clerk Services identified a Board-created Constitution and Policy and Procedure Manual that do not fully comply with the requirements of the Municipal Act, 2001 or the City's By-law 94-74 with respect to Board composition including provisions for ex-officio Directors and Associate Memberships, term limits and removal of Directors.
- The review revealed that the By-law 94-74 requires updating.
- The review also found inadequate closed meeting processes, insufficient procedures for going into closed session, inconsistent record keeping not in compliance with the City's Records Retention By-law, public minutes that either provide too much or too little detail and missing documentation that was considered by the Board.
- The review found an inaccurate membership list that does not identify all members in accordance with the membership requirements of the Municipal Act, 2001.

#### **3.2 Key Findings: Financial Management**

- The Board of Management of the O.C.B.D.I.A. currently lacks financial expertise and, therefore, financial oversight provided by staff of the O.C.B.D.I.A., the Board of Management of the O.C.B.D.I.A., and the Board of Management of the O.C.B.D.I.A. Finance and Audit Committee is ineffective related to its mandate.
- The external bookkeeper does undertake the responsibilities of a bookkeeping service with data entry of information obtained from the Board of Management of the O.C.B.D.I.A. using the "client knows best philosophy" but fails to complete the tasks relating to preparation of monthly and year-end financial statements.
- The Board of Management of the O.C.B.D.I.A. approval of expenses is inconsistent and lacks the necessary financial controls to mitigate misappropriation of organizational assets.

- The Board of Management of the O.C.B.D.I.A. signing authority section of the Policy and Procedure document was lacking in financial oversight and procurement guidelines.
- Financial reports and classifications were incorrect and did not tie back to source documents causing inconclusive results with financial statement and budget analysis.

#### **4.0 Input From Other Sources**

- City Clerk Services
- Development Services
- Finance Services
- Human Resource Services
- Legal Services
- Municipal Act, 2001, S.O. 2001, c. 25 ("Municipal Act, 2001" or "the Act")

#### **5.0 Analysis**

##### **5.1 Management and Operations Review of the O.C.B.D.I.A**

##### **5.1.1 Designation of an Improvement Area and Board of Management**

As per Section 204 of the Municipal Act, 2001, a municipality may designate an area as an improvement area and may establish a Board of Management to:

- a) Oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and,
- b) Promote the area as a business or shopping area.

The Board of Management of a Business Improvement Area under Section 204 of the Municipal Act, 2001 is a corporation consisting of a number of directors as established by the municipality. The O.C.B.D.I.A. was incorporated without Council's approval and authorization by the Board of Management as a "Corporation Without Share Capital" on September 30, 2019, and is thus not in compliance with Section 203 of the Municipal Act, 2001. Section 204(2.1) of the Municipal Act, 2001, provides that the Board of Management is, for all purposes, a local board of the municipality and therefore subject to many aspects of the Municipal Act, 2001 including provisions that pertain to meetings, records, financial oversight and general governance (See Attachment 1).

Membership within an improvement area consists of persons who were assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class, and tenants of such property. In order to designate an improvement area, the municipality must provide notice to all persons who would be considered members of the proposed improvement area.

On November 18, 1974, Oshawa Council passed By-law 94-74 that designated the Oshawa Central Business District as an Improvement Area and established the Board of Management for the O.C.B.D.I.A. Over the years since its passage, By-law 94-74 has been amended on several occasions, such as adjusting the number of members on the Board of Management.

On September 26, 2016, Council expanded the size of the improvement area to better-reflect the evolution and growth of the downtown business community. This amendment addressed a request from the Board of the Improvement Area.

A subsequent significant change was implemented in 2020 to remove the minimum and maximum levies, the budget cap and the need for Council approval for the Board to change the budget in an amount in excess of \$2,000. These changes are outlined in detail in Section 5.2 of this Report. A consolidated version of By-law 94-74, as amended is provided as Attachment 2.

Pursuant to the Municipal Act, 2001, the Board of Management must include one or more members appointed by Council and the remainder to be selected by a vote of the membership of the Improvement Area and appointed by Council. The Act does not require a Director of the Board of Management to be a member of the improvement area; however, as set out in By-law 94-74, Council has imposed a number of requirements with respect to the composition of the board.

At its meeting on April 26, 2011, Council passed an amendment to By-law 94-74 to provide the current composition of the Board allocated as follows:

- Five (5) directors shall be appointed directly by City Council, of whom:
  - four (4) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and
  - one (1) director shall be a resident of the City of Oshawa;
- One (1) director shall be appointed directly by City Council who shall be a senior staff member of University of Ontario Institute of Technology (“UOIT”), part of the UOIT downtown campus and selected by UOIT’s President; and
- Three (3) directors shall be appointed by City Council from a list of candidates selected by members of the Improvement Area, of whom two (2) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and,

- One member of Oshawa City Council, as appointed by City Council.

At its meetings on April 30, 2018 and April 27, 2020, Oshawa City Council passed a number of amendments to the Oshawa Code of Conduct By-law (See Attachment 9) to include provisions related specifically to the O.C.B.D.I.A. Board of Management with respect to new requirements under the Municipal Act, 2001, particularly those related to Bill 68 and Integrity Commissioner Services. These amendments have been provided to the Board of Management as well.

### **5.1.2 Previous Review of the O.C.B.D.I.A. Governance Documents**

Prior to 2013, the Board of Management and O.C.B.D.I.A. were governed by Board By-law Number 1 and a Codification of Policies and Procedures, in addition to the provisions of City By-law 94-74. As per Sections 238(2) and 270(2) of the Municipal Act, 2001, local boards must have a Procedure By-law and policies related to the hiring of staff, procurement of goods and services and disposition of land. The Board of Management's By-law and Codification document included some of these elements, however did not meet all of the necessary requirements under the Municipal Act, 2001.

At its meeting of March 18, 2013, City Council adopted the recommendations contained in Report CORP-13-24-CM to endorse new governance documents including a Terms of Reference, hiring policy, procurement policy and Procedure By-law for the O.C.B.D.I.A. as well as amendments to By-law 94-74 (See Attachment 3).

Following Council's endorsement, the new governing documents were adopted by the general membership of the O.C.B.D.I.A. at a meeting on May 2, 2013.

In response to the COVID-19 pandemic, the Board amended its Procedure By-law on May 28, 2020 to permit electronic participation by members during meetings. This amendment was done in consultation with the City Clerk. Based on a review of the Board's records, this appears to be the only amendment made to the Procedure By-law since its adoption in 2013.

### **5.1.3 Collection of Records**

In response to Council's direction of June 9, 2020 for staff to undertake a comprehensive review of the finances, management and operations of the O.C.B.D.I.A, the City Clerk, two Records Analysts, the Deputy City Clerk and a Support Analyst from IT Services attended the O.C.B.D.I.A. offices on June 15, 2020 to collect all paper and electronic records.

City Clerk Services staff assembled all paper documents while the ITS Support Analyst made copies of all electronic records in the office. Immediately upon receipt, City Clerk Services staff commenced scanning the paper records received to facilitate the review and permit the records to be returned as soon as possible to the O.C.B.D.I.A. offices. On June 19, 2020, the City Clerk was advised of additional email accounts that were not obtained in the initial collection. These additional records were collected during the week of June 22, 2020. Most records were returned the week of July 20, 2020; the remaining archival records are anticipated to be returned by the end of the year.

#### **5.1.4 Management and Operational Issues/Concerns**

In reviewing the records collected, staff have identified a number of areas where policies, procedures or legislation were not observed.

##### **5.1.4.1 Constitution and Policy and Procedure Manual**

At a meeting on August 1, 2019 the Board adopted a “Oshawa Downtown BIA (Business Improvement Association [sic]) Policy and Procedure Manual” (See Attachment 5). At a later meeting on September 19, 2019, the Board also adopted a “Constitution” (See Attachment 4). These documents address a number of matters including the boundaries of the improvement area, membership, terms of office for Directors, Executive Roles and Responsibilities, and responsibilities of the Board but were developed without consultation with City staff.

Upon review, staff have determined that many aspects of both documents were included in the Terms of Reference adopted by the O.C.B.D.I.A. in December of 2018 (See Attachment 6). Other aspects including provisions to amend the number and type of Directors, term limits on directors, the removal of directors, and provisions for ex officio members of the Board fall outside of the purview of the Board. It is noted in the Board meeting minutes when the Constitution was adopted that Council must also adopt the document; however, it was not presented to Council for consideration and approval. It is unknown if O.C.B.D.I.A. staff and the Board were relying solely on these documents for its operations, however several aspects of the documents clearly conflict with By-law 94-74 and relevant legislation. In light of this, it is recommended that the Board of Management work with City staff to amend the Constitution and Policy and Procedure Manual.

##### **5.1.4.2 Compliance Issues with By-law 94-74**

Over the course of the review, staff found a number of areas in which the O.C.B.D.I.A. has not complied with the By-law:

- True copies of minutes have not been provided to the City Clerk;
- The Board has not adopted and maintained accounting practices that are acceptable to the external City Auditor of the Corporation;
- The external City Auditor will have access at all times to books, documents, transactions, minutes and accounts of the Board;
- The Board has not submitted an annual report of the preceding year to Council including a complete audited and certified financial statement of its affairs with balance sheet and revenue and expenditure statement;
- The Board has not included with its annual submission any comments received and resolutions passed at any membership meeting that relates to the annual budget;
- The Board has not submitted a detailed program of the improvement beautification and maintenance proposed for each fiscal year with its budget.

Although it is the Board's responsibility to ensure compliance with By-law 94-74, staff will make the Board aware of the requirements and will provide assistance to ensure the Board is in compliance.

#### **5.1.4.3 Closed Meeting Processes**

As a local board, the Board of Management must comply with the provisions in the Municipal Act, 2001 related to open meeting requirements in the same manner as City Council; however, it may hold closed discussions pursuant to certain exceptions. As per the Municipal Act, 2001, before going into a session that is closed to the public, notice must be provided to the public, and the Board must pass a resolution identifying the authority and purpose of the closed discussion in public session. Once in closed session, minutes must be taken of the proceedings, and upon rising, the Board must report publically on the general nature of the closed discussion, including disclosing if any direction was given to staff.

A review of the meeting minutes of the Board show that in many cases, while a motion to go into closed session is made (described by the Board as going "in-camera"), details and authority are not always included in the motion. In many instances, minutes of closed sessions are not in the documents and materials that City Clerk staff recently collected from the O.C.B.D.I.A. The City's auditing firm would have requested to view these records annually; however, the records are no longer available.

#### **5.1.4.4 Agendas, Minutes and Board Documents**

In order to maintain an accurate record of the activities of the O.C.B.D.I.A., the improvement area office must maintain records of all agendas, documents and minutes. In the course of the review of records collected, City Clerks staff identified a number of gaps in the material, including reports and documents that were considered by the Board as well as the previously noted closed minutes that are missing from the records.

In addition, the minutes vary significantly in format and content. The Municipal Act, 2001 requires that minutes of all meetings be taken without note or comment and should include all resolutions, decisions and other proceedings of the local board. Some minutes of the Board include a large amount of commentary with respect to the discussion of the matter at hand, while other minutes do not include movers or seconders to motions. The review also found items listed on an agenda but not included in the minutes of the meeting, and there is no clear record in the minutes if these items were deferred to a later date or simply not considered. In addition, the format of these meeting minutes, particularly in recent years, does not comply with the City's accessibility standards or with general best practices for compliance with the Accessibility for Ontarians with Disabilities Act, 2005.

During City staff's review of the records, limited sets of closed minutes were provided. In some instances, there is reference to a closed session taking place in the public minutes; however, closed minutes were not included. City staff requested these minutes from the O.C.B.D.I.A. staff who advised the previous Executive Director would have taken the minutes for these sessions. O.C.B.D.I.A. staff reached out to the former Executive Director who was in place in 2017 who stated that they were sometimes asked to leave closed session, therefore did not have minutes for those sessions. For those that were taken by



that Executive Director, O.C.B.D.I.A. staff were advised that they were stored on a laptop that has since been deleted.

#### **5.1.4.5 Membership List**

In accordance with the Municipal Act, 2001, members of a business improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property. In determining whether a person is a tenant or not, the City Clerk may accept a list provided by the property owner that details the tenant and amount of the tax levy they are responsible for, or the declaration of a person that the person is a tenant. The determination of the City Clerk is final. Only certain tax classes are included as rateable properties for the purposes of the special levy, such as commercial and business properties. Generally, not-for-profit, government and educational institutions are exempt from paying the levy.

The membership list for the O.C.B.D.I.A. has historically been maintained by the improvement area directly. It is important that all qualified members be included on the list, but equally important that organizations that do not qualify are not included. It is unclear from the membership list provided during the records collection if all of the organizations listed are qualified members pursuant to the Municipal Act, 2001.

The Procedure By-law for the O.C.B.D.I.A. indicates that a quorum of the membership for a General Meeting is 15 members. Without determining an exact list of members as defined by the Municipal Act, 2001, it is not possible to determine if a General Meeting has attained quorum or if motions are moved, seconded and voted on by qualified members. In the review of the records provided, staff determined that there were instances of General Meetings held with exactly 15 individuals purported to be members; however, the attendees listed as members included government representatives and non-profit organizations. As noted previously, not-for-profit, government and educational institutions are generally exempt from the levy and therefore are not members, meaning it is possible that these General Meetings may have been held without having satisfied meeting quorum requirements.

It is important to note that although a definitive list of members is not available, the previous Council decision to delete the budget restrictions in By-law 94-74 that led to an increase to the levy was still valid and made in accordance with the requirements of the Municipal Act, 2001.

## **5.2 Business Improvement Area Levy and 2020 Budget for the O.C.B.D.I.A.**

At its meeting on February 18, 2020, City Council adopted the following recommendation of the Development Services Committee in accordance with Report DS-20-32:

- “1. That pursuant to Report DS-20-32 dated January 29, 2020, the request to delete Article 18 of By-law 94-74, as amended, relating to the minimum and maximum levies of the Oshawa Central Business District Improvement Area be approved; and,

2. That the Oshawa Central Business District Improvement Area's request to increase the budget to \$649,250 be approved; and,
3. That a by-law to further amend By-law 94-74, as amended, be passed to implement the deletion of Article 18 related to the minimum and maximum levies and the need for Council approval for the B.I.A. to change its budget in an amount in excess of \$2,000; and,
4. That a copy of Report DS-20-32 and the related Council resolution be sent to the Board of Management for the Oshawa Central Business District Improvement Area."

Later, during the same meeting, City Council passed By-law 22-2020 to delete the current budget cap, to remove the minimum and maximum levies and the need for Council approval for the Board to change the budget in an amount in excess of \$2,000. Council also passed By-law 23-2020 to adopt the estimates of the needs of the Board to raise the budgeted sums for the taxation year 2020.

In May 2020, various members of the Oshawa Central Business District Improvement Area requested that Council reconsider and reduce the 2020 Budget and Tax Levy, citing economic hardship related to the COVID-19 Pandemic. This matter was referred to the Board.

In June 2020, the Board requested that City Council reduce the approved levy amount for 2020 by \$119,898. At its meeting on June 9, 2020, City Council reduced the O.C.B.D.I.A. budget to \$268,375 and amended the tax levy rate accordingly.

### **5.3 Financial Review**

The process undertaken to perform a comprehensive financial transactional review of the Board of Management of the O.C.B.D.I.A. financial records included analysis of procurement and contracts, expense authorization, record keeping, account classification, reporting, governance and the effectiveness of third party external bookkeeping services. The detailed analysis that was undertaken utilized all available source documents, cross-referencing to accounting records collected from the Board of Management of the O.C.B.D.I.A. and the external bookkeeper to determine if:

- all financial transactions associated with Board of Management of the O.C.B.D.I.A. operations were reflected in the financial sub-ledgers and general ledger and were classified in accordance with Generally Accepted Accounting Principles (G.A.A.P);
- goods and services were procured to ensure cost effectiveness;
- transactional controls were appropriate and in place to mitigate potential fraud; and,
- financial governance was evident.

Exclusions from the review included duplication or validation of the work of the External Auditor (Deloitte).

The key findings from the financial review include:

- The Board of Management of the O.C.B.D.I.A. lacks financial expertise and, therefore, financial oversight provided by staff of the O.C.B.D.I.A., Board of Management of the O.C.B.D.I.A., and the Board of Management of the O.C.B.D.I.A. Finance and Audit Committee is ineffective related to its mandate.
- The external bookkeeper does undertake the responsibilities of a bookkeeping service with data entry of information obtained from the Board of Management of the O.C.B.D.I.A. using the “client knows best philosophy” but fails to complete the tasks relating to preparation of the monthly and year-end financial statements.
- The Board of Management of the O.C.B.D.I.A. approval of expenses is inconsistent and lacks the necessary financial controls to mitigate misappropriation of organizational assets.
- The Board of Management of the O.C.B.D.I.A. signing authority section of the Policy and Procedure document was lacking in financial oversight and procurement guidelines.
- Financial reports and classifications were incorrect and did not tie back to source documents causing inconclusive results with financial statement and budget analysis.

A detailed overview of the review findings forms Attachments 10 and 11 to this report.

#### **5.4 Additional Considerations**

The current By-law has been in place since 1974 and has generally remained consistent since that time. It is therefore recommended that staff be directed to review By-law 94-74 with the intent to develop an updated by-law.

The Municipal Act, 2001 requires the Board of Management of the O.C.B.D.I.A. establish a Procedure By-law to govern meeting proceedings. A Procedure By-law was created by City staff, endorsed by Council and adopted by the Board in 2013; however, it requires updating to ensure compliance with current legislation. As such, a proposed Procedure By-law is provided as Attachment 5. This proposed by-law is compliant with applicable legislation and is consistent with the rules of procedure for City Council, Standing Committees and the City’s Advisory Committees. A comparison chart to highlight the differences between the existing and proposed Procedure By-law is provided as Attachment 6.

Many issues that have been identified relate to the operation and management appear to be unintentional but are primarily the result of turnover and lack of training. In this regard, City staff will provide training to the Board of Management and O.C.B.D.I.A. staff with respect to such matters as the By-law establishing the O.C.B.D.I.A., financial oversight,

open and closed meetings, declarations of conflict of interest, the Code of Conduct By-law 51-2015 and rules of procedure in the first Quarter of 2021 and as early as possible in the commencement of each new term following a municipal election. In addition, City Clerk Services will provide additional training in 2020 and ongoing as required to O.C.B.D.I.A. staff regarding adequate records management procedures and minute taking. Part of the training and implementation will include the provision of agenda and minute template samples, declaration of interest forms, and openness and transparency best practices.

In accordance with the City's Records Retention By-law, the O.C.B.D.I.A. will provide the City Clerk with the complete agenda package including all back-up materials before each meeting and minutes as soon as possible following the meeting. In addition, staff recommend that the O.C.B.D.I.A. continue to utilize its website for publication of board material and expand the publication to include relevant public back up documentation.

To ensure all qualified members are receiving information related to the O.C.B.D.I.A., or to determine if a quorum of members is present for a General Meeting, a validated membership list must be established. City Clerk Services will send notification to all persons listed on the tax roll with a rateable property requesting them to provide a list to the Clerk of any qualified tenants they have that are responsible for a portion of the levy, and identify the amount each tenant is responsible for. If lists are not received, or if additional tenants of such properties come forward stating that they are members, each organization will be evaluated on a case-by-case basis to determine if they qualify as a member of the improvement area in accordance with the requirements of the Municipal Act, 2001. In order to ensure the ongoing accuracy of the list, the O.C.B.D.I.A. will be asked to provide a list of current members each year prior to its Annual General Meeting.

## **6.0 Financial Implications**

There will be staff costs to provide assistance and training to the Board and O.C.B.D.I.A. staff, and to update and prepare new governance documents and to establish an appropriate financial framework.

## 7.0 Relationship to the Oshawa Strategic Plan

This report responds to the Oshawa Strategic Plan Goals of Economic Prosperity & Financial Stewardship and Accountable Leadership.



Tracy Adams, Commissioner,  
Corporate Services Department



Stephanie Sinnott, Commissioner,  
Finance Services/Treasurer



Paul Ralph, Chief Administrative Officer,  
Office of the C.A.O.

Attachments

## Business Improvement Areas

### Designation of improvement area

204 (1) A local municipality may designate an area as an improvement area and may establish a board of management,

- (a) to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and
- (b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

### Corporation

(2) A board of management is a corporation consisting of the number of directors established by the municipality. 2001, c. 25, s. 204 (2).

### Local board status

(2.1) A board of management is a local board of the municipality for all purposes. 2006, c. 32, Sched. A, s. 89.

### Composition

(3) A board of management shall be composed of,

- (a) one or more directors appointed directly by the municipality; and
- (b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality. 2001, c. 25, s. 204 (3).

### Membership

(4) Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property. 2001, c. 25, s. 204 (4).

### Determining tenancy

(5) In determining whether a person is a tenant or not, the clerk of the municipality may accept a list provided under clause 210 (2) (b) or the declaration of a person that the person is a tenant and the determination of the clerk is final. 2001, c. 25, s. 204 (5).

### One vote

(6) Each member of an improvement area has one vote regardless of the number of properties that the member may own or lease in the improvement area. 2001, c. 25, s. 204 (6).

### Nominee

(7) A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation. 2001, c. 25, s. 204 (7).

### Joint nominee

(8) Subject to subsection (6), one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area. 2001, c. 25, s. 204 (8).

### Refusal to appoint

(9) The municipality may refuse to appoint a person selected by the members of an improvement area, in which case the municipality may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration. 2001, c. 25, s. 204 (9).

### Term

(10) The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. 2001, c. 25, s. 204 (10).

### **Reappointment**

(11) Directors are eligible for reappointment. 2001, c. 25, s. 204 (11).

### **Vacancies**

(12) Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area. 2001, c. 25, s. 204 (12).

### **Section Amendments with date in force (d/m/y)**

### **Budget**

**205** (1) A board of management shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the members of the improvement area for discussion of the proposed budget. 2002, c. 17, Sched. A, s. 40 (1).

### **Council to approve**

(2) A board of management shall submit the budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it. 2001, c. 25, s. 205 (2); 2002, c. 17, Sched. A, s. 40 (2).

### **Limitations**

(3) A board of management shall not,

- (a) spend any money unless it is included in the budget approved by the municipality or in a reserve fund established under section 417;
- (b) incur any indebtedness extending beyond the current year without the prior approval of the municipality; or
- (c) borrow money. 2001, c. 25, s. 205 (3).

### **Limitations on power**

(4) Section 25 of the *Local Planning Appeal Tribunal Act, 2017* and section 401 of this Act apply to the municipality's approval under clause (3) (b) in the same manner as if it were incurring a debt of the municipality. 2001, c. 25, s. 205 (4); 2017, c. 23, Sched. 5, s. 48.

### **Section Amendments with date in force (d/m/y)**

### **Notice**

**206** A board of management shall give reasonable notice to the general membership of the improvement area of a meeting to hold a vote under clause 204 (3) (b) or for the purposes of a discussion under subsection 205 (1). 2001, c. 25, s. 206; 2002, c. 17, Sched. A, s. 41.

### **Section Amendments with date in force (d/m/y)**

### **Annual report**

**207** (1) A board of management shall submit its annual report for the preceding year to council by the date and in the form required by the municipality and the report shall include audited financial statements. 2001, c. 25, s. 207 (1).

### **Auditor**

(2) The municipal auditor is the auditor of each board of management and may inspect all records of the board. 2001, c. 25, s. 207 (2).

**Funds to be raised**

**208** (1) The municipality shall annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. 2001, c. 25, s. 208 (1).

**Special charge**

(2) The municipality may establish a special charge for the amount referred to in subsection (1),

- (a) by levy upon rateable property in the improvement area that is in a prescribed business property class; or
- (b) by levy upon rateable property in the improvement area that is in a prescribed business property class and that, in council's opinion, derives special benefit from the improvement area, which levy may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the prescribed class if the resulting levy is equitable in accordance with the benefits that, in council's opinion, accrue to the properties from the activities related to the improvement area. 2001, c. 25, s. 208 (2).

**Minimum and maximum charges**

(3) The municipality may establish a minimum or maximum charge or both, expressed for one or more separately assessed properties or categories of separately assessed properties in a prescribed class, as,

- (a) percentages of the assessed value of rateable property in the improvement area that is in a prescribed business property class;
- (b) dollar amounts; or
- (c) percentages of the board of management's annual budget. 2001, c. 25, s. 208 (3).

**Effect of by-law**

(4) When a by-law under subsection (3) is in force,

- (a) the amount of a charge levied in a year under subsection (2) shall not, when calculated for the individual property in the prescribed class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and
- (b) if necessary for a fiscal year to raise the amount referred to in subsection (1) because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, the municipality shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the prescribed class by adjusting the percentage or percentages of assessment established under subsection (2) for those properties. 2001, c. 25, s. 208 (4).

**Exclusion**

(5) Section 210 does not apply to an adjustment made under clause (4) (b). 2001, c. 25, s. 208 (5).

**Borrowings**

(6) If only a part of money borrowed by the municipality in any year for the purposes of a board of management is required to be repaid in that year or a subsequent year, only that part and any interest payable on the total amount shall be included in the levies under this section in that year or subsequent year, respectively. 2001, c. 25, s. 208 (6).

**Priority lien status**

(7) Charges levied under this section shall have priority lien status and shall be added to the tax roll. 2002, c. 17, Sched. A, s. 42.

**Section Amendments with date in force (d/m/y)****Changes to boundary**

**209** The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.



## Notice

**210** (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located,

- (a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and
- (b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

## When notice received

(2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,

- (a) give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property; and
- (b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

## Objections

(3) A municipality shall not pass a by-law referred to in subsection (1) if,

- (a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;
- (b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and
- (c) the objectors are responsible for,
  - (i) in the case of a proposed addition to an existing improvement area,
    - (A) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area, or
    - (B) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the geographic area the proposed by-law would add to the existing improvement area, or
  - (ii) in all other cases, at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 210 (3).

## Withdrawal of objections

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

## Determination by clerk

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

## Determination final

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

## Repeal of by-law

**211** (1) Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

- (a) a resolution from the board of management requesting the repeal; or
- (b) a request for the repeal signed by persons who are responsible for at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (1).

### **Statement**

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

### **Time**

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

### **Repeal**

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

- (a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and
- (b) those who have signed the requests are responsible for at least 50 per cent of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (4).

### **Timing**

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

### **Requests withdrawn**

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

### **Determination by clerk**

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

### **Determination final**

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

### **Restriction**

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

### **Non-application**

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

### **Effect of by-law**

**212** A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,

- (a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;
- (b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or
- (c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.

### **Tenants**

**213** For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under sections 367 and 368. 2001, c. 25, s. 213.

### **Dissolution of board**

**214** (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

### **Liabilities exceed assets**

(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class. 2001, c. 25, s. 214 (2).

### **Regulations**

**215** The Minister may make regulations prescribing one or more classes of real property prescribed under the *Assessment Act* as business property classes for the purposes of sections 204 to 214. 2001, c. 25, s. 215.



**By-Law 94-74  
of The Corporation of the City of Oshawa**

(as amended by By-laws 9-77, 69-82, 91-82, 90-88, 116-88, 79-91, 96-2010, 68-2011, 35-2013, 82-2016 and 22-2020)

being a by-law to designate an area in the Oshawa Central Business District as an Improvement Area and to establish a Board of Management for the Oshawa Central Business Improvement Area.

WHEREAS The Municipal Act provides that the Council of a local municipality may pass by-laws designating an area as an Improvement Area;

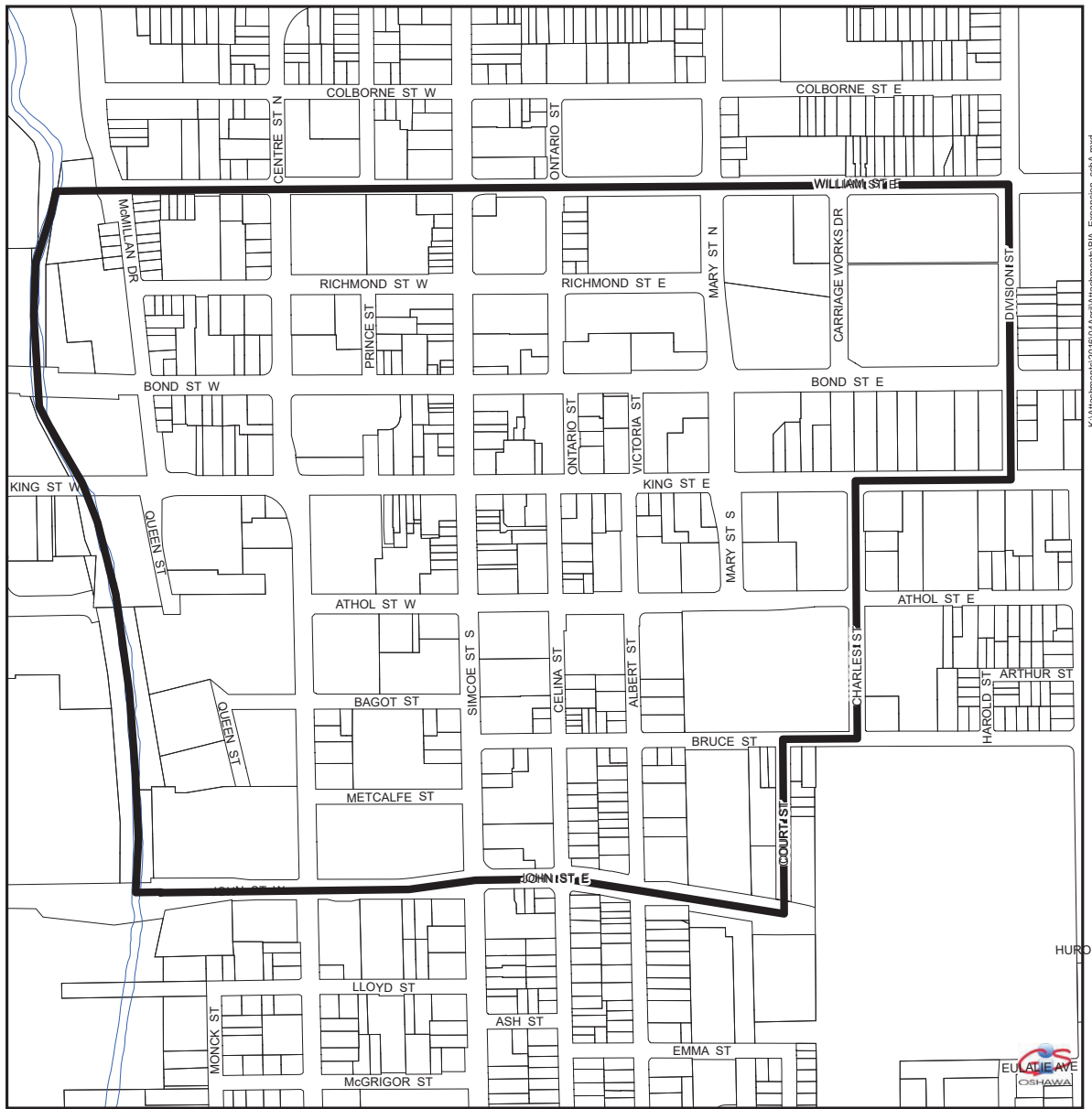
AND WHEREAS notice of the intention of the Council to pass a by-law designating the area hereinafter described as an Improvement Area has been given as by the said Act prescribed and no sufficiently signed petition objecting to the passing of the by-law has been received within the time limited therefor:

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa by the Council thereof as follows:

1. The lands within the area shown outlined on Schedule "A" attached hereto are designated an Improvement Area within the meaning of the Municipal Act. (82-2016)
2. A Board of Management to be known as the "Board of Management for the Oshawa Central Business District Improvement Area" (hereinafter called "the Board") is established for the area shown outlined on Schedule "A" attached hereto. (82-2016)
3. There is entrusted to the Board, subject to the limitations hereinafter set out, the improvement, beautification and maintenance of lands, buildings and structures in the area owned by The Corporation of the City of Oshawa beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.
4. The Board's board of directors shall be comprised of ten (10) persons as follows:  
(35-2013)
  - (a) Five (5) directors shall be appointed directly by City Council, of whom
    - (i) four (4) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and
    - (ii) one (1) director shall be a resident of the City of Oshawa;
  - (b) One (1) director shall be appointed directly by City Council who shall be a senior staff member of University of Ontario Institute of Technology ("UOIT"), part of the UOIT downtown campus and selected by UOIT's President; and
  - (c) Three (3) directors shall be appointed by City Council from a list of candidates selected by members of the Improvement Area, of whom two (2) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members. (68-2011)
  - (d) One member of Oshawa City Council, as appointed by City Council. (35-2013)
5. Each member shall hold office from the time of his appointment until the expiration of the term of the Council that appointed him, provided he continues to be qualified as provided in Section (4). (91-82)
6. Where a vacancy occurs from any cause, the Council shall appoint a person qualified as set out in Section 4 to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.
7. The members shall hold office until their successors are appointed and eligible for re-appointment on the expiration of their term of office.


8. The Board shall, as soon as possible after its members are appointed in each year, elect a Chair and Vice-Chair and appoint a treasurer, and such other officers as it may deem necessary properly to conduct the business of the Board during the said year. (35-2013)
9. The Board shall keep proper minutes and records of every meeting of the Board and shall forward true copies of such minutes and records to all members of the Board, the City Clerk and to the Director of Planning and Development of the Corporation as soon as possible after the meeting covered thereby.
10. The Board shall adopt and maintain only banking arrangements and ordinary good accounting practices that are acceptable to the external City Auditor of the Corporation and keep such books of account and submit such statements from time to time as the said external City Auditors may require. (35-2013)
11. The external City Auditor shall be the auditor of the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to his inspection. (35-2013)
12. The fiscal year of the Board shall be the calendar year.
13. As soon as possible, the Board shall submit its annual report for the preceding year to Council including a complete audited and certified financial statement of its affairs with balance sheet and revenue and expenditure statement. (35-2013)
14. In addition to the requirements of the *Municipal Act, 2001* and of section 14 of this By-law and prior to submitting an annual budget to Council, the Board shall approve the annual budget at a publicly advertised and open meeting of the membership of the Board of Management for the Oshawa Central Business District Improvement Area with reasonable notice to all who may be interested in attending and shall include in its submission of its annual budget to Council any comments received and resolutions passed at any membership meeting that relates to the annual budget. (96-2010)
15. The Board shall submit to the Council, an annual budget in a form and at a time satisfactory to the Director of Finance for the Corporation and within the limits of the estimates as approved by Council, the money to be provided by Council shall be paid by the Director of Finance of the Corporation to the Board from time to time upon receipt of requisitions signed by the Chair thereof. (35-2013)
16. The Board shall submit to the Council a detailed programme of the improvement beautification and maintenance proposed for each fiscal year with its budget. The Council shall within 45 days notify the Board where any project which forms part of the programme may adversely affect the use or function of any land owned by the City including any highway, street, lane or pedestrian walkway, and upon such notification being given the Board shall delete the project or alter that project to the satisfaction of the City.
17. The City of Oshawa shall arrange for Municipal Liability and Errors and Omissions insurance to cover the operations of the Board. The Board shall arrange for property insurance to cover property, contents and equipment owned by or belonging to the Board. (35-2013)
18. This by-law shall not come into force without the approval of the Ontario Municipal Board.

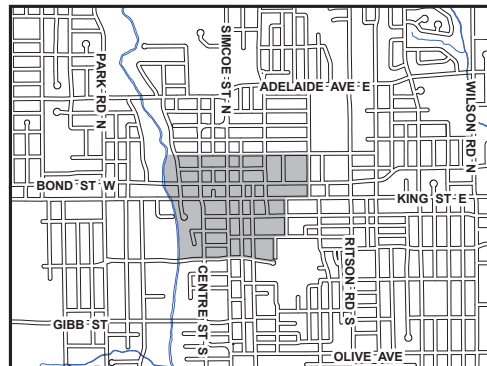
By-law approved this eighteenth day of November, 1974.



**Figure 1**

Downtown Oshawa Business Improvement  
Area Board of Management

 Improvement Area Boundary



Schedule A to By-law 82-2016

<b>To:</b>	Corporate Services Committee	<b>Item:</b>	CORP-13-24-CM	<b>Date of Report:</b>	February 21, 2013
<b>From:</b>	Sandra Kranc, City Clerk  David J. Potts, City Solicitor & Head, Legislative and Regulatory Directorate	<b>File:</b>	A-2100	<b>Date of Meeting:</b>	February 28, 2013
<b>Subject:</b>	<b><i>Oshawa Central Business District Improvement Area Governing Documents</i></b>			<b><i>PUBLIC REPORT</i></b>	

## 1.0 PURPOSE

The purpose of this report is to respond to the following Council direction:

“That staff consult with the Board of the Downtown Oshawa Board of Management to review its governing documents including By-law 94-74, the Board’s Procedural By-law, hiring, procurement and other policies; and,

That staff report back to a joint meeting of the Development Services Committee and Finance and Administration Committee respecting any recommended revisions to such governing documents.”

## 2.0 RECOMMENDATION

That the Corporate Services Committee recommend to City Council:

That in accordance with Report CORP-13-24-CM dated February 21, 2013:

1. That the new governing documents for the Oshawa Central Business District Improvement Area outlined in Attachments 5 to 8 to Report CM-13-24-CM be endorsed; and,
2. That the amendments to By-law 94-74 outlined in Attachment 9 to Report CORP-13-24-CM be approved; and,
3. That the Oshawa Central Business District Improvement Area Board of Directors place the new governing documents outlined in Attachments 5 to 8 to Report CM-13-24-CM before its membership at a General Meeting for approval.

### 3.0 EXECUTIVE SUMMARY

As directed by Council, staff reviewed the governing documents for the Oshawa Central Business District Improvement Area. Based on this review, staff developed a Procedural By-law, Terms of Reference, Hiring Policy and Procurement Policy. Amendments are also proposed for City By-law 94-74 which established the Improvement Area.

Staff met with the Board to obtain its feedback on the proposed new governing documents and the Board has provided its endorsement.

### 4.0 INPUT FROM OTHER SOURCES

#### 4.1 General

- City Clerk Services and Legal Services consulted the Board and staff of the Oshawa Central Business District Improvement Area regarding its governing documents.

#### 4.2 Auditor General

- The Auditor General does not provide comments on reports of this nature.

### 5.0 ANALYSIS

- During Council's review of governance options for the Oshawa Central Business District Improvement Area (BIA), staff were directed to review the Board's governing documents and report back to a joint meeting of the Finance and Administration Committee (now the Corporate Services Committee) and the Development Services Committee. The Development Services Committee recommended to Council and Council concurred that this matter would be dealt with directly by the Corporate Services Committee with a recommendation to Council for final approval.
- The BIA is currently governed by the *Municipal Act*, City By-law 94-74, Board By-law No. 1 and a Codification of Policies and Procedures (Codification). (See Attachments 1 to 4)
- According to the *Municipal Act*, the Board, as a local board, must have a Procedural By-law and policies related to hiring, procurement and sale of land. The Board's By-law and Codification touch on elements of these requirements, but do not meet all the necessary factors.
- Staff developed the required Procedural By-law and policies and also a Terms of Reference using all existing governing documents, including the *Municipal Act*, as the basis, while at the same time incorporating other elements to guide and safeguard the Board and the BIA in general.



- Attachments 5 through 9 to this report are the new proposed governing documents for the BIA and proposed amendments to City By-law 94-74.
- Staff reviewed the proposed governing documents with the Board who requested minor amendments/additions and subsequently endorsed the documents.
- Following Council's endorsement of the documents, they will need to be adopted by the Improvement Area's general membership prior to taking effect.

## 6.0 FINANCIAL IMPLICATIONS

- There are no financial implications related to this report.

## 7.0 RELATIONSHIP TO THE OSHAWA STRATEGIC PLAN

- Ensure respect, responsiveness and transparency.



Sandra Kranc  
City Clerk



David J. Potts  
City Solicitor & Head,  
Legislative and Regulatory Directorate

Attachments

## BUSINESS IMPROVEMENT AREAS

### Designation of improvement area

204. (1) A local municipality may designate an area as an improvement area and may establish a board of management,

- (a) to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and
- (b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

### Corporation

(2) A board of management is a corporation consisting of the number of directors established by the municipality. 2001, c. 25, s. 204 (2).

### Local board status

(2.1) A board of management is a local board of the municipality for all purposes. 2006, c. 32, Sched. A, s. 89.

### Composition

(3) A board of management shall be composed of,

- (a) one or more directors appointed directly by the municipality; and
- (b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality. 2001, c. 25, s. 204 (3).

### Membership

(4) Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property. 2001, c. 25, s. 204 (4).

### Determining tenancy

(5) In determining whether a person is a tenant or not, the clerk of the municipality may accept a list provided under clause 210 (2) (b) or the declaration of a person that the person is a tenant and the determination of the clerk is final. 2001, c. 25, s. 204 (5).

### One vote

(6) Each member of an improvement area has one vote regardless of the number of properties that the member may own or lease in the improvement area. 2001, c. 25, s. 204 (6).

### Nominee

(7) A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation. 2001, c. 25, s. 204 (7).

### Joint nominee

(8) Subject to subsection (6), one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area. 2001, c. 25, s. 204 (8).

### Refusal to appoint

(9) The municipality may refuse to appoint a person selected by the members of an improvement area, in which case the municipality may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration. 2001, c. 25, s. 204 (9).

**Term**

(10) The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. 2001, c. 25, s. 204 (10).

**Reappointment**

(11) Directors are eligible for reappointment. 2001, c. 25, s. 204 (11).

**Vacancies**

(12) Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area. 2001, c. 25, s. 204 (12).

**Budget**

205. (1) A board of management shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the members of the improvement area for discussion of the proposed budget. 2002, c. 17, Sched. A, s. 40 (1).

**Council to approve**

(2) A board of management shall submit the budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it. 2001, c. 25, s. 205 (2); 2002, c. 17, Sched. A, s. 40 (2).

**Limitations**

(3) A board of management shall not,

- (a) spend any money unless it is included in the budget approved by the municipality or in a reserve fund established under section 417;
- (b) incur any indebtedness extending beyond the current year without the prior approval of the municipality; or
- (c) borrow money. 2001, c. 25, s. 205 (3).

**Limitations on power**

(4) Section 65 of the *Ontario Municipal Board Act* and section 401 of this Act apply to the municipality's approval under clause (3) (b) in the same manner as if it were incurring a debt of the municipality. 2001, c. 25, s. 205 (4).

**Notice**

206. A board of management shall give reasonable notice to the general membership of the improvement area of a meeting to hold a vote under clause 204 (3) (b) or for the purposes of a discussion under subsection 205 (1). 2001, c. 25, s. 206; 2002, c. 17, Sched. A, s. 41.

**Annual report**

207. (1) A board of management shall submit its annual report for the preceding year to council by the date and in the form required by the municipality and the report shall include audited financial statements. 2001, c. 25, s. 207 (1).

**Auditor**

(2) The municipal auditor is the auditor of each board of management and may inspect all records of the board. 2001, c. 25, s. 207 (2).

**Funds to be raised**

26

**208. (1)** The municipality shall annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. 2001, c. 25, s. 208 (1).

#### **Special charge**

**(2)** The municipality may establish a special charge for the amount referred to in subsection (1),

- (a) by levy upon rateable property in the improvement area that is in a prescribed business property class; or
- (b) by levy upon rateable property in the improvement area that is in a prescribed business property class and that, in council's opinion, derives special benefit from the improvement area, which levy may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the prescribed class if the resulting levy is equitable in accordance with the benefits that, in council's opinion, accrue to the properties from the activities related to the improvement area. 2001, c. 25, s. 208 (2).

#### **Minimum and maximum charges**

**(3)** The municipality may establish a minimum or maximum charge or both, expressed for one or more separately assessed properties or categories of separately assessed properties in a prescribed class, as,

- (a) percentages of the assessed value of rateable property in the improvement area that is in a prescribed business property class;
- (b) dollar amounts; or
- (c) percentages of the board of management's annual budget. 2001, c. 25, s. 208 (3).

#### **Effect of by-law**

**(4)** When a by-law under subsection (3) is in force,

- (a) the amount of a charge levied in a year under subsection (2) shall not, when calculated for the individual property in the prescribed class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and
- (b) if necessary for a fiscal year to raise the amount referred to in subsection (1) because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, the municipality shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the prescribed class by adjusting the percentage or percentages of assessment established under subsection (2) for those properties. 2001, c. 25, s. 208 (4).

#### **Exclusion**

**(5)** Section 210 does not apply to an adjustment made under clause (4) (b). 2001, c. 25, s. 208 (5).

#### **Borrowings**

**(6)** If only a part of money borrowed by the municipality in any year for the purposes of a board of management is required to be repaid in that year or a subsequent year, only that part and

any interest payable on the total amount shall be included in the levies under this section in that year or subsequent year, respectively. 2001, c. 25, s. 208 (6).

### **Priority lien status**

(7) Charges levied under this section shall have priority lien status and shall be added to the tax roll. 2002, c. 17, Sched. A, s. 42.

### **Changes to boundary**

209. The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.

### **Notice**

210. (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located,

- (a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and
- (b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

### **When notice received**

(2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,

- (a) give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property; and
- (b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

### **Objections**

(3) A municipality shall not pass a by-law referred to in subsection (1) if,

- (a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;
- (b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and
- (c) the objectors are responsible for,
  - (i) in the case of a proposed addition to an existing improvement area,
    - (A) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area, or
    - (B) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the geographic area the proposed by-law would add to the

existing improvement area, or

- (ii) in all other cases, at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 210 (3).

#### **Withdrawal of objections**

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

#### **Determination by clerk**

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

#### **Determination final**

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

#### **Repeal of by-law**

**211. (1)** Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

- (a) a resolution from the board of management requesting the repeal; or
- (b) a request for the repeal signed by persons who are responsible for at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (1).

#### **Statement**

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

#### **Time**

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

#### **Repeal**

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

- (a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and
- (b) those who have signed the requests are responsible for at least 50 per cent of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (4).

#### **Timing**

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

#### **Requests withdrawn**

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the

municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

#### **Determination by clerk**

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

#### **Determination final**

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

#### **Restriction**

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

#### **Non-application**

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

#### **Effect of by-law**

212. A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,

- (a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;
- (b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or
- (c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.

#### **Tenants**

213. For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under sections 367 and 368. 2001, c. 25, s. 213.

#### **Dissolution of board**

214. (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

#### **Liabilities exceed assets**

(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class. 2001, c. 25, s. 214 (2).

#### **Regulations**

215. The Minister may make regulations prescribing one or more classes of real property prescribed under the *Assessment Act* as business property classes for the purposes of sections 204

to 214. 2001, c. 25, s. 215.

## DISSOLUTION AND CHANGE OF LOCAL BOARDS

### Power to dissolve or change local boards

**216. (1)** Without limiting sections 9, 10 and 11, those sections authorize a municipality to dissolve or change a local board. 2006, c. 32, Sched. A, s. 90.

### Conflict

**(2)** In the event of a conflict between a by-law described in subsection (1) and any provision of this or any other Act, excluding this section and sections 194 to 202, or in the event of a conflict with a regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 90.

### Restriction

**(3)** Despite subsection (1), a municipality shall not, in accordance with subsection (1), dissolve or change a local board that is,

- (a) a society as defined in subsection 3 (1) of the *Child and Family Services Act*;
- (b) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*;
- (c) a committee of management established under the *Long-Term Care Homes Act, 2007*;
- (c.1) an appeal body established under section 8.1 of the *Planning Act*;
- (d) a police services board established under the *Police Services Act*;
- (e) a board as defined in section 1 of the *Public Libraries Act*;
- (f) a corporation established in accordance with section 203;
- (g) such other local boards as may be prescribed. 2006, c. 32, Sched. A, ss. 90, 91 (2); 2007, c. 8, s. 218 (4).

### Exception, City of Greater Sudbury

**(4)** Despite subsection (3), the City of Greater Sudbury may, in accordance with subsection (1), change the number of members it appoints as its representatives on the board of health of the Sudbury and District Health Unit, subject to the following rules:

- 1. The number shall not be smaller than two or larger than seven.
- 2. At least one of the members shall also be a member of the council of the City.
- 3. At least one of the members shall not be a member of the council of the City. 2006, c. 32, Sched. A, s. 90.

### Scope of power to change a local board

**(5)** Without limiting sections 9, 10 and 11, the power of a municipality to change a local board under those sections includes the power to pass by-laws with respect to,

- (a) the matters described in paragraphs 1 to 7 of subsection 196 (1), subject to the restrictions set out in section 196;
- (b) the assumption of a power or duty of the board, but if the power or duty was delegated to the board by the municipality, the municipality cannot assume the power or duty if it cannot revoke the delegation;



- (c) the delegation of a power or duty to the board to the extent authorized under this Act;
- (d) the restriction or expansion of the mandate of the board. 2006, c. 32, Sched. A, s. 90.

**Dissolution, etc., of joint board**

(6) If a municipality passes a by-law in accordance with subsection (1) to dissolve or change a local board which is a local board of the municipality and one or more other municipalities,

- (a) the by-law does not come into force until at least half of the municipalities, excluding the municipality that passed the by-law, have passed a resolution giving their approval to the by-law; and
- (b) when the by-law comes into force, the by-law is deemed to be a by-law passed by each of the municipalities of which the board is a local board. 2006, c. 32, Sched. A, s. 90.

**Regulations**

- (7) For the purposes of this section, the Minister may, despite any Act, make regulations,
- (a) providing that any body performing any public function is a local board;
  - (b) providing that a local board is a local board of the municipality specified in the regulation;
  - (c) providing that a municipality does not have the power to dissolve or make a prescribed change to a local board specified in the regulation;
  - (d) imposing conditions and limitations on the powers of a municipality under this section;
  - (e) providing that, for the purposes specified in the regulation, a municipality is deemed to be a local board of the type dissolved or changed under this section;
  - (f) providing that, for the purposes specified in the regulation, a municipality shall stand in the place of a local board dissolved or changed under this section;
  - (g) providing for matters that, in the opinion of the Minister, are necessary or desirable to allow the council of a municipality to act as a local board, to exercise the powers of a local board or to stand in the place of a local board for any purpose;
  - (h) providing that the provisions of any Act specified in the regulation do not apply to the council of a municipality acting as a local board, exercising the powers of a local board or standing in the place of a local board for any purpose;
  - (i) providing for the continuation, cessation or amendment of any or all by-laws and resolutions of a local board which is dissolved or changed under this section;
  - (j) providing that a municipality or local board pay money to each other or to another municipality or local board;
  - (k) providing for transitional matters related to a dissolution of or change to a local board under this section. 2006, c. 32, Sched. A, s. 90.



By-Law 94-74  
of The Corporation of the City of Oshawa

(as amended by By-laws 9-77, 69-82, 91-82, 90-88, 116-88, 79-91, 96-2010 and 68-2011)

being a by-law to designate an area in the Oshawa Central Business District as an Improvement Area and to establish a Board of Management for the Oshawa Central Business Improvement Area.

WHEREAS The Municipal Act provides that the Council of a local municipality may pass by-laws designating an area as an Improvement Area;

AND WHEREAS notice of the intention of the Council to pass a by-law designating the area hereinafter described as an Improvement Area has been given as by the said Act prescribed and no sufficiently signed petition objecting to the passing of the by-law has been received within the time limited therefor:

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa by the Council thereof as follows:

1. The area hereinafter described is designated an Improvement Area within the meaning of the Municipal Act. The following is a description of the area:

COMMENCING at the intersection of King Street West and McMillan Drive,

THENCE northerly along McMillan Drive to Richmond Street West,

THENCE easterly along Richmond Street West to Centre Street North,

THENCE northerly along Centre Street North to William Street West,

THENCE easterly along William Street West to Ontario Street,

THENCE southerly along Ontario Street to Richmond Street East,

THENCE easterly along Richmond Street East to Mary Street,

THENCE southerly along Mary Street to Athol Street East,

THENCE westerly along Athol Street East to Simcoe Street,

THENCE southerly along Simcoe Street to Bagot Street,

THENCE westerly along Bagot Street to Centre Street South,

THENCE northerly along Centre Street South to King Street West,

THENCE westerly to the aforementioned intersection with McMillan Drive.

2. A Board of Management to be known as the "Board of Management for the Oshawa Central Business District Improvement Area" (hereinafter called "the Board") is established for the area designated in paragraph 1.
3. There is entrusted to the Board, subject to the limitations hereinafter set out, the improvement, beautification and maintenance of lands, buildings and structures in the area owned by The Corporation of the City of Oshawa beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.
4. The Board's board of directors shall be comprised of nine (9) persons as follows:
  - (a) Five (5) directors shall be appointed directly by City Council, of whom
    - (i) four (4) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and
    - (ii) one (1) director shall be a resident of the City of Oshawa;
  - (b) One (1) director shall be appointed directly by City Council who shall be a senior staff member of University of Ontario Institute of Technology ("UOIT"), part of the UOIT downtown campus and selected by UOIT's President; and
  - (c) Three (3) directors shall be appointed by City Council from a list of candidates selected by members of the Improvement Area, of whom two (2) directors shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members.

(68-2011)
5. Each member shall hold office from the time of his appointment until the expiration of the term of the Council that appointed him, provided he continues to be qualified as provided in Section (4).

(91-82)
6. Where a vacancy occurs from any cause, the Council shall appoint a person qualified as set out in Section 4 to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.
7. The members shall hold office until their successors are appointed and eligible for re-appointment on the expiration of their term of office.
8. The Board shall, as soon as possible after its members are appointed in each year, elect a chairman and vice-chairman and appoint a secretary and treasurer, and such other officers as it may deem necessary properly to conduct the business of the Board during the said year.
9. The Board shall keep proper minutes and records of every meeting of the Board and shall forward true copies of such minutes and records to all members of the Board, the City Clerk and to the Director of Planning and Development of the Corporation as soon as possible after the meeting covered thereby.

10. The Board shall adopt and maintain only banking arrangements and ordinary good accounting practices that are acceptable to the City Auditor of the Corporation and keep such books of account and submit such statements from time to time as the said City Auditors may require.
11. The City Auditor shall be the auditor of the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to his inspection.
12. The fiscal year of the Board shall be the calendar year.
13. On or before the 1<sup>st</sup> day of March in each year, the Board shall submit its annual report for the preceding year to Council including a complete audited and certified financial statement of its affairs with balance sheet and revenue and expenditure statement.
- 13A. In addition to the requirements of the *Municipal Act, 2001* and of section 14 of this By-law and prior to submitting an annual budget to Council, the Board shall approve the annual budget at a publicly advertised and open meeting of the membership of the Board of Management for the Oshawa Central Business District Improvement Area with reasonable notice to all who may be interested in attending and shall include in its submission of its annual budget to Council any comments received and resolutions passed at any membership meeting that relates to the annual budget. (96-2010)
14. The Board shall submit to the Council, an annual budget in a form and at a time satisfactory to the Treasurer and Director of Finance for the Corporation and within the limits of the estimates as approved by Council, the money to be provided by Council shall be paid by the Treasurer and Director of Finance of the Corporation to the Board from time to time upon receipt of requisitions signed by the Chairman thereof.
15. The Board shall submit to the Council a detailed programme of the improvement beautification and maintenance proposed for each fiscal year with its budget. The Council shall within 45 days notify the Board where any project which forms part of the programme may adversely affect the use or function of any land owned by the City including any highway, street, lane or pedestrian walkway, and upon such notification being given the Board shall delete the project or alter that project to the satisfaction of the City.
16. Council shall not approve any estimates submitted in an annual budget of the Board in excess of the sum of \$143,100.00. (79-91)
- 16A. A minimum charge of \$50.00 and a maximum charge of \$5,500.00 shall apply where any person in the improvement area is liable to the special charge levied by Council as required by Subsection 17 of Section 217 of The Municipal Act, R.S.O. 1980, Chapter 302. The budget and each subsequent amendment or expenditure not included in the budget that exceeds \$2,000 are subject to Council's approval. (91-82 and 96-2010)

17. The Board shall deposit and keep on deposit with the Treasurer and Director of Finance, insurance policies satisfactory in all respects to the said Official, indemnifying the Corporation against public liability and property damage in respect of the activities of the Board.
18. This by-law shall not come into force without the approval of the Ontario Municipal Board.

By-law approved this eighteenth day of November, 1974.

## **By-Law No. 1 for the Downtown Oshawa Business Improvement Area**

A by-law relating generally to the conduct of the affairs of the Board of Management for the Oshawa Central Business Improvement Area

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the Board of Management for the Oshawa Central Business Improvement Area (hereinafter called the "B.I.A.") as follows:

1. The business name of the organization is The Downtown Oshawa Business Improvement Area (DOBIA).

2. **Mission**

The Downtown Oshawa Business Improvement Area (DOBIA) is the voice of the business community in downtown Oshawa, and is committed to improving and promoting the area through investment and advocacy to maintain its position as Oshawa's shopping, business and entertainment destination.

3. **Objectives**

The purpose of the B.I.A. is to:

(a) improve, beautify, and maintain municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance provided by the City of Oshawa;

(b) promote downtown Oshawa as a business, shopping and entertainment area

(c) improve and promote downtown Oshawa through investment and advocacy

4. **Head Office**

The head office shall be located in the City of Oshawa, at such a place that the Board of Management may determine from time to time.

5. **Fiscal Year**

The fiscal year of the B.I.A. shall be the calendar year, as per Section 12, By-Law 94-74 of The Corporation of the City of Oshawa.

6. **Membership**

- (a) **Membership Eligibility**

The following shall be eligible for membership in the B.I.A.:

1. Property Owners: Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class; and

2. Tenants: Tenant of such rateable property.

**(b) Rights and Benefits of Membership**

Every Member in good standing is entitled:

1. to attend any Annual or General Meeting of the B.I.A.;

2. to one vote on each question arising at any Annual or General Meeting of the B.I.A.; and

3. to hold any office of the B.I.A.

**(c) Nominees**

If a Member is a corporation or a partnership it shall designate in writing to the Board of Management a nominee to attend an Annual or General Meeting of the B.I.A. on its behalf.

**7. Membership Meetings**

**(a) Annual General Meetings**

The Annual General Meeting (AGM) of the B.I.A. shall be held at a location in Oshawa specified in the meeting notice no later than in the month of November in each year as determined by the Board of Management.

The AGM agenda shall include:

1. Financial Statements and reports;
2. Auditor's Report;
3. Annual Budget;
4. Annual Report of the Board of Management;
5. Minutes of the last Annual General Meeting;
6. Election of Board of Management (subject to approval by City Council of The City of Oshawa), if an election year; and
7. Any other business that may properly be brought before the meeting.

(b) **General Meetings**

The Board of Management may, from time to time, call a General Meeting of the Members of the B.I.A. for any date and time to be held at a location in Oshawa, as specified in the Notice.

(c) **Notice of Meetings**

1. Notice of the Annual General Meeting or of a General Meeting of Members shall be sent by prepaid mail, or hand delivered, or facsimile, or electronic communication at least fifteen (15) days in advance to each Member.
2. The accidental omission to give notice of any meeting or the non-receipt of any notice by any persons referred to in subparagraph (1) shall not invalidate any resolution passed or any proceedings taken at the meeting.

(d) **Quorum**

A quorum for the Annual General Meeting or for a General Meeting of the B.I.A. shall be 15 Members. No business shall be transacted at any meeting unless the requisite quorum be present at the commencement of business.

(e) **Determination of Questions**

1. Questions arising at any meeting of Members shall be decided by a majority vote unless otherwise stated in these By-laws or as required by law.
2. At all meetings, every question shall be decided by a show of hands unless a recorded vote is required by the Chair or requested by a Member.
2. The Chair shall declare that a resolution has been carried or not carried. It will be entered into the minutes of the B.I.A. It is not necessary to record the number of votes, unless requested by a Member
3. The Chair shall not vote on any matter unless there is a tie in which case, the Chair shall have the casting vote.

(f) **Meeting Procedures**

Subject to the By-laws of the B.I.A., the procedure to be used at all General and Annual General Meetings shall be governed by the newest edition of Robert's Rules of Order.

(g) **Nominees**

For the purposes hereof and Section 8, designated nominees of Members shall be considered Members.



8. **Board of Management**  
(a) **Board Composition**

The affairs of the B.I.A. shall be governed by a Board of Management (Board) whose members are approved by City Council of the City of Oshawa, and shall be composed of seven (7) members appointed by City Council, one of whom shall be a member of Council and the remaining members shall be persons assessed for business assessment in respect of land in the area or nominees of such persons or corporations so assessed.

(116-88) By-law 94-74 of The Corporation of the City of Oshawa

(b) **Term of Office**

1. The term of office for the Board of Management is from the time of his or her appointment by City Council until the expiration of the term of the City Council that appointed him or her, so long as the Member continues to be qualified as a Member.
2. In an election year, the new Board cannot officially assume its duties until approved by City Council, therefore the outgoing Board must continue to hold office until their successors are appointed.

(c) **Powers**

The Board may exercise all the powers that the B.I.A. may legally exercise in fulfillment of its objects, unless the Board is restricted by law or by the Members from exercising those powers. These powers include, but are not limited to, the power:

1. to enter into contracts or agreements;
2. to make banking and financial arrangements;
3. to execute documents;
4. to direct the manner in which any other person or persons may enter into contracts or agreement on behalf of the Board;
5. to purchase, lease or otherwise acquire, sell, exchange or otherwise dispose of real or personal property, securities or any rights or interest for such consideration and upon such terms and conditions as the Board may consider advisable; and
6. to purchase insurance to protect the property, rights and interests of the Board and to indemnify the Board., its Members, and Officers from any claims, damages, losses or costs arising from or related to the affairs of the Board.

8. (d) **Procurement of Goods and Services**

1. All purchases, and contracts entered into by the Board or on behalf of the Board should be reviewed and ratified at a Board meeting.
2. All purchases over one thousand dollars (\$1,000.00) shall require three (3) quotations. The lowest price may not necessarily be accepted. The Board shall vote on a final decision at a Board meeting.

(e) **Role and Function**

The Board shall be responsible for:

1. making decisions on policy affecting the B.I.A.,
2. managing the affairs of the B.I.A.,
3. hiring of Staff of the B.I.A., and
4. appointing such committees as may be required to accomplish the work of the B.I.A.

(f) **Borrowing Powers**

The B.I.A. shall not borrow money and, without the prior approval of City Council, may not incur indebtedness extending beyond the current year. The B.I.A. shall not purchase or sell land without prior approval of City Council.

(g) **Vacancies**

Where a vacancy on the Board occurs, the Board of Management may nominate a replacement, subject to City Council approval, who shall hold office for the remainder of the term for which his or her predecessor was appointed. If there is no quorum of the board, the remaining Board members shall call a General Meeting of the B.I.A. to fill any vacancy.

6.

8.

(h) **Quorum**

A quorum for a meeting of the Board of Management shall be half plus one.

(i) **Meetings of the Board**

1. Meetings of the Board may be called by four (4) Directors. The Board may hold its meetings at any place in the City of Oshawa as it may from time to time determine.
2. The Board shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the Members of the improvement area for discussion of the proposed budget. Section 205 (1) of the Municipal Act.

3. Notice of the time and place shall not be less than five (5) days before the day when the meeting shall be held (including Saturdays and Sundays, and statutory holidays). Notice may be sent by ordinary mail, or facsimile, or hand delivered, or by electronic mail.

4. The Board may appoint a day or days in any month or months for regular meetings at an hour to be named. If regular meetings are scheduled, no additional notice is required. A meeting of the Board may also take place without notice immediately after an Annual General Meeting at which the Board is elected, provided a quorum is present.

5. The Members of the Board shall vote on any resolution arising at any meeting of the Board. A majority of votes shall decide the resolution. In case of a tie vote, the Chair of the meeting shall have a casting vote.

6. A declaration by the Chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as *prima facie* proof of the fact, without proof of the number or proportion of the votes recorded in favour or against any resolution.

7. There shall be no proxy voting of any kind by Members of the board of Management at General Meetings or Annual General Meetings.

**(j) Closed Meeting Requirements**

All meetings of the Board shall be open to the public except where the matter to be considered is:

1. the security of the property of the board;
2. personal matters about an identifiable individual or board employees;
3. labour relations or employee negotiations;
4. litigation or potential litigation, including matters before administrative tribunals affecting the board;
5. advice that is subject to solicitor-client privilege, including communications necessary for that purpose; or
6. a matter in respect of which the board, committee or other body may hold a closed meeting under another Act.

The Board, when meeting in closed session, must state by resolution, the general nature of the matter to be discussed and cite which section of Section 239 of the Municipal Act the Board is relying on for authority to meet in closed session.

(k) **Confidentiality and Privacy of Information**

1. The B.I.A., through its Board of Management, shall abide by and act in accordance with the laws, policies, and practices governing all matters related to confidentiality, privacy and access to information.
2. In this regard, every Board member shall:
  - (a) respect the confidentiality of all matters discussed at Board meetings and any other information and documentation to which one may have access to in the capacity as Board member of the B.I.A.; and
  - (b) respect and act in accordance with the B.I.A. policies governing the privacy and access to information to which one may acquire in the capacity of Board member of the B.I.A.

8. (l) **Standard of Care**

Every Board member and Officer of the B.I.A. shall:

1. exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the B.I.A.; and
2. exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.

(m) **Conflict of Interest**

All members shall comply with the Municipal Conflict of Interest Act and each Board member shall be given a copy of the Act upon becoming a member.

9. **Officers**

(a) **Election and Term of Office**

The Board of Management shall elect from among themselves a Chair, a Vice- Chair, and a Secretary/Treasurer who shall serve annually or until he or she is removed from office by resolution of the Board of Management.

(b) **Duties of the Officers**

**Chair:**

The Chair is the senior volunteer representative of the Board. Much of the character of the Board evolves from the Chair's commitment and enthusiasm. His/her ability to work co-operatively with the Board and other volunteers is central to the existence of an active Board.

**The Chair shall:**

1. Call meetings of the Board at least ten (10) times a year;
2. Preside at all meetings;

3. Vote on resolutions only to break a tie;
  4. Coordinate all B.I.A. activities;
  6. Sit ex-officio, on all committees;
  7. Set the nominating process in motion in advance of the end of the elected term, so that a full slate of officers can be presented at that time;
  8. Function as one of the signing officers for the Board;
  9. Whenever there is a change of Treasurer, ensure that all past records of the Board are transferred to the succeeding Treasurer;
  10. Represent the B.I.A. at official functions and special events;
  11. Attend Council meetings as required;
  12. Act as senior volunteer and liaison with paid staff;
  13. Sign all By-laws and execute any documents with the Secretary; and
  14. Perform any other duties, which the Board may, from time to time, assign.
- 10. Vice-Chair:**  
The presence and active involvement of a Vice-Chair can provide the Board with a sense of permanence and future.

**The Vice-Chair shall:**

1. Act as Chairperson in the Chair's absence;
2. Function as one of the signing officers of the Board; and
3. Perform any other duties, which the Board may, from time to time assign.

**Secretary/Treasurer:**

**The Secretary/Treasurer shall:**

1. Keep all the B.I.A. records and books of the B.I.A. including the registry of Officers and Board members, the registry of Members, the minutes of the Annual General Meeting, General Meetings and meetings of the Board or any committees thereof, any committee reports, the By-laws and resolutions.

2. Be responsible for providing a copy of meeting minutes to all members of the Board and the City (Commissioner of Development Services & City Clerk) as soon as possible after the meeting minutes have been adopted; and
3. Receive, deposit, disburse and record all monies;
4. Maintain all banking and financial records;
5. Oversee preparation of financial statements and reports;
6. Function as one of the signing officers of the Board;
7. Maintain and update inventory of all physical assets owned or leased by the B.I.A.;
8. Prepare and distribute the proposed budget in accordance with the requirements of the City;
9. Report on the financial affairs of the B.I.A. at all meetings; and
10. Perform any other duties, which the Board may, from time to time, assign.

**Director:**

The team of Director's should serve as a model of organization, delegation and enthusiasm to the volunteers connected with all activities. To be as strong a representative as possible, he/she must attend and participate in meetings and activities of the B.I.A.

**A Director shall:**

1. Sit as an active member of the B.I.A. and/or committee;
2. Represent a particular constituency or point of view at committee meetings;
3. Assist with activities of committees as directed by the Board;
4. Provide leadership for the members in the geographic area which the Board services;
5. In co-operation with the Chair, Directors shall:
  - a) recruit members and volunteers
  - b) organize committee meetings and special events of the Board
  - c) co-ordinate advertising, promotions, and communications
  - d) thank key members, community partners and sponsors
  - e) compile reports to present to the Board

- f) establish goals and objectives The term shall be concurrent to the term of Oshawa City Council.

**10. Business Development Manager**

**1. Appointment**

The Board may hire or contract for a Business Development Manager (BDM) and prescribe the duties of this position.

**2. Hiring**

In the event of the Board hiring any employees, the Board shall:

- a) post the opportunity on the B.I.A.'s website, notify the Members and advertise in the local newspaper and appropriate web boards and HRDC offices
- b) establish a personnel committee with three (3) Board Members conducting final interviews
- c) complete reference checks through the personnel committee
- d) recommend to the Board who should be considered when making a final decision

**3. Duties of the Business Development Manager (BDM)**

- a) The Board shall delegate to the BDM the responsibility for the general management and the execution of the policies of the B.I.A.
- b) The BDM shall report directly to the Chair, coordinating all the B.I.A. events and implement other programs as they arise. The BDM is responsible for the day to day operation of the Board office, meeting with business members, property owners and managers, event planners, community leaders, city staff and elected politicians, and will distribute minutes of the meetings of the Board and committee meetings and other event-specific committees; and shall be
  - 1. be the Chief Administrative Officer;
  - 2. hold the senior staff position, responsible for hiring and termination of all other staff in consultation with the City of Oshawa's Human Resource Services Branch;
  - 3. attend all meetings of the B.I.A. and be entitled to speak on all matters, without the right to vote;
  - 4. sit ex-officio, on all committees;

5. be recording secretary for the Board

6. be responsible for distribution of agendas for all meetings; and

7. be responsible for distribution of minutes of all meetings

**4. Remuneration and Evaluation**

The Board shall establish the remuneration for the BDM through a resolution of the Board, and shall annually, and jointly with the BDM, carry out a formal and written evaluation of the position of the BDM, within a mutually determined and agreed upon approach, process and time frame. The Chair of the Board shall represent the Board in this matter.

**11. Committees of the Board**

1. There shall be Standing committees, as the Board shall from time to time determine.
2. The Board may appoint ad hoc committees as may be deemed necessary to carry out the objectives of the B.I.A. or to advise the Board. The Board shall prescribe the duties of all such committees.
3. All committees, Standing and ad hoc, are required to conduct business in accordance with these By-laws. Committees reporting to the Board may not make any final decisions.
4. All committee membership, as required by these By-laws and determined by the Board from time to time, are subject to the same rights and responsibilities in their capacity as Members of committees, as those required by the Board.
5. Each Standing and ad hoc committee is considered a committee of the Board and as such, is responsible to the Board. Each committee shall make recommendations to the Board for its approval, and shall report to the Board, through each committee Chair, as determined by the Board, from time to time.
6. Each Standing and ad hoc committee of the Board shall be chaired by a Board Member, as elected by the Board. Committee members shall be Board members. Members, non-members from with the B.I.A. may be appointed as ex-officio members of any committee.
7. Unless otherwise stated in the By-laws, the terms of reference for each committee will be determined by the Board from time to time.

**12. Signing Authority**



1. Three (3) persons shall have signing authority for the Board: the Chair, the Treasurer, and the Vice-Chair.
  2. Two (2) signatures of foregoing shall be required on all cheques issued by the Board.
13. **Remuneration**
1. No Board member shall receive remuneration in payment for services carried out in that capacity.
  2. Board members may be reimbursed for all reasonable, out-of-the-ordinary expenses directly relating to their functions as Board members. Reimbursement for any such expenses must be approved in advance by the Board.
14. **Auditor**
- The external Auditor for the Corporation of the City of Oshawa shall be the Auditor for the B.I.A. and all books, documents, transactions, minutes and accounts of the B.I.A. shall at all times be open to his/her inspection.
15. **Indemnification**
- Individual Board members are insured under the City's policy of insurance.
16. **Review Mechanism & Dissolution**
1. Should a majority vote of the total membership be received to dissolve the B.I.A., a request shall be made to the City of Oshawa to repeal the by-law establishing the B.I.A.
  2. Upon the repeal of a by-law under the Municipal Act the Board is dissolved and the assets and liabilities of the Board become the assets and liabilities of the municipality.
  3. If the liabilities assumed under subsection (2) exceed the assets assumed, the City of Oshawa may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class.
17. **Consistency with Legislation**
1. Nothing contained in this by-law shall require the commission of any act which is contrary to an express provision of the Municipal Act or any by-laws of the Corporation of the City of Oshawa relating to the Board of Management of the area or "Business Improvement Areas" as defined by the Municipal Act.
  2. If there shall exist any conflict between any provision contained in these By-laws and any such provision of the Municipal Act or the City of Oshawa By-

laws, the latter shall prevail, and the provision or provisions herein affected shall be curtailed, limited or eliminated to the extent (but only to the extent) necessary to remove such conflict, and as so modified this By-law shall remain in full force and effect.

18. **Amendments**

By-laws of the B.I.A. may be enacted, repealed, amended, added to or re-enacted by the Board, upon approval of a General Meeting of Members duly called to consider confirmation of such by-law amendment.

19. **Effective Date**

These By-laws come into force and are effective immediately, subject to ratification and confirmation by the Members at a General Meeting called for that purpose or an Annual General Meeting, whichever occurs first.

**PASSED** by the Board of Management this \_\_\_\_\_

**The Board of Management  
For the Downtown Oshawa Business Improvement Area**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Secretary/Treasurer

**ADOPTED BY THE BOARD**

**February 20, 2008**

## **Downtown Oshawa Business Improvement Area**

(The Downtown Oshawa Board of Management)

### **A Codification of Policy and Procedures**

#### **Relating to Board Practice Since 1974**

1. The Downtown Oshawa Business Improvement Area (DOBIA) Board ("Board") acts as a Body and officially speaks through the Chairperson ("Chair") or Board designate only.
2. Board members or subcommittee Chair's have no authority, right or privilege outside their role as Board members.
3. Committees, through their elected Chair, will make recommendations to the Board.
4. The board has the final authority to accept, reject, or amend recommendations.
5. Only the Chair will contact City staff, the public, media or any other entity on behalf of the Board or on issues pertaining to Board business.
6. Although the board expects every Board member to be given common courtesy and mutual Respect by DOBIA staff, it does not required DOBIA staff to heed any individual member's opinion or instruction.
7. As per job descriptions, all DOBIA staff report to the Board through the Chair.
8. Individual Board members may not attempt to exercise authority over the organization, unless explicitly set forth in Board policy.
9. Individual board members have no right to assert themselves regarding staff operations.
10. Only the Personnel Committee and Council representative can mediate staff disputes or undertake staff negotiations.
11. Individual Board members should respect the office of the DOBIA and not visit the premises, unless on official Board business or volunteering for the Board.
12. All members are invited to participate openly during Board and committee meetings of the DOBIA, but should respect the final decision of the Board.
13. Members will not individually render judgement, apart from the Board as a body.
14. Meetings will be open to the general membership and invited guests.

Adopted by the Board Jan. 23/08

15. In camera meetings will be restricted to matters relating to litigation, personnel matters, or real estate, and shall not be discussed outside the confine of an in camera meeting.
16. Announcement of an in camera meeting should be documented on a published agenda.
17. All Board members are expected to comply with the Municipal Conflict of Interest Act.
18. The board will be an initiator of policy and programs, not merely a reactor to staff initiatives.
19. The Board will govern with an emphasis on: (i) outward vision rather than internal preoccupation; and, (ii) collective rather than individual decision making.
20. Board members will adhere to the job description for Board members, and respect that staff report to the Board through the Chair.
21. All Board members are equal and valued and share the same rights, privileges, and responsibilities as Directors of the DOBIA.
22. Only the paid Secretary (Office Administrator) to the Board shall be responsible and accountable for recording all resolutions, decisions, and other proceedings of the DOBIA.
23. The paid Secretary to the Board (Office Administrator) shall retain original copies of all Bylaws and all minutes of the proceedings of the DOBIA, and assume responsibility for forwarding all correspondence as required by the City of DOBIA.
24. Meetings shall be conducted with adherence to the Rules of Order as adopted and interpreted by Oshawa City Council (Consolidation of By-law 126-75).
25. Adherence to these established general operating procedures are mandatory, if Directors wish to participate in Board meetings and on committees. Failure to comply may result in disciplinary action or removal from the Board. The Chair of the DOBIA is responsible for bringing any infraction to the attention of the Board. The Board, by majority vote, can take any action deemed appropriate to ensure compliance.
26. The use of official DOBIA stationery and business cards is strictly limited to approved DOBIA-related communication. DOBIA letterhead and envelopes may not be used for personal correspondence. DOBIA letterhead and business cards may not be used for the purpose of soliciting private business.

## **Terms of Reference**

### **Board of Management for the Oshawa Central Business District Improvement Area**

#### **1. Mandate**

The mandate of the Board of Management for the Oshawa Central Business District Improvement Area (the Board) is to:

- oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that which is provided by the municipality;
- promote the area as a business or shopping area.

The Board may be commonly known or referred to as “Downtown Oshawa Board of Management” and the Improvement Area may be commonly known or referred to as “Downtown Oshawa Business Improvement Area”; however, all binding documents and contracts shall be under the legal name of “Oshawa Central Business District Improvement Area”.

#### **2. Goals and Objectives**

The Oshawa Central Business District Improvement Area is the voice of the business community in downtown Oshawa and is committed to improving and promoting the area through investment and advocacy to maintain its position as Oshawa’s shopping, business and entertainment destination.

#### **3. Guiding Principles**

The Municipal Act provides municipalities the authority to designate an area as an improvement area. As such City of Oshawa By-law 94-74, as amended, establishes the Oshawa Central Business District as an Improvement Area (BIA) and establishes a Board of Management for the Area. The Board shall be compliant with the aforesaid by-law.

The Municipal Act requires the Board to pass a Procedural By-law for governing the calling, place and proceeding of meetings. The Board is also required to adopt and maintain policies respecting the sale of lands, hiring of employees and the procurement of goods and services. The Board shall be compliant with these aforesaid documents.

Every Board member shall exercise the discharge of their duties honestly, in good faith and in the best interest of the BIA and City as a whole and use a degree of care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

#### **4. Key Success Factors**

For the Board to be successful, the following factors need to be realized:

- vision;
- leadership;

- appropriate funding and staff resources;
- effective communication;
- partnership development;
- volunteer support and commitment;
- feasible, realistic and achievable strategies/actions tailored to the community's needs;
- diversity of complementary strategies; and,
- Board members who adhere to governing documents.

## **5. Membership Eligibility**

Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property.

In determining whether a person is a tenant or not, the Clerk of the municipality may accept a list of every tenant who is required to pay all or part of the taxes on the property and the share of the taxes that each tenant is required to pay and the share that the person is required to pay or the declaration of a person that the person is a tenant and the determination of the Clerk is final.

## **6. Board Composition**

The Board shall be comprised of ten persons, as outlined in By-law 94-74, as follows:

- a) Five directors shall be appointed by City Council, of whom:
  - Four shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and,
  - One shall be a resident of the City of Oshawa.
- b) One director appointed directly by City Council who shall be a senior staff member of the University of Ontario Institute of Technology (UOIT), part of the UOIT downtown campus and selected by UOIT's President;
- c) Three directors appointed by City Council from a list of candidates selected by members of the Improvement Area, of whom two shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members;
- d) One director shall be a member of City Council, appointed directly by City Council.

Council retains the right to deny appointment of any nominee.

## **7. Qualifications**

Candidates considered for appointment to the positions identified in Sections 6a) and c) must complete the City's application form and attach a resume to the form in order to be considered.

Eligibility criteria is as follows:

- a) knowledge and experience relevant to:
  - (i) the improvement, beautification and maintenance of land, buildings and structures;
  - (ii) promotion of business or shopping;
  - (iii) events planning and co-ordination;
  - (iv) budget development and implementation; and,
  - (v) meeting planning, organization and management;
- b) record of active community involvement; and,
- c) business acumen.

## **8. Board Vacancies**

In a municipal election year, the BIA membership shall proceed at their Annual General Meeting as outlined in Section 6c) above.

Where a vacancy occurs mid-term, the following process is to be used.

- a) If a vacancy occurs for one of the positions identified in Section 6a), the Clerk of the municipality shall advertise to fill the position.
- b) If a vacancy occurs for the UOIT representative, the Clerk of the municipality shall correspond with UOIT for a qualified nominee to be presented to Council.
- c) If a vacancy occurs for one of the positions identified in Section 6c), the CBDIA Office Administrator shall initiate the process for the BIA membership to nominate a qualified individual. Such nomination shall be forwarded to the Clerk of the municipality to be presented to Council.
- d) If the Council representative seat becomes vacant, City Council will appoint a replacement.

Upon appointment by City Council, the individual will hold office for the remainder of the term.

## **9. Term of Office**

Each member shall hold office from the time of his appointment until the expiration of the term of the Council that appointed him/her, provided he/she continues to be qualified. Members shall continue to hold their office until a successor is appointed.

Members are eligible for reappointment on the expiration of their term of office.

## 10. Attendance Management

After two consecutive absences by any Board member at regularly scheduled meetings, the following process shall be followed:

- a) The Office Administrator shall informally contact the absent member to determine if they plan to attend the next regularly scheduled meeting, noting any reasonable or compassionate circumstances which would prohibit their attendance.
- b) If no reasonable or compassionate response is given, the Office Administrator shall inform the absent member that if they are absent from the next regular meeting (the third meeting), the Board shall declare their seat vacant and recommend to Council the removal of the member.

If the Office Administrator is unable to reach the absent member or if there was no reasonable or compassionate grounds for absences given at the time of preparing the agenda for the third meeting:

- 1) the Office Administrator shall include the item "Absentee Member" on the agenda.
- 2) upon consideration of the item, the Office Administrator shall briefly identify the requirements of the Terms of Reference and the name of the absent member.
- 3) The Board shall recommend to Council the absent member's seat be declared vacant.
- 4) Removal from Board membership shall be made by resolution of Council. Council may, by resolution, waive the requirements of the Policy.
- 5) If removed, the City Clerk shall initiate the Board recruitment and selection process, as appropriate.

## 11. Officers and Directors

All members of the Board are Directors.

At the first meeting of the term of the new Board, the Board shall elect from amongst themselves Officers to fill the role of Chair, Vice-Chair and Treasurer who shall serve for a two-year term.

The duties for Officers and Directors are as follows.

The Chair shall:

- Call special meetings of the Board;
- Preside at all Board meetings;
- Vote on resolutions only to break a tie;
- Sit ex-officio on all Working Groups;
- Function as one of the signing officers for the Board (refer to Section 13);
- Represent the Board at official functions and special events;
- Be the official spokesperson for the Board;
- Attend Council meetings as required;
- Undertake an annual written evaluation of the Office Administrator on behalf of the Board; and,
- Perform any other duties which the Board may, from time to time, assign.



The Vice-Chair shall:

- Assume all responsibilities and authorities of the Chair in the Chair's absence;
- Function as one of the signing officers for the Board (refer to Section 13); and,
- Perform any other duties which the Board may, from time to time, assign.

The Treasurer shall:

- In consultation with the Office Administrator, oversee preparation of financial statements and reports;
- Function as one of the signing officers for the Board (refer to Section 13);
- Oversee preparation of the proposed budget in accordance with the requirements of the City;
- Report on the financial affairs of the Board at all Board meetings; and,
- Perform any other duties which the Board may, from time to time, assign.

A Director shall:

- Sit as an active member of the Board and/or Working Group;
- Assist with activities of Working Groups as directed by the Board;
- Not publicly render individual judgments apart from the Board as a body;
- Have no right to assert themselves regarding staff operations;
- Not attempt to exercise authority over BIA members;
- In co-operation with the Chair, Directors shall:
  - recruit members and volunteers
  - co-ordinate advertising, promotions, and communications
  - thank key members, community partners and sponsors.

## **12. Office Administrator**

The Board may hire or contract an Office Administrator whose duties shall be to:

- Keep all the records and books of the Board including: the registry of Officers, Board members and BIA Members; minutes of all Board, General and Working Group meetings; Board and Working Group reports; by-laws; policies; contracts/agreements; correspondence; and any other documents related to the Board;
- Act as Secretariat and attend all Board, General and Working Group meetings and speak/report on matters as requested;
- Be responsible for providing a copy of meeting minutes to all members of the Board and the City (Commissioner of Development Services, Downtown Development Officer, Councillors' Administrative Assistant and City Clerk) as soon as possible after the minutes have been adopted;
- Prepare and distribute all correspondence on behalf of the Board;
- Set the nomination process in motion in advance of the end of the elected term, so that a full slate of nominees can be presented at that time;
- Receive, deposit, disburse and record all monies;
- Maintain all banking and financial records;
- Draft for the Treasurer's review all financial statements and reports;

- Whenever there is a change of Treasurer, ensure that all past records of the Board are transferred to the succeeding Treasurer;
- Function as one of the signing officers of the Board (refer to Section 13);
- Maintain and update the inventory of all physical assets owned or leased by the Board;
- In consultation with the Treasurer, prepare and distribute the proposed budget in accordance with the requirements of the City;
- In the absence of the Treasurer, report on the financial affairs of the Board at all Board meetings;
- Report directly to the Chair, assisting with the co-ordination of all Board events and implementation of other programs as they arise;
- Be responsible for the day to day operation of the Board office, meeting with business members, property owners and managers, event planners, community leaders, City staff and elected politicians;
- Be responsible for hiring and termination of casual part-time staff in consultation with the Chair;
- Be responsible for administering all Freedom of Information Requests; and,
- Perform any other duties which the Board may, from time to time, assign.

The Office Administrator, and any other staff member, is not to heed any individual Board or BIA member's opinion or instruction.

### **13. Remuneration**

No Board member shall receive remuneration in payment for serving on the Board or any Working Group thereof.

Board members may be reimbursed for expenses directly relating to their functions as Board members with prior approval of the Board.

The Office Administrator shall receive remuneration as established by resolution of the Board.

### **14. Signing Authority**

The Office Administrator and one of the following Officers shall be the signing authority for all official documents and disbursements related to the Board:

- Chair
- Vice-Chair
- Treasurer.

### **15. Conflict of Interest**

All members shall comply with the Municipal Conflict of Interest Act.

### **16. Confidentiality and Privacy of Information**

The Board shall preserve the confidentiality of all information not available to the general public and abide by and act in accordance with the laws and practices governing all matters related to confidentiality, privacy and access to information.

In this regard, every Board member shall:

- respect the confidentiality of all matters discussed at closed meetings and any other information and/or documentation to which he/she may have access to in his/her capacity as a Board member; and,
- respect and act in accordance with the laws and practices governing the privacy of and access to information acquired by the Board member in his/her capacity as a Board member.

Confidential information means:

- Information disclosed or discussed only at a closed meeting of the Board;
- Information circulated to Members and marked "confidential" unless the Board authorizes its release or it is otherwise released under the Municipal Freedom of Information and Protection of Privacy Act;
- Information, the disclosure of which, is subject to a mandatory or discretionary exemption from disclosure under the Municipal Freedom of Information and Protection of Privacy Act; and,
- Information that is given verbally in confidence in preparation of or following a meeting that is closed to the public.

The Office Administrator is designated as the Head under the Municipal Freedom of Information and Protection of Privacy Act for all matters related to such legislation.

## **17. Working Groups of the Board**

The Board may establish Working Groups as required, each with their own specific area of responsibility.

All Working Groups are required to conduct business in accordance with all Board guiding documents, policies and by-laws.

Working Groups do not have the authority to make final decisions. They must report on a regular basis to the Board through the Working Group Chair and make the necessary recommendations for Board approval.

All Working Groups must be chaired by a Board member as elected by the Board for a two-year term. Working Group members may be a combination of Board members, BIA Members and non-BIA members. There is no established complement for Working Groups and members may vary based on the project at hand.

## **18. Borrowing Powers**

The Board shall not borrow money.

The Board shall not incur indebtedness extending beyond the current year without the prior approval of City Council.

## **19. Fiscal Year**

The fiscal year shall be the calendar year.

## **20. Budget**

The Board shall prepare a proposed budget for each fiscal year by the date and in the form required by the City of Oshawa and shall hold one or more meetings of the members of the BIA for discussion of the proposed budget.

## **21. Auditor**

The external auditor for the City of Oshawa shall be the auditor for the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to his/her inspection.

## **22. Insurance**

The City of Oshawa shall arrange for Municipal Liability and Errors and Omissions insurance to cover the operations of the Board. The Board shall arrange for property insurance to cover property, contents and equipment owned by or belonging to the Board.

## **23. Review Mechanism and Dissolution**

Should a resolution of the Board or majority vote of the total membership of the BIA be received to dissolve the improvement area, a request shall be made to the City of Oshawa to repeal the by-law establishing such area.

Despite the above clause, the City of Oshawa also has the authority to dissolve the improvement area without a request from either the Board or BIA membership in accordance with the Municipal Act.

Upon repeal of the by-law establishing the local improvement area, the Board is dissolved and the assets and liabilities of the Board become the assets and liabilities of the City of Oshawa.

If the liabilities assumed exceed the assets assumed, the City of Oshawa may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class.

**24. Authority to Enact, Repeal and/or Amend**

The Terms of Reference for the Board and any by-laws or policies may be enacted, repealed or amended by the Board upon approval by a majority of the BIA membership received at a General Meeting provided such actions do not place the Board in conflict with the Municipal Act, City of Oshawa By-law 94-74, as amended from time to time, or any other regulations.

Date approved: \_\_\_\_\_

Chair: \_\_\_\_\_

Office  
Administrator: \_\_\_\_\_

BY-LAW NO. 2

OF

THE OSHAWA CENTRAL BUSINESS DISTRICT  
IMPROVEMENT AREA BOARD OF MANAGEMENT

Being a by-law to regulate the proceedings of the Oshawa Central Business District Improvement Area Board of Management.

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the Oshawa Central Business District Improvement Area Board of Management thereof as follows:

Interpretation

1. In this by-law:
  - (1) "BIA" means Business Improvement Area;
  - (2) "Board/Local Board" means the Board of Management of the Oshawa Central Business District Improvement Area;
  - (3) "Board meeting" means a meeting of the Board of Management of the Oshawa Central Business District Improvement Area;
  - (4) "General meeting" means a meeting of the membership of the BIA;
  - (5) "Working Group" means a team comprised of at least one member of the Board created to carry out specific projects included in the annual work plan of the Board;
  - (6) "Council" means the Council of the Corporation of the City of Oshawa;
  - (7) "Meeting" means any regular or special meeting of the Board, BIA membership or of a Working Group;
  - (8) "Presiding Officer" means the person presiding at a meeting of the Board, BIA membership or of a Working Group.

General

2.
  - (1) In all the proceedings at or taken by the Board the following rules and regulations shall be observed and shall be the rules and regulations for the order and dispatch of business by the Board of Management and Working Groups thereof.
  - (2)
    - (a) No standing rule or order of the Board shall be suspended except by a vote of two-thirds of the members present and by not less than a majority of the whole Board voting in favor thereof.
    - (b) No standing rule or order of the Board shall be suspended where such action would put the Board in conflict with any Provincial legislation, as amended from time to time, which may govern the proceedings of the Board.
3. Except as herein provided or as provided by any Provincial legislation, as amended from time to time, the rules of order of the House of Commons of Canada shall be followed for governing the proceedings of the Board and the conduct of its members.

4. Subject to the *Municipal Act*, the *Statutory Powers Procedures Act*, and any other applicable Provincial legislation, a person not a member of the Board shall not be allowed to address the Board except upon invitation of the Board.

#### Convening Meetings

5. The Annual General Meeting of the members of the BIA shall be held at a location in Oshawa not later than the month of November in each year as determined by the Board of Management.
6. The Board may, from time to time, call a General Meeting of the members of the BIA for any date and time to be held at a location in Oshawa.
7. The Board may appoint a day or days in any month or months for regular Board of Management meetings at an hour to be named. There shall be a minimum of ten meetings per year.
8. In the case of the absence or death of the Chair, a special meeting may be summoned at any time by the Office Administrator upon a special requisition to the Office Administrator signed by a majority of the Board.
9. Upon receipt of a petition of the majority of members of the Board, the Office Administrator shall summon a special meeting for the purpose and at the time mentioned in the petition, subject to notice and other requirements of the standing rules and orders of the Board.

#### Notice of Meetings

10. The Notice and agenda of all Annual General Meetings and Special General Meetings shall be provided in writing and shall be sent in a timely manner to ensure they are received by the BIA members not less than 15 calendar days prior to the meeting. Notice may be sent by prepaid mail, hand delivered or electronic communication. The agenda for the Annual General Meeting and Special General Meetings shall be posted on the BIA website as soon as practicable after delivery of the agenda to the BIA members to provide notice to the public of such meetings.

The Notice and agenda of all regular and special Board meetings shall be provided in writing and shall be sent in a timely manner to ensure they are received by the Board members not less than five calendar days prior to the meeting. Notice may be sent by prepaid mail, hand delivered or electronic communication. The agendas for Board meetings shall be posted on the BIA website as soon as practicable after delivery of the agenda to members, provided that where the meeting, or a session of it, is proposed to be held in the absence of the public, the agenda posted therefore shall be the public version of the closed session agenda.

There shall not be consideration or decision upon any matter at a meeting unless specific notice that such matter will be considered and decided upon at such meeting is

contained in the notice/agenda of the meeting, except with the consent of two-thirds of the members present and voting.

Lack of receipt of the notice shall not affect the validity of holding the meeting or any action taken thereat.

#### Quorum

11. A quorum for the Annual General Meeting or for a General Meeting of the BIA shall be 15 members.

A quorum for a Board meeting shall consist of a majority of the whole number of members which make up the composition of the Board.

#### Open and Closed Meetings

12. (1) All meetings shall be open to the public, except that a meeting or part of a meeting may be closed to the public if the subject matter being considered is:
- a) the security of the property of the municipality or local board;
  - b) personal matters about an identifiable individual, including municipal or local board employees;
  - c) a proposed or pending acquisition or disposition of land by the municipality or local board;
  - d) labour relations or employee negotiations;
  - e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
  - f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
  - g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.
- (2) Before holding a meeting or part of a meeting that is closed to the public, a resolution shall be passed stating the fact that a closed meeting is to be held and giving the general nature of the matter to be considered at the closed meeting.
- (3) A meeting shall not be closed to the public during the taking of a vote unless Subsection 12(1) permits or requires the meeting to be closed to the public and the vote is for a procedural matter or for giving direction or instructions to officers, employees or agents of the Board, or persons retained by or under contract with the Board.

#### Preparation of Agendas

13. The agenda for the Annual General Meeting shall include:

- Declarations of Pecuniary Interest
- Financial Statements and Report
- Auditor's Report
- Annual Budget
- Annual Report of the Board of Management



- Minutes of the Last Annual General Meeting
- Nomination of Board of Management members for approval by City Council, if a municipal election year
- Any other business permitted to be before the General Membership
- Adjournment

The agenda for Special General Meetings shall be prepared when and as the Chair may direct or, in default of such direction, as provided in the last preceding paragraph so far as applicable.

The agenda for regular Board of Management Meetings shall include:

- Declarations of Pecuniary Interest
- Delegations
- Minutes of the Last Board Meeting
- Economic Development Report
- Treasurer's Report
- Working Group Updates/Reports
- SCOP Report
- City Report
- Office Administrator's Report
- Correspondence
- New Business
- Comments from the Floor (5 – 10 minutes)
- Adjournment

The agenda for Special Board Meetings shall be prepared when and as the Chair may direct or, in default of such direction, as provided in the last preceding paragraph so far as applicable.

14. The business of each meeting shall be taken up in the order in which it stands upon the agenda.
15. All motions called in pursuance of the agenda and not disposed of, shall be placed on the agenda for the next regular meeting.

#### Commencement of Meetings

16. As soon as there is a quorum after the hour fixed for the meeting, the Chair, or person appointed to act in the Chair place and stead, shall take the Chair and call the members to order.
17. In the event of a General Meeting (Annual or otherwise) if there is no quorum within half an hour after the time appointed for the meeting, the Office Administrator shall call the roll and take down the names of the members then present, and the meeting shall then adjourn until such time as a subsequent meeting is established.

If there is no quorum at the time appointed for a Board meeting, the Board may conduct informational discussions until a quorum is achieved. During the time when quorum is not available, no direction may be given, no authorities may be granted and no motions may be considered.

### Rules of Debate and Conduct of Members in Council

18. The Chair or other presiding officer shall preside over the conduct of the meeting, including the preservation of good order and decorum, ruling on points of order and deciding all questions relating to the orderly procedure of the meetings, subject to an appeal by any member to the Board from any ruling of the Chair or other presiding officer.
19. If the Chair or other presiding officer desires to leave the Chair for the purpose of moving a motion or an amendment to a motion, he/she shall call on the Vice Chair to fill his/her place until he/she resumes the Chair.
20. Every member, previous to speaking to any question or motion, shall be recognized by the Chair or other presiding officer and shall respectfully address the Chair or other presiding officer.
21. When two or more members wish to speak, the Chair or other presiding officer shall name the member who, in his/her opinion, first raised his/her hand.
22.
  - (1) A member shall not speak more than once on a question without leave of the Board, except that a member may speak:
    - (a) to move an amendment;
    - (b) in explanation of a material part of his/her speech which may have been misunderstood; or,
    - (c) in reply, after everyone else wishing to speak has spoken, if he/she has presented the motion to the Board but not if he/she has moved an amendment to the motion being discussed.
  - (2) No member, without leave of the Board, shall speak to the same question, or in reply, for longer than five minutes except that the Board upon motion thereof may grant extensions of time for speaking of up to five minutes for each time extended.
23. Any member may require the question or motion under discussion to be read at any time during the debate, but not so as to interrupt a member while speaking.
24. A member may not speak disrespectfully of any other individual or body, use offensive words, disobey the rules of the Board or decision of the Chair or other presiding officer, leave his/her seat or make any noise or disturbance while a vote is being taken and until the result is declared, or interrupt a member while speaking except to raise a point of order.
25. In case any member persists in a breach of the foregoing section after having been called to order by the Chair or other presiding officer, he/she may be ordered by the Chair or other presiding officer to leave his/her seat for that meeting, but in case of ample apology being made by the offender he/she may, by vote of the Board, be permitted forthwith to resume his/her seat.

### Question of Privilege and Points of Order

26. When a member desires to address the Board upon a matter that concerns the rights or privileges of the Board collectively or of himself/herself as a member thereof, he/she shall be permitted to raise such matter of privilege, and a matter of privilege shall take precedence over other matters.
27.
  - (1) When a member desires to call attention to a violation of the rules of procedure, he/she shall ask leave of the Chair or other presiding officer to raise a point of order and after leave is granted, he/she shall state the point of order with a concise explanation and resume his/her seat until the Chair or other presiding officer shall have decided the point of order.
  - (2) Unless a member immediately appeals to the Board the decision of the Chair or other presiding officer shall be final.
  - (3) If the decision is appealed, the Board shall decide the question without debate and its decision shall be final.
28. When the Chair or other presiding officer calls a member to order, he/she shall immediately sit down until the point of order is dealt with and he/she shall not speak again without permission of the Chair or other presiding officer unless to appeal the ruling of the Chair or other presiding officer.

### Motions and Order of Putting Questions

29. Every substantive motion shall be in writing and shall be moved and seconded before being debated or put to a vote, except those dealing with Board procedure.
30. Every motion shall be deemed to be in possession of the Board for debate after it is presented by the Chair or other presiding officer, but may, with permission of the Board, be withdrawn at any time before amendment or decision.
31. When a resolution is under consideration, no motion shall be received other than a motion:
  - (1) to adjourn, which motion is neither amendable nor debatable;
  - (2) to lay on the table, which motion is not debatable;
  - (3) to move the previous question, which motion is not debatable (see Section 33);
  - (4) to defer action;
  - (5) to refer, which motion is debatable as to its merits only; or,
  - (6) to amend.
32. A motion to refer shall take precedence over any other amendment.
33. When a motion that the vote be now taken is presented, it shall be put to a vote without debate, and, if carried, the motion and any amendments thereto under discussion shall be submitted to a vote forthwith without further debate.

34. (1) Only one amendment at a time can be presented to the main motion and only one amendment can be presented to an amendment, but when the amendment to the amendment has been disposed of, another may be introduced, and when an amendment has been decided, another may be introduced.
- (2) The amendment to the amendment, if any, shall be voted on first, then if no other amendment is presented, the amendment shall be voted on next, then if no other amendment is introduced, the main motion, or if any amendment has carried, the main motion as amended, shall be put to a vote.
- (3) Every substantive amendment shall be in writing.
- (4) Nothing in this section shall prevent other proposed amendments being read for the information of the members.

### Voting

35. Questions arising at any meeting shall be decided by a majority vote of the members present unless otherwise stated in this By-law or as required by law.
36. No vote shall be taken by ballot or by any other method of secret voting and every vote so taken is of no effect.
37. Proxy voting is not permitted at Board, Working Group or General meetings.
38. When the question under consideration contains distinct propositions, upon the request of any member, the vote upon each proposition shall be taken separately.
39. After the Chair or other presiding officer commences to take a vote, no member shall speak to or present another motion until the vote has been taken on such motion, amendment or sub-amendment.
40. Every member present at a meeting of the Board when a vote is taken on a matter shall vote thereon except the Chair; and, if any member present persists in refusing to vote, he/she shall be deemed as voting in the negative, and any question on which there is an equality of votes shall be deemed to be negatived.

The Chair shall only vote in the event of a tie vote.

If following all votes being cast, any question on which there is a tie vote shall be deemed to be lost.

41. When a vote is taken for any purpose and a member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, commencing with the member who made the request for a recorded vote, the Office Administrator shall alphabetically record upon the minutes, the names of each member present who votes in the affirmative and in the negative, except for a member who is disqualified from voting by any Act, until all members have voted.

42. If a member disagrees with the announcement by the Chair or other presiding officer of the result of any vote, except a recorded vote, he/she may object immediately to the Chair or other presiding officer's declaration and require that the vote be retaken.
43. After any matter has been decided, any member may move for a reconsideration at the same meeting or may give notice of a motion for reconsideration of the matter at a subsequent meeting, but no discussion of the question that has been decided shall be allowed until the motion for reconsideration has carried, and such motion for reconsideration shall require a two-thirds vote of the members present, and no matter shall be reconsidered more than once in the same calendar year.

#### Adjournment

44. A motion to adjourn the meeting or adjourn the debate shall be in order, except:
  - (1) when a member is in possession of the floor; or,
  - (2) when it has been decided that the vote be now taken; or,
  - (3) during the taking of a vote;but no second motion to the same effect shall be made until after some intermediate proceedings shall have taken place.
45. The members shall not leave their places on adjournment until the Chair or other presiding officer leaves the Chair.

#### Delegations

46. All delegations shall give written notice to the Office Administrator of their request to appear before the Board by 12:00 noon at least one week prior to the scheduled meeting.

Any delegation shall be limited to speak not more than five minutes.

#### Petitions and Communications

47. Every petition or communication intended to be presented to the Board must be clearly written or printed and must not contain any impertinent or improper matter and shall be authorized by at least one person.
48. Every such petition or communication shall be delivered to the Office Administrator before 12:00 noon at least one week prior to the scheduled meeting.
49. All petitions or communications shall first appear on the agenda of a Board meeting at which time the Board will determine if the matter shall be referred to a Working Group for recommendation back to the Board.

Appointment and Organization  
for Working Groups

50. (1) At the first meeting in the year, the Board shall appoint for the ensuing two-year term, the Chair (who shall be a Board member) and members of the following Working Groups:  
    (a) Beautification Working Group  
    (b) Events Working Group  
    (c) Marketing and Communication Working Group  
(2) At least one Board member shall be appointed to each Working Group.  
(3) Any member of the Board may be placed on a Working Group notwithstanding the absence of such member at the time of his/her being named upon such Working Group.
51. The Chair shall be ex-officio a member of all Working Groups.
52. Each Working Group may appoint members of the public, who may or may not be a member of the BIA, to the Working Group and all members shall have a vote.
53. Of the number of members appointed to compose a Working Group, the majority shall be a quorum, and the Chair (if present) shall be counted in making up such a quorum.
54. Each Working Group shall meet at least once a month.
55. Each Working Group shall keep minutes of its proceedings in a book to be furnished for that purpose by the Office Administrator, and such book shall be kept in the office and custody of the Office Administrator.
56. Meetings of Working Groups shall be open to other members of the Board who may, with permission of the Chair, take part in any discussion or debate and vote on matters.

Conduct of Business in Working Groups

57. The rules governing the procedure of the Board shall be observed in Working Groups insofar as applicable, except that:  
    (1) no motion shall require to be seconded;  
    (2) the number of times of speaking on a question shall not be limited;  
    (3) a member shall not be restricted to asking questions only of the previous speaker but the question must relate directly to the matter under discussion.
58. The date, time and location of Working Group meetings shall be established by resolution of the Working Group.
59. It shall be the duty of the Working Groups:  
    (1) to report to the Board on all matters connected with their duties or referred to them by the Chair or by the Board or to recommend such action as they deem necessary; and,

(2) to forward to the incoming Working Group for the following year any matter undisposed of.

60. This by-law is adopted as the procedural by-law for the Board of Management of the Oshawa Central Business District Improvement Area and all previous by-laws, or sections thereof, or other policies regulating the proceedings of the Board shall be and the same are hereby repealed.
61. This by-law shall come into effect on the date of its passing.
62. By-law No. 1 is hereby repealed.

By-law passed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Chair

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Office Administrator



**OSHAWA CENTRAL BUSINESS DISTRICT IMPROVEMENT AREA  
BOARD OF MANAGEMENT**

**PROCUREMENT POLICY**

1. All agreements for goods and services entered into by the Board must be reviewed and approved by resolution of the Board prior to execution.
2. Notwithstanding the foregoing, the Office Administrator is permitted to make purchases related to the operation of the Board to an upset limit of \$200.00 per transaction without the previous permission of the Board. The Office Administrator will advise the Board of any purchases made pursuant to this section of the Procurement Policy at the next Board meeting.
3. All purchases over \$200.00 must be approved by resolution of the Board prior to the purchase.
4. All purchases \$1,000.00 and over require 3 quotations with the lowest price not necessarily accepted. The Board shall review and determine by resolution the Board's course of action in relation to the 3 quotations. Where after all avenues have been exhausted and it has been determined that 3 quotations cannot be obtained, the Office Administrator shall present the quotes obtained to the Board along with sufficient evidence that 3 quotations were not attainable.
5. The use of official Board stationery and business cards is strictly limited to approved Board-related communication. Board letterhead, envelopes and business cards shall not be used for personal correspondence or for the purpose of soliciting private business.
6. The Board shall not purchase, sell or otherwise dispose of land without the prior approval of City Council.

Date Approved: \_\_\_\_\_

Chair: \_\_\_\_\_

Office  
Administrator: \_\_\_\_\_

## OSHAWA CENTRAL BUSINESS DISTRICT IMPROVEMENT AREA BOARD OF MANAGEMENT

### HIRING POLICY

1. The Board may hire or contract for an Office Administrator whose duties are outlined in the Board's Terms of Reference.
2. Any individuals hired on a contract basis (ie. bookkeeper, lawyer, etc.) are to be hired by resolution of the Board.
3. The Office Administrator has the authority to hire casual part-time staff in consultation with the Chair.
4. In the event of the Board hiring any employees except casual part-time staff, the Board shall post the opportunity on appropriate websites, notify BIA members and advertise in the local media and HRDC offices.
5. When staff hiring is to be undertaken, with the exception of casual part-time staff, the Board shall:
  - conduct interviews;
  - complete reference checks; and,
  - make the final decision by resolution on hiring.

Date Approved: \_\_\_\_\_

Chair: \_\_\_\_\_

Office  
Administrator: \_\_\_\_\_



**By-Law -2013  
of The Corporation of the City of Oshawa**

Being a by-law to further amend By-law 94-74.

**WHEREAS** By-law 94-74 designated an area in the Oshawa Central Business District as an Improvement Area and established the Board of Management for the Oshawa Central Business District Improvement Area;

**NOW THEREFORE** the Council of The Corporation of the City of Oshawa enacts as follows:

That By-law 94-74, as amended, be further amended by:

1. Amending the composition in the preamble of Section 4 from nine (9) to ten (10).
2. Adding to Section 4, a part (d) as follows:  
  
(d) One member of Oshawa City Council, as appointed by City Council.
3. Replacing the words "Chairman" and "Vice-Chairman" with the words "Chair" and "Vice-Chair" in Sections 8 and 14.
4. Deleting the words "secretary and" in Section 8.
5. Adding the word "external" prior to the three instances where the term "City Auditor" appears in Sections 10 and 11.
6. Substituting the words "As soon as possible" for the words "On or before the 1<sup>st</sup> day of March in" in Section 13.
7. Amending Section 14 by deleting the words "Treasurer and".
8. Deleting the words "Subsection 17 of Section 217 of" and "R.S.O. 1980, Chapter 302" in Section 16A.
9. Replacing Section 17 with the following:  
  
17. The City of Oshawa shall arrange for Municipal Liability and Errors and Omissions insurance to cover the operations of the Board. The Board shall arrange for property insurance to cover property, contents and equipment owned by or belonging to the Board.

10. Renumbering Sections 13A to Section 18, inclusively, as Sections 14 to 20, inclusively.

By-law passed this day of , 2013.

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Mayor

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City Clerk

Constitution of the Oshawa Central Business District Improvement Area

**Constitution  
(Oshawa Central Business District Improvement Area -  
ODBIA)  
Date: September 25, 2019**

## Constitution of the Oshawa Central Business District Improvement Area

### **NAME**

The name of the organization is "Oshawa Central Business District Improvement Area (commonly referred to as ODBIA)".

The membership of the organization elects "the Board of Management for Oshawa Central Business District Improvement Area (or ODBIA Board)" which is in turn appointed by the Council of the City of Oshawa through Bylaw # 94-74.

### **LEGISLATIVE DIRECTION**

The direction provided by Council pursuant to Bylaw # 94-74 reads as follows:

“There is entrusted to the Board, subject to the limitations hereinafter set out, the improvement, beautification and maintenance of the municipally owned lands, buildings and structures in the area beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, events, business recruitment, communication, and the marketing and promotion of the area as a business shopping area.”

Provincial Legislation - Municipal Act, 2001, S.O. 2001, c. 25

Designation of improvement area

204. (1) A local municipality may designate an area as an improvement area and may establish a board of management,

(a) to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and

(b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

## **PURPOSE**

The Council of the City of Oshawa appoints the Board of Management of ODBIA to:

Plan and administer activities for the promotion and economic development of the ODBIA as an attractive business and shopping area as well as for the maintenance of the appearance of the downtown core (to develop, promote and protect commercial viability of the area);

Engage in strategic planning necessary to address ODBIA issues for its members;

Advocate on behalf of the interests of ODBIA catchment and its members;

Manage the money that is collected by the City of Oshawa from the required special BIA levy for these activities;

To strive to ensure that each member of the ODBIA receives fair representation from the Board of Management.

## **BOUNDARIES – ODBIA AREA**

The boundaries of ODBIA as established by City Council.

All businesses within the designated area are assessed for a special levy that is collected by the City of Oshawa to support the activities of ODBIA.

## **MEMBERSHIP**

Membership of the organization shall consist of all property owners currently paying the levy, and including tenant businesses with a gross lease located and/or operating within the designated ODBIA boundaries. Only members in good standing have a right to vote.

Only members of ODBIA have the right to vote for representatives to the Board of Management of ODBIA and to vote on issues brought to a General Meeting of ODBIA.

Each member has the right to nominate an owner or employee of a business or property (or their designate) to stand for election to the Board of Management of ODBIA according to requirements set out in the Municipal Act 2002 s. 204 ss. 4.

All members are entitled to voting privileges at the Annual General Meeting, one vote per member. Written proxies only are permitted. Each member has one vote regardless of the number of properties or businesses owned by any member.

Any member of ODBIA may ask that issues or items of interest be placed on the agenda of ODBIA for discussion and/or resolution. They may contact any ODBIA Board member or the BIA office for inclusion of an item on an upcoming agenda. Additionally, with reasonable notice, any member may make a request in writing to make a deputation or presentation to ODBIA. Said request is to be directed to the Chair of the Board of Management.

Additional membership classifications may be added and/or deleted via the ODBIA "Policies and Procedures". The removal of a member in good-standing status, with definitions and descriptions for removal in the ODBIA "Policies and Procedures", requires a 2/3 vote from the sitting Board of Management, with membership status to be reviewed annually. The ODBIA will continue to collect the levy after removal of the member in good standing status.

## **BOARD OF MANAGEMENT**

The Board of Management of ODBIA is a standing committee of the Council of the City of Oshawa, in accordance *Municipal Act* pertaining to BIA's under Section 204.

### **Remuneration**

Board of Management and sub-committee work is done on a volunteer basis. No Officer, member of the Board, sub-committee member, or their relatives shall directly or indirectly



## Constitution of the Oshawa Central Business District Improvement Area

receive any profits or remuneration as the result of their position with ODBIA. Board Members may be paid reasonable and necessary expenses incurred in the performance of their duties that have been budgeted and receipted.

### Term of Office

The Board's Term of Office runs concurrently with that of the Municipal Council appointing it – a full-term is considered four (4) years, with members able to sit for upwards two (2) full-terms. Afterwards a full-term of four (4) years must pass before a member is eligible to serve two (2) more consecutive terms.

### Officers

1. The organization shall have the following officers: Chair, Vice Chair, Immediate Past Chair, Secretary, and Treasurer
2. The duties of these officers shall be:

- I. **Chair**

The Chair or designate of the BIA acts as the spokesperson of the Board as a whole and represents the will of the BIA Board of Directors.

The Chair is:

- An Officer of BIA;
- A Member of the Executive Committee.
- Must have served on the Executive Committee for one (1) full year prior to nomination. If no Executive Committee member meets this qualification, a Director At-Large with one (1) full year of service may be nominated. If no Director At-Large meets this qualification, the Board of Management may choose an elected Board Member for nomination.
- May serve upwards of a full-term of four (4) years. A non-full-term tenure would include, but is not limited to, a nomination after a previous chair resignation, after which the Chair is not permitted to be nominated for another term without having completed a four (4) year full-term rotation off of the Board of Management and an additional year of service as a Director At-Large.

Responsibilities of the Chair

- Will have signing authority for the organization;
- Oversee Board and Executive Committee meetings;
- Serve as an ex-officio member of all committees;

## Constitution of the Oshawa Central Business District Improvement Area

- Work in partnership with staff to:
- Ensure Board resolutions are carried out
- Prepare the Agenda for Board Meetings
- Conduct new member orientation;
- Ensure an annual performance evaluation of the Executive Director takes place;
- Support Board Members to carry out their responsibilities;
- Call Special Meetings if necessary;
- Work with the entire Board to recruit new members,
- Serve as liaison with Senior Management Team of the City of Oshawa; and,
- Review and approve all Media Releases.

### II. **Immediate Past Chair**

The immediate Past Chair is:

- A non-voting ex-officio;
- A Member of the Executive Committee.
- Immediately serve upwards of one (1) year directly following completion of Chair tenure. Exemptions include member in good standing status.

Responsibilities of the Past Chair:

- Ensures continuity in the Association;
- Provides “corporate memory” for the Board;
- Chairs meetings in the absence of the Chair and Vice-Chair, as well as assuming the duties of Vice Chair in his or her absence;
- Acts as advisor and mentor to the Executive Committee of which they are a member;
- In cooperation with the Chair, represents BIA to the public, and;
- After the Annual General Meeting, holds a Board meeting of the Board of Directors to elect the Officers.

### III. **Vice Chair**

The Vice Chair is:

- An Officer of the ODBIA;
- A member of the Executive Committee.

Responsibilities of the Vice Chair:

- May be one of the four Board Members who have signing authority;
- Acting Chair in the absence of the Chair;
- Assists the Chair in his or her duties;

## Constitution of the Oshawa Central Business District Improvement Area

- Chair is a Standing Committee.

### IV. **Treasurer**

The Treasurer is:

- An Officer of the ODBIA;
- A Member of the Executive Committee.

Responsibilities of the Treasurer:

- Will have signing authority for BIA;
- Ensures responsible tracking of BIA finances;
- Together with staff, ensures a record of all financial activity is presented at each Board Meeting;
- Ensures documents are prepared for the annual audit;
- Oversees the preparation of the draft budget;
- Monitors and assesses BIA's financial activities to ensure compliance with the direction and aims of the Board;
- Ensures that all financial reporting and government records are processed in a timely manner complying with all deadlines e.g. Ensure audit by March 31<sup>st</sup>;
- Prepare a draft budget by September, gain Board and AGM approval in October, City Council approval by November 30<sup>th</sup>, to ensure an April release of funds, and;
- Chairs the Finance and Audit Committee

### V. **Secretary**

The Secretary of the Board is:

- An Officer of the ODBIA;
- A Member of the Executive Committee.

Responsibilities of the Secretary of the Board:

- Will have signing authority for BIA;
- Ensures responsible tracking attendance of general meetings;
- Ensures responsible tracking of obtaining signatures of attendees of the Annual General Meeting of BIA;
- Records minutes of In Camera meetings of the Board of Directors, and;
- May chair a standing committee.
- May chair a standing committee.

## Constitution of the Oshawa Central Business District Improvement Area

3. Removal of officers: Officers serve at the pleasure of the Board and may be removed from office by a majority vote of the Board. An officer must be given notice in writing at least five (5) business days in advance of a Board meeting that a motion to remove him/her/them from office will be made. If the officer is not a Board Member, the officer shall have the right to attend and speak at the Board meeting with respect to the question of his/her/their removal.
4. Officers must provide thirty (30) days' written notice for resignation of Board responsibilities.
5. The Board will be comprised of individuals as outlined in City of Oshawa Municipal Bylaw 94-74.

### **Non-Voting Ex-Officio Appointees to The Board**

Where appropriate, the Board of Directors may appoint non-voting ex-officio representatives from the municipality, other agencies & associations (non-governmental and governmental) as non-voting ex-officio members of the Board, Board of Director and Executive Committee meetings, where appropriate. Non-voting ex-officio appointees are above and beyond the Board Directors.

The non-voting ex-officio appointees may be invited to attend membership, Board of Director and Executive Committee meetings, where appropriate. Non-voting ex-officio appointees are not permitted to be in-camera unless Board of Management waves such rules.

### **Responsibilities of the Board**

The Board is responsible for:

1. Drafting and approving of Policies and Procedures to ensure the effective operation of ODBIA and for amending these Policies and Procedures as necessary.
2. Ensuring that Board Policies and Procedures are implemented effectively.
3. Acting as a legal entity to enter into contracts required by the activities of the Board, such as the maintenance, beautification, promotion, economic development as well as the marketing and advertising of the downtown designated area.
4. Electing an Executive who will also act as Signing Officers for the Board.
5. Drafting an annual budget for approval by quorum of the Board of Management; submitting the approved budget to the City of Oshawa; requesting release of the levy and implementing the annual budget as approved by the Municipal Council and presentation of the approved budget to ODBIA membership.

## Constitution of the Oshawa Central District Improvement Area

- a. The annual budget approved by the Board of Management and ratified by City Council shall be presented to the ODBIA membership in attendance at the Annual General Meeting. Notification of this meeting shall be given to the membership not less than two weeks (fourteen days) prior to the meeting date.
  - b. The meeting will be held every fall unless otherwise posted with a 60-day notification to the membership.
  - c. At each Annual General Meeting audited financial statements for the previous year shall be presented to the membership.
6. The ODBIA Board shall have the authority to raise funds through events held, to supplement the budget for ODBIA programs.
7. Ensuring that financial transactions are appropriately carried out, that records of all financial transactions are maintained and that these records are audited annually by the auditing firm specified by the City of Oshawa.
8. Ensuring that minutes of all Board meetings are recorded and distributed to The City of Oshawa and its members through both the City of Oshawa and ODBIA websites.
9. Establishing sub-committees and appointing representatives to those sub-committees as required to deal with issues identified by the Board or as requested by The City of Oshawa as well as ensuring committee minutes are recorded and kept on file at the office of the Board.
10. Hiring the Executive Director to carry out the Board's directives.
11. Maintain communication with the members regarding its activities, including but not limited to, arranging General Meetings of the membership.
12. All other activities necessary to the effective operation of the Board and ODBIA.
13. To establish bylaws for good governance of the ODBIA, provided that should there be a conflict between the said internal bylaws and the constitution, the constitution will prevail.

## **Amendment to Constitution**

1. Any amendment to this constitution may be adopted by a two-thirds (2/3) vote of the Board Members present at any Board meeting provided written notice of the proposed amendment and date of such meeting shall have been given to Board Members at least ten (10) business days prior thereto.
2. Any amendment approved by the Board is effective until the conclusion of the AGM following its adoption by the Board but must be ratified by two-thirds (2/3) of votes cast by the membership on the amendment in order to continue in effect after the AGM.

## **Coming Into Force**

This Constitution shall come into force when approved by a majority of the membership of Oshawa Central Business District Improvement Area.

Passed by the Board of Management on this day \_\_\_\_\_

Confirmed by the Members on this day \_\_\_\_\_

*Oshawa Downtown BIA*  
*(Business Improvement Association)*

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POLICY AND PROCEDURE MANUAL

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## OVERVIEW

This manual is a summary of policies, procedures, and practices related to governance and human resource management for the Oshawa Downtown Business Improvement Association (henceforth referred to as the BIA within this document).

*Policies* are the statements that provide the framework for decision-making and desired action. They provide guidance for how to respond to situations in a manner that will support the values and priorities of the BIA. Board policies interpret and expand on Oshawa Downtown bylaw requirements. By setting out detail in our policies rather than our bylaws, we will avoid the complexity that is involved in changing the bylaws e.g. member voting process.

While the Board of Directors has been responsible for development of the policies within this manual, the BIA Executive Director (ED) plays a key role in the ongoing refinement and implementation of both the policies and the procedures outlined in this manual.

*Procedures* describe the manner for how each policy will be implemented. Generally, the Board determines the policies and then works with the senior staff member to approve the actual procedures. The policies and procedures will always reflect the mission, vision and strategic direction of the BIA.

This manual should be referenced to ensure organizational consistency in the application of these practices. If there are questions, issues, or suggestions for improvement regarding this manual, the Executive Director should bring them to the attention of the Board Chair.

## About the Oshawa Downtown BIA

### What is a BIA?

A Business Improvement Area (BIA) is a “made-in-Ontario” innovation that allows local business people and commercial property owners and tenants to join together and, with the support of the municipality, to organize, finance, and carry out physical improvements and promote economic development in their district.

## Organizational Structure

The Oshawa Downtown BIA was established by the City of Oshawa using the specific business improvement area provisions in the *Municipal Act*.

Oshawa Downtown Business Improvement Area Board of Management (ODBIA) is a Local Board of Council of the City of Oshawa. The Board of Management is responsible for administration and strategic management of the BIA including overseeing the planning, budgeting, implementing and evaluating of BIA projects.

*“The Board of Management is entrusted, subject to such limitation as the by-law may provide, with the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area (downtown Oshawa improvement area), beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.”*

## BIA Membership and Funding

Membership of the organization consists of all property owners, and their tenants located and/or operating within the designated Oshawa Downtown Business Improvement Area boundaries.

Businesses within the boundaries of the BIA are its members and pay the BIA levy along with their property taxes. A traditional BIA view is that this structure reflects the principle that all who benefit should be required to bear their fair share of the cost of the program. The BIA also takes on other activities to generate resources e.g. special events, corporate sponsorships, grants.

Only members of Oshawa Downtown Business Improvement Area have the right to vote for representatives to the BIA. Members also have the right to bring forward issues to the Annual General Meeting. However, only the Board of Directors have the right to vote on budget or other motions.

## Board Composition and Quorum

“The Board shall consist of a minimum of ten (10) person(s), as follows:

- a. Five (5) directors shall be appointed directly by City Council, of whom
  1. Four (4) directors shall be members of the improvement area or nominees of corporate members of the improvement area who are officers or directors of those corporate members; and
  2. One (1) director shall be a resident of the City of Oshawa
- ii. One (1) director shall be appointed directly by City Council who shall be senior staff member of University of Ontario Institute of Technology (UOIT) part of the UOIT downtown campus and selected by UOIT’s President; and
- iii. Three (3) directors shall be appointed by City Council from a list of candidates selected by members of the improvement area, of whom two (2) directors shall be members of the improvement area or nominees of corporate members of the improvement area who are officers or directors of those corporate members.
- iv. One (1) member of Oshawa City Council, as appointed by City Council

#### **Quorum**

The quorum for approving motions at Board Meetings is 50% + 1. The chair and Councillors can vote.

#### **Length of Term**

Each term is 4 years with each director limited to a maximum of 8 years consecutively.

#### **Direction Provided by the City of Oshawa**

The Council of the City of Oshawa ratifies the slate of directors of the Board of Management of Oshawa Downtown Business Improvement Area to:

- b) Plan and administer activities for the promotion and economic development of the Downtown Business Improvement Area as an attractive business and shopping area as well as for the maintenance of the appearance of the downtown core (to develop, promote and protect commercial viability of the area);
- c) Engage in strategic planning necessary to address Oshawa Downtown Business Improvement Area issues for its members;
- d) Advocate on behalf of the interests of Oshawa Downtown Business Improvement Area catchment and its members;
- e) Manage the money that is collected by the City of Oshawa from the required special BIA levy for these activities; as well as any income derived from events and/or social enterprises initiatives

- f) To strive to ensure that each member of the Oshawa Downtown Business Improvement Area receives fair representation from the Board of Management, herein referred to as the BIA.

## Mission Statement

The mission of Oshawa Downtown Business Improvement Area is:

**To promote economic and community well-being in downtown Oshawa by supporting and celebrating the heart and spirit of local businesses and entrepreneurs.**

## Vision

The BIA is recognized as a resourceful, innovative partner who works as a catalyst to bring together businesses, citizens, elected officials, and community organizations in order to impact the economic, cultural and social well-being of our community.

## Goals

With passion and commitment, we pursue the following initiatives and objectives:

- To beautify, enhance and preserve the downtown core of the City of Oshawa including our cultural assets and historical buildings.
- To develop opportunities that showcase and strengthen the ODBIA member community thus creating economic development and jobs.
- To promote and market the Oshawa Downtown area as a destination to shop, dine, work and visit.
- To create pride in the community with safe, well-maintained, and friendly streets.
- To enhance the quality of life through a sense of belonging.

# BOARD RESPONSIBILITIES AND STRUCTURE

## Board Role

The BIA Board serve as ambassadors for Downtown Oshawa to:

- help create a more pleasant atmosphere for local businesses and neighbouring residential areas through streetscape improvement;
- contribute to revitalization and maintenance that improves and maintains physical infrastructure as well as help make the area cleaner and safer;
- use marketing and promotional activities to encourage both local residents and visitors to shop and use services within the Downtown area;

- work with community partners to organize special events and/or social enterprise that promote Downtown Oshawa;
- help to ensure that available space is occupied, and that an optimum business and service mix is achieved and maintained, and;
- provide a voice for the business community, often serving as a liaison with city council, municipal departments, residents, and local community groups.

## **Roles of the Officers**

### *Chair*

The Chair or designate of the BIA acts as the spokesperson of the Board as a whole and represents the will of the BIA Board of Directors.

The Chair is:

- An Officer of BIA;
- A Member of the Executive Committee.

Responsibilities of the Chair

- Will have signing authority for the organization;
- Oversee Board and Executive Committee meetings;
- Serve as an ex-officio member of all committees;
- Work in partnership with staff to:
  - Ensure Board resolutions are carried out
  - Prepare the Agenda for Board Meetings
  - Conduct new member orientation;
- Ensure an annual performance evaluation of the Executive Director takes place;
- Support Board Members to carry out their responsibilities;
- Call Special Meetings if necessary;
- Work with the entire Board to recruit new members,
- Serve as liaison with Senior Management Team of the City of Oshawa; and,
- Review and approve all Media Releases.

### *Immediate Past Chair*

The immediate Past Chair is:

- A non-voting ex-officio;
- A Member of the Executive Committee.

Responsibilities of the Past Chair:

- Ensures continuity in the Association;
- Provides “corporate memory” for the Board;



- Chairs meetings in the absence of the President and Vice-President, as well as assuming the duties of Vice Chair in their absence;
- Acts as advisor and mentor to the Executive Committee of which they are a member;
- In cooperation with the Chair, represents BIA to the public, and;
- After the Annual General Meeting, holds a Board meeting of the Board of Directors to elect the Officers.

### *Vice-Chair*

The Vice President is:

- An Officer of BIA;
- A member of the Executive Committee.

Responsibilities of the Vice Chair:

- May be one of the four Board Members who have signing authority;
- Acting Chair in the absence of the Chair;
- Assists the Chair in their duties;
- Chairs a Standing Committee.

### *Treasurer*

The Treasurer is:

- An Officer of BIA;
- A Member of the Executive Committee.

Responsibilities of the Treasurer:

- Will have signing authority for BIA;
- Ensures responsible tracking of BIA finances;
- Together with staff, ensures a record of all financial activity is presented at each Board Meeting;
- Ensures documents are prepared for the annual audit;
- Oversees the preparation of the draft budget;
- Monitors and assesses BIA's financial activities to ensure compliance with the direction and aims of the Board;
- Ensures that all financial reporting and government records are processed in a timely manner complying with all deadlines e.g. Ensure audit by March 31<sup>st</sup>;
- Prepare a draft budget by September, gain Board and AGM approval in October, City Council approval by November 30<sup>th</sup>, to ensure an April release of funds, and;
- Chairs the Finance and Audit Committee.

### *Board Secretary*

The Secretary of the Board is:

- An Officer of BIA;
- A Member of the Executive Committee.

Responsibilities of the Secretary of the Board:

- Will have signing authority for BIA;
- Ensures responsible tracking attendance of general meetings;
- Ensures responsible tracking of obtaining signatures of attendees of the Annual General Meeting of BIA;
- Records minutes of In Camera meetings of the Board of Directors, and;
- May chair a standing committee.

### *Directors at Large*

A Director at Large is:

- A voting member in good standing

A Director at Large must:

- Support and further the mandate of the BIA;
- Represent the Association by bringing forward relevant issues;
- Vote responsibly by reviewing and understanding the issues facing the BIA through discussion, and studying supporting documentation;
- Advocate on behalf of the BIA with the external community - especially with members, politicians and business leaders;
- Assist BIA staff with initiatives and special projects as required;
- Attend BIA events and the Annual General Meeting;
- Participate on committees;
- Support Association events as a volunteer;
- As a part of the Board of Directors develop the budget presented to them in draft by the Treasurer, and approve it for recommendation to the Membership at the Annual General Meeting, and;
- Serve as stewards to ensure the responsible use of BIA financial resources.

### *Non-Voting Ex-Officio Appointees To The Board*

Where appropriate, the Board of Directors may appoint non-voting ex-officio representatives from the municipality, other Agencies & Associations (Non-Governmental and Governmental) as non-voting ex-officio members of the Board, Board of Director and Executive Committee meetings, where appropriate.

The non-voting ex-officio appointees may be invited to attend membership, Board of Director and Executive Committee meetings, where appropriate.

## **Committee Descriptions**

### *Governance Committee*

- The governance committee is a Standing Committee of the Board. Its main purpose is to maximise Board effectiveness through the development and maintenance of appropriate governance principles and practices;
- To advise the Board of Directors in fulfilling its governance oversight responsibilities;
- Serve as the Board nominations committee;
- Review any and all memorandums of agreement or understanding on behalf of the Board; meet with those parties if required and forward documentation to the Board for consent and approval;
- The governance committee is responsible for submitting its budget requirements to the Finance and Audit committee no later than August 30<sup>th</sup> of each year.

### *Finance and Audit Committee*

- The Finance and Audit Committee is a standing committee of the Board;
- It oversees the financial reporting and disclosure process and oversees the execution of the daily operations of the business of the BIA including but not limited to budgeting, financial planning, creation and monitoring of internal controls and accountability policies;
- The committee through the Treasurer serves as the direct resource to the Executive Director in terms of financial processes and queries.
- The Finance and Audit committee through the Treasurer is the spokesperson regarding the annual audit:
- Drafts the annual budget and forwards the approved budget to Finance Department of the City of Oshawa for review and ratification by Council of the City of Oshawa, and;
- Presents the audited statements and approved budget at the Annual General Meeting.

### *Marketing and Promotion Committee*

- Direct agency and BIA staff in the development of marketing and communication strategy; creative strategy and graphic design.
- Direct BIA staff to implement the approved marketing plans.
- Direct annual marketing and communication plan with an accompanying budget, to be presented to the Board of Management; and its members’.
- Direct, review and assess the management of these marketing and communication initiatives and the value of these programs to the BIA membership.
- Direct staff with potential opportunities available to its membership through these strategies.

- Direct the vision and purpose of the Downtown Marketing and Communication program with the beautification, events and economic development working groups' functions.
- Assume the responsibility for the development of the marketing and communication program for the Oshawa Downtown BIA, and in doing so comply with all Federal, Provincial and Municipal regulations pertaining to communications and media.
- Ensure all procurement policies set-out by the BIA by-laws and City of Oshawa are followed to ensure good fiscal responsibility and accountability.
- Ensure all billings from outside agencies have been pre-approved and are in line with the approved marketing and communication budget.
- Ensure that all sponsors signed on for any project do not directly compete with any BIA business, and if there should be a concern, that this be presented to all committee members for their input and direction.
- Ensure that sponsors signed on are a complement to the Oshawa Downtown BIA brand.
- Ensure marketing and corporate identity offered does not offend and/or overpower or interfere with the downtown Oshawa brand.

### *Events Committee*

Sponsorship and event marketing are becoming increasingly important as vehicles for promoting the Downtown as a destination, for broadening the exposure of the business of BIA members and their businesses; and for implementing initiatives for strengthening the economic development of BIA. As such the Events committee is responsible for:

- Direct BIA staff in the development of event charters; and.
- Produce an annual event plan with an accompanying budget, to be presented to the Board ; and
- Review and assess the management of these events and the event marketing value to its membership.
- Direct staff with potential opportunities available to its membership through these events.
- Integrate the vision and purpose of the Downtown Event program with the beautification, marketing and communication, as well as the economic development working groups' functions.
- Assume the responsibility for developing the event program for the Oshawa Downtown BIA, and in doing so comply with all Federal, Provincial and Municipal Event regulations, licenses and liability requirements to ensure a safe and smooth event execution.
- Ensure that all procurement policies set-out by the BIA by-laws and City of Oshawa are followed to ensure good fiscal responsibility and accountability.
- Ensure all billings from outside agencies have been pre-approved and are in line with the approved total budget.
- Ensure that all sponsors signed on for any project do not directly compete with any BIA business, and if there should be a concern, that this be presented to all committee members for their input and direction.
- Ensure that sponsors signed on are a complement to the Oshawa Downtown BIA brand.

- Ensure marketing and corporate identity offered does not offend and/or overpower or interfere with the downtown Oshawa brand.

### *Economic Development and Beautification Committee*

- The Beautification Committee is a Standing Committee of the Board and is responsible for the oversight of the seasonal use of planters and flowering baskets as well as the oversight of street furniture that serves to promote the BIA as an inviting destination for its members, local residents and visitors:
- Provide feedback and direction regarding the appropriate plant material suitable for seasonal use in planters and other plant receptacles in the catchment area;
- Proactively seek out and work cooperatively with key partners to assist in beautification initiatives;
- Work with City Staff, volunteers, and other organizations and businesses where appropriate to implement its beautification strategies;
- Bring to the attention of City staff and assist in addressing issues that detract from the beautification goals including but not limited to safety; cleanliness; graffiti and tagging, and;
- Drafting and submitting by August 30<sup>th</sup> the annual committee budget to Finance & Audit.
- Work with the City to develop long term goals that focus on the downtown or BIA geographic area.
- Identify areas that are of concern for the BIA and actively look for solutions to improve on the economic outlook for the downtown, both for short-term and long-term concerns.
- Assume the responsibility for the development of new initiatives to increase awareness of problem areas and address these issues for the Oshawa Downtown BIA, and in doing so comply with all Federal, Provincial and Municipal regulations to ensure minimum risk to the BIA.
- Ensure all procurement policies set-out by the BIA by-laws and City of Oshawa are followed to ensure good fiscal responsibility and accountability.
- Ensure all billings from outside agencies have been pre-approved and are in line with the approved social media and membership budget.
- Ensure that all sponsors signed on for any project do not directly compete with any BIA business, and if there should be a concern, that this be presented to all committee members for their input and direction.
- Ensure that sponsors signed on are a complement to the Oshawa Downtown BIA brand.
- Ensure marketing and corporate identity offered does not offend and/or overpower or interfere with the downtown Oshawa brand.
- Review and assess the sales of these programs and the opportunities offered to the corporate community and the BIA membership.
- Seek aid in the collection of unpaid sponsorship and seek protection if needed.

### Ad-Hoc Committee(s)

- On occasion the Board and/or one of the Standing Committees will reach out to the membership and public to participate in a special focus or an event group (e.g.Strategic Planning). The mandate and timeline is set out by the Board and/or committee. All ad-

hoc committees must be chaired by a director of the Board and the Executive Director will be the staff representative.

## **Board Code Of Conduct**

The Code of Conduct identifies the public's expectations of BIA Board Members and establishes guidelines for appropriate behavior.

The key principles that underlie the Code of Conduct are as follows:

1. Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
2. Members shall perform their functions with integrity, accountability, and transparency, avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;
3. Members shall perform their duties of office in a manner that promotes public confidence and will bear close public scrutiny, and;
4. Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and City Council.

## **Communications and Media Relations**

Members must show respect for BIA's decision-making process, accurately communicating the decisions of BIA, even when they may not always agree with the decision of the Board.

The Chair (typically with direction provided by the Board Members) speaks to the media on behalf of the Board and approves all media releases. Unless otherwise delegated to another Board or Staff member, it is the Chair's role to contact elected and senior government officials.

## **Confidential Information**

Members have access to confidential information by virtue of their position with BIA. Confidential information includes: information in the possession of, or received in confidence by BIA, that BIA is prohibited from disclosing, or has decided to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act, or other legislation; a matter that has been debated or discussed at a meeting of BIA closed to the public, unless the matter is subsequently discussed in open Board Meetings, or it is authorized to be released by BIA; reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the BIA, its officers and employees, or its effective operation; and information concerning litigation, negotiation, or personnel matters.

No Member shall:

- Disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized by the BIA to do so.
- Use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.
- No Member shall disclose the content of a matter that has been discussed at or the substance of deliberations of an in-camera meeting, except for content that has been authorized by the BIA to be released to the public; the obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member.
- No Member shall disclose the content of a matter that has been discussed, or the substance of a report noted as private and confidential such as working documents, except for content that has been authorized by BIA to be released to the public. The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member.

## Conflict of Interest

As a general rule, BIA's Board and staff member's personal activities are their personal concerns. However BIA has an obligation to its members and stakeholders and must direct its attention to regulating and monitoring those activities which might conflict or appear to conflict with the proper performance of the BIA Board and Staff Members. It is important to note that these guidelines are not intended to constrain social interaction and personal relationships unrelated to the BIA employees responsibility to the organization.

Board, Staff, Committee Members, Volunteers, or representatives of BIA shall not:

- Engage in any business or transaction or have a financial or other personal interest which is incompatible with the discharge of their duties and obligations;
- Knowingly place themselves in a position where they are under obligation to any person who might benefit from special consideration or favour on their part or who might seek, in any way, preferential treatment;
- Knowingly place themselves in a position where they could be influenced in a decision by personal, family, financial, business or other interests;
- Accord, in the performance of their duties and obligations, preferential treatment to relatives or friends or to organizations in which they or their relatives or friends have an interest, financial or otherwise;



- Benefit from the use of information acquired during the course of their official duties, which is generally not available to the public;
- Engage in any outside work, activity, or business undertaking that conflicts or appears to conflict with their duties as a Board, Staff, Committee Member, Volunteer, or representative of BIA in which they have an advantage or appear to have an advantage derived from their association with BIA;
- Use BIA property, equipment, supplies, or services of consequence for activities not associated with the discharge of official duties;
- Place themselves in a position where they could derive any direct or indirect benefit or interest from any contracts, the decisions with respect to which, they could influence; or
- Accept any gift that could reasonably be construed as being given in anticipation or recognition or of special consideration by the BIA;

Disclosure of conflict of interest shall be made in the following ways:

- In addition to the foregoing, whenever a Board or Committee member, other BIA member or Staff Person considers that they could be, or could potentially be, in a conflict of interest as defined within this policy or otherwise, they shall disclose this conflict to either the Committee (if during a committee meeting) or the Board of Directors;
- Any BIA member or Staff Person who feels that another BIA member or Staff Person is in a conflict of interest can raise the matter with either the Committee (if during a committee meeting) or the Board of Directors;
- If a Board or Committee member or Staff Person is in doubt as to whether or not a conflict of interest situation exists, they should provide disclosure to the Committee or Board of Directors.
- At the beginning of each meeting, as an agenda item, it shall be the duty of every Board member who is in any way, whether directly or indirectly, interested in a contract or arrangement that may be an item to be discussed by the Board and has some financial benefit to the Board member, either directly or indirectly, to declare this interest and not participate in the discussion and voting. This applies to a personal self-interest and the interests of any spouse, children, parents, parents-in-law or siblings.

## Approval of Financial Transactions

### *Signing authority:*

To ensure that the BIA office can function effectively, and that there is adequate financial control by the Board, there are two levels of approval established for financial transactions.

#### **Level 1 Approval**

The Executive Director of the BIA can authorize a financial transaction at the discretion of the Chair of the Board without prior consultation with, or approval by, the Board of Management provided that:

- the purchase is one that was included in the approved budget, and;
- the purchase does not result in an overage in the budget item, and;
- Chair of the Board approve the purchase verbally or in writing. The purchase is reported to the Board at its next meeting. Note: this does not need to take place if it within the approved budget. This would include office purchases as it would not be a governance issue.

#### **Level 2 Approval**

The Executive Director of BIA can authorize a financial transaction over the budgeted amount only at the direction of the Board and when:

- the purchase has been approved by motion at a meeting of the Board of Management and the approval is documented in the Minutes of the Meeting, or;
- the purchase is confirmed to the Board of Management at its next meeting following the completion of the transaction.

#### **Signatures**

All cheques must be signed by two (2) Officers of the Board of Management, as approved by the Board at a meeting held for that purpose. Up to four (4) members may be authorized to sign cheques. The officers of the Board are the (4) members designated as the signors for the Board of Management.

Note: If any purchase at Level 1 or Level 2 has not been previously approved in the annual budget, or if it will result in budget overrun, the Board must provide its approval prior to the expenditure.

### **Use of Corporate Resource Policy (during an Election Year)**

This policy is intended to ensure a fair and consistent approach for how BIA corporate resources can and cannot be used during a municipal election. This procedure supports compliance with the *Municipal Elections Act, 1996*, as amended.

### **Scope**

This policy applies to municipal (including school board), provincial or federal elections or by-elections, Council-appointed Directors that constitute BIA's Board of Directors and full-time staff of the BIA. BIA's corporate resources, assets or funding may not be used for any election-related purposes, except as identified in this procedure.

#### **1. Election campaigning**

- Election campaign *activities* are not permitted at the office of the BIA or in the proceedings of Board of Directors' meetings
- Election campaign *materials* may not be displayed at the office of the BIA, unless otherwise outlined in this procedure.
- Candidates and/or registered third party advertisers or political parties may not distribute campaign materials at BIA delivered events.
- BIA will announce the names of all known, registered candidates for office that are in attendance at Association-delivered events.

#### **2. Use of corporate identifiers and resources**

The BIA's corporate logo, crest, slogan or other corporate identifiers shall not be used by any other body or person for any election campaign-related purposes.

Corporate resources shall not be used for:

- the printing or distribution of any material that illustrates that a member of Council or any other individual is registered or intends to run for office; or
- the printing or distribution of any campaign material that makes reference to, or contains the names or photographs, or identifies registered candidates for municipal office.
- No BIA consumable materials, such as toner and paper, associated with computer systems shall be used for election campaign-related purposes.
- No BIA social media platforms shall be used for election campaign-related purposes.
- The BIA will not publish any material used to promote individual political opinions or campaigns.

#### **3. BIA Board and Staff**

Full-time staff members shall not canvass or actively work for any candidate during hours for which the employee is receiving compensation from the Association.

Members of the BIA Board shall not canvass or actively work for any candidate during scheduled BIA Board meetings.

#### **4. Work of a Political Nature**

To avoid any perceived conflict of interest staff are discouraged from assisting with municipal election campaigns in Oshawa, including posting election signs on their property, phone and e-mail solicitation, distribution of brochures and wearing candidate buttons

## **5. Technology-related Provisions**

Any links to external personal sites from an individual Member of Council's landing page on the BIA website will be removed the date nomination papers are filed during a municipal election year. These links may include election-related web sites, social media links or domain names. Websites, domain names, emails, or other corporate systems that are funded by the Association shall not include any election-related campaign material or links to sites that feature election-related campaign material. (The exception being the official Oshawa election website where links to external election campaign websites will be posted during the election period.

## **6. Dissemination of Public Information**

The Board shall establish and communicate a date for a Board meeting whereby all known, registered candidates are permitted to attend and observe non-confidential Board business (after the close of the nomination period)

Should the BIA office, or Director, receive a written request for information from a known, registered candidate BIA will set up a link on its corporate website to share information with all candidates.

## **Partnerships and Collaborations**

For the BIA to be successful, it may be essential for it to build and maintain a strong, positive relationship with broader community including residents, government, businesses and non-profit organizations.

Towards this end, a BIA can:

- Ensure an awareness that the BIA and its members care about and are interested in the community.
- Respond in a positive way to community needs and concerns.
- Work with residents' groups and other local organizations (e.g., community centres, schools, churches, libraries, etc.) to address common interests.
- Reach out to members of the community, participate in community activities and events as both a BIA and as individuals.
- Support the community as much as possible, encouraging members to hire locally and use local suppliers whenever reasonable.
- Keep the lines of communication open between the BIA and the community, be aware of what is going on in the neighbourhood, and make sure residents are kept informed of what the BIA is doing.
- Get involved with the local community in charity or community fundraisers.

### *Event Partners*

Given their strong commitment to collaboration and partnering, the BIA often works with other organizations who act as third party providers (or vice versa), particularly for special events. It is essential that prior to the organization and implementation of any community special event, a Memorandum of Understanding is drafted by staff in conjunction with the Governance committee and approved by the Board to ensure there is clarity on both sides regarding roles, responsibilities, timelines, cost-sharing, and human resource allocation.

### **Procedure for changing this Manual**

Changes to BIA Policies and Procedures can be initiated by the Board, Staff, or Members. Suggested additions, deletions, or changes must be approved by the Board of Directors.

# EMPLOYMENT AT BIA

## Governing Principles

The BIA wishes to maintain a work environment that fosters personal and professional growth for all employees. Maintaining such an environment is the responsibility of staff and volunteers. Because of their role, Board members and the Executive Director have the additional responsibility of leading in a manner that fosters an environment of respect for each person.

It is the responsibility of all to:

- Foster cooperation and communication with each other;
- Treat each other in a fair manner, with dignity and respect;
- Promote harmony and teamwork in all relationships;
- Strive for mutual understanding of standards for performance expectations, and communicate routinely to reinforce that understanding;
- Encourage and consider opinions of other employees or members, and invite their participation in decisions that affect their work and their careers;
- Encourage growth and development of employee(s) by helping them achieve their personal goals at the BIA and beyond;
- Seek to avoid workplace conflict, and if it occurs, respond fairly and quickly to provide the means to resolve it;
- Administer all policies equitably and fairly, recognizing individual performance should be recognized and measured against predetermined standards; and that each employee has the right to fair treatment;
- Recognize that employees in their personal lives may experience crisis and show compassion and understanding.

## Legislation Governing Employee Policies

Oshawa Downtown BIA will be governed by The [\*Employment Standards Act, 2000\*](#) (ESA) as it provides the minimum standards for most employees working in Ontario and set out the rights and responsibilities of employees and employers. Other provincial and federal legislation governs issues such as workplace health and safety, human rights and labour relations. Related Ontario laws include the [\*Occupational Health and Safety Act\*](#), the [\*Workplace Safety and Insurance Act, 1997\*](#), the [\*Labour Relations Act, 1995\*](#), the [\*Pay Equity Act\*](#), and the [\*Human Rights Code\*](#).

## Compensation Policy

BIA strives to be an industry leader for Oshawa businesses and believes that in this role our organization must exemplify the principles of an “Employer of Choice”.

Additionally, BIA is guided by the following principles:

- provision of a supportive and respectful work environment;
- competitive compensation balanced with fiscal responsibility;
- opportunities for ongoing growth and development;
- an innovative approach to employee recognition and benefits;
- recognizing the value of staff contributions towards achieving the goals of the organization; and
- a flexible approach to management/human resource practices.

## Employment Equity

BIA is an equal opportunity employer and employs personnel without regard to race, ancestry, place of origin, colour, ethnic origin, language, citizenship, creed, religion, gender, sexual orientation, age, marital status, physical and/or mental handicap or financial ability.

## Recruitment and Selection

Employment opportunities at the BIA will be posted for a minimum 10 working day period. They are posted on the BIA's website and social media, and on the websites of the City of Oshawa and affiliated organizations. Additionally they may be posted on employment websites or with an employment agency. Applicants will be invited to submit their application, along with a current résumé, demonstrating that they meet the minimum criteria for the position being sought. At the closing date, all applications are screened, and candidates selected for interview will be contacted. If the interview is positive, references will be contacted. Depending on the feedback provided, a position may be offered to the applicant.

## Orientation

All new employees to the BIA shall receive an orientation session which will encompass an overview of general policies, procedures and operations. This will also provide the employee an opportunity to learn the performance expectations with regard to the position description. They will be given a copy of this Policy and Procedure Manual and will be expected to be familiar with its contents. They will also be made aware of policies such as, Code of Conduct, and asked to sign off on their adherence to same.

## Employee Categories

Each position at the BIA shall be classified by the Board as being either *Management* or *Administrative*. This decision will be based on the duties assigned and qualifications required for each position.

**Summer Students, Casual (Temporary) Staff:** These are support positions classified as being Administrative. They would provide administrative, operational and coordination support to the events, services and initiatives that are the responsibility of the BIA. These positions will typically report to the Executive Director. Qualification for these positions typically does not require a finished degree/diploma and are mainly geared to students (summer/temporary employment). Pay is by the hour via submitted timesheets and no employee benefits program or paid vacation days are included. Vacation pay of 4% of gross wages is paid with each pay period.

**Administrative Support:** These positions are front level administrative positions that have defined responsibilities and job tasks. These positions will typically report to the Executive Director. Tasks are usually limited to answering phones, editing documents, handling mail outs, maintenance of social media platforms; working with committees with regard to projects and surveys etc. Qualifications for these positions may only require a high school diploma with limited experience or a college or university education if duties are expanded. Pay is by the hour via submitted timesheets and no employee benefits program or paid vacation days are included. Vacation pay is paid out at 4% and is paid out with each pay period. Pre-existing contracts exempt or grandfathered into policy and procedures.

**Management:** The Executive Director is responsible for the overall management of the Association. All other staff report either directly or indirectly to the Executive Director. However, the Executive Director works for and is directly responsible to the Board of Directors of the BIA. Key duties include the implementation of the strategic direction determined by the Board of Directors. This includes operations such as event management, marketing and promotions, financial, human resources management as well as other key responsibilities. Qualifications for these positions would consist of completion of a university degree program (a masters degree would be considered an asset) in a related field of study plus several years of experience related to the management of a non-profit association. Pay would consist of an annual salary and vacations days policies. Other incentives may be included in the contract negotiations for these positions. See Appendix B for full Executive Director job description.

## Employee Classifications

### i. Full time – Permanent Employees

A person who has completed a probationary period and occupies a permanent full-time established position of at least 35 hours a week, twelve (12) months of the year on a salaried basis.

### ii. Part Time – Permanent Employees

A person who occupies an hourly wage position requiring from 1 to 35 hours a week for each of the fifty-two (52) weeks of the year. Hours may be adjusted on a monthly or seasonal basis.

### iii. Full Time – Temporary



A person who occupies a full time (35 hours a week) position but for a non-interrupted time period of less than fifty-two (52) weeks (i.e. special project or grant positions)

**iv. Probationary Employee**

A person who is still working in the probation period established for that specific job or classification.

**v. Sick Leave (Full time)**

Sick leave is the period of time an employee is absent from work with full pay by virtue of being sick, disabled, contagious, under examination or treatment by a physician, chiropractor, dentist or specialist because of an accident. Part time, temporary and probationary employees are not eligible for sick leave.

## **Employee Duties**

Attached to an Offer of Employment, is a description of the job and the associated responsibilities, along with any additional tasks possibly required at that time. This document will be used to evaluate performance both during the probation period and after. If an employee is unsure of its contents, they should not hesitate to ask for clarification.

From time to time, it may be necessary to amend an employee's job description. These amendments will be discussed with the employee in advance however; the final decision on implementation will be made by the Board of Directors and Executive.

## **Personnel File**

The BIA does collect personal information for inclusion in personnel files. This information is available to the employee and the Executive Director. This information is kept in a secure location, and is not shared with members, the Board of Directors (excluding the Governance Committee) or our funders. Information which is contained in an employee's personnel file may include the following: résumé, letters of reference, letter of offer, performance reviews, amendments to job descriptions, disciplinary notices, tax forms, copies of enrolment forms for benefits, approved leave requests, and other correspondence to or from the employee.

## **Probation**

The first three (3) months of employment with BIA are probationary. During this time both parties may assess suitability for employment. This also provides management with an opportunity to assess skill levels and address areas of potential concern. During the probationary period, employment may be terminated by either party for any reason whatsoever, with or without

cause, and without notice or payment in lieu of notice, except as may be minimally prescribed by the *Employment Standards Act*, as may be amended from time to time. Upon satisfaction of the requirements under the *Employment Standards Act*, as amended, the Employer shall have satisfied any and all obligations to the employee, whether under the ESC, as amended, or at common law. At the completion of the probation period, the employee and employer shall meet and review progress to date. At this time one of three things will occur:

- i. Probation will end
- ii. Probation may be extended for an additional three months
- iii. Employment will end

## **Annual Salary**

Salaries shall be recommended by the Governance Committee, reviewed by the Finance and Audit Committee, and then approved by the Board. Decisions will be based on education and experience of the successful candidate, and where the candidate falls on the BIA salary grid. BIA shall pay employees on a bi-weekly basis, less the usual and necessary statutory and other deductions payable in accordance with the Employer's standard payroll practices. These payroll practices may be changed from time to time at the BIA's sole discretion. Currently, payday occurs on a bi-weekly schedule.

## **Cost of Living Adjustment (COLA)**

COLA is defined as periodic increase in wages or salaries, to compensate for loss in purchasing power of money due to inflation. Rate of COLA is commonly pegged to a general index such as consumer price index (CPI). BIA will review resources to determine whether or not a COLA is warranted, and if so what the COLA value should be applied.

On an annual basis BIA reviews and may adjust salaries and wages based on changes in a cost of living index. Annual budgets will aid in the determination of a COLA being approved.

## **Performance Appraisals**

The performance review document will be a living document for each employee. Each employee will be responsible for developing their respective work plan for the year. This plan will be reviewed by the Board of Directors (in the case of the Executive Director) or the Executive Director (for all other employees) and amended as necessary. At the time of the performance appraisal, the employer and employee will review the objectives and the results achieved. Throughout the year, the employee and employer may refer to this document to

track progress made toward objectives, highlight areas of concern and indicate challenges identified along the way.

Performance reviews, for all employees, will occur near the employee's anniversary date of hire, and annually thereafter. Employees should prepare for this meeting by preparing a draft work plan for the coming year. This meeting is to review successes and challenges from the preceding year, and to establish the objectives for the coming year. This would also be the opportunity for either party to identify and recommend professional development opportunities which may assist the employee in their day to day work or to grow within the BIA. Once complete, both parties shall sign off on the final document and it shall be added to the employee's personnel file.

## Discipline

Discipline at BIA shall be progressive, depending on the nature of the problem. Its purpose is to correct unsatisfactory performance and/or unacceptable behaviour. The stages may be:

- i. Verbal reprimand
- ii. Written reprimand
- iii. Dismissal

Some circumstances may be serious enough that all three steps are not used. Some examples of these types of situations are theft, assault or wilful neglect of duty. In all cases, documentation should be included in the employees personnel file.

## Hours of Work

The regular office hours for BIA are 9:00 a.m. to 5:00 p.m. Monday through Friday inclusive (excluding holidays), with core operational hours being 10 a.m. to 3:30 p.m. During core hours, it is expected that most staff will be available. With the exception of the Executive Director, all employees are expected to work 7 hours per day, which include those hours indicated as core, exclusive of an unpaid eating break of at least thirty (30) minutes. Employees may also be expected to work such other hours as may be requested or required, from time to time. Employees hired on a part time basis will have schedules determined on a case by case basis. The Executive Director is expected to work 8 hours per day.

The Executive Director is required to obtain approval from the Board Chair or in advance, of planned days away from the office. Unplanned absences from the office should be reported as soon as could reasonably be expected. All other employees are required to obtain approval from the Executive Director. At the discretion of the Board Chair or Executive Director, depending on circumstances, employees may be allowed to work from home for specific periods of time.

## Breaks and Rest Periods

All employees are required to take a minimum 30 minute break and two 15 minute breaks, (unpaid) during each shift of 5 consecutive hours. Special circumstances may occasionally require this break be waived. This is not permitted on a consistent or permanent basis.

## Statutory Holidays

BIA recognizes the following as statutory holidays and other days for which staff will be paid. They are:

### Statutory Holidays

- New Year's Day
- Family Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day
- Boxing Day

### Other Holidays

- Easter Monday
- Civic Holiday

Only full-time administrative employees and management are entitled to holiday pay for statutory holidays. The amount of public holiday pay to which an **administrative** employee is entitled to for the 9 **Statutory Holidays** is all of the **regular wages earned** by the employee in the four work weeks before the work week with the public holiday **plus** all of the **vacation pay payable** to the employee with respect to the four work weeks before the work week with the public holiday, **divided by 20**. Employees are not entitled to holiday pay for Easter Monday and Civic Holiday.

The Board of Directors also reserves the right to close the office between Christmas and New Year's to enable employees to spend time with their families. This will be reviewed annually and will depend on operational requirements. These non-statutory days will have no impact on employee vacation or lieu time.

## Overtime and Lieu Time

Typically, lieu time is provided rather than paid overtime by BIA. All overtime must be authorized by the Executive Director in advance of being worked. Employees will be provided with time off in lieu of overtime pay at straight time for all hours worked between 35 and 44 hours per week. After forty-four (44) hours worked in a week, employees shall accumulate time off in lieu of overtime pay at the rate of time and one-half (1.5) the regular non-overtime rate of pay. Time in lieu of overtime pay must be taken in the two months following it being earned and it must be scheduled with the agreement of the employee's supervisor and based on operational requirements. Overtime, taken in lieu, should be used in at least ½ day increments.

Overtime pay does not apply to the **Executive Director**. However, they may be compensated with lieu time for hours worked over 40 per week. The Board Chair must be notified when more than 20 hours of lieu time are accumulated. Time in lieu must be taken in the four months following it being earned and it must be scheduled with the agreement of Board Chair and based on operational requirements.

Business travel for conferences, meetings, etc., which causes an employee to depart or arrive home on a non work day does constitute as hours worked.

Any overtime worked and not taken in lieu will not be paid out in the event that the employee leaves BIA for any reason. See Appendix C – Overtime Agreement.

## **Use of Cell Phones or Similar Devices at Work**

BIA is aware that employees utilize their personal mobile devices for business purposes. However, at the same time these devices can be a distraction in the workplace. To ensure efficient use of workplace time, employees are expected to keep personal use to a minimum in order that it doesn't interfere or disrupt paid work time.

## **Departure**

### ***Termination for Cause***

An Employment Contract may be terminated by the Employer at any time for cause, without notice or payment in lieu of notice or severance pay whatsoever, except payment of outstanding wages, overtime and vacation pay to the date of termination. Causes include, but are not limited to, any act of dishonesty, conflict of interest, breach of confidentiality, harassment, insubordination, or careless, negligent or documented poor work performance.

### ***Termination without Cause***

An Employment Contract may be terminated by the Employer at any time and for any reason on a without cause basis, upon the provision of notice or payment of notice instead, and severance pay if applicable, as is minimally required by the Employment Standards Act (ESC). In addition to notice, and pursuant to the ESC, the employee shall be entitled to an additional one (1) week's notice or payment in lieu of notice for every year of completed service (severance pay). The notice as described in this paragraph is inclusive of all statutory and common law entitlements to notice or payment in lieu of notice. Upon satisfaction of the requirements under this paragraph, the Employer shall have satisfied any and all obligations to the employee, whether under the ESC, as amended, or at common law. The notice requirement contained in this clause constitutes a material inducement to the Employer to enter this agreement.

## Resignation

After completion of the first ninety (90) days of the probationary period, employees other than the Executive Director must give the Employer two (2) weeks' notice of resignation. The Employer may waive the resignation notice period in whole or in part at any time by providing payment of regular wages for the period so waived. The Executive Director must give the Board a minimum of three (3) weeks notice of resignation.

## Layoff

Operation requirements are subject to change based on workload and the funding levels received on an annual basis. All efforts will be made to keep staff in a position similar, in scope and salary, to their current position. If BIA is unable to do this, then employees will receive a minimum of one (1) week notice for each year of service, as required by the ESC.

## Protection of Privacy

The protection of personal privacy in the day-to-day operations of an institution is one of the key principles of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

The privacy principles outlined in the [Part II of MFIPPA](#) reflect internationally accepted fair information practices, and are based on two beliefs:

- That an individual has the right to control their own personal information
- That the privacy rules governing the collection, use, disclosure, retention and disposal of personal information are necessary.

These privacy rules apply to all personal information in the custody or control of institutions regardless of whether an access request has been made, with the exception of public records and certain labour relations records.

The Oshawa Downtown BIA is committed to upholding the standards of privacy established within the Act. Staff are provided with the necessary training and the Access to Information and Privacy Office is consulted on a regular basis to provide advice to staff with regard to the collection, use, disclosure, retention and disposal of personal information.

## **Employer Property**

Upon termination of employment for any reason, all items of any kind created or used as part of the employee's service or furnished by BIA including but not limited to computers and electronic devices, reports, files, data/memory storage devices, manuals, literature, confidential information, or other materials shall remain and be considered the exclusive property of BIA at all times, and shall be surrendered to the Board Chair or Executive Director, in good condition, promptly and without being requested to do so.

## **Post-Employment Conduct**

An obligation to protect the interests of BIA extends after you leave employment with BIA. Former employees have an implied obligation of good faith and confidentiality, as well as fiduciary obligations.

Examples of a violation include, but are not limited to:

- use or disclosure of employer confidential information (generally prohibited by law);
- exploitation for your own benefit of any business opportunity of BIA of which you were intimately aware as an employee (prohibited by law);
- acting on behalf of any person, commercial entity, association or union in connection with any matter to which BIA is a party or where the business of BIA would be impacted;
- in respect of which you acted for or advised Oshawa BIA; where you have knowledge of the matters at issue;
- which would receive a personal or other benefit or not. In this circumstance the former employee may request written consent of BIA, which BIA may grant at its sole discretion.
- Employees must be careful, when engaged in any discussion, negotiation or other business activity with a former employee, to act in a manner which does not facilitate or permit, a breach of this code by the former employee.

## **Time Away from Work**

### ***Vacation Time and Vacation Pay***

### Full time employees

All Vacation leaves must have the prior approval of the Board Chair/Executive Director. Vacation will accumulate on the basis of 1.25 days per month in the first year and will be paid on the basis of six percent (6%) of wages earned in the previous twelve (12) month period during which vacation time is earned. After completion of one year (1) of service, employees shall be entitled to:

Tenure	Vacation Entitlement
Up to one year	1.25 days per month worked
After one year	10 days with pay
After five years	15 days with pay
After ten years	20 days with pay

Executive Director leaves must have the prior approval of the Board Chair. The Vacation Entitlement of the Executive Director is determined contractually but no lesser than the chart herein enclosed.

An employee including the Executive Director may only take up to a maximum of two (2) weeks annual vacation at one time. If one or more Statutory Holidays fall during an employee's annual vacation period, another day or days may be added to the beginning or end of the approved vacation period, or taken at another mutually agreed upon time.

A vacation is designed to give employees a chance to rest and rejuvenate; therefore taking vacation is required by the BIA. For this reason, the carryover of annual vacation or holidays from one vacation period to the next will not be permitted unless authorized under special conditions at least six (6) months in advance by the Board Chair. These days should be used during the first 90 days of the New Year.

**Part time** employees shall receive four percent (4%) of their annual gross pay in lieu of paid vacation.

Employees in **temporary positions** will be entitled to four percent (4%) holiday pay in lieu of paid vacation.

### *Sick Leave*

Full time employees will be entitled to ten (10) days of sick leave per calendar year accumulated on the basis of 1 day per month. Any additional sick leave accumulated will be forfeit. Moreover, regardless of the amount of sick leave accumulated, sick leave will not be paid out upon resignation, retirement, or termination of employment for any reason. Furthermore, since Sick Leave has no cash value, employees may not use more than they have accumulated, without the express written permission of the Board Chair. Employees working less than full time will have their rate of accumulation adjusted accordingly. Sick leave can be



used for personal illness, personal medical appointments, and visits to specialists. Sick leave does not carry over from calendar year to a new calendar year.

The Employer reserves the right to request information with respect to limitations, restrictions, prognosis in such manner as it deems necessary in the circumstances with respect to any request for paid or unpaid sick leave. The employer also reserves the right to request a doctor's note for absences typically of three consecutive (3) days or longer.

If an employee requires more than 3 weeks of medical leave, they may be required to apply for disability benefits through Employment Insurance Benefits.

### *Compassionate Leave*

BIA will grant up to seven (7) working days per event on the occasion of a death in the staff member's immediate family. Immediate family is defined as: parent(s), step parent(s), foster parent(s), sibling(s), grandparent(s), spouse (including common law a/o same sex partner), child(ren), step child(ren) or ward of the staff member, father-in-law or mother-in-law (including parents of same sex partner).

Additional compassionate leave may be granted at the discretion of the Board Chair for reasons not covered elsewhere in this manual. These requests should be discussed in person with the and followed by a written submission.

### *Jury Duty*

Employees will be allowed up to two (2) weeks paid time off for jury duty. After that, a leave of absence without pay may be granted. Any compensation/honorarium for work time, covering the first two (2) weeks, received from the court system shall be surrendered to BIA. A copy of the notice to serve should be provided for inclusion in the employee's personnel file.

### *Disability Leave*

BIA provides disability coverage under Work Safety Insurance Board. It is a form of insurance providing wage replacement and medical benefits to employees injured in the course of employment in exchange for mandatory relinquishment of the employee's right to sue their employer for the tort of negligence. Without exception, all work-related accidents or injuries must immediately be reported to the employee's immediate supervisor. An incident report must be completed within a minimum of three days. Regardless of how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. The Work Safety Insurance Board does not compensate or does not provide coverage for injuries that occur during an employee's voluntary participation in any off-duty activities.

### *Maternity, Parental and Adoptive Leave*

Maternity/Parental/Adoptive and other government supported leave shall conform to the provisions of the Employment Standards Code. The full period of the leave is granted without pay. BIA will issue a Record of Employment on commencement of leave which allows the employees to make claim for Employment Insurance Benefits. During the full period of leave, vacation and sick leave shall continue to accumulate. Every attempt will be made to return employees to a position of equal responsibility and compensation on return from leave status; however, no guarantees exist that the exact position left will be available upon return.

### *Unpaid Leave*

Employees may take unpaid leave with the written consent of the Board Chair. Vacation will not continue to accrue. Every attempt will be made to return employees to a position of equal responsibility on return from leave status; however, no guarantees exist that the exact position left will be available upon return.

## **Reimbursement Of Expenses**

### *Mileage*

The employee will be reimbursed for travel and other expenses incurred while carrying out their responsibilities on behalf of BIA provided beyond the City of Oshawa. Mileage beyond the region of Niagara must be approved in advance by the Board Chair. **(Mileage to and from the employee's residence is not eligible for reimbursement).**

Within the BIA catchment area, staff are encouraged to walk to meet members.

When travelling out of town renting a car may be required (including the extra insurance coverage). If the duration of the trip spans more than a couple of days, the cost of paying personal mileage may cost less than renting a car. Calculations will determine the least costly method.

When using a personal vehicle, mileage reimbursement is provided at the posted provincial rate listed on the government of Canada website. ( \$.64 per kilometer as of June 2019). When using a personal vehicle it is the responsibility of the employee to carry the appropriate business insurance.

### *Meals When Travelling*

For meals while travelling there are rates for per diems;

- Breakfast      \$10 per day
- Lunch            \$15 per day

- Dinner                      \$20 per day

Tipping is acceptable and at the rate of 15%. Receipts are required. To claim these expenses an expense claim, with receipts, must be approved by a supervisor, and then submitted for reimbursement. Reimbursement cheques are generally written for monthly accounts payable cycle.

The organization may also cover fees for membership in professional associations upon the approval of the Board of Directors.

### *Cell Phone Expenses*

Employees of BIA should be aware of the organization's expectations in terms of in and out of office accessibility via telephone or e-mail. Generally there is a general expectation that the Executive Director or other employees be reachable via their personal cell phone, including the possibility of being "on call". The employee may request reimbursement for expenses related to business calls made on a personally owned cell phones.

#### **Baseline Coverage**

For many positions where an employee is expected to be reachable, it is also expected that the employee have a personally owned cell phone. Reimbursements will be based on an assumption that the employee is paying for a base plan that includes text messaging and a data plan. Work-related usage that exceeds a reasonable base plan will be reimbursable.

#### **Support**

The employee is responsible for purchasing and supporting their personally-owned cell phones. If there are problems with service the staff member will need to work directly with the carrier for resolution.

#### **Reimbursement**

Reimbursement for per minute "air-time or data" charges is limited to the total coverage shown on the invoice. Any specific charges or data overages, i.e., roaming or text messaging, that is associated with particular work related calls are also reimbursable as long as the bill itemizes the time, destination and cost of the call. The individual should make personal payment to the provider, and then submit a request for reimbursement to the employee's program as with other work-related expenses.

## **Benefits**

### *Medical, Dental, Life and AD&D*

BIA does not currently offer Medical, Dental, Life and Accidental Death and Disability coverage. Currently being investigated as of September 2019.

### *Workers Safety Insurance Board (WSIB)*

All employees on the BIA payroll are covered.

### *Professional Development*

Employees are encouraged to include professional development in their yearly work plans. This could potentially include attending conferences, courses, webinars and meetings which may be beneficial to the employee's professional development. If these opportunities are directly related to the employee's position, or are suggested and approved by the Board, and funds are available, then BIA will cover the full or a portion of the cost of registration, course materials and most travel expenses.

If BIA has agreed to pay for a course, the fees will be paid on evidence of successful completion. BIA will cover the costs of professional development to the limit of \$200 per year for the Executive Director. If the employee does not complete the course, they will be responsible for 100% of the course fees. Reimbursement of course fees will be set at 50% if the course is completed. See Appendix H – Professional Development Request.

## **Confidential Information and Intellectual Property**

### *Confidential Information*

From time to time, employees of BIA may come into contact with confidential information, including but not limited to information about BIA's members, suppliers, finances and business plans. Employees are required to keep any such matters that may be disclosed to them or learned by them, confidential.

Furthermore, any such confidential information, obtained through employment with BIA, must not be used by an employee for personal gain or to further an outside enterprise.

### *Intellectual Property*

Any intellectual property, such as trademarks, copyrights and patents, and any work created by an employee in the course of employment at BIA shall be the property of BIA and the employee is deemed to have waived all rights in favour of BIA. This directive does not apply to any work created as part of studies program while employed with BIA. Work, for the purpose of this policy refers to written, creative or media work. All source material used in presentation or written documents must be acknowledged.

### *Use of Organizational Equipment*

Any equipment and devices and their content e.g. computers, laptops, USB's owned by BIA and used by employees at the office or offsite workspaces must be acknowledged as being the property of BIA. Furthermore, it should be understood by employees, that company equipment should be used only for organizational business.

### **Health and Safety**

BIA, along with its employees, must take reasonable precautions to ensure that the workplace is safe. BIA complies with all requirements for creating a healthy and safe workplace in accordance with the Occupational Health and Safety Code.

Employees who have health and safety concerns or identify potential hazards should contact the Board Chair or a member of the Governance Committee.

### *Alcohol or Drug Use*

Alcohol consumption, legal (cannabis) or illegal drug use is not permitted during work hours on the premises.

### *Use of Mobile Devices While Driving*

Employees of BIA are expected to comply with all laws pertaining to use of their personal mobile devices while driving. All fines incurred will be the responsibility of the employee, no exceptions.

### *Air Quality*

Indoor air quality can lead to many health issues. BIA recognizes this and attempts to minimize the risks associated with indoor air quality and the effects on its employees. Issues pertaining to air quality not resolved by the building landlord should be reported to the Governance Committee.

### *Smoke Free Environment*

Smoking in the offices of BIA is not permitted at any time. An 'enclosed workplace' is defined as the inside of any place, building or structure or conveyance or a part of any of them that

- a) is covered by a roof or

- b) employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, and
- c) is not primarily a private dwelling.

### *Scents*

BIA is aware that some persons may have allergies or sensitivities to perfumes, lotions, colognes and/or chemical smells. As a result, we discourage the overuse of these products.

### *Pets*

The offices of BIA are places of business, and as such, pets are not welcome during normal working hours. Staff and visitors with seeing-eye/service dogs are the exception.

### *Workplace Violence*

Workplace violence can be defined as a threat or an act of aggression resulting in physical or psychological damage, pain or injury to a worker, which arises during the course of work. Further to the definition of violence, is the definition of abuse. Abuse can be verbal, psychological or sexual in nature.

**Verbal abuse** is the use of unwelcome, embarrassing, offensive, threatening or degrading comments.

**Psychological abuse** is an act which provokes fear or diminishes a person's dignity or self-esteem.

**Sexual abuse** is any unwelcome verbal or physical advance or sexually explicit statement.

### *Harassment*

In compliance with the Human Rights Code (Ontario) and the Occupational Health and Safety Act, The BIA has an obligation and responsibility to provide a work environment that is free of discrimination and harassment as defined under the Human Rights Code and the Occupational Health and Safety Act.

Workplace harassment means,

- a. engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- b. workplace sexual harassment;

Workplace sexual harassment means,

- a. engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

The following behaviours can be considered as examples of workplace harassment :

- offensive or intimidating comments or jokes;
- bullying or aggressive behaviour;
- displaying or circulating offensive pictures or materials;
- inappropriate staring;
- isolating or making fun of a worker because of gender identity;
- workplace sexual harassment.

Discrimination and harassment are considered to be unacceptable and a form of employment misconduct. The BIA will make every reasonable effort to ensure that no one is subject to it. The BIA takes very seriously its responsibility to foster and maintain a positive environment with mutual respect for all and wishes to make it clear that it will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of any individual or create an intimidating, hostile or offensive workplace. As a result this policy applies to all workers and from all sources e.g. members, volunteers, elected officials, employees, supervisors, members of the public.

The BIA has a zero tolerance limit with regards to harassment and violence. Employees or volunteers engaging in either harassing or violent activities will be subject to discipline, which may include termination of employment, removal from the Board or committees and possibly criminal charges. It is to be noted that members of the BIA are also subject to the zero tolerance limit and will be asked to leave any meeting where such occurs and/or requested to abstain from communications with staff for the purposes of harassment (intended or not).

### Reporting Harassment

BIA staff or volunteers are encouraged to complete an incident form (See Appendix J) and submit it to the Board Chair or the Chair of the Governance Committee.

A worker (employee or volunteer) will not be penalized for reporting an incident or participating in a workplace harassment investigation.

The BIA will investigate and deal with all complaints or incidents of workplace harassment in a fair and timely manner. The information about a complaint or incident will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

In order to (1) maintain adherence to the spirit and provisions of the Human Rights Code and the Occupational Health and Safety Act, (2) encourage appropriate behaviour in the workplace and (3) provide a mechanism for persons to bring forward concerns and issues related to harassment and discrimination, should they arise in the workplace, the BIA will implement the policy and procedures adopted by the **City of Oshawa (See Appendix I)**.

## Dispute Resolution

Regrettably, conflict can occur in any working environment and could potentially impact staff, volunteers or Board members. In an effort to resolve conflict in an expedient, yet fair manner, BIA recommends the following process for conflict or dispute resolution.

- Speak to the person you are having the dispute with. Many times disputes arise due to misunderstandings and miscommunications.
- If speaking to the individual does not work, speak to the Executive Director or if the case involves the Executive Director, then speak to the Board Chair. They will arrange a meeting between those involved in the dispute, to determine a resolution.
- If the workplace dispute can not be resolved, the parties may be referred to mediation by an outside third party. The resolution of the mediator is binding on both parties of the dispute.

## Blogging and Social Media Policy

This policy governs the publication of and commentary on social media by BIA, and their related programs, events, and initiatives. For the purposes of this policy, social media means any facility for online publication and commentary, including without limitation blogs and social networking sites such as Facebook, LinkedIn, Twitter, Instagram, YouTube etc. This policy is in addition to and complements any existing or future policies regarding the use of technology, computers, email, and the internet.

BIA employees are free to publish or comment via social media in accordance with this policy. BIA employees are subject to this policy to the extent they identify themselves as a BIA employee (other than as an incidental mention of place of employment in a personal blog on topics unrelated to BIA).

Before engaging in work-related social media, it must be clarified with the Board of Directors that is part of the employee responsibility.

Notwithstanding the previous paragraph, this policy applies to all uses of social media, including personal, by BIA employees who are actively engaged with stakeholders outside the



Associations, as their position with BIA may be well known within the sector, and the community in general.

Publication and commentary on social media carries similar obligations to any other kind of publication or commentary.

All uses of social media must follow the same ethical standards that BIA employees must otherwise follow.

### **Setting Up Social Media**

Assistance in setting up social media accounts and their settings can be obtained from the Executive Director or Board members.

Social media identities, login IDs, and user names may not use BIA's name without prior approval from the Executive Director or Board of Directors.

Your profile on social media sites must be consistent with your profile on the BIA website or other BIA publications. Profile information may be obtained from the ED or designate.

### **Confidential Information**

While it is acceptable to talk about one's work and have a dialog with the community, it's not okay to publish confidential information. Confidential information includes things such as unpublished details of current and future projects, programs, events, financial information, and research.

### **Privacy Settings**

Privacy settings on social media platforms should be set to allow anyone to see profile information similar to what would be on the BIA website. Other privacy settings that might allow others to post information or see information that is personal should be set to limit access. Be mindful of posting information that you would not want the public to see.

### **Honesty**

Do not blog anonymously, using pseudonyms, or false screen names. We believe in transparency and honesty. Use your real name, be clear who you are, and identify that you work for BIA. Nothing gains notice in social media more than honesty—or dishonesty. Do not say anything that is dishonest, untrue, or misleading. If you have a vested interest in something you are discussing, point it out. However, also be smart about protecting yourself and your privacy. What you publish will be around for a long time, so consider the content carefully and also be cautious about disclosing personal details.

### **Copyright laws**

It is critical that you show proper respect for the laws governing copyright and fair use or fair dealing of copyrighted material owned by others, including BIA's own copyrights and brands. You should never quote more than short excerpts of someone else's work, and always attribute such work to the original author and source. It is good general practice to link to others' work rather than reproduce it.

## **Respect Your Audience, BIA, And Your Coworkers**

The public in general, and Oshawa BIA's employees and members, reflect a diverse set of customs, values, and points of view. Don't say anything that contradicts or conflicts with the BIA. Don't be afraid to be yourself but do so respectfully. This includes not only the obvious (no ethnic slurs, offensive comments, defamatory comments, personal insults, obscenity, etc.), but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory e.g. politics and religion. Use your best judgment and be sure to make it clear that the views and opinions expressed are yours alone and do not represent the official views of BIA.

Quality also matters. Use a spell-checker. If you're not design-oriented, ask someone who is whether your blog looks aesthetically appealing, and take their advice on how to improve it. Likewise if details aren't your strength, find someone who is and is willing to review your content.

The speed of being able to publish your thoughts is both a great feature as well as a great downfall of social media. The time to edit or reflect must be self-imposed. **If in doubt over a post, or if something does not feel right, either let it sit 24 hours and look at it again before publishing it, or ask someone else to look at it first.**

## **Protect BIA Members, External Stakeholders, And Suppliers**

Members, stakeholders, or suppliers should not be cited or obviously referenced without their approval. Never identify a member, stakeholder, or supplier by name without permission and never discuss confidential details of any kind of engagement with them. Additionally, your blog or social media profile is not the place to "conduct business."

## **Controversial Issues**

If you see misrepresentations made about BIA in the media, you may point that out. Always do so with respect and with the facts. If you speak about others, make sure what you say is factual and that it does not disparage that party. Avoid arguments. Make sure what you are saying is factually correct.

## **Correcting Mistakes**

If an error is made, be up front about the mistake and correct it quickly. If an earlier post is modified, make it clear that you have done so. If someone accuses you of posting something improper (such as their copyrighted material or a defamatory comment about them), deal with it quickly - better to remove it immediately to reduce the potential of a legal action.

## **Enforcement**

Policy violations will be subject to disciplinary action, up to and including termination for cause.

## **Dress Code Guidelines**

BIA's objective in establishing a business casual, dress code is to enable our employees to work comfortably in the workplace. Yet, certain standards are established so employees are not

confused about the meaning of the term business casual. Safety considerations must also be considered. For example, sandals or open toed shoes may not always be appropriate when setting up for an event.

No dress code can cover all contingencies, so employees must exert a certain amount of judgment in their choice of clothing or accessories that would be appropriate to wear to work. If you experience uncertainty about acceptable casual attire for work, please ask the Executive Director (or the Executive Director could ask a member of the Governance Committee). If clothing fails to meet these standards, as determined by the Executive Director the employee will be asked not to wear the inappropriate item to work again. If the problem persists, the employee may be sent home to change clothes and will receive a verbal warning for the first offense. All other policies about personal time use will apply. Progressive disciplinary action will be applied if dress code violations continue.

## **Representing BIA**

Employees may, from time to time, be approached to represent BIA to share information about the nature of the BIA and the work being done. All employees are encouraged to be familiar with all of BIA's work and to be conscious of good public relations when approached.

Employees should be sensitive to approaches that may have political or strategic implications for BIA, don't align with BIA established priorities, or have potential for conflict of interest. Such situations should be discussed with the Executive Director or Governance Committee.

The opinions of BIA are typically expressed to the media, government representatives via the Board Chair. The Executive Director may do so as well with the express permission of the Board Chair or designate.

### **Other Committee Involvement**

A BIA employee shall not be a member of a committee, a board, or an organization as a representative of BIA except with the express permission the Governance Committee.

The Executive Director is to inform to Governance Committee of any outside activities such as sitting on other Boards and/or Committees and/or Organizations prior to embarking on these initiatives so as to understand or limit any conflicts that might arise by virtue of their position with the BIA.

Where an employee has been assigned to represent BIA, all reasonable costs will be reimbursed by BIA, and such participation will not affect leave entitlements.

## **Political Activity Policy**

The Political Activity Policy addresses the need for a balance between employees' rights to engage in political activities and the requirement for the provincial public service to be politically impartial. This policy is about providing Government services, programs and advice in a politically neutral manner.

This Policy applies to all employees. Bargaining unit employees should also consult their respective collective agreements if such apply

### ***What are Political Activities?***

There are two types of Political Activities:

1. Supporting or opposing a political candidate and/or political party. For instance, door to door campaigning, placing a sign on your lawn, or making phone calls on behalf of a candidate.
2. Seeking nomination or being a candidate in an election.

### ***How do I know if I am Politically Restricted: (Municipal and Provincial)***

If you meet one or more of the following criteria, then you are politically restricted:

- paid by the BIA;
- report directly to, speak on behalf of, or provide advice, opinions or recommendations to the BIA;
- have access to confidential information related to the development BIA programs and services relating to City Council or Provincial government;
- have been delegated discretion over, or provide advice regarding, the allocation of departmental funds, especially grants to persons, businesses or other organizations;
- have been delegated discretion in regard to the provision of services to persons, businesses or other organizations; and
- have contact with the media.

### ***How do I know if I am Politically Non-Restricted:***

If you do not meet any of the criteria above, then you are politically non-restricted.

### ***Which Activities are Prohibited?***

All employees are prohibited from the following activities:

- engaging in any form of political activity at the workplace or during work hours, with the exception of voting in an election;
- wearing or displaying at the workplace anything that supports or opposes a candidate or party;
- using Government premises, supplies, equipment, email or services for the purposes of any political activity;
- soliciting funds for a party or candidate; and
- participating in other political activities that are deemed inappropriate by the Deputy Minister, in consultation with the Public Service Secretariat.

### ***I am Politically-Restricted. What does this mean to me? (Federal Politics Excluded)***

In addition to the above activities for which all employees are prohibited, politically restricted employees are also prohibited from participating in the following:

- belonging to a political party;
- signing nomination papers;
- performing administrative tasks for a party or candidate (such as stuffing envelopes or answering or receiving telephone calls);
- making a financial contribution to a party;
- displaying a sign at their personal residence;
- serving as a campaign manager;
- serving as an executive with a political party;
- attending or speaking at public rallies and meetings;
- canvassing door to door;
- writing speeches or promotional materials;
- publishing or publicly broadcasting partisan statements (including newspaper, radio, television, and media comments);
- using blogs, social networking sites, video sharing and websites to express personal views in support of or in opposition to a political party or candidate;
- attending political conventions as a delegate or observer;
- wearing or displaying, outside of the workplace, signs, buttons, etc. that support or oppose a candidate or party;
- publicly criticizing the policy decisions and directions of the employer; and
- other political activities that are deemed inappropriate by the Board of Management, in consultation with the Ministry of Municipal Affairs.

***I am considering running in a Municipal election, do I have to resign or apply for a period of leave without pay?***

No. All employees, may participate in municipal elections and hold municipal office with the written consent of their Board of Management. This is providing they maintain impartiality in the performance of their provincial public service employment duties, do not publicly criticize the policy decisions and directions of the employer, and do not perform political activities at the workplace.

Should occasions arise in their municipal work that place the employee in a conflict because of their role with the employer, the employee would be expected to remove themselves from such discussions and decisions.

***What if I do not abide by this Policy?***

Not following this Policy may result in disciplinary action.

## **Flexible Work Arrangements**

A flexible work arrangement e.g. flex-time, compressed work week, e-work may be negotiated between the (1) Executive Director and the Governance Committee or (2) Executive Director

and other staff if both parties agree to voluntarily alter the employment relationship on a conditional basis, subject to operational requirements and provisions outlined in this policy. The employer and/or employee may terminate any flexible work arrangement with an appropriate notice period.

## Definitions

compressed	an arrangement whereby employees work longer hours in exchange for a reduction in the number of working days in their work cycle (i.e., weekly or bi-weekly basis)
<i>e-work</i>	<i>an arrangement whereby an employee, at least on a periodic basis, fulfils their regularly scheduled job responsibilities at a remote location which is not operated by the employer - usually an employee's home</i>
<i>flex-time</i>	<i>an arrangement whereby employees' scheduled work hours are varied - usually altering the start and end times of their working day - but without modifying the length of the standard work day or work week</i>
<i>flexible work arrangements</i>	<i>conditionally altered employee-employer relationships designed to help employees balance work, personal and family responsibilities</i>

## Responsibilities

BIA and its employees must ensure that operational needs are met, and that productivity and costs are not negatively affected by the application of flexible work arrangements.

Where flexible work arrangements are approved by BIA, the employee and the employer will be required to sign an agreement outlining their responsibilities and the terms and conditions of the flexible work arrangement. See Appendix F – Flexible Work Arrangement.

## APPENDIX A: EMPLOYEE/VOLUNTEER CODE OF CONDUCT

BIA has a mission to **“Promote economic and community wellbeing in downtown Oshawa by supporting and celebrating the heart and spirit of local businesses and entrepreneurs”**. In pursuing its goals, BIA serves the interests of its members and the citizens of Oshawa. In delivering initiatives and events, employees and volunteers work with each other and the public at large. The following Code of Conduct (“the Code”) is designed to allow the Association to preserve its long tradition of integrity and credibility within the Association and in the public. This Code applies to all employees (permanent full-time, hourly, fixed term contract, permanent part-time), and any third party service provider in face-to face contact with our members, direct service program volunteers, community partners, all levels of Government, and Board members.

The Code is organized into categories, as follows:

### **Service**

Always act with fairness, honesty, integrity and openness; respect the opinions of others and treat all with equality and dignity without regard to gender, race, colour, creed, ancestry, place of origin, political beliefs, religion, marital status, disability, age, and/or sexual orientation.

Promote the mission and objectives of BIA in all dealings with the public on behalf of the Association and within the BIA.

Provide a positive and valued experience for those receiving service within and outside BIA.

### **Accountability**

Act with honesty and integrity and in accordance with any professional standards and/or governing laws and legislation that have application to the responsibilities you perform for or on behalf of the BIA. BIA Human Resource policies apply to all volunteers and employees. Policies are reviewed every 3 years or sooner if an issue arises with its interpretation and use.

Comply with both the letter and the spirit of any training or orientation provided to you by BIA in connection with those responsibilities.

Adhere to the policies and procedures of the BIA and support the decisions and directions of the Ontario Business Improvement Area Association (OBIAA) and its delegated authority.

Take responsibility for your actions and decisions. Follow reporting lines to facilitate the effective resolution of problems. Ensure that you do not exceed the authority of your position.

**Conflict of interest**

Conflict of interest arises when a person participates in a decision about a matter (including any contract or arrangement of employment, leasing, sale or provision of goods and services) which may benefit or be seen to benefit that person because of his/her direct or indirect monetary or financial interests affected by or involved in that matter.

Conflict of interest may occur where an employee has sole responsibility for making decisions regarding advancement, pay and benefits, assignment of responsibilities, perquisites, and discipline that will affect an employee who is related by blood or law.

It is the duty of any person taking part in the operations of BIA to adhere to the Conflict of Interest Policy at all times. In the event that such a matter arises, the person shall formally disclose the interest, refrain from attempting to persuade or influence other persons participating in the decision, and shall not cast any vote on the matter.

Conflict of interest will not be presumed strictly on the basis of the relationship between any two employees.

Providing critical qualifications are present, the definition of relationship will not for its own sake be a deciding factor in employment decisions. Where hiring decisions that concern related individuals are pending, the potential of conflict of interest will be considered on a case-by-case basis by the Board of Directors.

Where there is evidence that the nature of a personal relationship between employees is having a harmful effect on the work of the agency or any individual employees, it shall be dealt with as a performance issue.

In accordance, BIA bylaws, no person may be a member of the Board and a paid staff member at the same time.

In order to avoid any actual or apparent conflict of interest, no employee shall engage in an activity which is similar or related to his/her work at BIA, and for which he/she will receive payment, without prior approval of the Board Governance Committee. The decision should be rendered in writing and kept on file. If any such activity is deemed to be related, it shall be done with the Board's prior approval and any fee for the activity shall be paid to BIA.

Any monetary payments or substantial gifts received from another person or organization by an employee in the course of the performance of his/her duties shall be considered gifts to BIA and must be turned over to the Board Governance Committee. "Payment" is defined to include money or any other gift or consideration apart from token gifts (e.g. a promotional item given to a guest speaker, or promotional items valued under \$20). This also includes draws where an employee may be the winner. The appearance of favoritism is not appropriate.



All copyrights and patents concerning the products of work performed by an employee's work for BIA shall be in the name of the BIA and shall remain the property of BIA indefinitely.

This policy extends to the involvement of volunteers or the Association in any capacity, which would include members of the Board.

### **Confidentiality**

Respect and maintain the confidentiality of information gained as a volunteer or employee, including, but not limited to, all computer software and files, of BIA business documents and printouts, and all volunteer, employee, member, and Board records.

Respect and maintain the confidentiality of individual personal information about persons gained through your role in BIA.

### **Personal or Sexual Harassment**

BIA wants to provide a harassment-free environment for its employees and volunteers. Mutual respect, along with cooperation and understanding, must be the basis of interaction between members and staff. As per our Harassment Policy (see Appendix H) BIA will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of an individual, or create an intimidating, hostile or offensive environment.

### **Procedures For The Care Of Others Who May Be Vulnerable Because Of Age Or Disability**

In the course of providing the BIA service, our volunteers, employees, and third party service providers may come into contact with vulnerable individuals. These individuals are those who may be at risk of harm or harassment because of their age or disability. When this occurs, the following procedures should be followed:

Where practical to do so, BIA related one-on-one meetings with clients who may be vulnerable will be conducted in a business-like setting, public location or in an area that is private but visible to others.

BIA volunteers and employees who seek to initiate personal contact with vulnerable clients outside BIA initiatives or events, are asked to seek prior approval from the appropriate employee or board member, and, in the case of children/youth, from the parent/guardian.

### **Implementation of the Code of Conduct**

Strict observance of this Code is fundamental to the activity and reputation of BIA. It is essential that all direct service program volunteers (those in face to face contact with the Association's members), Board members, employees (permanent full-time, hourly, fixed term contract, permanent part-time), and any other third party service provider in face-to-face contact with our clients adhere to this Code. They will certify this by a Declaration that they have read and will abide by this Code.

## **APPENDIX B: EMPLOYEE HANDBOOK ACKNOWLEDGEMENT OF RECEIPT**

- I acknowledge that I have received a copy of the BIA Employee Handbook.
- I understand that this handbook replaces any and all prior verbal and written communications regarding BIA working conditions, policies, procedures, appeal processes, and benefits.

- I understand that the working conditions, policies, procedures, appeal processes, and benefits described in this handbook are confidential and may not be distributed in any way nor discussed with anyone who is not an employee of BIA.
- I have read and understand the contents of this handbook and will act in accord with these policies and procedures as a condition of my employment with BIA.
- I have read and understand the Code of Conduct expected by BIA and I agree to act in accord with the Code of Conduct as a condition of my employment by BIA.
- I understand that if I have questions or concerns at any time about the handbook or the Code of Conduct, I will consult the Executive Director or member of the Governance Committee for clarification.
- Finally, I understand that the contents of this employee handbook are simply policies and guidelines, not a contract or implied contract with employees. The contents of the employee handbook may change at any time.

### **Code Of Conduct Declaration**

I, have read, understand and agree to abide by the Code of Conduct of BIA and I understand that such adherence is a condition of my employment. I understand that a violation of the Code of Conduct may be grounds for termination of an employee's immediate dismissal for just cause without notice or pay in lieu of notice.

Please read this Handbook and the employee Code of Conduct carefully to understand these conditions of employment before you sign this document.

**Employee**

**Date**

\_\_\_\_\_

\_\_\_\_\_

**Board Member/Executive Director, BIA      Date**

\_\_\_\_\_

\_\_\_\_\_

## **APPENDIX C: EXECUTIVE DIRECTOR POSITION DESCRIPTION**

### **1. Employee Duties and Responsibilities**

The Employee shall be the Executive Director for BIA with the authority to manage and conduct the business of BIA, subject to review by the Board of Directors through its Budget and Finance Committee of BIA.

Under the general direction of the Board of Directors of BIA, the Employee shall be responsible for the operation and the general management of BIA 's activities and services. The Employee's specific duties and responsibilities shall include but is not limited to the following:

- Coordinate all meetings, including but not limited to AGM, Board of Directors, Committee, and Extraordinary.
- Draft agendas for the Board of Management or appropriate meeting chairs, review and approval, and distribute the agenda packages prior to the meeting date.
- Take accurate accounts of the meetings including any decisions and direction made by the participants.
- Prepare draft minutes of the meetings for the Board of Management, or appropriate meeting chairs.
- Complete final form of Minutes; distribute approved Minutes and follow-up on any and all decisions and actions to be taken as noted in the Minutes.
- Provide Executive support to the Chair, Vice-Chair, Secretary Treasurer, Executive Committee, and all other Committees (namely, Marketing and Promotions Committee, Beautification Committee, and Finance Committee) in their tasks to maintain the mandate and further the interest of the Association.
- Attend meetings and conferences as requested and approved by the Chair of the Board from time to time, including routine meetings with City Hall staff and any governmental and regulatory bodies and associations whose decisions or agenda may directly or indirectly affect the interest of the members of the Association, and reporting to the Chair and the applicable Committee Chairperson.
- Maintain regular contact with all members always. Keep abreast and advise on community issues. Record accurately any issues and ideas raised by the members and other stakeholders and apprise the Board promptly for directions.
- Carry out daily inspections of the area under the Commercial Drive jurisdiction including back lanes and record observation of graffiti on buildings and public domain assets; general building and public domain asset conditions; cleanliness of sidewalks, tree bases, and street; condition of street lights, decorative lighting, street and other signage; condition of banners and other Commercial Drive street enhancements and advertising signage; condition of City garbage bins, their maintenance and collection

frequency; condition of security and all other things that may mar the appearance of the street or affect the safety of the area or members. Make a report of such observations to the Executive Committee or as soon as an urgent situation develops.

- Participate with Directors in annual Strategic Planning, including budget development and carrying out annual work plan.
- Solicit, review, and negotiate contracts and proposals from various contractors and vendors. Monitor and supervise any contractors, vendors and/or employers.
- Source and apply for any additional funding through grants.
- Accompany the Chair and other Chair Committee members to meetings; and provide proper follow up from those meetings with recorded minutes and action.
- Follow out any direction given by the Chair and the Executive Board; including preparing monthly reports to the Chair and the Executive Committee as well as for Monthly Board meetings.
- Ensure that the Board is working within the proper mandate according to the Ministry of Municipal Affairs.
- Maintain a relationship with the Municipality to ensure that the needs of the BIA are being taken care of; consistent contact with the City Clerk, City Council, CFO and CAO as well as the Mayor.
- Adhere to the annual budget; ensure financial reports are to date. Advise the Treasurer of any financial issues or potential issues regarding the current budget or financial statements.
- Present to Council numerous times annually; key-note speaker at conferences, and lead presenter for AGM, direct several workshops for the membership as well as for province wide conferences.
- Seek out grant opportunities, apply for grants that would benefit the BIA, proceed with all reporting that is entailed when becoming a successful grant applicant.
- Maintain all relevant Social media platforms pertaining to the BIA as well as maintain the website.

#### Administration and Bookkeeping

- Maintain the office in a professional and businesslike atmosphere.
- Coordinate all office supplies and general office needs.
- Maintain meticulous files and records, including records of all policy decisions made by the Board of Directors.
- Maintain accurate and up to date directory of all members of the Association for the office as well as for the website of the Association.
- Maintain accurate and up to date diary of events and appointments.
- Maintain adequate insurance for the office and the Directors.
- Respond to all incoming telephone calls, facsimiles, emails and correspondence.
- Maintain accurate bookkeeping of all accounts on a daily basis.
- Maintain meticulous supporting records, documents and files for all accounts.
- Review invoices for accuracy and prepare cheques for approved expenses on a timely basis.
- Balance monthly bank statements and prepare monthly financial statements.

- Monitor actual costs incurred against the budget of each Committee and advise the Chairperson on a timely basis.
- Work with designated accountant and/or auditor.
- Report to the Secretary-Treasurer on all financial matters on a timely basis.
- Work with the Association's auditors to ensure timely and proper completion of the annual audit.
- Prepare all presentations to Council for any considerations as well as the end of year presentation. Prepare all reports and presentations for monthly meetings. Prepare all presentation for conferences and workshops.
- Create notices for the membership and ensure delivery; including but not limited to quarterly newsletter, emergency notices, invitations to workshops, AGMS and other meetings.
- Maintain current records and knowledge of the Ontario BIA Handbook as well as the Municipal By-Laws.

#### Event and Management

- Attend tradeshow and events to represent businesses as well as conduct presentations on the product and services
- Manage all budgets, payments, and reports for events.
- Develop the events program (timelines, suppliers, budget).
- Coordinate and communicate events for our members, solicit the Entertainment, Sponsors, Vendors and Partners.
- Oversee the recruitment of volunteers and coordinate organization and responsibilities for them.
- Develop a comprehensive marketing strategy for events and launch promotions.
- Create a cohesive Marketing strategy for upcoming events; launch the Marketing plan, with proper analytic reports on deliverables.
- Solicit local Sponsors for events; ensure that proper delivery of their Sponsorship is adhered to.
- Arrange for all appropriate permits required for putting on events are obtained.
- Act out duties of a Project Manager on the day of an event to ensure that it is a success to the community, the businesses and the Region.
- Create event Social Media Marketing campaigns; ensure that they are rolled out from start to finish including all reports that come afterwards.
- Arrange for proper food and beverage requirement for all events large or small.
- Conduct proper de-briefing meeting after an event with all parties associated; ensure follow-up report.
- Keep informed of trends, issues, events and developments to continually support the membership of the ODBIA and promotion of the organizations goals and objectives.

## APPENDIX D: INDIVIDUAL OVERTIME AGREEMENT

It is agreed that either wholly or partly the employer will provide and the employee will take, time off with pay in place of overtime pay for those hours worked in excess of 7.25 hours in a day or 36.25 hours in a week comprising of Monday to Sunday.

The time off with pay in place of overtime pay shall be provided, taken and paid at the regular rate of wages at a time that the employee could have worked and received wages from BIA.

The time off shall be provided, taken and paid within 2 months of the end of the pay period in which it was earned.

When overtime hours are worked, they are “banked”. The “banked” hours are given/taken off at a time when the employee could have worked.

Banked time shall be used at a minimum of half day increments. The maximum amount of banked time accruable is 21 hours. If the maximum limit is expected to be surpassed, prior approval from the appropriate supervisor is required. If prior approval is not obtained, claims for hours in excess of the 21 hour maximum may be denied.

Any overtime worked and not taken in lieu will not be paid out in the event that the employee leaves BIA for any reason.

Time off in place of overtime shall be treated as hours of work and remuneration paid in respect to time off in place of overtime pay shall be treated as wages/salary.

BIA shall provide a copy of this agreement to the employee affected by it.

No amendment or termination of this agreement shall be effective without at least one month’s notice in writing by party one to the other. Ontario Government laws supersede all internal policy and procedures.

**Employee**

**Date**

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**Board Member/Executive Director, BIA**

**Date**

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## **APPENDIX E: TRAVEL TIME AGREEMENT**

Travel from “home to work” and “work to home” is not considered to be time spent working.

Work related travel time is considered to be the time required to:

1. pick up materials, supplies or perform some other tasks either on the employee’s way to work, during business hours, or on the employee’s way home from work.
2. attend meetings or training outside of the City of Oshawa.

In the case of use of personal vehicles in performance of work requirements mileage will be reimbursed. It is recommended that employees inform their insurance company and obtain the appropriate insurance to cover personal vehicle usage for work purposes.

BIA shall provide a copy of this agreement to the employee.

No amendment or termination of this agreement shall be effective without at least one month’s notice in writing by party to the other.

**Employee**

**Date**

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**Board Member/Executive Director, BIA**

**Date**

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**APPENDIX F: FINAL PAY AGREEMENT**

I understand that upon my termination from BIA am responsible for returning any Association equipment or property issued to me (keys, cell phones, electronic equipment), and I agree that BIA may withhold from my final pay cheque an amount equal to the value of the non-returned items.

The following items have been issued to:

Employee Name

Item	Date of Issue	Date of Return
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Employee’s signature

Date

<hr/>	<hr/>
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## APPENDIX G: FLEXIBLE WORK AGREEMENT

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Telephone Numbers: Office: \_\_\_\_\_ Home: \_\_\_\_\_ Cell: \_\_\_\_\_

E-mail \_\_\_\_\_

Home Address: \_\_\_\_\_

Date to Begin Trial E-work Arrangement: \_\_\_\_\_

Date to End Trial E-work Arrangement: \_\_\_\_\_

### Conditions of E-work Arrangement

- These conditions for the e-work arrangement are agreed to by the e-work employee and the BIA.
- The employee understands that e-work is a voluntary flexible work arrangement between employee and the BIA.
- The employee further understands that e-work is not permanent, nor is it a right or a reward, and can be terminated at any time if it is determined that the needs of the BIA or the employee are not being met.
- The employee agrees to keep the BIA informed of any problems experienced with the work performed while e-working. In addition, the employee will notify the BIA of any deviations from agreed upon work schedules and follow normal procedures to request overtime or the use of the various types of leave.
- The employee's status, eligibility for authorized overtime, obligations, benefits and entitlements are not altered by this agreement. The e-work arrangement will automatically terminate when the employee leaves their present position.

### Family Responsibilities

- The employee agrees that normal dependent care arrangements will remain in place during an e-work agreement.

### Employee/ BIA Communications

- The employee/ BIA will establish ongoing and effective communication processes E-work Tasks
- The employee/ BIA agree that the following typical tasks shall be performed at the e-work site:

### Schedule

The employee's e-work assignments shall occur on the following days of each week:

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday

The above schedule may be altered by mutual agreement between the employee and the program.

### Employer / Employee Review

Meetings between the employee and the director/supervisor will be scheduled every \_\_\_\_\_ (indicate time frame) to review the e-work arrangement and to discuss any adjustments.

### Home Renovations

The employee is responsible for any costs associated with home renovations required for a home office, including physical installation of phone lines and electrical upgrades. The employee shall maintain a designated work space that meets program requirements.

### Security

The employee must ensure all security guidelines and standards are followed. Security guidelines and standards include but are not limited to: physical and environmental security; data security; software security; communications security; computer virus protection; and license agreements and copyright protection.

### Occupational Health and Safety

The employee agrees to maintain a designated work space that meets the program's normal workplace occupational health and safety standards. The employee agrees to promptly report all work-related accidents to the BIA and to make his/her home available for an accident investigation, if necessary. The employee agrees that no business meetings will be held in the e-work office without specific approval of the program.

### Office Related Expenses

All office-related expenses must be pre-authorized. The program is not responsible for any costs not specifically included in this agreement.

### E-work Arrangement

The employee agrees to abide by all government/program policies, procedures and legislation, including but not limited to the confidentiality of members, program information and documentation.

### Notice of Termination of E-work Arrangement

Before the end of the trial period, if it is apparent that the arrangement is negatively affecting the productivity, costs or operational needs of the program, the Executive Director or Board member of the governance committee should consult with the employee to modify or discontinue the arrangement if necessary.

The employee understands that the approval of the e-work arrangement is made on an individual basis.

This is a volunteer arrangement between BIA and the employee. The terms and termination of the E-work Agreement are not subject to the grievance procedure.

**Employee /Employer Agreement**

I have read and I understand the E-work Guidelines and the Question and Answer Sheet. I agree to the conditions of my requested e-work arrangement as contained in this agreement. I also understand that this flexible work arrangement can be adapted or terminated at BIA's discretion.

**Employee**

**Date**

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**Board Member/Executive Director, BIA**

**Date**

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## APPENDIX H: PROFESSIONAL DEVELOPMENT REQUEST

Date of Request: \_\_\_\_\_

Employee name: \_\_\_\_\_

Course/Conference name/theme: \_\_\_\_\_

Start Date: \_\_\_\_\_ Finish Date: \_\_\_\_\_

Costs:

Registration/Course Fee: \_\_\_\_\_ HST \_\_\_\_\_

Travel Costs: (car rentals, mileage, parking) \_\_\_\_\_

Accommodations: \_\_\_\_\_

Per diems: (meals) \_\_\_\_\_

Professional Development allotment for the year? \_\_\_\_\_

Amount of available funds used in this fiscal year: \_\_\_\_\_

How is the content relevant to your current work plan/position? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What are you looking to gain from this professional development experience? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How will you share your learnings with the Association? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

BIA will cover the costs of professional development to the limit of \$ \_\_\_\_\_ within the constraints of the available funding.

**Employee**

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**Date**

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**Board Member/Executive Director, BIA**

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**Date**

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## **APPENDIX I: WORKPLACE DISCRIMINATION, HARRASSMENT POLICY, AND WORKPLACE VIOLENCE**

### **POLICY STATEMENT:**

In compliance with the Human Rights Code (Ontario) and the Occupational Health and Safety Act, The Corporation of the BIA has an obligation and responsibility to provide a work environment that is free of discrimination and harassment as defined under the Human Rights Code (also referred to as "the Code" in this document) and the Occupational Health and Safety Act ) also referred to as "the OHSA" in this document).

Discrimination and harassment are considered to be unacceptable and a form of employment misconduct. BIA will make every reasonable effort to ensure that no one is subject to it. BIA takes very seriously its responsibility to foster and maintain a positive working environment with mutual respect for all and wishes to make it clear that it will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of any individual or create an intimidating, hostile or offensive workplace.

### **INTENT:**

The intent of this policy is to ensure that the BIA maintains its adherence to the spirit and provisions of the Human Rights Code and the Occupational Health and Safety Act, to encourage appropriate behaviour in the workplace and provide a mechanism for persons to bring forward concerns and issues related to harassment and discrimination, should they arise in the workplace. Additionally, the intent is to ensure clear direction for dealing with the harassment in an appropriate manner.

### **SCOPE OF THIS POLICY:**

This policy applies to all employees of BIA, volunteers, board members and anyone involved with the business of BIA, to provide assurance that they can undertake their duties in the workplace, free from discrimination and harassment, as defined under the Human Rights Code and the OHSA.

### **THE WORKPLACE:**

The workplace includes the BIA office as well as locations where meetings, programs and events are being held. It also includes washrooms, lunchrooms, vehicles and any other location where the business of the BIA is being conducted.

Harassment and discrimination which occurs outside the workplace (e.g. office-related social

functions, lunch meetings, work-related travel) but are an extension of work or duties performed and which can have repercussions in the work environment, are also covered by this policy.

#### **RESPONSIBILITIES UNDER THIS POLICY:**

##### **The BIA is responsible for:**

Ensuring that corporate policy, practices and conduct comply with the provisions of the Human Rights Code and the OHSA.

- Making sure that all those protected by the policy are fully aware of the policy, their rights and protections under this policy, the Code and the OHSA.
- Creating an environment that encourages prospective complainants to report all incidents of discrimination and harassment.
- Ensuring that all discrimination and harassment complaints can be and are resolved quickly, fairly and in a sensitive manner.
- Conducting an investigation that is appropriate in the circumstances.

##### **Management have the responsibility to:**

- Protect all employees from discrimination and harassment and prohibit such activity from occurring in the workplace.
- Immediately initiate action upon receipt of, or even prior to, any actual complaint, where discrimination or harassment is known to have taken place.
- Take corrective or disciplinary action where a violation of this policy has been found to have occurred.

##### **Employees/Council Members/Volunteers/Others:**

All BIA employees and those persons involved with or undertaking BIA business have the responsibility of maintaining a positive and business-like workplace and ensuring that the work environment is free from discrimination and harassment. Every employee is discouraged from and directed to not engage in any activity that may be perceived as constituting discrimination or harassment.

#### **DEFINITIONS:**



**Discrimination:**

The Human Rights Code ("the Code") states that it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination.

Section 5(1) of the Code states:

"Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy, gender identity), sexual orientation, age, record of offences, marital status, family status or handicap."

The BIA is obligated to insure that no discrimination or unequal treatment, based on the prohibited grounds or types of discrimination as outlined above, occurs in the workplace.

Discrimination can be intolerant behaviours towards individuals or groups. The behaviour can be direct (e.g. denying jobs based on colour, race, sex or disability) or systemic (e.g. utilizing job testing that is culturally-biased, height or weight restrictions for particular positions). Discrimination may come from an individual or through systems and attitudes held by an organization. Actions do not have to be intentionally committed to be considered discriminatory or a possible Code violation.

**Harassment:**

Harassment is one form of discrimination and it is illegal under the Human Rights Code.

Section 5(2) of the Code states:

"Every person who is an employee has a right to freedom from harassment in the workplace by BIA or agent of BIA or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability."

Section 10(1) of the Code defines harassment as meaning:

"...engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome."

Harassment can also be defined as any objectionable, unwanted or un-welcome attention to a person based on any of the discriminatory grounds.

Harassment can include, but is not limited to, the following:

- Verbal - comments, jokes, propositions and the like.
- Physical - touching, leering, patting, pinching, cornering, actions up to and including assault of a criminal nature.
- Visual - suggestive gestures, displays of racial/hate or pornographic materials, E-mails and other computer generated materials that are intended to intimidate or embarrass.

**Workplace Harassment** under the Occupational Health and Safety Act is defined as:

*Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or*

Some examples of **workplace harassment** are:

- verbally abusive behaviour such as yelling, insults, ridicule and name-calling, including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- workplace pranks, vandalism, bullying and hazing
- gossiping or spreading rumours, regardless of whether they are malicious
- excluding or ignoring someone, such as persistent exclusion of a particular person from workplace-related social gatherings
- workplace supervision done in a demeaning or abusive manner
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- offensive or intimidating phone calls, emails, texts or social media communications
- a supervisor/manager impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
- making false allegations about someone in memos or other work-related documents
- menacing behaviours including staring, glaring, inappropriate gestures or unwelcome physical closeness
- taunting and intimidation

### **The Test of Harassment**

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or should have known that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the recipient. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

Respect in the workplace is everyone's responsibility. Any acts that demean, harm or exclude are counter to our culture and should be addressed promptly in accordance with the procedures set out below.

### **Poisoned Work Environment:**

Even if no one is being directly targeted, harassing comments or conduct can poison the work environment, making it a hostile or uncomfortable place in which to work. This is also a form of harassment. Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers
- distributing offensive e-mail messages, or attachments such as pictures or video files
- practical jokes that embarrass or insult someone; or
- jokes or insults that is offensive, racist or discriminatory in nature.

### **What Isn't Harassment?**

*The Occupational Health and Safety Act states:*

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Therefore, workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including but not limited to:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work
- enforcement of workplace rules and policies

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

Workplace and domestic violence that may occur in the workplace are health and safety issues,

which are covered under the *Occupational Health and Safety Act*.

### **Sexual Harassment under the Code and the OHSA:**

Sections 7(2) and 7(3) of the Code, state that sexual harassment is a very specific form of illegal discrimination and that employees have the right to be free from harassment in the workplace because of sex.

The Code clearly defines the following activities and behaviours as sexual harassment:

- a) Sexual Solicitations, Advances and Unwanted Attention - made by a person in a position to confer, grant or deny a benefit or advancement, of a persistent or abusive nature, where the person knows or ought reasonably to know that such attention is unwanted or unwelcome.
- b) Implied or Expressed Promise of Reward - for complying with a sexual request or favour.
- c) Threat Of or Actual Reprisal for Refusal - implied or actual reprisal or denial of opportunity for refusal to comply with a sexually oriented request.
- d) Poison or Hostile Work Environment - remarks, behaviour and activities of a sexual nature, not necessarily directed to any one person, which may be perceived to create a negative, intimidating, uncomfortable or offensive workplace or environment. May include a one-time incident as opposed to a "course of" or ongoing harassment, but is of such a severity or weight it taints or poisons the environment.

Examples can include: jokes, pin-ups, T-shirts with inappropriate comments, circulation of offensive materials, E-mails etc. or a one-time comment from a person in authority to the effect "we will never hire woman here for that type of work."

The *Occupational Health and Safety Act* defines workplace sexual harassment as:

- (i) Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- (ii) Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Both men and women can be victims of sexual or gender-based harassment, and someone of the same or opposite sex can harass someone else. Some examples of sexual or gender-based harassment are:

- sexual advances or demands that the recipient does not welcome or want
- threats, punishment or denial of a benefit for refusing a sexual advance
- offering a benefit in exchange for a sexual favour
- leering (persistent inappropriate staring)
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic websites or other electronic material
- distributing sexually explicit e-mail messages or attachments such as pictures or video files
- sexually suggestive or obscene comments or gestures
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex
- persistent, unwanted attention after a consensual relationship ends
- physical contact of a sexual nature, such as touching or caressing
- gossip or rumours regarding a person's sexual activities or relationships, regardless of whether they are malicious; and
- sexual assault

All of the above activities are considered inappropriate. Therefore, a violation of this policy, the Code and the OHSA will not be condoned by the BIA.

**Workplace Violence** is defined under the *Occupational Health and Safety Act* as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker
- a statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

It is defined broadly enough to include acts that may be considered criminal. Workplace violence includes:

- physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects

- verbal or written threats to physically attack a worker
- leaving threatening notes or sending threatening emails
- wielding a weapon at work
- stalking someone; and
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.

Violence that occurs outside the normal workplace but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace.

Workplace violence may come from many different sources:

- strangers or people with no ties to the workplace
- clients, customers or patients
- other employees
- intimate relationships outside of work (such as intimate partners, family, friends)

### **Making A Complaint Of Discrimination Or Harassment:**

Employees or persons involved in BIA business are encouraged to bring forward any incidents of discrimination or harassment that they may encounter in the workplace and should do so in a timely fashion.

Complaints of discrimination and harassment may be reported to the Executive Director, Board Chair, or any member of the governance committee.

All complaints will be dealt with in a most serious manner and as promptly and discreetly as possible, with due regard for the rights of all parties.

A person always retains the right to file a complaint with the Ontario Human Rights Commission, should they choose to do so.

### **Confidentiality**

Confidentiality during the complaint process will be maintained at all times as practicable and appropriate under the circumstances for each case and except where disclosure of names is necessary for purposes of investigating the complaint or taking discipline in relation to the

complaint.

### **Complaint Resolution**

Complaints may be dealt with in a number of ways (early dispute resolution, informal, mediation, formal investigation) and as expeditiously as possible. However, if evidence of discrimination or harassment is found (considered a form of employee misconduct), corrective or disciplinary measures will be taken as appropriate.

Discipline could involve reprimands or suspensions and depending on the severity of the situation, may result in more serious actions being taken, including discharge or termination for cause. Steps will also be taken to prevent any further reoccurrence of the discrimination or harassment and provide additional support or assistance to those affected.

If the complaint is not supported or substantiated, no documentation of the complaint will be placed with the file of the person alleged to have done the discriminating or harassing.

### **Investigation**

If BIA chooses to proceed to a formal investigation, BIA has discretion to use either an internal or external investigator to conduct an investigation, depending on the nature of the incident. The investigation may include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the incident or complaint, including dates and locations
- reviewing any related documentation
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. The goal is to complete any investigation and communicate the results to the complainant and respondent within a reasonable time frame after becoming aware of an incident or a complaint is received, where possible. The timeframe within which an investigation can be completed varies depending on the circumstances of each investigation.

### **Liability Under The Human Rights Code**

Whether committed by a co-worker or a supervisor, acts of harassment and discrimination are not only considered a form of employee misconduct, but are also illegal under the Code. Persons engaging in discriminatory actions or harassment of others may be personally liable under the Code. In addition, those in a position of authority who know about such behaviour or ought to know and by omission or failure to take appropriate action, tolerate it, are also guilty of misconduct and could be named and liable in a complaint filed with the Ontario Human

Rights Commission.

### **No Reprisal Under The Code And OHSA**

Section 8 of the Human Rights Code states:

*Every person has a right to claim and enforce their rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe the rights of another person under this Act, without reprisal or threat of reprisal for so doing.*

Section 50 (1) of the OHSA states:

“No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker; or
- (d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations....”

All levels of Management will insure that no reprisals or retaliation stem from the filing of complaints with respect to the person making the complaint, the accused or any witness. Any form of retaliation or reprisal is considered a serious violation of this policy. Such actions will be subject to disciplinary action.

Persons who make legitimate or "good faith" complaints will not have their employment affected in any way as a result of their complaint.

It is also recognized that false, fabricated or malicious accusations of harassment or discrimination can have serious affects on innocent people. Such accusations or false reporting will not be tolerated.



**INCIDENT REPORT**

DATE:

COMPLETED BY:

The incident:

Reported by:

Date and Time of Occurrence:

Exact location:

What Type Of Incident Took Place Or Is Alleged?

- Accident
- Assault
- Harassment
- Ill Health
- Incident
- Injury
- Safety
- Theft/Robbery
- Other

People Involved:

In Your Own Words, Describe What Happened (add additional pages if more room is required):

Were Any Outside Services Involved? (e.g. police, ambulance)

- Yes
- No

If yes, who was involved? Who called them?

If Police were called, were any charges laid?

- Yes
- No

If YES, what kind of charges? Against whom?

Were there any injured parties involved?

- Yes
- No

If YES, what was the nature of the injuries, if known?

If there was a theft or robbery, what was stolen?

Was there any damage to property?

- Yes
- No

If Yes, please describe specifics of damages:

Was the Insurance Company contacted?

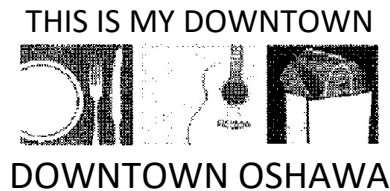
- Yes
- No

Is there any type of follow-up planned or required for this?

- Yes
- No

If Yes, what type of follow-up will be done, or requested?

- Contact Police
- Contact Chair
- Contact Parents
- Contact \_\_\_\_\_ (name)
- Contact Insurance
- Contact Hospital
- Other (specify) \_\_\_\_\_
- Report to WSIB \_\_\_\_\_



Terms of Reference  
Board of **Directors** for the Oshawa  
Central Business District Improvement Area

1. Mandate

The mandate of the Board of **Directors** for the Oshawa Central Business District Improvement Area (the Board) is to:

- **Create a vision for the future role and direction of the Downtown Oshawa BIA**
- oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that which is provided by the municipality;
- promote the area as a business, **entertainment** or shopping **destination**

The Board may be commonly known or referred to as "Downtown Oshawa Board of **Directors**" and the Improvement Area may be commonly known or referred to as "Downtown Oshawa Business Improvement Area" (**BIA**); however, all binding documents and contracts shall be under the legal name of "Oshawa Central Business District Improvement Area".

2. Goals and Objectives

The **Downtown** Oshawa **BIA** is the voice of the business community in downtown Oshawa and is committed to improving and promoting the area through investment and advocacy to **establish and** maintain a position as a shopping, business and entertainment destination.

3. Guiding Principles

The Municipal Act provides municipalities the authority to designate an area as an improvement area. As such City of Oshawa By-law 94-74, as amended, establishes the Oshawa Central Business District as an Improvement Area (BIA) and establishes a Board of Management for the Area. The Board shall be compliant with the aforesaid bylaw.

The Municipal Act requires the Board to pass a Procedural By-law for governing the calling, place and proceeding of meetings. The Board is also required to adopt and maintain policies respecting the sale of lands, hiring of employees and the procurement of goods and services. The Board shall be compliant with these aforesaid documents.

Every Board member shall exercise the discharge of their duties honestly, in good faith and in the best interest of the BIA and City as a whole and use a degree of care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

#### 4. Key Success Factors

For the Board to be successful, the following factors need to be realized:

- vision
- leadership
- appropriate funding and staff resources
- effective communication
- **promotion and maintenance of positive relationships and partnerships with government, business and the broader community**
- volunteer support and commitment
- feasible, realistic and achievable strategies/actions tailored to the community's needs
- **variety** of complementary strategies
- Board members who adhere to governing documents

#### 5. Membership Eligibility

Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property.

In determining whether a person is a tenant or not, the Clerk of the municipality may accept a list of every tenant who is required to pay all or part of the taxes on the property and the share of the taxes that each tenant is required to pay and the share that the person is required to pay the declaration of a person that the person is a tenant and the determination of the Clerk is final.

#### 6. Board Composition

The Board shall be comprised of ten persons, as outlined in By-law 94-74, as follows:

- a) Five directors shall be appointed by City Council, of whom:
  - Four shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members; and,
  - One shall be a resident of the City of Oshawa.
- b) One director appointed directly by City Council who shall be a senior staff member of the University of Ontario Institute of Technology (UOIT), part of the I-JOIT downtown campus and selected by UOIT's President;

- c) Three directors appointed by City Council from a list of candidates selected by members of the Improvement Area, of whom two shall be members of the Improvement Area or nominees of corporate members of the Improvement Area who are officers or directors of those corporate members;
- d) One director shall be a member of City Council, appointed directly by City Council.

Council retains the right to deny appointment of any nominee.

## 7. Qualifications

Candidates considered for appointment to the positions identified in Sections 6a) and c) must complete the City's application form and attach a resume to the form in order to be considered.

Preferred eligibility criteria is as follows:

- a) knowledge and experience relevant to **one or more of the following**:
  - the improvement, beautification and maintenance of land, buildings and structures
  - promotion of business or shopping
  - events planning and co-ordination
  - budget development and implementation
  - meeting planning, organization and management
- b) record of active community involvement
- c) business acumen.

## 8. Board Vacancies

In a municipal election year, the BIA membership shall proceed at their Annual General Meeting as outlined in Section 6c) above.

Where a vacancy occurs mid-term, the following process is to be used.

- a) If a vacancy occurs for one of the positions identified in Section 6a) the Clerk of the municipality shall advertise to fill the position.
- b) If a vacancy occurs for the IJOIT representative, the Clerk of the municipality shall correspond with UOIT for a qualified nominee to be presented to Council.
- c) If a vacancy occurs for one of the positions identified in Section 6c), the **Executive Director** shall initiate the process for the BIA membership to nominate a qualified individual. Such nomination shall be forwarded to the Clerk of the municipality to be presented to Council.

- d) If the Council representative seat becomes vacant, City Council will appoint a replacement.

Upon appointment by City Council, the individual will hold office for the remainder of the term.

## 9. Term of Office

Each member shall hold office from the time of his appointment until the expiration of the term of the Council that appointed him/her, provided he/she continues to be qualified. Members shall continue to hold their office until a successor is appointed.

Members are eligible for reappointment on the expiration of their term of office.

## 10. Attendance Management

After two consecutive absences by any Board member at regularly scheduled meetings, the following process shall be followed:

- a) The **Executive Director** shall informally contact the absent member to determine if they plan to attend the next regularly scheduled meeting, noting any reasonable or compassionate circumstances which would prohibit their attendance.
- b) If no reasonable or compassionate response is given, the **Executive Director** shall inform the absent member that if they are absent from the next regular meeting (the third meeting), the Board shall declare their seat vacant and recommend to Council the removal of the member.

If the **Executive Director** is unable to reach the absent member or if there was no reasonable or compassionate grounds for absences given at the time of preparing the agenda for the third meeting:

- 1) the **Executive Director** shall include the item "Absentee Member" on the agenda.
- 2) upon consideration of the item, the **Executive Director** shall briefly identify the requirements of the Terms of Reference and the name of the absent member.
- 3) The Board shall recommend to Council the absent member's seat be declared vacant.
- 4) Removal from Board membership shall be made by resolution of Council. Council may, by resolution, waive the requirements of the Policy.
- 5) if removed, the City Clerk shall initiate the Board recruitment and selection process, as appropriate.

## 11 . Officers and Directors

At the first meeting of the term of the new Board, the Board shall elect from amongst themselves Officers to fill the role of Chair, Vice-Chair and Treasurer who shall serve for a two-year term.

The duties for Officers and Directors are as follows.

The Chair shall:

- Call special meetings of the Board;
- Preside at all Board meetings;
- Vote on resolutions only to break a tie; • Sit ex-officio on all Working Groups;
- Function as one of the signing officers for the Board (refer to Section 13);
- Represent the Board at official functions and special events;
- Be the official spokesperson for the Board;
- Attend Council meetings as required;
- Undertake an annual written evaluation of the **Executive Director** on behalf of the Board; and,
- Perform any other duties which the Board may, from time to time, assign.

The Vice-Chair shall:

- Assume all responsibilities and authorities of the Chair in the Chair's absence; • Function as one of the signing officers for the Board (refer to Section 14); and, • Perform any other duties which the Board may, from time to time, assign.

The Treasurer shall:

- In consultation with the **Executive Director**, **ensure** preparation of financial statements and reports;
- Function as one of the signing officers for the Board (refer to Section 14);
- **Ensure** preparation of the proposed budget in accordance with the requirements of the City
- Report on the financial affairs of the Board at all Board meetings; and,
- Perform any other duties which the Board may, from time to time, assign.

A Director shall:

- Sit as an active member of the Board and/or Working Group;
- Assist with activities of Working Groups as directed by the Board;
- Not publicly render individual judgments apart from the Board as a body;
- Have no right to assert themselves regarding staff operations; • Not attempt to exercise authority over BIA members; • In co-operation with the Chair, Directors shall:
- recruit members and volunteers ■ co-ordinate advertising, promotions, and communications ■ thank key members, community partners and sponsors.



## 12. Executive Director

The Board may hire or contract an **Executive Director who is responsible to the Board as a whole, through the Chair and** whose duties shall be to:

- Keep all the records and books of the Board including: the registry of Officers, Board members and BIA Members; minutes of all Board, General and Working Group meetings; Board and Working Group reports; by-laws; policies; contracts/agreements; correspondence; and any other documents related to the Board; • Act as Secretariat and attend all Board, General and Working Group meetings and speak/report on matters as requested;
- Be responsible for providing a copy of meeting minutes to all members of the Board and the City (Commissioner of Development Services, Downtown Development Officer, Councillors' Administrative Assistant and City Clerk) as soon as possible after the minutes have been adopted;
- Prepare and distribute all correspondence on behalf of the Board;
- Set the nomination process in motion in advance of the end of the elected term, so that a full slate of nominees can be presented at that time; • Receive, deposit, disburse and record all monies;
- Maintain all banking and financial records;
- Draft for the Treasurer's review all financial statements and reports;
- Whenever there is a change of Treasurer, ensure that all past records of the Board are transferred to the succeeding Treasurer;
- Function as one of the signing officers of the Board (refer to Section 13);
- Maintain and update the inventory of all physical assets owned or leased by the Board;
- [In consultation with the Treasurer, prepare and distribute the proposed budget in accordance with the requirements of the City;
- [In the absence of the Treasurer, report on the financial affairs of the Board at all Board meetings;
- Report directly to the Chair, assisting with the co-ordination of all Board events and implementation of other programs as they arise;
- Be responsible for the day to day operation of the Board office, meeting with business members, property owners and managers, event planners, community leaders, City staff and elected politicians;
- Be responsible for hiring and/or termination of **BIA** staff
- Be responsible for administering all Freedom of Information Requests;
- Perform any other duties which the Board may, from time to time, assign.

## 13. Remuneration

No Board member shall receive remuneration in payment for serving on the Board or any Working Group thereof.

Board members may be reimbursed for expenses directly relating to their functions as Board members with prior approval of the Board.

The **Executive Director** shall receive remuneration as established by resolution of the Board.

#### 14. Signing Authority

The **Executive Director** and one of the following Officers shall be the signing authority for all official documents and disbursements related to the Board:

- Chair
- Vice-Chair
- Treasurer

#### 15. Conflict of Interest

All members shall comply with the Municipal Conflict of Interest Act.

#### 16. Confidentiality and Privacy of Information

The Board shall preserve the confidentiality of all information not available to the general public and abide by and act in accordance with the laws and practices governing all matters related to confidentiality, privacy and access to information.

In this regard, every Board member shall:

- respect the confidentiality of all matters discussed at closed meetings and any other information and/or documentation to which he/she may have access to in his/her capacity as a Board member; and,
- respect and act in accordance with the laws and practices governing the privacy of and access to information acquired by the Board member in his/her capacity as a Board member.

Confidential information means:

- Information disclosed or discussed only at a closed meeting of the Board;
- Information circulated to Members and marked "confidential" unless the Board authorizes its release or it is otherwise released under the Municipal Freedom of Information and Protection of Privacy Act;
- Information, the disclosure of which, is subject to a mandatory or discretionary exemption from disclosure under the Municipal Freedom of Information and Protection of Privacy Act; and,

- Information that is given verbally in confidence in preparation of or following a meeting that is closed to the public.

The **Executive Director** is designated as the Head under the Municipal Freedom of Information and Protection of Privacy Act for all matters related to such legislation.

## 17. Working Groups of the Board

The Board may establish Working Groups as required, each with their own specific area of responsibility.

All Working Groups are required to conduct business in accordance with all Board guiding documents, policies and by-laws.

Working Groups do not have the authority to make final decisions. They must report on a regular basis to the Board through the Working Group Chair and make the necessary recommendations for Board approval.

All Working Groups must be chaired by a Board member as elected by the Board for a two-year term. Working Group members may be a combination of Board members, BIA Members and non-BIA members. There is no established complement for Working Groups and members may vary based on the project at hand.

## 18. Borrowing Powers

The Board shall not borrow money.

The Board shall not incur indebtedness extending beyond the current year without the prior approval of City Council.

## 19. Fiscal Year

The fiscal year shall be the calendar year.

## 20. Budget

The Board shall prepare a proposed budget for each fiscal year by the date and in the form required by the City of Oshawa and shall hold one or more meetings of the members of the BIA for discussion of the proposed budget.

## 21. Auditor

The external auditor for the City of Oshawa shall be the auditor for the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to his/her inspection.

## 22. Insurance

The City of Oshawa shall arrange for Municipal Liability and Errors and Omissions insurance to cover the operations of the Board. The Board shall arrange for property insurance to cover property, contents and equipment owned by or belonging to the Board.

## 23. Review Mechanism and Dissolution

Should a resolution of the Board or majority vote of the total membership of the BIA be received to dissolve the improvement area, a request shall be made to the City of Oshawa to repeal the by-law establishing such area.

Despite the above clause, the City of Oshawa also has the authority to dissolve the improvement area without a request from either the Board or BIA membership in accordance with the Municipal Act.

Upon repeal of the by-law establishing the local improvement area, the Board is dissolved and the assets and liabilities of the Board become the assets and liabilities of the City of Oshawa.

If the liabilities assumed exceed the assets assumed, the City of Oshawa may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class.

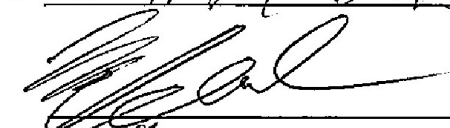

## 24. Authority to Enact, Repeal and/or Amend

The Terms of Reference for the Board and any by-laws or policies may be enacted, repealed or amended by the Board upon approval by a majority of the BIA membership received at a General Meeting provided such actions do not place the Board in conflict with the Municipal Act, City of Oshawa By-law 94-74, as amended from time to time, or any other regulations.

Date approved: \_\_\_\_\_

Chair: \_\_\_\_\_

Executive Director: \_\_\_\_\_

d: 2 May 2013  
  


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## **By-law 3**

### **of The Oshawa Central Business District Improvement Area**

Being a by-law to establish rules of procedure for meetings of the Oshawa Central Business District Improvement Area and applicable Committees.

Whereas, the Municipal Act, 2001 requires a local board to pass a by-law to govern the rules of procedure and public notice of its meetings;

Now therefore the Oshawa Central Business District Improvement Area (O.C.B.D.I.A.) enacts as follows:

#### **1. Application**

- 1.1 This By-law establishes the O.C.B.D.I.A. rules of procedure for General Meetings and Meetings of the Board and its Committees (referred to as the "Procedure By-law").

#### **2. Definitions**

- 2.1 In this By-law:

- a) "Act" means the Municipal Act, S.O. 2001, c. 25, as amended;
- b) "Board" means the Board of Management of the Oshawa Central Business District Improvement Area
- c) "Board Meeting" means any meeting of the Board of Management of the O.C.B.D.I.A. or of a Committee where a Quorum is present, and at which Directors discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Board;
- d) "Chair" means the presiding officer at a Meeting;
- e) "City" means The Corporation of the City of Oshawa;
- f) "City's Website" means the uniform resource locator (URL) [www.oshawa.ca](http://www.oshawa.ca);
- g) "Clerk" means the City Clerk of the City and includes the persons from time to time acting as the Clerk;
- h) "Closed Meeting" or "In-Camera Meeting" means a Meeting, or part of a Meeting, which is closed to the public as permitted by the Act;
- i) "Committee" means a Committee, Working Group, or another body established by the Board of Management for the O.C.B.D.I.A.;
- j) "Council" means the Council of the City;

- k) “Delegation” or “Delegate” means, as the context may require, a person who addresses or seeks to address the O.C.B.D.I.A. at a General Meeting or the Board at a Board Meeting or Committee or the content of the person’s address to Council or Committee;
- l) “Director” means an individual appointed by City Council in accordance with By-law 94-74 to sit on the O.C.B.D.I.A. Board of Management;
- m) “Education and Training Session” means a Special Meeting of the Board of Management of the O.C.B.D.I.A. or of a Committee for the purpose of providing education or training on a matter, subject to the rules set out in this By-law;
- n) “Frivolous” means a submission or comment not having any serious or relevant purpose or value;
- o) “General Meeting” means a meeting of the membership of the O.C.B.D.I.A., at least one of which must take place annually;
- p) “General Membership” means all persons who are assessed, on the last returned assessment role, with respect to ratable property in the area that is in a prescribed business property class and tenants of such property located in the O.C.B.D.I.A.;
- q) "Majority Vote" means an affirmative vote of more than one half of the Directors or Members present and voting;
- r) “Member” means a person who are assessed, on the last returned assessment role, with respect to ratable property in the area that is in a prescribed business property class and tenants of such property;
- s) “Motion” means a proposal by a Director or Member to adopt, amend, or otherwise deal with a matter before the Board, the General Membership or a Committee;
- t) “O.C.B.D.I.A.” means the Oshawa Central Business District Improvement Area as designated by City of Oshawa By-law 94-74;
- u) “O.C.B.D.I.A. Website” means the uniform resource locator (URL) [www.downtownoshawa.ca](http://www.downtownoshawa.ca);
- v) “Point of Order” means a Motion raised by a Director or Member drawing attention to an infraction of this By-law;
- w) “Point of Personal Privilege” means a Motion concerning the health, safety, rights, or integrity of the Director or Member, the O.C.B.D.I.A., a Committee or anyone present at a Meeting;
- x) “Quorum” means the number of Directors or Members required for the legal conduct of the business of the O.C.B.D.I.A., the Board or a Committee;

- y) "Recorded Vote" means the making of a written record of the name and the vote of each Director who votes on a Motion;
- z) "Resolution" means the decision of the Board of Management of the O.C.B.D.I.A., the General Membership or of a Committee on any Motion;
- aa) "Special", in relation to a Board Meeting or General Meeting, means a Meeting other than a Regular Meeting;
- bb) "Two-Thirds Majority Vote" means an affirmative vote of at least two-thirds of the Directors or Members present and voting; and
- cc) "Vexatious" means a submission or comment that is without merit and pursued in a manner that is malicious or intended to embarrass or harass the recipient or others.

### **3. Interpretation**

- 3.1 When greater clarification is required, the Board and General Membership will have regard firstly to the City of Oshawa Procedure By-law 111-2017, as amended.
- 3.2 If there is a conflict between two or more rules established by this By-law, or if there is no specific rule on a matter, the Chair will determine a rule.
- 3.3 The Chair may consider past practices and former decisions, including previous rulings, in applying these rules and in making rulings.
- 3.4 The Chair may consult with the City Clerk and with such others as the City Clerk may recommend for interpretation and clarification of this by-law.

### **4. Waiving Rules**

- 4.1 Rules in this By-law may be waived by a Two-Thirds Majority Vote except where a rule is required to be followed by law.
- 4.2 A Motion to waive the rules is not amendable or debatable.

### **5. Member Roles & Conduct**

- 5.1 Chair – Presiding Officer
  - a) The Chair serves as the presiding officer at a Meeting.
  - b) The Chair of a Board Meeting or General Meeting is the Chair of the Board. In the absence of the Chair, the Vice Chair is Chair.
  - c) In the absence of the Chair or Vice Chair, the Directors will appoint one of the Directors as Chair for the Meeting.
- 5.2 Chair – Role: The Chair's role during Meetings includes the following:



- a) Chairing the Meeting in an objective manner in accordance with this By-law and applicable legislation;
- b) Enforcing rules and decorum;
- c) Ruling on whether a Motion is in order and clarifying intent, as needed;
- d) Ensuring that Meetings are conducted in an orderly fashion including by refusing to acknowledge a Motion that, in the Chair's determination, is Frivolous, Vexatious or made principally for the purpose of causing delay;
- e) Deciding and ruling on all Points of Order and Points of Personal Privilege at the Meeting;
- f) Ensuring that all Directors or Members who wish to speak on a Motion have spoken;
- g) Ensuring clarity, where required, by reading, or requesting an appropriate person to read Motions before voting;
- h) Subject to the preceding paragraphs of this section 7.2, putting all Motions to a vote and announcing results;
- i) Voting on all matters unless the Municipal Conflict of Interest Act prohibits it;
- j) Declining to put to a vote any Motion, which, in the Chair's determination, contravenes this By-law or is beyond the jurisdiction of Council; and
- k) Without a Motion, recessing a Meeting for a time to be determined by the Chair where the Chair believes that there is a threat or imminent threat to the health or safety of any person or that there is a possibility of public disorder.

### 5.3 Chair – Participation in Debate

- a) If during a Meeting, the Chair desires to move a Motion or to take part in the debate, the Chair will call on the Vice Chair to preside until the Chair resumes the chair.
- b) The Chair may summarize the Chair's position on a matter prior to the vote, and only after all Directors have had an opportunity to speak.

### 5.4 Vice Chair

- a) The Vice Chair will act as the Chair in the Chair's absence, performing all duties of the Chair as required.

### 5.5 Directors and Members – Role: Directors' and Members' roles (including the Chair and Vice Chair) during meetings include the following:

- a) Respecting the rules of order in this By-law;
- b) Being respectful of each other's roles and responsibilities;
- c) Considering and making decisions about Meeting business, including seeking information and advice from staff prior to and during a Meeting;
- d) Refraining from using indecent or offensive language or behavior;
- e) Listening attentively, participating in a Meeting and not interrupting, unless to raise a Point of Order or Point of Personal Privilege;
- f) Refraining from engaging in private conversation while in a Meeting and from using communication devices in any disruptive manner;
- g) Refraining from engaging in debate with persons appearing before the Board or General Membership;
- h) Voting on Motions put to a vote unless the Municipal Conflict of Interest Act prohibits it;
- i) Remaining silent in their seats while the Board or General Membership votes and until the Chair announces the result of the vote;
- j) Informing the Chair and O.C.B.D.I.A. Staff of their absences prior to any Meeting at which they are required;
- k) Respecting and following the decisions of the Board and General Membership; and
- l) Not disclosing any of the content of a Closed Meeting or providing confidential documents or materials to unauthorized individuals.

#### 5.6 Chair's Ruling – Process for Director to Challenge

- a) If a Director disagrees with a Chair's ruling, the Director may immediately, by Motion without a seconder, challenge the Chair's ruling and in response, the Chair will immediately call a vote on the Motion to "uphold the Chair's ruling". For clarity, voting in the positive indicates support for the Chair's ruling.
- b) The Board may uphold or overturn the Chair's ruling.
- c) The decision of the Board is final and is not subject to reconsideration.

#### 5.7 Director/Member Disobeys Chair's Ruling or this By-law

- a) Without limiting the Chair's power to expel pursuant to Section 241(2) of the Act, if a Director or Member disobeys the Chair's ruling or this By-law:

- i) After the first occurrence, the Chair will give a formal verbal warning to the Director/Member.
- ii) After the second occurrence, the Chair will call the Director/Member to order.
- iii) If the Chair takes action under 5.7 a) i) or ii) and the Director/Member continues to disobey the Chair's ruling or this By-law, the Chair will immediately order the Director/Member to leave his/her seat for the rest of the Meeting. If the Director/Member refuses to do so, the Chair may request assistance from security staff to remove the individual.
- iv) Any Director/Member other than the person who was dismissed may challenge the Chair's ruling pursuant to section 5.7. Should the Chair's ruling be overturned, the dismissed Director/Member may return to his/her seat.
- v) If, during the Meeting, the dismissed Director/Member wishes to apologize, the Director/Member will seek to inform the Chair.
- vi) At the next available opportunity in the Meeting, the Chair will allow the dismissed Director/Member to return to his/her seat to apologize.

#### 5.8 City Liaison - Role

- a) In accordance with the Act, the role of City Liaison includes:
  - i) Providing advice to the Board and General Membership on City policies and programs; and,
  - ii) Carrying out other duties required by law and as assigned by their direct supervisor or Council.

#### 5.9 City Clerk - Role

- a) The City Clerk is a statutory officer of the Corporation of the City of Oshawa charged with, among other duties, managing the organization of all records of the City.
- b) The City Clerk will receive copies of all agendas and supporting documentation and minutes of meetings of the Board of the O.C.B.D.I.A., its Committees and any General Meetings of the Membership.
- c) The City Clerk may recommend any administrative practices, procedures and forms consistent with this By-law to ensure the timely and efficient disposition of O.C.B.D.I.A. business.
- d) The City Clerk will ensure training is provided to the Board and O.C.B.D.I.A. Staff concerning meeting procedures and rules of order as early as possible in each new term of the Board.

#### 5.10 O.C.B.D.I.A. Staff – Role

- a) In accordance with the Terms of Reference and relevant Job Descriptions, the role of O.C.B.D.I.A. staff includes:
  - i) Performing tasks related to the management of the Board and the activities of the O.C.B.D.I.A.;
  - ii) Ensuring that all records are kept in accordance with the City of Oshawa Records Retention By-law;
  - iii) Preparing agendas for and taking minutes of all proceedings of Board and General Membership meetings, including sessions and/or parts of sessions that are closed to the public; and,
  - iv) Any other duties as may be identified by the Board.

### 6. Scheduling Meetings

#### 6.1 Regular Board Meetings

- a) The Board will develop a meeting schedule for regular meetings of the Board on days and times to be determined by the Directors to be held at a location in Oshawa. The Board will adopt an annual schedule by resolution.
- b) The Board will hold a minimum of ten (10) meetings per year.

#### 6.2 Education and Training Sessions

- a) An Education and Training Session for the Board may be called as a Special Board Meeting by the Chair and scheduled in consultation with O.C.B.D.I.A. Staff.

#### 6.3 Special Board Meetings

- a) Special Meetings may be called by the Chair and scheduled in consultation with O.C.B.D.I.A. Staff.
- b) Notwithstanding Section 6.3 a), O.C.B.D.I.A. Staff will call a Special Meeting when petitioned in writing by a majority of Directors. Such petition will define the time and date and purpose of the meeting proposed.

#### 6.4 General Meetings

- a) At least once in each year, the O.C.B.D.I.A. will hold an Annual General Meeting of the General Membership at a location in Oshawa at a date and time determined by the Board.
- b) From time to time, the Board may call additional general meetings of the General Membership as may be required.

## **7. Notice of Meetings**

### **7.1 Notice of Meetings**

- a) O.C.B.D.I.A. Staff will prepare and publish on the O.C.B.D.I.A. Website an annual calendar giving general notice of specific dates when regular Board meetings and the Annual General Meeting will take place.
- b) O.C.B.D.I.A. Staff will give notice of a Meeting of the Board by providing an agenda package to all Directors, City Liaison and the City Clerk via email and by posting a copy of the agenda package on the O.C.B.D.I.A. Website. The agenda package will include the agenda with the date, time, location of the meeting and copies of all documentation to be discussed at the meeting.
- c) Agenda packages for all regular and special Board meetings will be provided to the Board, City Liaison and the City Clerk and posted on the O.C.B.D.I.A. Website not less than five (5) calendar days prior to the scheduled Meeting.
- d) Agenda packages for a Special Meeting will be provided to the Board, City Liaison and the City Clerk and posted on the O.C.B.D.I.A. Website not later than twenty-four (24) hours prior to the scheduled Special Meeting.
- e) O.C.B.D.I.A. Staff may provide earlier or additional forms of Meeting notice or cancellation, as deemed appropriate.
- f) Notice for all General Meetings will be provided in writing by emailing the notice to the General Membership, Directors, City Liaison and the City Clerk and by posting a copy of the notice on the O.C.B.D.I.A. Website. Such notification will include the agenda with the date, time, location of the meeting and copies of all documentation to be discussed at the meeting.
- g) Notice of all Annual and Special General Meetings will be provided not less than 15 calendar days prior to the scheduled Meeting.
- h) For all Meetings, relevant documentation will be made available on the O.C.B.D.I.A. Website with the exception of any confidential material pursuant to applicable legislation. Where matters of a confidential nature will be considered, the agenda will include a description of the general nature of the matter to be discussed and will identify the applicable authority for the closed item.
- i) A Director or Member's failure to receive a notice or an agenda package does not affect the validity of holding the Meeting or any action taken at that Meeting.

## 7.2 Cancellation or Postponement of Meetings

- a) A Meeting may be cancelled or postponed by the Chair in consultation with O.C.B.D.I.A. Staff where Quorum cannot be achieved, when a Meeting is no longer required, when directed by Board Resolution, or in the event of an emergency.
- b) O.C.B.D.I.A. Staff will give notice of Meeting cancellations or postponements as soon as possible by providing notice to Directors and/or Members electronically in the same form as Directors and/or Members received notice of the Meeting and by posting a notice on the O.C.B.D.I.A. Website. In the event of an emergency, cancellation notice will be provided as soon as possible in a manner deemed appropriate by the Chair.

## 8. Quorum

- a) A Quorum of the Board constitutes a majority of Directors, including any vacancies.
- b) A Quorum for a General Meeting (Annual or Special) of the Membership shall be 20 Members.
- c) If there is no Quorum within 30 minutes of the established start time of a Meeting, O.C.B.D.I.A. staff will record the names of the Members or Directors present and the business of the Meeting will be included on the agenda of the next Regular Meeting or of any Special Meeting that may be called to complete the business.
- d) If Quorum is lost during a Meeting, staff will record the names of the Directors/Members present. The Chair may, without a Motion, recess the Meeting for a period of time to be determined by the Chair not exceeding thirty (30) minutes to determine whether Quorum may be reestablished. Where the Chair does not recess the Meeting or where Quorum is not reestablished during the period that the Chair has established for a recess, the Meeting will adjourn without a Motion until the next Regular Meeting or to any Special Meeting that may be called to complete the business.

## 9. Late Arrival/Early Departure

- a) If a Member/Director arrives late at a Meeting, or leaves before the Meeting has been adjourned, staff will record the time of arrival or departure in the minutes.
- b) If a Member/Director arrives late at a Meeting, any prior discussion will not be reviewed without Two-Thirds Majority Vote of those present.

## 10. Closed Meetings

### 10.1 Closed Meetings - General

- a) A Meeting or any part of a Meeting may be closed to the public regarding:
  - i) the security of the property of the O.C.B.D.I.A.;
  - ii) personal matters about an identifiable individual, including employees of the O.C.B.D.I.A.;
  - iii) a proposed or pending acquisition or disposition of land by the O.C.B.D.I.A.;
  - iv) labour relations or employee negotiations;
  - v) litigation or potential litigation, including matters before administrative tribunals, affecting the O.C.B.D.I.A.;
  - vi) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
  - vii) a matter in respect of which the Board or other body may hold a closed Meeting under another Act;
  - viii) information explicitly supplied in confidence to the O.C.B.D.I.A. by Canada, a province or territory or a Crown agency of any of them;
  - ix) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the O.C.B.D.I.A., which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - x) a trade secret or scientific, technical, commercial or financial information that belongs to the O.C.B.D.I.A. and has monetary value or potential monetary value; or
  - xi) a position, plan, procedure, criterion or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the O.C.B.D.I.A.
- b) A Meeting or part of a Meeting will be closed to the public if the subject matter being considered is an ongoing investigation respecting the O.C.B.D.I.A. by the Ombudsman appointed under the Ombudsman Act,
- c) A Meeting may be closed to the public if the following conditions are both satisfied:
  - i) The Meeting is held for the purpose of educating or training Members; and,

- ii) At the Meeting, no Director/Member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Board or Membership.

## 10.2 Closed Meetings – Procedure

- a) A Motion to close a Meeting or part of a Meeting to the public will state:
  - i) The intention to close the Meeting to the public;
  - ii) The general nature of the matter to be considered; and
  - iii) The grounds for closing the Meeting as set out in the Act.
- b) Only votes relating to procedural matters or direction to officers, employees or agents of the O.C.B.D.I.A. or persons retained by or under contract with the O.C.B.D.I.A. may be taken during a Closed Meeting.
- c) After the O.C.B.D.I.A. or Board has held a Closed Meeting, a summary of discussions will occur and required votes taken.
- d) No Director shall disclose to any person by any means any information that has been or will be considered at a Closed Meeting until such time that the Board has determined or has been advised that the information, or any part of the information, can be made public pursuant to applicable law.

## 11. Order of Business

### 11.1 General

- a) The business of each Meeting will be taken up in the order in which it appears on the agenda, unless otherwise decided by a Two-Thirds Majority Vote of Directors/Members present.
- b) All items on an agenda not dealt with at the Meeting will be placed on the next regular Meeting agenda or special Meeting called to consider such items.
- c) Subject to Section 11.2 a) xi) – New Business and Section 12 – Additional Agenda Items, the Board or Membership will not consider, discuss or decide on any matter not included on the notice and/or agenda for any Meeting without a Two-Thirds Majority Vote of Directors/Members present and voting.

### 11.2 Regular Board Meetings

- a) The order of business for Regular Board Meetings is as follows:
  - i) Additional Agenda Items



- ii) Declarations of pecuniary interest
- iii) Delegations
- iv) Approval of Minutes
- v) Correspondence
- vi) Economic Development Report
- vii) Treasurer's Report
- viii) Committee Reports
- ix) Executive Director Report
- x) Closed Session (as required)
- xi) New Business
- xii) Adjournment

### 11.3 Annual General Meetings

- a) The order of business for Annual General Meetings will be as follows:
  - i) Declarations of Pecuniary Interest
  - ii) Financial Statements and Report
  - iii) Auditor's Report
  - iv) Annual Budget
  - v) Annual Report of the Board of Management
  - vi) Approval of Minutes of Previous General Meeting(s)
  - vii) Nomination of Board Members for Approval by Council (in the year of a municipal election)
  - viii) Other Business (As may be permitted to be considered by the General Membership)
  - ix) Adjournment

### 11.4 Special Meetings

- a) The order of business for Special Meetings (Board or General) will be determined by O.C.B.D.I.A. Staff in consultation with the Chair.

### 11.5 Education and Training Sessions

- a) The order of business for Education and Training Sessions will be determined by O.C.B.D.I.A. Staff in consultation with the Chair.

- b) No Substantive Motions will be passed at an Education and Training Session.
- c) An Education and Training Session will not be adjourned to or from any Meeting of the Board.
- d) Delegations will not be heard at Education and Training Sessions.

## **12. Additional Agenda Items**

- a) An additional agenda item received after the agenda is published that, in the determination of the Chair and in consultation with O.C.B.D.I.A. staff, relates directly to a matter on the agenda, may be added to the agenda with a Majority Vote and disposed of in the relevant agenda heading, following the items listed on the published agenda.
- b) An additional agenda item received after the agenda is published that, in the determination of the Chair and in consultation with O.C.B.D.I.A. staff, does not relate directly to a matter on the agenda but is time sensitive, may be added to the agenda with a Two-Thirds Majority Vote and disposed of in the relevant agenda heading, following the items listed on the published agenda.
- c) A Motion to add an item is not amendable or debatable.

## **13. Declarations of Pecuniary of Interest**

- a) Each Director will provide to O.C.B.D.I.A. staff at the Meeting a written statement of the Director's pecuniary interest(s), if any, in accordance with the Municipal Conflict of Interest Act. The statement must include a description of the general nature of the pecuniary interest(s) and a reference to the agenda item or items to which the statement relates.
- b) O.C.B.D.I.A. staff will record declarations of pecuniary interest made by a Director in the Meeting minutes, noting the matter and the general nature of the pecuniary interest.
- c) A registry of written statements in b) and the relevant Meeting minute extracts will be maintained by O.C.B.D.I.A. staff in accordance with the Municipal Conflict of Interest Act.

## **14. Delegations and Correspondence**

### **14.1 Correspondence – Board Meetings**

- a) Individuals or groups may submit correspondence for consideration by the Board regarding new matters not less than seven (7) calendar days prior to a Board meeting.
- b) Individuals or groups may submit correspondence for consideration by the Board regarding matters on the published agenda at least 24 hours prior to the Meeting.

- c) Any correspondence for Board consideration must be submitted in writing to O.C.B.D.I.A. Staff and must include the author's full name and either an email address or mailing address and telephone number.
- d) Anonymous correspondence or correspondence that contains inappropriate or obscene language will not be acknowledged by O.C.B.D.I.A. Staff or placed before the Board for consideration.

#### 14.2 Delegations – Board Meetings

- a) A group or individual that is not a member of the Board will not be allowed to address the Board until a motion to hear the group or individual carries on a Majority Vote.
- b) Individuals or groups wishing to appear before the Board concerning new matters will advise O.C.B.D.I.A. Staff in writing, stating the purpose of the delegation not less than seven (7) calendar days before a scheduled meeting.
- c) Individuals or groups wishing to address the Board concerning a matter on the published agenda will advise O.C.B.D.I.A. Staff in writing stating the purpose of the delegation not less than 24 hours prior to the Meeting.
- d) Delegations will have up to five (5) minutes to address the Board, not including time for questions from Directors. The Chair may stop any Delegation or questions to the delegate from Directors for disorder or other breach of this By-law.

#### 14.3 Correspondence and Delegations – General Meetings

- a) Correspondence and Delegation requests may be submitted to O.C.B.D.I.A. Staff concerning matters on an agenda for a General Meeting for consideration by the Membership.
- b) Correspondence and Delegation requests for General Meetings must be submitted at least 48 hours prior to the General Meeting.

### 15. Adjournment

- a) There will be no set time for adjournment for any Meeting.
- b) No business, except a Motion to extend the Meeting, will be considered at a Meeting after 11:00 p.m. A Two-Thirds Majority Vote is required for a Motion to extend the Meeting beyond 11:00 p.m.
- c) A Motion to extend the Meeting beyond 11:00 p.m. is not amendable or debatable.
- d) If a Motion to extend a Meeting does not carry, any outstanding items of business will be considered at the next Regular Meeting, or a

Special Meeting called for the purpose of considering outstanding business.

## **16. Meeting Records**

### **16.1 Minutes**

- a) O.C.B.D.I.A. staff will be responsible for preparing Meeting minutes for open and closed sessions in accordance with the Act.
- b) Should a meeting be closed to the public in order related to discuss matters regarding the O.C.B.D.I.A. staff recording the minutes, a member of the Board may be appointed to record the minutes in accordance with the Act. The Board member will be responsible for providing closed minutes to O.C.B.D.I.A. staff for the record.
- c) Meeting minutes are deemed to be the official record of a Meeting and the decisions of the Board and/or General Membership.
- d) O.C.B.D.I.A. staff will present Board Meeting minutes to the subsequent Regular Meeting of the Board for approval.
- e) Minutes of Meetings will be posted on the O.C.B.D.I.A.'s Website within seven (7) business days of the Meeting.

## **17. Rules of Debate**

- a) Before debate begins on any item, a Motion will be presented for discussion.
- b) All Directors or Members must be recognized by the Chair before speaking.
- c) When two or more Directors or Members wish to speak, the Chair will recognize the Director/Member who, in the Chair's opinion, first indicated their intention to speak.
- d) A Director/Member will not:
  - i) Speak disrespectfully to or about another Director/Member, O.C.B.D.I.A. staff, City staff or member of Council;
  - ii) Use offensive words or unparliamentary language during meetings;
  - iii) Disobey the meeting procedures or the decisions of the Chair; or
  - iv) Interrupt another person except to raise a Point of Order or Point of Personal Privilege.

- e) A Director/Member may request the Motion under discussion to be read at any time during debate, but may not interrupt another person while speaking.

## **18. Motions**

### **18.1 Motions – General**

- a) All decisions of the O.C.B.D.I.A. and Board of Management will be made by passing a Motion on a matter.
- b) Every Motion at a Meeting requires a mover and seconder.
- c) All Motions other than those solely related to procedural matters must be provided in writing.
- d) After a Motion is accepted by the Chair, it will be deemed to be in possession of the Board or Membership. Before a vote is taken, the Mover and Secunder may move to withdraw the Motion. A Motion to withdraw is not amendable or debatable.
- e) Directions to O.C.B.D.I.A. staff from the Board will be by Motion.

### **18.2 Motions - Precedence**

- a) When a Motion is under debate, no other Motion may be considered except for the following Motions, to be considered in the listed order of priority:
  - i) To extend the hour (See Section 14);
  - ii) To adjourn;
  - iii) To recess;
  - iv) To table an item;
  - v) To put the Motion to a vote (also referred to as “call the vote” or “call the question”);
  - vi) To defer;
  - vii) To refer; and,
  - viii) To amend.

### **18.3 Motion to Adjourn**

- a) A Motion to adjourn ends a Meeting.
- b) A Motion to adjourn is not debatable and will always be in order except when:
  - i) Another Director or Member is in possession of the floor;

- ii) A vote has been called; or
- iii) Members are voting.
- c) A Motion to adjourn is not amendable or debatable.

#### 18.4 Motion to Recess

- a) A Motion to recess that carries suspends a Meeting for a specific length of time.
- b) A Motion to recess:
  - i) Shall specify the length of time of the recess;
  - ii) Is debatable only as to the length or timing of the recess; and
  - iii) Can only be amended with respect to the duration of the recess.

#### 18.5 Motion to Table

- a) A Motion to table that carries postpones a matter without setting a definite date for future discussion for the matter.
- b) A Motion to table is not amendable or debatable and applies to the Motion and any amendments to the Motion under debate at the time.
- c) If the Motion to table carries, the matter may not be discussed until a vote to lift the matter from the table is taken. A vote to lift a matter from the table is not amendable or debatable.

#### 18.6 Motion To Put the Motion to a Vote

- a) A Motion to Put the Motion to a Vote that carries stops debate and requires an immediate vote on the Motion.
- b) A Motion to Put the Motion to a Vote cannot be made by a Member who has spoken to the Motion or any amendments.
- c) A Motion to Put the Motion to a Vote is not amendable or debatable.

#### 18.7 Motion to Defer

- a) A Motion to defer that carries postpones all discussion on a matter until a future date or time, which is established as part of the Motion.
- b) A Motion to defer to a certain time or date:
  - i) Is open to debate as to advisability of postponement only; and
  - ii) May be amended as to the time or date to which the matter is to be deferred.

## 18.8 Motion to Refer

- a) A Motion to refer that carries directs a matter under discussion by the Board to staff, a Committee or other body for further examination or review.
- b) A Motion to refer a matter under consideration:
  - i) Will be debatable as to the timing and instructions of the referral, but cannot go into the merits of subject being referred; and
  - ii) Can be amended as to whom it is being referred, as to the time for reporting back, and as to instructions given.
- c) A Motion to refer takes priority over any amendment.

## 18.9 Motion to Amend

- a) A Motion to amend amends a Motion but cannot directly contradict or negate the effect of the Motion. A Motion to amend is out of order if it is a substantive motion on other business beyond the subject matter of the main Motion.
- b) A Motion to amend is debatable.
- c) Process for Motion to amend:
  - i) Only one amendment at a time can be presented to the main Motion and only one sub-amendment Motion can be presented to an amendment.
  - ii) The sub-amendment, if any, will be voted on first, then if no other sub-amendment is presented, the amendment will be voted on next. If no other amendment is introduced, the main Motion, or the main Motion as amended, will be put to a vote.
  - iii) Nothing in this section prevents other proposed amendments from being read for the information of Directors/Members.

## 18.10 Motion to Reconsider

- a) No Motion may be considered by the Board or Membership where, in the Chair's determination, the subject matter of the Motion (the "Matter") has been already been decided by resolution, except pursuant to this section.
- b) A Director/Member may introduce a Motion to reconsider a Matter at a Meeting.
- c) A Motion to reconsider requires a Two-Thirds Majority Vote. If the reconsideration Motion carries, the Matter is then reopened in its entirety unless the reconsideration Motion specifies otherwise.

- d) A Motion to reconsider is debatable only to the extent of the rationale for reconsidering the Matter, and no debate of the Matter itself will be allowed unless the Motion to reconsider carries.
- e) Where a Motion has been made to reconsider a Matter, no further Motion to reconsider the Matter may be made within the twelve (12) month period following the Motion to reconsider the Matter.
- f) No Motion to reconsider may itself be the subject of a Motion to reconsider.
- g) A Motion to amend may not be the subject of a Motion to reconsider.

## **19. Voting**

### **19.1 Voting - General**

- a) Each Director/Member must be in their seat at the Meeting when a vote is called.
- b) If a Director/Member does not disclose a pecuniary interest and does not vote on a Motion, the Member will be deemed as having voted in the negative.
- c) Subject to Closed Meeting Procedures, no vote will be taken by ballot or any other method of secret voting.
- d) Proxy voting is not permitted at Board or General Meetings.
- e) Any Motion on which there is a tie vote is deemed to be lost.
- f) After a Motion is put to a vote by the Chair, no Director/Member will speak to it, nor will any other Motion be made until after the vote is taken and the result has been declared. At a meeting of the Board, if a Director disagrees with the announcement by the Chair of the result of any vote, except a Recorded Vote, he or she may object immediately to the Chair's declaration and require that the vote be retaken.

### **19.2 Voting – Recorded Votes**

- a) Recorded votes may be taken at Board meetings, however will not be permitted at General meetings of the O.C.B.D.I.A.
- b) A Recorded Vote will be taken at the request of a Director prior to the commencement of the vote being taken or immediately thereafter.
- c) The order in which Directors vote on Recorded Votes will be in alphabetical order of the Directors present and voting, commencing with the Director who made the request and continuing through the alphabet and then back to the beginning of the alphabet, if necessary, until all Directors have voted, except for the Chair who will vote last.



- d) If a request is made by the Chair for a Recorded Vote, the order in which Directors vote will be in alphabetical order of the Directors present and voting, except for the Chair who will vote first.
- e) Except for Recorded Votes, a record or notation of a Director's opposition to an issue will not be recorded in any Meeting minutes.

## **20. Division for Voting**

- a) When the Motion under consideration contains two or more distinct parts, the vote upon each part may be taken separately upon request. Any Member may ask for division of one or more parts or to separate all parts for voting.

## **21. Point of Order**

- a) A Director or Member may interrupt the person who has the floor to raise a Point of Order when such Director or Member feels that there has been non-compliance with this By-law.
- b) Upon hearing such Point of Order, the Chair will decide and state the Chair's ruling on the matter.

## **22. Point of Personal Privilege**

- a) A Director or Member may rise at any time on a Point of Personal Privilege where such Director or Member feels that the health, safety, rights, or integrity of the Director/Member's own person, of another Director/Member or of anyone present at the Meeting has been called into question by another Director/Member or by anyone present at the Meeting.
- b) Upon hearing such Point of Personal Privilege, the Chair will decide and states the Chair's ruling on the matter.

## **23. Electronic Participation**

- a) A Director or Member may participate electronically in a Meeting or General Meeting that is either Open or Closed to the public and in doing so may be counted in determining whether or not a quorum is present.
- b) O.C.B.D.I.A. staff, in consultation with the Chair, will determine the most suitable option for electronic participation depending on needs and available technology.
- c) Electronic participation will include but is not limited to: telephones, video conferencing and computers with internet access and conferencing software or programming.
- d) O.C.B.D.I.A. staff will provide the procedure which is to be followed in advance of the Meeting.

- e) O.C.B.D.I.A. staff in consultation with the Chair will determine the format which is to be followed for Meeting Agendas.
- f) Directors and/or Members will advise O.C.B.D.I.A. staff no later than noon the day before the Meeting of their intent to participate electronically to ensure proper technology is enabled to make such participation possible.
- g) All votes during a Meeting where some or all Directors and/or Members are participating electronically will be recorded votes, commencing alphabetically by surname with the Chair voting last.
- h) In the event of a closed Meeting, Directors participating electronically must ensure that the meeting discussion and materials are not accessible by individuals that are not subject to be part of the closed portion of the meeting. Directors must still respect the Code of Conduct regarding the protection of confidential information from unauthorized disclosure, release, publication or use. The Chair may ask each Directors participating remotely to confirm they are the only one present in the room or within hearing distance from the Director.
- i) In the event that due to the nature of the situation members of the public are not permitted to attend in-person, O.C.B.D.I.A. staff may establish alternative processes for the public where possible and appropriate, and in keeping with this by-law.
- j) Subject to this Section, all other provisions of this By-law will continue to apply, however the Chair may modify the rules of procedure as necessary in order to ensure all Directors/Members present, whether in-person or electronically, are able to fully participate fairly and effectively.
- k) O.C.B.D.I.A. staff may provide for the electronic participation of any staff, including staff present for the purposes of taking minutes depending on the situation.

## **24. Committees and Working Groups**

- 24.1 Rules governing the procedure of the Board will be observed in Committee and Working Group meetings as applicable except that:
  - a) Motions do not require a seconder;
  - b) There is no limit to the number of times a Member may speak to a Matter; and,
  - c) Quorum will consist of a simple majority of the members appointed to the Committee or Working Group. The Chair of the Board, if present, may be counted in making up such a quorum.
- 24.2 Committee or Working Group Meetings will be open to other Directors who may take part in discussion or debate on matters.
- 24.3 Records for each Committee and Working Group will be maintained in the same manner as those of the Board.

## **25. Conflict and Severability**

- a) In the event of conflict between this By-law and legislation, the provisions of the legislation prevail to the extent of the conflict.
- b) Each one of the provisions of this By-law is severable and if any provision of this By-law should, for any reason, be declared invalid by any Court of competent jurisdiction, it is the intention Council that each and every one of the then remaining provisions of this By-law remain in full force and effect.

## **26. Enactment**

- a) This By-law comes into force and effect on \_\_\_\_\_, 2020.
- b) O.C.B.D.I.A. By-law 2, as amended, is repealed on \_\_\_\_\_, 2020.

By-law passed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attachment 8**  
**to Report CNCL-20-169**

**Comparison Chart**  
**2013 Procedure By-law v 2020 Proposed Procedure By-law**

<b>2020 Section Title</b>	<b>2020 Section Description</b>	<b>Applicable 2013 Section</b>	<b>Notes/Differences</b>
1. Application	Provides an overarching statement as to the purpose of the By-law	N/A	Identifies the by-law as the "Procedure By-law". Brings by-law in line with Council's Procedure By-law.
2. Definitions	Provides a number of definitions with respect to various terms used in the By-law	Section 2	Increases the number of definitions provided and includes definitions as defined in Council's Procedure By-law.
3. Interpretation	References Council's Procedure By-law for additional clarity and indicates the City Clerk role in providing additional procedural advice	Section 3	2013 version references the rules of order of the House of Commons instead of Council's Procedure By-law
4. Waiving Rules	Identifies the ability to waive rules, provided the rule is not required to be followed by law.	Section 2 (a)	Provides a plain language process and identifies that the motion to waive the rules is not amendable or debatable.
5. Member Roles and Conduct	Provides roles and conduct guidelines for the Chair, Vice Chair and Directors at large. Sets out the process for challenging a Chair's ruling. Also identifies the expectations and conduct of the City Liaison, City Clerk and O.C.B.D.I.A. staff roles.	Sections 18 to 25	Provides plain language and greater clarity surrounding the roles and expectations.
6. Scheduling Meetings	Identifies the process to schedule various types of meetings that may be held by the Board.	Sections 5 to 9	Provides plain language for scheduling requirements and brings by-law in line with Council's Procedure By-law

# **Comparison Chart** **2013 Procedure By-law v 2020 Proposed Procedure By-law**

2020 Section Title	2020 Section Description	Applicable 2013 Section	Notes/Differences
7. Notice of Meetings	Identifies the process by which notice will be given for all meetings of the Board and General Membership. Also sets out a meeting cancellation process.	Section 10	Clarifies the requirement to provide copies of all agenda packages to the City Clerk as well as City Liaison and provides that all Board material (except material that is confidential, pursuant to the Municipal Act) be posted on the O.C.B.D.I.A. website. Section also adds a process for the providing notice for meeting cancellations.
8. Quorum	Identifies the number of Directors or Members that are required for Quorum and provides a process should quorum not be lost.	Sections 11, 16 and 17	Provides plain language for requirements and sets out a process if quorum is not attained or lost during a meeting.  Increases the number of members required for quorum for a General Meeting to 20 members. Quorum in 2013 was established at 15 members; however, the expansion of the Improvement Area boundary in 2016 increased the number of eligible members by approximately 85. Quorum was not increased proportionally at that time.
9. Late Arrival/Early Departure	Sets out rules with respect to recording a Member or Director arriving late or leaving early in the minutes.	N/A	Brings by-law in line with Council's Procedure By-law.

## Comparison Chart

### 2013 Procedure By-law v 2020 Proposed Procedure By-law

2020 Section Title	2020 Section Description	Applicable 2013 Section	Notes/Differences
10. Closed Meetings	Sets out very specific reasons for which a meeting may be closed to the public	Section 12	Amended to reflect all provisions set out in the Municipal Act, 2001 and provides a clear procedure for closing the meeting to the public.
11. Order of Business	Identifies the order of business for various types of meetings, including Board and General Meetings and Education and Training Sessions	Sections 13 to 15	Expands on the order for agendas, provides plain language and brings by-law closer in line with Council's Procedure By-law.
12. Additional Agenda Items	Provides a process for additional items to be added to the agenda	N/A	Clarifies a process for additional items to be added to an agenda in a manner that maintains accountability and transparency
13. Declarations of Pecuniary Interest	Identifies the requirements as related to Director declarations of interest	N/A	Sets out the requirements for declarations of pecuniary interest as required under the Municipal Conflict of Interest Act.
14. Delegations and Correspondence	Provides a process for submission of correspondence and delegation requests at Board meetings and General Meetings	Section 4 Sections 46 to 49	Clarifies a transparent process for how correspondence and delegation requests will be handled.
15. Adjournment	Provides rules around adjournment	Section 44 and 45	Identifies that there is no set time for adjournment, however notes that a motion to extend should the meeting carry past 11:00 p.m.

# **Comparison Chart** **2013 Procedure By-law v 2020 Proposed Procedure By-law**

2020 Section Title	2020 Section Description	Applicable 2013 Section	Notes/Differences
16. Meeting Records	Sets out processes surrounding meeting minutes	N/A	Identifies that minutes of both open and closed sessions must be kept in accordance with the Municipal Act, 2001. Also directs that the minutes must be provided to the City Clerk and posted on the Improvement Areas website.
17. Rules of Debate	Provides general rules of debate for members/directors participating in a meeting	Sections 18 to 25	Expands on rules of debate and brings by-law in line with Council's Procedure By-law.
18. Motions	Sets out requirements for motions, order of precedence and provides rules for handling each type of motion with respect to its ability to be amended or debated	Sections 29 to 34 and Section 43	Brings by-law in line with Council's Procedure By-law. Identifies each type of motion, if it can be amended or debated and expands on the order of precedence. Also relocates rules for a motion to reconsider into this section.
19. Voting	Provides general rules around voting and recorded votes	Sections 35 to 42	Brings by-law in line with Council's Procedure By-law and provides plain language for clarity.  The 2013 By-law allowed the Chair to vote only in the event of a tie. The proposed by-law requires all members that are present and eligible to vote, including the Chair.
20. Division for Voting	Provides permission to divide a motion where appropriate for voting	Section 38	Brings by-law in line with Council's Procedure By-law.

### Comparison Chart 2013 Procedure By-law v 2020 Proposed Procedure By-law

2020 Section Title	2020 Section Description	Applicable 2013 Section	Notes/Differences
21. Point of Order	Sets out a process for a member or director to raise a point of order	Sections 27 and 28	Brings by-law in line with Council's Procedure By-law in plain language.
22. Point of Personal Privilege	Sets out a process for a member to raise a point of personal privilege	Section 26	Brings by-law in line with Council's Procedure By-law in plain language.
23. Electronic Participation	Sets out a procedure for electronic participation for members or directors to participate in meetings remotely.	N/A	In accordance with municipal legislation allowing Local Boards to include in their procedure by-law the ability for members/directors to participate remotely and be counted towards quorum regardless of a declaration of an emergency in the municipality.
24. Committees and Working Groups	Provides for the establishment and meeting rules for Committees and Working Groups	Section 50 to 59	Brings by-law in line with Council's Procedure By-law in plain language.
25. Conflict and Severability	Identifies prevailing provisions should this by-law conflict with other legislation. Provides severability for each provision of the by-law should any Court determine it invalid	N/A	Brings by-law in line with Council's Procedure By-law.
26. Enactment	Identifies the date the by-law comes into force, and the repeal of the previous Procedure By-law	Sections 61 and 62	Updated with respect to the date of passage.





**Consolidated By-law 51-2015  
of The Corporation of the City of Oshawa  
(as amended by By-laws 44-2018, 36-2020)**

being a by-law to establish a Code of Conduct for Members of the Council of The Corporation of the City of Oshawa and for the Board of Management of the Oshawa Central Business District Improvement Area.

Whereas subsection 223.2(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality;

It is hereby enacted as a by-law of The Corporation of the City of Oshawa by its Council as follows:

1. This by-law establishes a Code of Conduct for Members of the Council of The Corporation of the City of Oshawa and for the Board of Management of the Oshawa Central Business District Improvement Area.
2. The short title of this by-law is "Code of Conduct".

**Definitions**

3. In this by-law:
  - (a) "Applicant" means an elector or any person demonstrably acting in the public interest who has applied in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of Section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*;
  - (b) "child" means a child born within or outside marriage and includes an adopted child and a person whom a Member has demonstrated a settled intention to treat as a child of her or his family;
  - (c) "City" means The Corporation of the City of Oshawa;
  - (d) "Code of Conduct" means the Code of Conduct for Members of the Council of the Corporation of the City of Oshawa and for the Board of Management of the Oshawa Central Business District Improvement Area established by this by-law;

- (e) "Committee" means a Standing Committee, Committee of the Whole or another body established by City Council (or the Board of Management for the Oshawa Central Business District Improvement Area, as applicable) wholly comprised of Members;
- (f) "Complainant" means any person who believes that a Member is in contravention of the Code of Conduct and submits a formal complaint to the Integrity Commissioner;
- (g) "confidential information" includes:
  - i) any information in the possession of, or received in confidence by, the City that the City is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, or any other law;
  - ii) information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
  - iii) personal information;
  - iv) information that is subject to solicitor-client privilege;
  - v) information that concerns any confidential matters pertaining to personnel, labour relations, legal proceedings, property acquisition or disposition, or the security of the property of the City or a local board;
  - vi) a matter, the substance of a matter, and information pertaining to a matter, that has been included on an agenda or that has been debated or discussed at a meeting of Council or one of its Standing Committees or of DOBOM that is closed to the public; and
  - vii) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order.
- (h) "Council" means the Council of The Corporation of the City of Oshawa;

- (i) "DOBOM" means the Board of Management for the Oshawa Central Business District Improvement Area;
- (j) "Harassment" includes:
  - i) any comment, conduct, action or gesture that is unwelcome or that ought reasonably to be known to be unwelcome that could affect a person's dignity or a person's psychological or physical health; and
  - ii) Sexual Harassment, which includes any comment, conduct, action or gesture of a sexual nature or respecting sexual orientation, gender identity or gender expression that is unwelcome or that ought reasonably to be known to be unwelcome including:
    - a. a sexual advance, solicitation or request for a sexual favour;
    - b. a reprisal or threat related to the rejection of a sexual advance, solicitation or request for a sexual favour where the reprisal or threat is influenced or made by a person in a position to confer or deny a benefit to the person who rejects the sexual advance, solicitation or request for a sexual favour;
    - c. a comment, joke, innuendo or taunt about a person's body, attire, personal life or social life;
    - d. a practical joke of a sexual nature or respecting sexual orientation, gender identity or gender expression which could cause awkwardness or embarrassment;
    - e. a display or distribution by any media of pornographic images or other material of a sexual nature;
    - f. leering or other gestures of a sexual nature;
    - g. unwelcome physical contact including touching, patting or pinching;
    - h. an expression of gender bias including expressions that are discriminatory, degrading or derogatory; and
    - i. sexual assault;
- (k) "information" includes a record or document, whether in printed form, on film, by electronic means or otherwise;

- (l) "Integrity Commissioner" means each person or persons from time to time appointed pursuant to section 223.3 of the *Municipal Act, 2001*;
- (m) "lobbyist" means a person that communicates with a Member for the purpose of influencing or attempting to influence the Member respecting an issue that is or may be pending before Council or one of its Standing Committees;
- (n) "Member" or "Members" means each member of the Council and each Director of the DOBOM, as applicable;
- (o) "parent" means a person who has demonstrated a settled intention to treat a child as a part of her or his family whether or not that person is the natural parent of the child;
- (p) "person" includes a corporation, partnership, association and any other entity as the context allows;
- (q) "personal information" includes recorded information about an identifiable individual as defined in Section 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*;
- (r) "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

#### **Principles upon which This Code of Conduct is Based**

4. Improving the quality of municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the Members whom they elect to local government and who are appointed as Directors of the DOBOM. In turn, adherence to these standards will protect and maintain the City's reputation and integrity.

5. Key statements of principle that underlie this Code of Conduct are as follows:
- (a) Members must serve and be seen to serve their constituents in a conscientious and diligent manner;
  - (b) Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest;
  - (c) Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
  - (d) Members must recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
  - (e) Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the Council.

#### **Application of this Code**

6. This Code of Conduct applies to each Member in the execution of any of the duties of their office.

#### **Compliance with Declaration of Office**

7. Each Member shall act in accordance with her or his declaration of office or terms of appointment, as applicable.

#### **Adherence to Council Policies and Procedures**

8. Each Member shall observe and comply with every provision of this Code of Conduct as well as with all other policies and procedures adopted or established by Council affecting the Member. This Code of Conduct shall prevail to the extent of any inconsistency between this Code of Conduct and any of the aforementioned policies or procedures.

### **Conduct at Meetings**

9. Each Member shall conduct herself or himself properly and in a civil manner at Council, Committee and other meetings, and in accordance with the provisions of the Procedure By-law 111-2017 as from time to time amended, this Code of Conduct, the procedural rules adopted by the DOBOM and other applicable law.

### **Conduct Respecting Others**

10. Each Member has the duty and responsibility to treat members of the public, each other Member and staff appropriately and without abuse, bullying or intimidation, and to ensure that the City's work environment is free from discrimination and Harassment. Without limitation, a Member shall not:
  - (a) use indecent, abusive or insulting words or expressions toward any other Member, any member of staff or any member of the public;
  - (b) speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability; or
  - (c) engage in any Harassment of any other Member, any member of staff or any member of the public.

### **Conduct Respecting Staff**

11. Under the direction of the senior City administration, and in accordance with the decisions of Council, City staff are required to serve the municipal corporation as a whole and staff of the DOBOM are required to serve it. Each Member shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any Member.
12. No Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff.
13. Each Member shall show respect for staff, and for their professional capacities and responsibilities.

14. No Member shall compel any member of staff to engage in partisan political activities or subject any member of staff to threat or discrimination for refusing to engage in any such activity.
15. No Member shall use or attempt to further her or his authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that person's duties, including the duty to disclose improper activity.

### **Gifts and Benefits**

16. For the purposes of this Code of Conduct, a gift or benefit provided, with the Member's knowledge, to the Member's spouse, child or parent, that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift or benefit to that Member.
17. No Member shall accept a fee, advance, gift or personal benefit that is related directly or indirectly with the performance of her or his duties of office, unless permitted under one or more of the following exceptions:
  - (a) compensation authorized by law;
  - (b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
  - (c) a political contribution otherwise authorized and reported as required by law, in the case of a Member running for office;
  - (d) services provided without compensation by a person volunteering her or his time;
  - (e) a suitable memento of a function honouring the Member;
  - (f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those

organizing a conference, seminar or event where the Member is speaking or attending in an official capacity;

- (g) food and beverages consumed at a banquet, reception or similar event, if:
  - i) attendance by the Member is for a legitimate City purpose;
  - ii) the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
  - iii) the value is reasonable;
- (h) communications to the office of a Member, including subscriptions to newspapers and periodicals; and
- (i) a sponsorship or donation for a community event organized or run by a Member, or a third party on behalf of a Member, subject to the limitations set out in any applicable Council policy or this Code of Conduct.

18. Except for exception 17(c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer.

19. In the case of any of the exceptions 17(b), 17(e), 17(f), 17(h) and 17(i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the Member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the Clerk of the City. The disclosure statement must set out:

- (a) the nature of every gift or benefit received;
- (b) its source and date of receipt;
- (c) the circumstances under which it was given and received;
- (d) its estimated value;



- (e) what the recipient has done or intends to do with any gift; and
  - (f) whether any gift will at some point be provided to the City.
- 20. The City Clerk shall cause each disclosure statement to be published as part of an agenda for an open meeting of Council.
  - 21. Council shall decide whether to refer a disclosure statement to an Integrity Commissioner.
  - 22. If Council decides to refer a disclosure statement to an Integrity Commissioner, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, constitute a contravention of this Code of Conduct or create a conflict between a private interest and the public duty or responsibilities of the Member. In the event that the Integrity Commissioner makes such a determination, she or he shall call upon the Member to justify receipt of the gift or benefit.
  - 23. If the Integrity Commissioner determines that receipt of any gift or benefit was inappropriate, she or he may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit to the City the value of any gift or benefit already consumed.
  - 24. Except in the case of exceptions 17(a), 17(c), 17(f) and 17(i), no Member shall accept a gift or benefit worth in excess of \$500.00, or gifts or benefits from one source during a calendar year which together are worth in excess of \$500.00.

### **Confidential Information**

- 25. No Member shall disclose, release or publish by any means to any person or to the public any confidential information of the City or of the DOBOM, whether or not acquired by virtue of her or his office, except when required or authorized by Council or of the DOBOM, as applicable, or otherwise by law to do so.
- 26. No Member shall use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person.

27. No Member shall disclose a matter, the substance of the matter and information pertaining to the matter that has been debated or discussed at a meeting closed to the public, and shall be maintained as confidential unless authorized by the Council or the DOBOM or other legislation to be released, generally or subject to conditions and are such complied with.
28. No member shall disclose the content of any matter referred to in Section 27 or the subject matter of deliberations, at a meeting closed to the public, only after the Council or Committee lawfully and knowingly discusses the information at a meeting that is open to the public or releases the information to the public.
29. No Member shall, without lawful authority, disclose or make personal use of any of the following types of Confidential Information (including but not limited to):
  - (a) Information concerning litigation, negotiation or personnel matters;
  - (b) Information that the publication of which may infringe on the rights of any person (e.g. the source of a complaint where the identity of the person making the complaint is given in confidence);
  - (c) Price schedules in any contract, tender or proposal document while it remains a confidential document;
  - (d) Information deemed to be “personal information” as defined by the Municipal Freedom of Information and Protection of Privacy Act; and
  - (e) Any other information or statistical data required by law not to be released.
30. No Member shall obtain access, or attempt to gain access, to confidential information except to the extent that such access is necessary for the performance of her or his duties, such confidential information is provided to Council or to the DOBOM, as applicable, as a whole, and such access is not prohibited by Council or by the DOBOM, as applicable, or otherwise by law.

#### **Use of City Property, Services and Other Resources**

31. No Member shall use, or permit the use of, City land, facilities, equipment, supplies, services, staff or other resource, including any City-owned information, website,

Council transportation delivery service or funds allocated for Member's expenses, for any purpose or activity other than for the lawful business of the City.

32. No Member shall seek or acquire any personal financial gain from the use or sale of confidential information, or of any City-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the City.

### **No Improper Use of Influence**

33. No Member shall use the influence of her or his office for any purpose other than for the lawful exercise of her or his official duties and for City purposes. Without limitation, no Member shall:
- (a) use her or his office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage or that of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise;
  - (b) attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties; or
  - (c) hold out the prospect or promise of future advantage through the Member's supposed influence within Council or the DOBOM, as applicable, in return for any action or inaction.
34. For the purposes of section 33, "private advantage" does not include:
- (a) a matter that is of general application;
  - (b) a matter that affects a Member, her or his parents/children or spouse, staff members, friends or associates, business or otherwise as one of a broad class of persons;
  - (c) a matter that concerns the remuneration or benefits of a Member; or

- (d) a request by a Member that Council or the DOBOM , as applicable, grant a lawful exemption.

### **Integrity Commissioner**

- 35. The Integrity Commissioner shall be responsible for performing in an independent manner, the following functions assigned with respect to:
  - (a) The application of the Code of Conduct;
  - (b) The application of any procedures, rules and policies of the City and local boards governing the ethical behavior of Members; and
  - (c) The maintenance of custody and control of the Integrity Commissioner's complaint and inquiry files and on completion of their term of appointment, to transfer any open files relating to ongoing matters to the incoming Integrity Commissioner appointed by Council.
- 36. In addition to the responsibilities set out in Section 35, the Integrity Commissioner shall also provide:
  - (a) Information to Members as to their duties and obligations under the Code of Conduct;
  - (b) Information to Members with respect to compliance with the requirements of the *Municipal Conflict of Interest Act* including declaring a conflict of interest and not using any influence where a matter is being considered by an officer or employee of the City;
  - (c) Advice to individual Members regarding specific situations as they relate to the application of the Code of Conduct;
  - (d) Advice to individual Members regarding their obligations under the *Municipal Conflict of Interest Act*;
  - (e) Advice to Members on other policies and procedures that relate to the ethical behavior of members;

- (f) Information to the public regarding the Code of Conduct and the obligations of Members under the Code of Conduct and *Municipal Conflict of Interest Act*, and,
  - (g) An annual report to Council on the activities of the Integrity Commissioner.
37. Without limiting the generality of Section 36, the Integrity Commissioner may determine, on a case-by-case basis, whether or not to undertake an investigation on whether a Member has contravened the Code of Conduct or Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*. The Integrity Commissioner shall be entitled to summarily dismiss a complaint filed in accordance with the Complaint Procedure on the basis that it is, in the opinion of the Integrity Commissioner, an abuse of process or is frivolous or vexatious.
38. Without limiting the generality of Sections 35 to 42, all determinations of the Integrity Commissioner under the Code of Conduct shall be made in their own absolute discretion and shall be final and binding.
39. Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.
40. The Integrity Commissioner shall report to Council respecting each complaint given to the Integrity Commissioner. The Integrity Commissioner and her or his delegates shall have the powers and be subject to the duties prescribed by Sections 223.3 to 223.8, inclusive, of the *Municipal Act, 2001* and by other applicable law.
41. Notwithstanding anything in this By-law:
- (a) If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, the Integrity Commissioner shall terminate the inquiry on that day. If an inquiry is terminated, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six (6) weeks after voting day in a regular election, the person or made the complaint or the Member whose conduct is the subject matter of the complaint makes a written

request to the Integrity Commissioner that the inquiry be commenced, provided that no inquiry respecting a former Member may be commenced.

- (b) Between nomination day and voting day in a regular election, no person may submit a complaint respecting an alleged contravention of the Code of Conduct, the Integrity Commissioner shall not report to the Council or the DOBOM, as applicable, about whether a Member has contravened the Code of Conduct and neither the Council nor the DOBOM, as applicable, may consider whether to impose penalties.

- 42. The City of Oshawa and/or the DOBOM shall ensure that reports received from the Integrity Commissioner by the municipality or the DOBOM as the case may be are made available to the public.

#### **Complaints Pursuant to the Code of Conduct**

- 43. All complaints pursuant to the Code of Conduct shall be filed in accordance with the Complaints Procedure as set out in Schedule A of this By-law.

#### **Application for Inquiry – Alleged Contravention of the *Municipal Conflict of Interest Act***

- 44. All requests for inquiry concerning an alleged contravention of Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* shall be filed in accordance with the Application for Inquiry Procedure as set out in Schedule B of this By-law.
- 45. An elector or any person demonstrably acting in the public interest may apply in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.
- 46. The application must set out the reasons for believing that a Member has contravened Section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* and include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application (or within the time period starting six weeks before nomination day and ending on voting day in the year of a regular election).

47. The Integrity Commissioner must complete the inquiry within 180 days after receiving the completed application, unless the inquiry is terminated.
48. Upon completion of an inquiry, the Integrity Commissioner may apply to a judge for a determination as to whether the Member has contravened Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

### **Advice**

49. All requests for advice pursuant to the Code of Conduct shall be filed in accordance with the Advice Procedure as set out in Schedule C of this By-law.
50. Requests by a Member must be in writing.
51. Advice given by the Integrity Commissioner to Member shall be provided in writing.

### **Non-Compliance with this Code of Conduct –Sanctions**

52. Upon receipt of a report from an Integrity Commissioner that, in the Integrity Commissioner's opinion, a Member has contravened this Code of Conduct, Council or the DOBOM, as applicable, shall decide whether to impose either of the penalties prescribed by subsection 223.4(5) of the Municipal Act, 2001 as follows:
  - (a) a reprimand; or
  - (b) suspension of the remuneration paid to the Member in respect of her or his services as a Member for a period of up to 90 days.
53. An Integrity Commissioner may also recommend that Council or the DOBOM, as applicable, take one or more of the following actions:
  - (a) removal from membership on a committee or local board;
  - (b) removal as chair or as vice-chair of a committee or local board;
  - (c) repayment or reimbursement of monies received;
  - (d) return of property or reimbursement of its value;
  - (e) request a public apology to Council, the complainant, or both; or

- (f) any other or additional action deemed by Council to be appropriate, and which is within its power to take.

### **Annual Reports of the Integrity Commissioner**

- 54. The Integrity Commissioner shall submit an annual report to Council which will include information on the nature and volume of activity for the past year and provide examples, while maintaining the anonymity of the persons involved, in respect of the advice provided and the nature of complaints received and responded to.
- 55. The annual report of the Integrity Commissioner shall be provided to Council for information purposes and shall be a public document.

### **No Reprisal or Obstruction in the Application or Enforcement of this Code**

- 56. Each Member must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for lodging a complaint or for providing relevant information to the Integrity Commissioner or any other person is prohibited.
- 57. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other City official involved in applying or furthering the objectives or requirements of this Code of Conduct, in the carrying out of such responsibilities, or pursuing any such objective.

### **Statutes Regulating the Conduct of Members**

- 58. Members acknowledge that in addition to this Code of Conduct, the following legislation may also govern the conduct of Members:
  - (a) The *Municipal Act, 2001*, S.O. 2001 C. 25
  - (b) The *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50.
  - (c) The *Municipal Elections Act*, 1996 S.O. 1996 c. 32
  - (d) The *Municipal Freedom of Information and Protection of Privacy Act* R.S.O. 1990 c. M. 56;



- (e) The *Occupational Health and Safety Act*, R.S.O. 1990 c.0.1
  - (f) The *Human Rights Code*, R.S.O. 1990, c.H.19
  - (g) The *Public Inquiries Act*, 2009, S.O. 2009, c. 33, Sched. 6
  - (h) The *Criminal Code*, R.S.C. 1985, c. C-46; and,
59. The City's Procedure By-law (or the procedural rules of order adopted by the DOBOM) and the City's Accountability and Transparency Policy may also govern the conduct of Members.
60. Any references to statute, regulation, by-law or legislation shall be deemed to be a reference to the statute, regulation, by-law or legislation as amended, consolidated, replaced or superseded.
61. In the case of any inconsistency between this Code of Conduct and a Federal or Provincial statute or regulation, the statute or regulation shall prevail to the extent of the inconsistency.

Schedule A "Complaints Procedure" (Attached)  
Schedule B "Inquiry Procedure" (Attached)  
Schedule C "Advice Procedure" (Attached)

By-law 51-2015 passed the nineteenth day of May, 2015.  
By-law 44-2018 passed the thirteenth day of April, 2018.  
By-law 36-2020 passed the twenty-seventh day of April, 2020.

# **Schedule A of By-law 51-2015**

## **Complaint Procedure**

### **Purpose**

The purpose of this procedure is to provide a process for persons to make complaints concerning a member of Council or Directors of the Board of Management for the Oshawa Central Business District Improvement Area regarding alleged contraventions of the Code of Conduct.

For the purposes of this procedure, the term “member” shall include both Members of Council and Directors of the Board of Management of the Oshawa Central Business District Improvement Area.

### **Complaints under the Code of Conduct**

#### **A - Informal Complaints**

1. Any person who believes that a member is in contravention of the City of Oshawa’s Code of Conduct may address their concerns in the following manner:
  - a) advise the member that their behaviour or activity contravenes the Code of Conduct;
  - b) encourage the member to stop the prohibited behaviour or activity;
  - c) if applicable, confirm to the member their satisfaction or dissatisfaction with the member’s response to the concern identified; and
  - d) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
2. If any person is not satisfied with the response received through the aforementioned informal process, the person may proceed with a formal complaint through the Integrity Commissioner as outlined under the heading of Formal Complaints in this procedure.

#### **B - Formal Complaints**

##### Filing the Complaint

1. Any person who has reasonable grounds to believe that a member has contravened the Code of Conduct may address their concerns through the formal complaint process set out below:
  - a) all formal complaints (“Complaints”) must be made in writing using the City’s Complaints Form (see Form “A”) and shall be dated and signed by the person making the Complaint (the “Complainant”);

- b) the Complaint must include an explanation as to why the issue raised may be a contravention of the Code of Conduct and any evidence in support of the allegation must be included with the Complaints Form;
  - c) any witnesses in support of the allegation must be identified on the Complaint Form;
  - d) the Complaint Form must include the name of the member alleged to have breached the Code of Conduct, the specific provision(s) of the Code of Conduct allegedly contravened, the date, time and location of the alleged contravention(s) and any other information as required on the Complaint Form;
  - e) the Complaint shall be filed with the Integrity Commissioner who will determine whether the matter is, on its face, a Complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or policies; and
  - f) the Complaint must be submitted to the Integrity Commissioner no later than six (6) months from the date on which the Complainant became aware of the alleged contravention, and no action will be taken on a Complaint received after this deadline.
2. The Integrity Commissioner will advise the City Clerk when a Complaint is received, assign a file number to the Complaint and provide updates to the Clerk on the status of the Complaint.
  3. The Integrity Commissioner may request additional information from the Complainant in order to properly assess the Complaint.
  4. A Complainant may at any time abandon a Complaint.

#### Complaints Outside Jurisdiction

1. If the Complaint received by the Integrity Commissioner does not relate to a non-compliance with the Code of Conduct, it will be deemed not to be a Complaint and the Integrity Commissioner shall advise the Complainant in writing as follows:
  - a. Criminal Matter — if the Complaint is an allegation of a criminal nature consistent with the Criminal Code, R.S.C. 1985, c. C-46, the Complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
  - b. Municipal Freedom of Information and Protection of Privacy — if the Complaint is more appropriately addressed under the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, the Complainant shall be referred to the Clerk to have the matter reviewed under that statute; or

- c. Other Matters – if the matter is covered by other policies or legislation, the Complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

#### Refusal to Conduct an Investigation/Discontinuance of Investigation

If upon review of a Complaint, or at any time during an investigation, the Integrity Commissioner is of the opinion that the Complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation or shall discontinue the investigation and shall communicate this position in writing to the Complainant and the member identified in the Complaint Form. The Integrity Commissioner is under no obligation to prepare a report for any matters that he or she summarily dismisses or determines not to investigate or after an investigation is discontinued.

#### Opportunity for Resolution

If at any time, following the receipt of a Complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the Complainant and the member agree, efforts may be made to achieve an informal resolution. The formal Complaint will be held in abeyance during such time.

#### Investigation

1. If the Integrity Commissioner determines that a formal investigation is required, he or she shall:
  - a. provide a copy of the Complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within ten (10) days;
  - b. provide a copy of the response provided by the member to the Complainant with a request for a written reply within ten (10) days;
  - c. have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality that the Integrity Commissioner believes to be necessary for an investigation; and
  - d. make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation, if any, encountered during the investigation.
2. The Integrity Commissioner may elect to exercise the powers under sections 33 and 34 of the Public Inquiries Act, 2009, S.O. 2009, c. 33, Sched. 6, in which case those sections apply to the investigation.

**Co-operation**

A Member shall co-operate in every way possible with the Integrity Commissioner in any investigation of a Complaint and the enforcement of the Code of Conduct.

**Suspension of Investigation**

The Integrity Commissioner will cease the investigation if:

- a) a Complainant abandons the request for an investigation, in which case the Integrity Commissioner shall report to Council as set out in Section 9; or
- b) the Integrity Commissioner determines that there are reasonable grounds to believe that there has been a contravention of any other statute or of the Criminal Code, in which case the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the investigation until any resulting police investigation and charge(s) have been finally disposed of, and shall report the suspension to Council.

**Report and Recommendation**

- 1. The Integrity Commissioner shall report to the Complainant and the member on the results of his or her review within sixty (60) days of receiving a complete Complaint Form/Affidavit upon completion of an investigation. If the investigation process requires more than sixty (60) days, the Integrity Commissioner shall provide an interim report to the Complainant and member indicating when the complete report may be available.
- 2. If during the investigation process, the Complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty (30) days.
- 3. If upon completion of the investigation, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred but the member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in its report to Council.
- 4. If upon completion of the investigation, the Integrity Commissioner finds that a breach of the Code of Conduct has occurred, the Integrity Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty as set out in subsection 223.4(5) of the Municipal Act, 2001 S.O. 2001, c. 25, namely either:
  - a) a reprimand; or
  - b) a suspension of remuneration paid to the member for a period of up to ninety (90) days.

5. Code of Conduct investigative reports received from the Integrity Commissioner will be placed on the appropriate City Council agenda as direction from Council is required and will be placed on the City's website on the Accountability and Transparency webpage, as applicable.
6. The report from the Integrity Commissioner shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.

#### No Complaints or Reports Prior to Election

1. If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, as set out in Section 31 of the Municipal Elections Act, 1996, the Integrity Commissioner shall terminate the inquiry on that day.
2. If an inquiry is terminated the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six (6) weeks after voting day in a regular election, as set out in Section 5 of the Municipal Elections Act, 1996, the person or entity who made the request or the Member whose conduct is the subject matter of the request, makes a written request to the Integrity Commissioner that the inquiry be commenced. No inquiry respecting a former Member may be commenced.
3. Between Nomination Day and Voting Day in a regular election:
  - a) There shall be no requests for an inquiry, and the Integrity Commissioner shall not accept any requests for an inquiry, respecting whether a Member has contravened the Code of Conduct.
  - b) The Integrity Commissioner shall not report to Council on whether a Member has contravened the Code of Conduct or the Municipal Conflict of Interest Act; and
  - c) Council shall not consider whether to impose penalties on a Member.

#### No Appeal of Integrity Commissioner's Decision

There is no appeal of the decision of the Integrity Commissioner.

### **Confidentiality**

The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the City or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the Municipal Act 2001.

## **Delegation**

The Integrity Commissioner may delegate in writing to any person, other than a member, any of the Integrity Commissioner's powers and duties.



## Form A – Complaint Form For Complaints filed under the Code of Conduct

### Complainant Information

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

### Complaint Details

I, *(insert full name)* \_\_\_\_\_ of *(insert City/Town of residence)* \_\_\_\_\_ in the Province of Ontario have personal knowledge of the facts as set out in this complaint form because *(insert reasons – e.g. I work for...; I attended a meeting at which..., etc.):*

\_\_\_\_\_  
\_\_\_\_\_

and believe that (check one)

☐ a Member of the Council of the City of Oshawa

☐ a Director of the Board of Management of the Oshawa Central Business District Improvement Area

namely: *(insert Member/Director name)* \_\_\_\_\_ has contravened section(s) *(insert section)* \_\_\_\_\_ of the Code of Conduct for Members of the Council of the City of Oshawa and the Board of Management of the Oshawa Central Business District Improvement Area as set out in By-law 51-2015, as amended. The particulars of which are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please set out the statement of facts in consecutively numbered paragraphs. If more room is required, please attach additional pages, numbered accordingly. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this form.

Please see reverse for additional information and signature section.

Questions about the collection of the personal information on this form should be submitted to the Integrity Commissioner directly by contacting Guy Giorno at [IntegrityCommissioner@fasken.com](mailto:IntegrityCommissioner@fasken.com)



**Please read before signing:**

If the Integrity Commissioner launches an inquiry into a complaint, then the content of this form, including the complainant's identity, will typically be shared with the Member/Director who is the subject of the complaint. Also, at the end of the inquiry, the Integrity Commissioner may issue a public report that includes information about the complaint, including possibly the identities of the parties involved. Only sign this complaint form if you understand and accept the potential disclosure of your identity and the information you provide.

By signing below, I, *(insert name)* \_\_\_\_\_ understand the above and request that this matter be reviewed by the City of Oshawa's Integrity Commissioner.

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

# **Schedule B of By-law 51-2015**

## **Inquiry Procedure**

### **Purpose**

The purpose of this procedure is to provide a process for persons to apply for an inquiry concerning alleged contraventions of the Municipal Conflict of Interest Act R.S.O. 1990 c. M. 50 concerning a member of Council or Directors of the Board of Management of the Oshawa Central Business District Improvement Area.

For the purposes of this procedure, the term “member” shall include both Members of Council and Directors of the Board of Management for the Oshawa Central Business District Improvement Area.

### **Request for Inquiry under the Municipal Conflict of Interest Act**

#### **A - Process for the Request**

1. An elector, or any person demonstrably acting in the public interest may apply in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act using the process set out below:
  - a) all requests for an inquiry may be made in writing using the City's Application for Inquiry Form (see Form “B”) and be dated and signed by the person making the inquiry (the “Applicant”);
  - b) the Inquiry Form must include the name of the member alleged to have breached the Municipal Conflict of Interest Act;
  - c) the Application for Inquiry shall be filed with the Integrity Commissioner who may conduct any such inquiries he/she considers necessary; and
  - d) the Inquiry must be submitted to the Integrity Commissioner no later than six (6) weeks from the date in which the applicant became aware of the alleged contravention, unless both of the following are satisfied:
    - i) The applicant became aware of the alleged contravention within the period of time starting six weeks before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, and ending on voting day in a regular election, as set out in section 5 of that Act.

- ii) The applicant applies to the Commissioner within six weeks after the day after voting day in a regular election.
2. The Integrity Commissioner will provide notice to the City Clerk of the fact that an Application for Inquiry has been received, including the assigned file number, and provide updates to the Clerk on the status of any Inquiry. The notice and any updates must not breach the confidentiality of the identities of the Applicant and the Respondent or the confidentiality of the nature and content of the Application.
3. In accordance with the Municipal Act, 2001, the Integrity Commissioner may request additional information from the applicant, the municipality, or may conduct a public meeting as he/she believes necessary to investigate the inquiry.

**B - Completion of the Investigation**

1. The Integrity Commissioner shall complete the inquiry within 180 days after receiving the completed application.
2. Upon completion of the inquiry, the Integrity Commissioner may apply to a judge for determination as to whether the member has contravened a section of the Municipal Conflict of Interest Act. If an application to a judge will not be made, the Commissioner must notify the complainant in writing.
3. After having decided whether or not to apply to a judge, the Integrity Commissioner must publish written reasons for the decision.
4. Municipal Conflict of Interest Act investigative reports received from the Integrity Commissioner be included in Information Packages and placed on the City's website on the Accountability and Transparency webpage as direction from Council is not required.

**Confidentiality**

The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the City or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the Municipal Act 2001.

**Delegation**

The Integrity Commissioner may delegate in writing to any person, other than a member, any of the Integrity Commissioner's powers and duties.



**Application for Inquiry into Alleged Contravention of the  
Municipal Conflict of Interest Act, R.S.O. 1990, c. M. 50 ("M.C.I.A.")**

**Applicant Information**

Applicant Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Applicant is (check one):

☐ an elector in the City of Oshawa

☐ an individual demonstrably acting in the public interest

☐ a corporation (including a municipality) demonstrably acting in the public interest

If the applicant is a Corporation, please identify the authorized representative for the purposes of this application: \_\_\_\_\_

**Allegation Details**

I believe that (check one)

☐ a Member of the Council of the City of Oshawa

☐ a Director of the Board of Management of the Oshawa Central Business District Improvement Area

Name of the Member/Director who is the subject of the allegation: \_\_\_\_\_

*Please note: You must complete a separate form for each member who is the subject of an allegation.*

The Applicant alleges that the Member/Director contravened the following sections of the Municipal Conflict of Interest Act (check all that apply):

☐ Section 5

☐ Section 5.1

☐ Section 5.2

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Questions about the collection of the personal information on this form should be submitted to the Integrity Commissioner directly by contacting Guy Giorno at [IntegrityCommissioner@fasken.com](mailto:IntegrityCommissioner@fasken.com)

The following are the Applicant's reasons for believing that the Member/Director has contravened the above section(s) of the Municipal Conflict of Interest Act:

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Please set out the statement of facts in consecutively numbered paragraphs. If more room is required, please attach additional pages, numbered accordingly. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this form.

**Please read before signing:**

If the Integrity Commissioner launches an inquiry into an allegation then the content of this form, including the Applicant's identity, will typically be shared with the Member/Director who is the subject of the allegation. Also, information on this form and information obtained during the inquiry, including possibly the identities of the parties involved, might be disclosed in the Integrity Commissioner's published reasons at the end of the inquiry and might be disclosed in an application to the Superior Court. Only sign this application form if you understand and accept the potential for disclosure of your identity and the information you provide.

By signing below, I, *(insert name)* \_\_\_\_\_ understand the above and apply to the Integrity Commissioner for an inquiry to be carried out concerning the alleged contravention.

\_\_\_\_\_  
Signature of Applicant (or representative if Applicant is a corporation)

\_\_\_\_\_  
Date

**Note: The statutory declaration on the next page is a mandatory part of the application, required by the *Municipal Act, 2001*. It must be declared before a person authorized to take declarations in Ontario (including any Ontario lawyer).**

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Questions about the collection of the personal information on this form should be submitted to the Integrity Commissioner directly by contacting Guy Giorno at [IntegrityCommissioner@fasken.com](mailto:IntegrityCommissioner@fasken.com)

**DECLARATION**  
**Required by subsection 223.4.1(6) of the *Municipal Act***

I, \_\_\_\_\_ (insert full name), of \_\_\_\_\_ (city, town, etc.)

of \_\_\_\_\_ (specify municipality), \_\_\_\_\_

(add province/country if outside Ontario/Canada) solemnly declare that:

**(Choose one of the following by placing your initials in the respective box below)**

☐ I am the Applicant.

☐ The Applicant is a corporation and I am its authorized representative.

**(Choose one by placing your initials in the respective box below)**

☐ I attest to the fact that the Applicant became aware of the Member/Director's alleged contravention of the *Municipal Conflict of Interest Act* not more than six weeks before today.

☐ [In a municipal election year:] I attest to the fact that the Applicant became aware of the Member/Director's alleged contravention of the *Municipal Conflict of Interest Act* within the period of time starting six weeks before Nomination Day, and ending on voting day.

I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the \_\_\_\_\_ (city/town) of \_\_\_\_\_ (specify municipality) this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Commissioner of oaths, etc.

\_\_\_\_\_  
Applicant or Representative

# **Schedule C of By-Law 51-2015**

## **Advice Procedure**

### **Purpose**

The purpose of this procedure is to provide a process for Members of Council or Directors of the Board of Management of the Oshawa Central Business District Improvement Area to access advice from the Integrity Commissioner for the City of Oshawa.

For the purposes of this procedure, the term “member” shall include both Members of Council and Directors of the Board of Management for the Oshawa Central Business District Improvement Area.

### **Process**

#### **Submission of Request for Advice**

1. Any Council or local board member who wishes to obtain advice from the City of Oshawa’s Integrity Commissioner must request the advice in writing by emailing the Integrity Commissioner at: [integritycommissioner@fasken.com](mailto:integritycommissioner@fasken.com).
2. Requests for Advice must specify the date, if any, by which the member requires the advice. The Integrity Commissioner will endeavor to respond to all Requests for Advice by the date requested.
3. The Integrity Commissioner will provide advice to members as it pertains to:
  - a. The member’s obligations under the code of conduct;
  - b. The member’s obligations under a procedure, rule or policy of the municipality or of the local board as the case may be, governing the ethical behavior of members;
  - c. The member’s obligations under the Municipal Conflict of Interest Act.
4. The Integrity Commissioner will provide notice to the City Clerk of the fact of a Request for Advice, including the assigned file number. The notice will identify the Member but must not breach the confidentiality of the nature or content of the Request.

#### **Response of Integrity Commissioner to Request for Advice Outside Jurisdiction**

If the request for advice received by the Integrity Commissioner does not relate to the Code of Conduct, the Municipal Conflict of Interest Act sections 5, 5(1) or 5(2), or a procedure, rule or policy governing the ethical behavior of members; it is not within the Integrity Commissioner’s mandate and the Integrity Commissioner shall inform the member in writing. Further, in specific cases, the Integrity Commissioner shall:

- a. Criminal Matter — if the request for advice is with respect to a matter that is of a criminal nature under the Criminal Code, R.S.C. 1985, c. C-46, the

member shall be informed that issues of a criminal nature should be directed to the appropriate police service or raised with independent legal counsel;

- b. Municipal Freedom of Information and Protection of Privacy — if the request for advice relates to the Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, c. M. 56, the member shall be informed that freedom of information requests may be made to the City Clerk; or
- c. Other Matters – if the matter is covered by other policies or legislation, the member may be informed that the issue may be addressed in another manner through another process, as appropriate.

### **Response in Writing**

The Integrity Commissioner will respond to all requests for advice in writing, to the member who made the request for advice.

### **Release of Advice**

Advice provided by the Integrity Commissioner may be released with the member's written consent.

If a member releases part of the advice provided by the Integrity Commissioner, then the Integrity Commissioner may release part or all of the advice without requiring consent from the member.

### **Advice is Binding**

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

### **Confidentiality**

The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the City or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the Municipal Act, 2001.

### **Delegation**

The Integrity Commissioner may delegate in writing to any person, other than a member, any of the Integrity Commissioner's powers and duties.





**FINANCIAL REVIEW OF OSHAWA CENTRAL BUSINESS  
DISTRICT IMPROVEMENT AREA (O.C.B.D.I.A.)**

<b>Contents</b>	<b>Page</b>
<b>Executive Summary</b>	<b>2</b>
<b>Findings and Recommendations</b>	<b>4</b>

**Appendices**

- A. External Bookkeeper / O.C.B.D.I.A. Information Process Flow
- B. Transactional Analysis Methodology

## **Executive Summary**

### **Conclusion**

The comprehensive financial review performed included procurement and contracts, expense authorization, record keeping, account classification, reporting, governance and the effectiveness of third party external bookkeeping services.

A detailed analysis completed utilized all available source documents, cross-referencing to accounting records. The process by which the external bookkeeper receives and enters the information into the financial system (QuickBooks) is inconsistent. Customer invoices not generated by the financial system and supplier invoices not always entered into the sub-ledger hindering the ability to analyze operations and decision-making.

Approval of invoices is an internal control that ensures the products/services are received in good condition and/or the service satisfactory, at the correct price. Good diligent approval would require a signature on the invoice. The O.C.B.D.I.A. Staff or Board of Management approval of expenses is inconsistent with some invoices approved, not approved and/or self-approved (40.48% of invoices totaling \$268,861.22 were not approved). A review of the O.C.B.D.I.A. Board of Management signing authority section of the Policy and Procedure document found it was lacking in financial oversight and procurement guidelines. Hence, a number of large volume suppliers with purchases in excess of \$5,000 did not follow a cost effective procurement process. Nine (9) suppliers totaling \$214,212.67 did not show evidence of following a Request for Proposal (RFP), Request for Quotation (RFQ) or Purchase Order (PO) process. There were no Purchase Orders obtained from the O.C.B.D.I.A.

The issuance of supplier payments is inconsistent incorporating a hybrid of manual and computer issued cheques. This does not represent effective controls surrounding payment issuance and is of concern that five (5) cheques issued totaling \$26,333.42 only included one signature.

Financial reports do not tie back to the source documents. This can lead to errors, the opportunity for manual manipulation of the financial statements and non-transparency of monthly activity to the O.C.B.D.I.A. Board of Management.

The external bookkeeper does undertake the responsibilities of a bookkeeping service with data entry of information obtained from the O.C.B.D.I.A. Staff using the “client knows best philosophy” but fails to complete the tasks relating to preparation of the monthly and year-end financial statements. It is evident that some monthly and year-end activities performed by the external bookkeeper do not comply with Generally Accepted Accounting Principles (G.A.A.P.) and therefore the financial records do not represent accurately the monthly activities of the O.C.B.D.I.A. In some instances, it is on

the direction of O.C.B.D.I.A. Board of Management to the external bookkeeper that is not reflective of G.A.A.P.

The financial governance/oversight provided by O.C.B.D.I.A. Staff, O.C.B.D.I.A. Board of Management, and the O.C.B.D.I.A. Board of Management Finance and Audit Committee have communicated incorrect decisions related to financial direction, financial reporting and budgeting. This is reflective of an organization that lacks financial expertise. The Finance and Audit Committee since inception at June 2019 has been an ineffective committee related to its mandate.

The O.C.B.D.I.A. Board of Management must immediately take control and accountability of their financial situation through engagement with the City. An accounting service rather than a bookkeeping service or partnership with the External Auditors should give some required financial expertise. Engagement by the City with monthly financial reviews, assistance with budget creation, the RFP processes and an enhanced approval mechanism will strengthen the financial reporting, cost effectiveness and financial controls of the O.C.B.D.I.A.

## **Background**

Efficient and effective financial record keeping, reporting and controls are an essential component to an organizational operation and decision-making. A lack of any component of these controls questions the integrity of the data and management to run operations effectively.

At the June 9, 2020 City of Oshawa Council meeting it was carried, "That the City of Oshawa formally demands the release of all financial records and other documentation as required by law, and that the staff of the City of Oshawa undertake a comprehensive review of the finances, management and operations of the Oshawa BIA and bring a report back to Council at a future meeting prior to consideration of the 2021 Operational Budget."

## **Objectives**

The comprehensive financial review included materials collected from the O.C.B.D.I.A., additional information collected and communications with the O.C.B.D.I.A. Staff and the external bookkeeper. Several documents obtained are deemed final although unexecuted for the purpose of the review.

The financial transactional review was to determine that all financial transactions associated with O.C.B.D.I.A. operations were:

- reflected in the financial sub-ledgers and general ledger,

- classified in accordance with Generally Accepted Accounting Principles (G.A.A.P),
- goods and services were procured to ensure cost effectiveness,
- transactions were approved appropriately,
- controls were in place to mitigate potential fraud,
- financial governance was evident and
- effectiveness of the third party accounting services

Exclusions from the review included duplication or validation of the work of the External Auditor (Deloitte).

## 1.0 Financial Governance

Purpose	
To ensure financial governance and transparency to the O.C.B.D.I.A. Board of Management and the City of Oshawa.	
Documents Reviewed	
<ul style="list-style-type: none"> <li>O.C.B.D.I.A. Board of Management meeting minutes; for the meetings January 23, 2019, March 6, 2019, March 27, 2019, April 25, 2019, May 30, 2019, June 27, 2019, August 1, 2019, August 29, 2019, September 24, 2019, October 31, 2019, November 28, 2019, December 20, 2019, May 28, 2020</li> <li>O.C.B.D.I.A. Finance and Audit Committee Board Report, June 2019</li> <li>O.C.B.D.I.A. Finance and Audit Committee meeting minutes; for the meetings June 19, 2019, October 22, 2019</li> <li>O.C.B.D.I.A. Governance Committee Board Report, June 2019</li> <li>O.C.B.D.I.A. Governance Committee meeting minutes for the meetings July 17, 2019, August 23, 2019, September 24, 2019, October 31, 2019, November 27, 2019</li> <li>Executive Directors Reports dated; January 2019, February 2019, March 2019, April 25, 2019</li> <li>Email correspondence dated July 29, 2020 between the O.C.B.D.I.A. and the City of Oshawa</li> </ul>	
Findings	
1.0	<p>Included as part of the monthly Board of Management package relating to financial information is:</p> <ul style="list-style-type: none"> <li>Income Statement,</li> <li>Balance Sheet and</li> <li>Notes to Financial Reports</li> </ul> <p>The Notes to Financial Reports is an Excel spreadsheet that identifies the revenues and expenses for events and campaigns.</p>

	Additional information for the months of January, February, March and April 2019 the Executive Director's Report included some financial commentary on financial statement variances.
2.0	<p>In June 2019 it was recommended that the Board of Management approve the creation of a standing committee for Finance and Audit and accept the terms and responsibilities for such a committee stated below.</p> <p>THAT THE BOARD MEMBERS OF THE OSHAWA DOWNTOWN BIA approves the treasurer position as permanent Chair of the Finance and Audit committee, with members compromised of Executives of the Board (Chair, Vice Chair, and Treasurer - future Executive positions pending creation) and the Chairs of each O.C.D.B.I.A. standing committee.</p> <ul style="list-style-type: none"> <li>• The Finance and Audit Committee is a standing committee of the Board;</li> <li>• It oversees the financial reporting and disclosure process and oversees the execution of the daily operations of the business of the O.C.B.D.I.A. including but not limited to budgeting, financial planning, creation and monitoring of internal controls and accountability policies;</li> <li>• The committee through the O.C.B.D.I.A. Treasurer serves as the direct resource to the Executive Director in terms of financial processes and queries.</li> <li>• The Finance and Audit committee through the O.C.B.D.I.A. Treasurer is the spokesperson regarding the annual audit:</li> <li>• Drafts the annual budget and forwards the approved budget to Finance Department of the City of Oshawa for review and ratification by Council of the City of Oshawa, and;</li> <li>• Presents the audited statements and approved budget at the Annual General Meeting.</li> </ul> <p>The City requested the Finance and Audit Committee meeting minutes from June 2019 to June 2020 and received only minutes from June 19, 2019 and October 22, 2019. A request for additional minutes was put forth to the Finance and Audit Committee Chair with a response that at most meetings there was no quorum so there was no formal meeting with minutes.</p>
3.0	For the months of January, March, April and May 2019 the Board of Management meeting minutes included a brief high-level report on the financial statements.

	In June 2019 the Board of Management meeting minutes changed formats and thus no financial information or O.C.B.D.I.A. Treasurer reports were obtained by the City for the period June 2019 to June 2020; exception of the Finance and Audit Committee reports dated June 19, 2019 and October 22, 2019.
4.0	There is no evidence obtained or forwarded to the City that O.C.B.D.I.A. Staff completes any financial analysis or financial variance analysis.
5.0	There is no evidence obtained or forwarded to the City that the O.C.B.D.I.A. Board of Management completes a comprehensive budget analysis in the development of the annual budget.
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• The lack of evidence received would indicate that the Board of Management Finance and Audit subcommittee is not functioning under its mandate.</li> <li>• The lack of evidence received would indicate that the O.C.B.D.I.A does not perform detail account analysis and as such has limited monthly financial oversight.</li> <li>• The O.C.B.D.I.A. Staff, O.C.B.D.I.A. Board of Management, and Finance and Audit Committee has limited financial experience to make informed financial decisions.</li> </ul> <p>To ensure transparency it is recommend that:</p> <ul style="list-style-type: none"> <li>• The O.C.B.D.I.A. Executive Director and Treasurer engage in a monthly meeting with the City of Oshawa Treasurer to review monthly and year to date financial results. This meeting should take place no later than two (2) weeks after the Board of Management has approved the monthly financial statements.</li> <li>• The O.C.B.D.I.A. Board of Management forward a copy of the General Ledger and Journal Report to the City of Oshawa Treasurer monthly.</li> <li>• The O.C.B.D.I.A. Board of Management forward a monthly payment report, regardless of payment method to its members.</li> <li>• The O.C.B.D.I.A. Board of Management forward a detailed line-by-line budget with accompanying schedules to the City of Oshawa Treasurer outlining the composition of the account balances prior to the O.C.B.D.I.A. Board of Management budget approval.</li> </ul>	



## 2.0 Financial Statement Presentation

Purpose	
To review the accounting and reporting process between the external bookkeeper, the O.C.B.D.I.A. and the Board of Management to ensure seamless and accurate Financial Statement Presentation.	
Documents Reviewed	
<ul style="list-style-type: none"> <li>• O.C.B.D.I.A. Board of Management Financial Statement results from 2017, 2018 (actual) and 2019 draft</li> <li>• O.C.B.D.I.A. budget</li> <li>• External bookkeeper QuickBooks monthly download</li> <li>• External bookkeeper Excel file transmitted to the O.C.B.D.I.A.</li> <li>• O.C.B.D.I.A. Board of Management monthly reporting package</li> <li>• General Ledger Report</li> </ul>	
Findings	
1.0	The process of information transfer from the O.C.B.D.I.A. to the external bookkeeper is represented as Appendix A.
2.0	<p>The results of the Financial Statement analysis are inconclusive based on the following material inconsistencies in financial reporting.</p> <p>For 2019:</p> <ul style="list-style-type: none"> <li>• All months the external bookkeeping QuickBooks data (source data) did not balance to the Profit and Loss Statement on the Board Financial Statement reporting package.</li> <li>• All months, except January the external bookkeeping QuickBooks (source data) Balance Sheet current earnings did not balance to the accumulated surplus/(deficit) on the Profit and Loss statement on the Board Financial Statement reporting package.</li> <li>• The QuickBooks data does not match the DRAFT Financial Statements as developed through Deloitte.</li> <li>• The proposed budget received by the City and the budget as documented in the DRAFT Audited Financial Statements does not balance to the O.C.B.D.I.A. Board of Management reporting package.</li> </ul>

	<p>There is revenue variances of \$45,000 on the O.C.B.D.I.A. statements related to Miscellaneous / Grants (\$5,000) and Reserve (\$40,000) and multiple expense reallocations. Reserve is a Balance Sheet account therefore removed and expenses reallocations have changed the budget composition.</p> <ul style="list-style-type: none"> <li>• The monthly surplus/(deficit) sum of the months do not total the year-to-date surplus / (deficit) reported in the Board Financial Package.</li> </ul> <p>For 2020:</p> <ul style="list-style-type: none"> <li>• The REVISED 2020 Budget was not diligently prepared; therefore, analysis conclusions may be misleading.</li> <li>• Incorrect revenue reported in the budget (HST of \$22,659 is a Balance Sheet item remove from revenue).</li> <li>• All months the external bookkeeping QuickBooks data (source data) did not balance to the Profit and Loss Statement on the Board Financial Statement reporting package.</li> <li>• All months, except January the external bookkeeping QuickBooks (source data) Balance Sheet current earnings did not balance to the accumulated surplus/(deficit) on the Profit and Loss statement on the Board Financial Statement reporting package.</li> <li>• February to June the monthly surplus/(deficit) sum of the months do not total the year-to-date surplus / (deficit) reporting in the Board Financial Package.</li> <li>• Capital incorrectly recorded as expenses in the year-to-date June figures.</li> <li>• Prepaid expense incorrectly recorded as expenses in the year-to-date figures.</li> <li>• Year-to-date June several transactions totaling \$22,052.35 not recorded in the general ledger but are included in the Board Reporting Package Profit and Loss statement.</li> </ul>
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- Year to date activity with no monthly activity, as displayed in the following example:

Account	Month	Monthly Activity	YTD Balance
Bright and Merry	January	0.00	0.00
Bright and Merry	February	0.00	(2,000.00)
Bright and Merry	March	0.00	(2,000.00)
Bright and Merry	April	0.00	(2,000.00)
Bright and Merry	May	0.00	10,279.51
Bright and Merry	June	0.00	8,680.04

- 3.0 Generally, the underlying reason related to a variance in monthly cumulative activity versus year-to-date activity is the method of accounting and the lack of closing monthly accounting periods. Currently the external bookkeeper does not close monthly accounting periods and uses invoice date not posting date allowing prior period adjustments to occur. The current method of accounting allows the opportunity to post to the year-to-date column not the current month. This can potentially hinder full transparency of monthly activity to the Board.

#### Recommendations

- The current external bookkeeper or third party Accounting Service change the method of accounting using posting period as opposed of invoice date for recording transactions.
- Close accounting periods monthly not allowing prior period adjustments.
- Revise the process for financial statement generation. The current process of QuickBooks download into Excel then forward to the O.C.B.D.I.A. allows for errors and potential manual adjustments to the source data. Develop reports within QuickBooks that can generate the financial statements in a format suitable to the O.C.B.D.I.A. and Board of Management ensuring source data activity is reported.
- The O.C.B.D.I.A. Executive Director and Treasurer engage in a monthly meeting with the City of Oshawa Treasurer to review monthly and year to date financial results. This meeting should take place no later than two (2) weeks after the Board of Management has approved the financial statements.

- The O.C.B.D.I.A. Board of Management engage the City of Oshawa Finance team to assist with the budgeting process to ensure the budget is reflective of activity and accurately depicts appropriate accounting.

### 3.0 Authorization Compliance

Purpose													
To ensure all O.C.B.D.I.A. payments are in compliance with the signing authority section of the Policy and Procedure Manual, August 2019 and reflect best practice.													
Documents Reviewed													
<ul style="list-style-type: none"> <li>• Issued cheques (source document)</li> <li>• Invoices (source document)</li> <li>• November TD bank statement and returned cheques (source document)</li> <li>• Sample signature document (developed by the City, verified by O.C.B.D.I.A. Office Manager and Special Projects Coordinator)</li> <li>• BIA Policy and Procedure Manual, August 2019</li> </ul>													
Findings													
1.0	An analysis of the source documents cheques was completed and 541 payments totaling \$609,699.36 were issued by the O.C.B.D.I.A. for the period January 1, 2019 to May 31, 2020.												
2.0	<p>Testing for payment authorization identified that 29 payments totaling \$128,742.59 were not authorized appropriately.</p> <div data-bbox="401 1268 1196 1837"> <p style="text-align: center;"><u>Non-Compliance of BIA Payments</u></p> <table border="1"> <thead> <tr> <th>Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Supplier Wire</td> <td>\$59,473.03</td> </tr> <tr> <td>TD Visa</td> <td>\$37,801.14</td> </tr> <tr> <td>One signature</td> <td>\$26,333.42</td> </tr> <tr> <td>Incorrect Authority</td> <td>\$5,085.00</td> </tr> <tr> <td>Cash Withdrawal</td> <td>\$50.00</td> </tr> </tbody> </table> </div>	Category	Amount	Supplier Wire	\$59,473.03	TD Visa	\$37,801.14	One signature	\$26,333.42	Incorrect Authority	\$5,085.00	Cash Withdrawal	\$50.00
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Cash Withdrawal	\$50.00												

- Five (5) payments totaling \$26,333.42 were issued with one signature (the O.C.B.D.I.A. Treasurer) on the cheque. The banking agreement requires two (2) signing officers.
- Twelve (12) payments totaling \$37,801.14 were paid via electronic transfer. All related to the O.C.B.D.I.A. Corporate TD Visa with no evidence of authorization. This included a \$5,000 payment on July 2, 2019 to secure the credit card.
- An analysis of the TD Visa charges reflects a categorized summary:

<b>Vendor Category</b>	<b>Total Amount</b>
Banking Fees	68.36
Restaurants	1,827.73
Training	107.17
Hotel & Travel	1,030.37
Parking & Parking Violations	622.12
Conferences	1,917.61
Capital	14,337.51
ITS	2,972.99
Furniture	2,150.85
Misc.	2,615.92
Legal	75.47
Advertising	1,393.58
Revitalization	1,369.68
Rebranding	520.93
Office	2,312.70
Florist	144.58
Rentals	481.75
COVID	401.92
<b>Totals</b>	<b>34,351.24</b>

- Five (5) payments totaling \$59,473.03 were wire transferred to suppliers without evidence of approval.
- Six (6) payments totaling \$5,085.00 were paid with outdated authorized signatures. These payments were for prepaid rent signed by the previous Executive Director.
- One (1) payment for \$50.00 was related to a cash withdrawal that was recorded as bank fees.

3.0	Validation on electronic versus manually generated cheques found that of 541 (total \$609,699.36) payments issued 117 (totaling \$229,716.53) cheques or 21.63% were manually generated and issued directly from the O.C.B.D.I.A. not through the external bookkeeping service.
4.0	<p>Invoice approval prior to issuance of payment is a fundamental internal control to ensure payments not issued in error. Due diligent internal controls would ensure management has signed the invoice accepting that the product or service has been received and that charges and taxes are correct. In addition, often times account coding is a part of this authorization.</p> <p>Invoice authorization testing determined that 197 invoices or 36.41% totaling \$260,372.75 were not approved and 22 or 4.07% totaling \$8,488.47 of the invoices were inconclusive as back-up was not provided. Therefore, 322 invoice or 59.52% totaling \$340,838.14 were authorized correctly or did not require authorization (i.e. bank charges).</p> <p>There were several occasions where expense reimbursement of the Office Manager &amp; Special Projects Coordinator and Executive Director were self-approved or not approved.</p> <p>Several contracts/agreements or authorization for payment was signed/initiated by the Office Manager &amp; Special Projects Coordinator although the Policy and Procedure document does not indicate authority given to this position. For example C.A Byer MOU, May 15, 2019 ,chq #1213 / Oshawa Facility Booking , May 23, 2019, chq #1212 / Tim's Party Centre, August 6, 2019, Chq #1391 / DRPS Pay Duty August 22, 2019, chq #1392/1393.</p>
5.0	A review of the Office Manager & Special Projects Coordinator expense reimbursements identified that from the period January 2019 to April 2020 a total of \$17,675.54 was reimbursed. This amount included \$1,958.45 in petty cash transactions and \$15,717.09 in expense reimbursements. Of the total \$17,675.54 paid expenses, \$2,843.32 or 16.09% were unapproved or there was no evidence of approval. This method of reimbursement allows the employee to collect points and rewards on their personal credit card. Collection of such rewards is not included in the Office Manager & Special Events Coordinator's employment contract.
6.0	Signing authority cut-off was reviewed and deemed that although six (6) rental payments that were not updated with current signing officer signatures other aspects of cut-off were controlled properly.
7.0	A one-month testing sample examined transparency between the Board and Management regarding signing authority. In November 2019 46 cheques were cashed (as per the bank statement and returned cheques source document). Of the 46 cheques 28 were signed by the two (2) Board Signing

	Officers and not by the Executive Director. Twenty-nine (29) of the 46 cheques the invoices did not show evidence of approval.
8.0	<p>There is a lack of internal controls and disconnect relating to the creation, signing and issuance of cheques and invoice/expense approval. The Policy and Procedure document August 2019 relating to the signing authority sections for Level 1 Approval, Level 2 Approval and Signatures is not controlled enough for this environment. Even expenses within budget should require approval to ensure due diligence that goods and services are received and valid prior to payment.</p> <p>The creation of the cheques is somewhat disjointed between the O.C.B.D.I.A. and the external bookkeeper and invoices are intermittently approved with no consistency.</p>
Recommendations	
<ul style="list-style-type: none"> <li>• The O.C.B.D.I.A. Board of Management should adopt an enhanced control mechanism of one-over-one approval for invoices/expenses to ensure appropriate review and approval.</li> <li>• With the exception of vacations and out-of-town conferences, etc. the Executive Director should always be the first signatory followed by a Board signing officer (preferably the Treasurer). This will ensure that the Executive Director maintains operational accountability.</li> <li>• The O.C.B.D.I.A. Board of Management should consider modifying and incorporating formal signing authority for small purchases for the Office Manager &amp; Special Events Coordinator.</li> <li>• The amount of expense reimbursement for the Office Manager &amp; Special Events Coordinator is excessive. The O.C.B.D.I.A. Board of Management should work with TD bank regarding a Purchasing Card or a supplementary card to the Corporate Card. Only in extraordinary circumstances should employee use their own financial resources for company expenses.</li> <li>• The O.C.B.D.I.A. Board of Management should work with TD bank electronic banking to create an approval level for wire and bank transfers. This will allow transparency to the Board of Management for payments that do not require a signature.</li> <li>• Create a modified schedule with the external bookkeeper or a third party accounting service to ensure all cheques can be electronically produced, ensuring that all back-up documentation is included prior to cheque generation. Cheques should not be produced without appropriate back up.</li> </ul>	



#### 4.0 Procurement (Contracts / RFP, RFQ )

Purpose	
To ensure best practice with Request for Proposal, Request for Quotation, Contracts and the overarching procurement policy and process.	
Documents Reviewed	
<ul style="list-style-type: none"><li>• Request for Proposal, Request for Quotation, Contracts (source documents)</li><li>• Returned cheques (source documents)</li><li>• Transaction Listing by Vendor (Report)</li><li>• Policy and Procedure Manual (August 2019)</li><li>• Procurement Policy (May 2, 2013)</li></ul>	
Findings	
1.0	<p>Request for Proposals (RFP) and Request for Quotations (RFQ) received from the O.C.B.D.I.A. related to the following:</p> <ul style="list-style-type: none"><li>• RFP Banner 2019</li><li>• RFP Bookkeeping 2017</li><li>• RFP Social Media 2019</li><li>• RFP Website 2019</li><li>• RFQ Downtown Tourism Guide</li></ul> <p>All RFP's and RFQ's with the exception of the RFP Bookkeeping 2017 could not be validated as the bidder submissions were not received by the City. The RFP response for bookkeeping services was received. The bookkeeping response did comply with the requirements of the O.C.B.D.I.A. issued RFP.</p>
2.0	<p>Sixteen (16) contracts were reviewed. Payments relating to rent, event performers, event vendors and operations were all in compliance with the payment terms of the contract.</p>

3.0	<p>A review was performed of the financial sections of the Policy and Procedures document approved by the Board of Management through the Governance Committee at the July 2019 meeting, "Governance M. Hunter</p> <p>i. Policy and Procedures (ACTION) M. Hunter</p> <p>a. Motion: THAT THE BOARD OF MANAGEMENT FOR THE OCBDIA accepts the Policy and procedures document as presented, with the understanding that it is a living document and does not need board approval for changes outside of the governance committee.</p> <p>i. 1st M. Hunter</p> <p>ii. 2nd C. Malachowski</p> <p>iii. Carried"</p> <p>This review identified the Approval of Financial Transactions section lacks in the purchasing process to achieve the best prices for commodities and services through a robust procurement process. The Policy and Procedures document only referred to signing authority, which relates to post purchase.</p> <p>The City requested all purchase orders from the O.C.B.D.I.A. for the period January 1, 2019 to June 30, 2020. No purchase orders were received.</p>
4.0	<p>Due to the lack of information regarding procurement policy in the Policy and Procedures document, effective August 2019 the City reviewed a Procurement Policy dated May 2, 2013. Evidence does not support compliance with this policy and an updated policy was not provided.</p> <p>A review of the Transactions by Vendor Report was completed for the period January 1, 2019 to June 30, 2020 and vendor purchases in excess of \$5,000 are outlined in the below chart. No evidence was received to support a competitive bidding process (i.e. RFP/RFQ).</p>

The Procurement Policy dated May 2, 2013 outlines that “all purchases \$1,000.00 and over require 3 quotations with the lowest price not necessarily accepted. The Board shall review and determine by resolution the Board’s course of action in relation to the 3 quotations.”

**BIA Purchases in excess of \$5,000**

Vendor Name	GL Description	Amount		
		Fiscal 2019	YTD June 2020	Total
Chad Beer	Mural Art	6,681.55		6,681.55
Inflatable Tent Inc.		6,902.70		6,902.70
Kingsway Greenhouse	Winter Greenery	22,525.42		22,525.42
McDougell Insurance Brokers	Insurance / Event Insurance	5,922.68	2,002.32	7,925.00
Multitech Graphics		18,173.79	37,087.04	55,260.83
Sanker Media	Economic Development	6,215.00		6,215.00
Street Graffiti Solutions Incorp.	Streetscape	46,377.46		46,377.46
Yiwu Sunrise Art & Craft	Xmas Wreaths	28,400.80	26,388.17	54,788.97
AILIBABA	Igloos		7,535.74	7,535.74
	Total	141,199.40	73,013.27	214,212.67

## Recommendations

- The RFP issued by the O.C.B.D.I.A. Board of Management for bookkeeping services was not detailed enough to avoid misinterpretation. For example, monthly adjusting entries and adjusting entries at year-end were not outlined as part of the bookkeeping responsibility. This function is deemed to be part of the monthly financial statement preparation. Often times Bookkeepers only process transactions received by the client and print financial statements, without analysis, from the financial system (QuickBooks). In addition, there was also no term included as part of the RFP. For example 5 years with annual extension based on price and performance.

Based on the transactional review, lack of adjusting entries, classification errors and overall minimal financial oversight by the O.C.B.D.I.A. it is recommended that the O.C.B.D.I.A. issue an RFP to obtain Accounting Services, instead of Bookkeeping Services. It is also recommended that a representative from the City of Oshawa assist with the development, evaluation and recruitment of these services.

- Based on the evidence the development of a new Procurement Policy is required which incorporates RFP/RFQ thresholds, issuance of Purchase Orders and appropriate approvals to ensure the O.C.B.D.I.A. membership tax levy is effectively utilized. This recommendation is based upon:
  - The Policy and Procedures document approved by the Board of Management July 2019 and implemented August 2019 has

significant gaps relating to the procurement process. The O.C.B.D.I.A. Board of Management must make a decision on the threshold of what constitutes an expenditure requiring an RFP or RFQ and incorporate that into the document. The Board of Management must also hold Management accountable in compliance with policy in order to become more cost effective.

- There was no evidence that the Procurement Policy (May 2, 2013) has been updated and incorporated into the Policy and Procedure document approved by the Board of Management July 2019 or that a new Procurement Policy created.
- There was no evidence that the O.C.B.D.I.A. issues Purchase orders or gains approvals necessary to comply with the Purchasing Policy dated May 2, 2013. The lack of compliance does not create the competitive environment to ensure O.C.B.D.I.A. membership tax levy is efficiently utilized.
- There is no evidence that the Audit and Finance Committee or the O.C.B.D.I.A. Board of Management comply with the Procurement Policy dated May 2, 2013.
- There was no evidence that the O.C.B.D.I.A. Staff issues purchase orders and completes a three-way match with the purchase order, receiving documents and invoices. The O.C.B.D.I.A. Board of Management should undertake an extensive review regarding the capability of systems and the effectiveness of purchase order issuance.

## 5.0 Accounting Classifications

Purpose	
To review accounting classifications. This review is not a duplication of the External Auditors (Deloitte) activities that have already given guidance on classifications as part of the 2019 year end audit.	
Documents Reviewed	
<ul style="list-style-type: none"><li>• General Ledger Report for the period January 2019 to June 2020</li><li>• Journals Report for the period January 2019 to June 2020</li><li>• Financial Statements for the period January 2019 to June 2020</li><li>• E-mail correspondence between the O.C.B.D.I.A. and the external bookkeeper</li><li>• E-mail correspondence between the external bookkeeper and Deloitte</li></ul>	
Findings	
1.0	<p>The External Auditors have completed due diligence on the development of the DRAFT Financial Statements for the year ending December 31, 2019. Based on the transactional review capital assets are identified and recorded appropriately with the possible additional capitalization of:</p> <ul style="list-style-type: none"><li>• 13" MacBook Pro and peripherals charged to Advertising Expense - August 6, 2019 valued at \$2,841.08. It was correspondence August 6, 2019 from the O.C.B.D.I.A. to the external bookkeeper to record this in Advertising Expense.</li><li>• Two (2) glow led light outdoor patio swing with rack (Alibaba) valued at \$1,609.95.</li></ul> <p>The City review did not investigate the details of Prepaid Expense but the value remained the same for 2019 fiscal year in the General Ledger at \$785.51. The Board presented Balance Sheet adjusted Prepaid from \$2,421.51 to \$785.51 in April 2019. Entries could not be located for this change.</p> <p>Upon review of the correspondence between the O.C.B.D.I.A., Deloitte and the external bookkeeper, it is apparent that the organizations cannot identify the components of the Prepaid Expense balance. Deloitte made a recommendation to write-off this amount but no further communication was received and the amount remains on the DRAFT 2019 O.C.B.D.I.A. Financial Statements.</p>

2.0

On review of the financial statements from January 1, 2020 to June 2020 there are no capital acquisitions or changes in the Prepaid Expense balance. Upon transactional review there is a potential \$86,747.33 of capital costs and \$8,769.90 of Prepaid Expense costs included in the operating statement, as per below:

**Additional Capital for consideration:**

ALIBABA (Inflatable Movie Screen) / Summerfest	<a href="#">C1 2020</a>	3,195.72	Charged to event expense (Summerfest)
ALIBABA (Igloos) / Bright and Merry Banners	<a href="#">C2 2020</a>	4,340.02	Charged to event expense (Bright & Merry)
	GL Jan 6, 2020	10,133.66	Charges to NEW Banner expense
40' STD USED SHIPPING CONTAINER	<a href="#">C3 2020</a>	3,107.50	charged to Winter Greenery expense
Yiwu Sunrise art & Crafts	GL May 1, 2020	30,000.00	Christmas Lights
Yiwu Sunrise art & Crafts	GL May 1, 2020	9,582.26	Winter Decorations
Yiwu Sunrise art & Crafts	GL May 4, 2020	26,388.17	Winter Decorations
Total		<u>86,747.33</u>	

**Prepaid Expenses for consideration:**

Khanna Holdings Inc	<a href="#">C4 2020</a>	2,486.00	Last months rent charged to Discover This Space - Economic Development
Khanna Holdings Inc	GL April 15, 202	6,283.90	Full years rent charged to Discover This Space - Economic Development
Total		<u>8,769.90</u>	

Correspondence from the O.C.B.D.I.A. Treasurer, the O.C.B.D.I.A. and the external bookkeeping service, November 19, 2019 questioned the capitalization or expense of the Banners. There was no evidence of further decisions and in 2020 the Banners have been expensed.

Correspondence from the O.C.B.D.I.A. in October 2019 initially accounted for the Xmas Wreaths as Street Scape Expense. In November 2019 the O.C.B.D.I.A. Treasurer directed the capitalization of the Xmas Wreaths.

There is no evidence that the recommendations from Deloitte were not accepted and reflected in the financial statements.

3.0

There are several observations with HST:

- In 2018 the external bookkeeper's system was not configured properly to reflect the recoverable and non-recoverable portions of the HST. Thus, a year-end adjustment of \$3,469 was required. In 2019 the external bookkeeper re-configured the system and minor adjustments at year-end of \$1,204 was required.
- The General Ledger reflects the treatment of HST rebates properly offsetting Balance Sheet receivables.

	<ul style="list-style-type: none"> <li>• The O.C.B.D.I.A. communicated to Deloitte on April 1, 2019 that verification with the Canada Revenue Agency indicated that the O.C.B.D.I.A. does not have to charge HST as they do not have sales worth \$30,000.</li> <li>• The O.C.B.D.I.A. staff, Board of Management and the external bookkeeping service do not have a good understanding of the fundamental accounting for HST. In reviewing the correspondence: <ul style="list-style-type: none"> <li>• August 24, 2019 the external bookkeeper communicated to the O.C.B.D.I.A. , “the HST rebate has been categorized as an asset, rather than income, and has been so in previous years as well.... It is possible to have it all reclassified, but we’d have to first get the auditors’ opinion on it, and potentially board approval as well.”</li> <li>• August 26, 2019 the O.C.B.D.I.A. Staff responded, “I am seeking further information and thoughts from our treasurer. Will let you know!”</li> <li>• September 5, 2019 the O.C.B.D.I.A. Staff directed the external bookkeeper based on the following motion; August 2019 Board meeting a Motion from in-camera stated, “to move the HST rebate into revenue for 2020 budget, and for 2019 utilize the 2018 rebate to offset salaries.”</li> <li>• September 6, 2019 the external bookkeeper responded in the following manner, “I’ll make the change accordingly for the 2020 financials, and get the HST rebate in as revenue.”</li> </ul> </li> </ul>
4.0	In 2019 the O.C.B.D.I.A. Staff had improperly netted event revenue against the event expense thereby under reporting revenue and expense. Deloitte recorded a year-end adjustment reallocating event revenue to the proper revenue section of the Profit and Loss statement. In 2020 the O.C.B.D.I.A. General Ledger reported the event revenue properly in Other Income (Vendors, Sponsors).
Recommendations	
	<ul style="list-style-type: none"> <li>• That the External Auditors consider the capitalization of the identified equipment and related amortization for 2019 and write-off the Prepaid Expense balance to align the accounts for actual activity.</li> <li>• That the O.C.B.D.I.A. Board of Management reallocate the operating expenses to capital and prepaid and restate the monthly 2020 financial results.</li> <li>• The 2020 proposed budget included a revenue amount of \$15,000 and the revised 2020 budget increased that amount to \$22,659. Since HST is not a revenue generating activity, these amounts should be removed and the budget restated for 2020.</li> </ul>

- That the O.C.B.D.I.A. Board of Management engage the services of Deloitte or a third party Tax Commodities Specialist to review the components and processes for recording and filing HST to ensure the O.C.B.D.I.A. is achieving maximum rebates.
- The O.C.B.D.I.A. Staff should engage Deloitte when questioning account classification. This partnership will ensure that the monthly financial results will accurately depict activity and increase efficiency for year-end activities.



## 6.0 Financial Transaction Recording

Purpose	
<p>To review all supplier invoices/payments and customer invoices/payments to ensure all transactional activity is recorded in the general ledger, accounts payable and accounts receivable sub-ledgers.</p> <p>To ensure adjusting journal entries entered through the general ledger are appropriate.</p>	
Documents Reviewed	
<ul style="list-style-type: none"><li>• Accounts Payable Sub-ledger Report</li><li>• Accounts Receivable Sub-ledger Report</li><li>• General Ledger Report</li><li>• Deposit Detail Report</li><li>• Transaction, List by Customer Report</li><li>• Journal Report</li></ul>	
Findings	
1.0	<p>During the period January 1, 2019 to May 31, 2020, 541 cheques/withdrawals totaling \$609,699.36 and 180 deposits totaling \$602,483.50 were reviewed in detail. The O.C.B.D.I.A. TD bank statements were the HUB of the analysis determining that all transactions recorded as banking activity were also recorded in the O.C.B.D.I.A. general ledger. All 721 transactions were recorded in the O.C.B.D.I.A. General Ledger.</p>
2.0	<p>Overall the process of reconciliation was cumbersome due to the lack of sub-ledger accounting and inconsistent transaction recording. Often several reports were compared to ensure all transactions were recorded appropriately through the General Ledger. Transactions not recorded through the sub-ledger were recorded directly through the Journal Report. The process of transactional review is documented in Appendix B.</p> <p>In 2019 only one adjusting journal entry was recorded directly through the general ledger relating to amortization. The remaining adjusting entries recorded as part of year-end adjustments.</p>

	For YTD May 2020 three adjusting journal entries recorded relating to COVID-19 wage subsidy. No other adjustment entries processed through the general ledger.
3.0	<p>The Accounts Payable sub-ledger demonstrated a level of inconsistency in recording transactions. The number of transactions that should have recorded in the Accounts Payable Sub-ledger totaled 360 or \$414,184.37. A total 106 cheques/withdrawal or 29.44% of the activity not recorded in the sub-ledger. This accounted for \$136,501.15.</p> <p>The transactions not recorded in the sub-ledger were mainly related to rental payments, event performers and event participants.</p> <p>The importance of the Accounts Payable sub-ledger is to ensure that the aggregate amounts reported in the general ledger can be cross-referenced to the sub-ledger to prevent errors in reporting. The City developed a sub-ledger for the period January 1, 2019 to May 31, 2020 which resulted in the identification of a cheque that was VOIDED February 10, 2020 (chq #1567) for \$847.49 Multitech Graphics Inc. and not reversed or reissued as at May 31, 2020.</p>
4.0	<p>The Accounts Receivable sub-ledger only recorded one (1) transaction in the 17 months reviewed. The number of transactions that should have been recorded in the A/R sub-ledger totaled 159 or \$531,214.88.</p> <p>Due to the lack of sub-ledger, accounting the recording of customer activity (billings and deposits) had to be cross-referenced with multiple reports to ensure correctness. The billings also identified the customer revenue classification as vendor, sponsor, grant or tax levy. There were approximately 20 instances in which customers were not classified appropriately (i.e. classified as deposits). The importance of this classification also assists in the determination if the O.C.B.D.I.A. should be collecting HST on customer invoices. If the revenue generating activity exceeds \$30,000 then the O.C.B.D.I.A. should be collecting HST on customer invoice activity.</p> <p>Information obtained from the external bookkeeper indicated that the O.C.B.D.I.A. Staff internally generates all customer invoices.</p> <p>A balance of \$2,070.89 remains in the A/R sub-ledger from pre-January 1, 2019. The external auditors have recommended this amount be written off as uncollectable. As of May 31, 2020 this amount remains.</p>

## Recommendations

- Management should review sub-ledger activity as part of financial due diligence monthly to ensure all supplier transactions are recorded appropriately.
- The Accounts Receivable sub-ledger records all customer invoicing and payment history transactions for each customer whom the business extends credit. The O.C.B.D.I.A. Staff should be recording all customer transactions through the A/R sub-ledger and reviewing monthly customer reports to ensure customer payments are not in arrears and that all customer classifications have been recorded appropriately on the Profit and Loss Statements.

## 7.0 Compensation

Purpose	
To review compensation activity ensuring all paid compensation recorded in the O.C.B.D.I.A. general ledger through the payroll subsidiary ledger and tied-back to the financial statements, T4's have been issued correctly and compensation is in accordance with employment contracts.	
Documents Reviewed	
<ul style="list-style-type: none"> <li>• Employment contracts</li> <li>• The bi-weekly compensation from January 1, 2019 to June 20, 2020</li> <li>• Financial statements and related financial reports</li> <li>• Source documents such as cheques, expense reports, visa statements for the period January 2019 to May 31, 2020</li> <li>• Board minutes of May, June, July, August 2019</li> <li>• E-mail communication between the external bookkeeper and the O.C.B.D.I.A.</li> <li>• "Oshawa Downtown BIA Policy and Procedure Manual", effective August 2019</li> </ul>	
Findings	
1.0	<p>The employment contract was reviewed for the Office Manager and Special Projects Coordinator.</p> <p>Additional information regarding these findings is in Confidential Attachment 11. This Attachment is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness.</p>
2.0	<p>The employment contract was reviewed for the Executive Director.</p> <p>Additional information regarding these findings is in Confidential Attachment 11. This Attachment is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant</p>

	to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness.
3.0	<p>Previously the O.C.B.D.I.A. held 6-days pay from employees but on July 6, 2019 the 6-days pay hold was adjusted and paid up-to-date.</p> <p>Additional information regarding these findings is in Confidential Attachment 11. This Attachment is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness</p>
4.0	<p>Financial Reporting:</p> <ul style="list-style-type: none"> <li>• All non-management employees are paid in accordance with contract.</li> <li>• Salary expense was reconciled to the general ledger, financial statements and T4's for 2019 and YTD June 2020.</li> <li>• In fiscal 2019 the year end external auditors re-allocated the wage subsidies from payroll expenses to grant revenue.</li> <li>• All Receiver General payments have been made appropriately for 2019 and YTD June 2020.</li> </ul> <p>Additional information regarding these findings is in Confidential Attachment 11. This Attachment is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness</p>
Recommendations	
<ul style="list-style-type: none"> <li>• That the Finance and Audit Committee and the Board of Management play a more active role in establishing annual compensation that is more reflective of the O.C.B.D.I.A. Policy and Procedures.</li> </ul>	

- The Finance and Audit Committee approve process changes relating to compensation as additional incurred expense potentially creates an over-budget for compensation.
- Adopt appropriate accounting for subsidies thus aligning expenses and revenues correctly.
- Additional information is found in Confidential Attachment 11. This Attachment is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness.

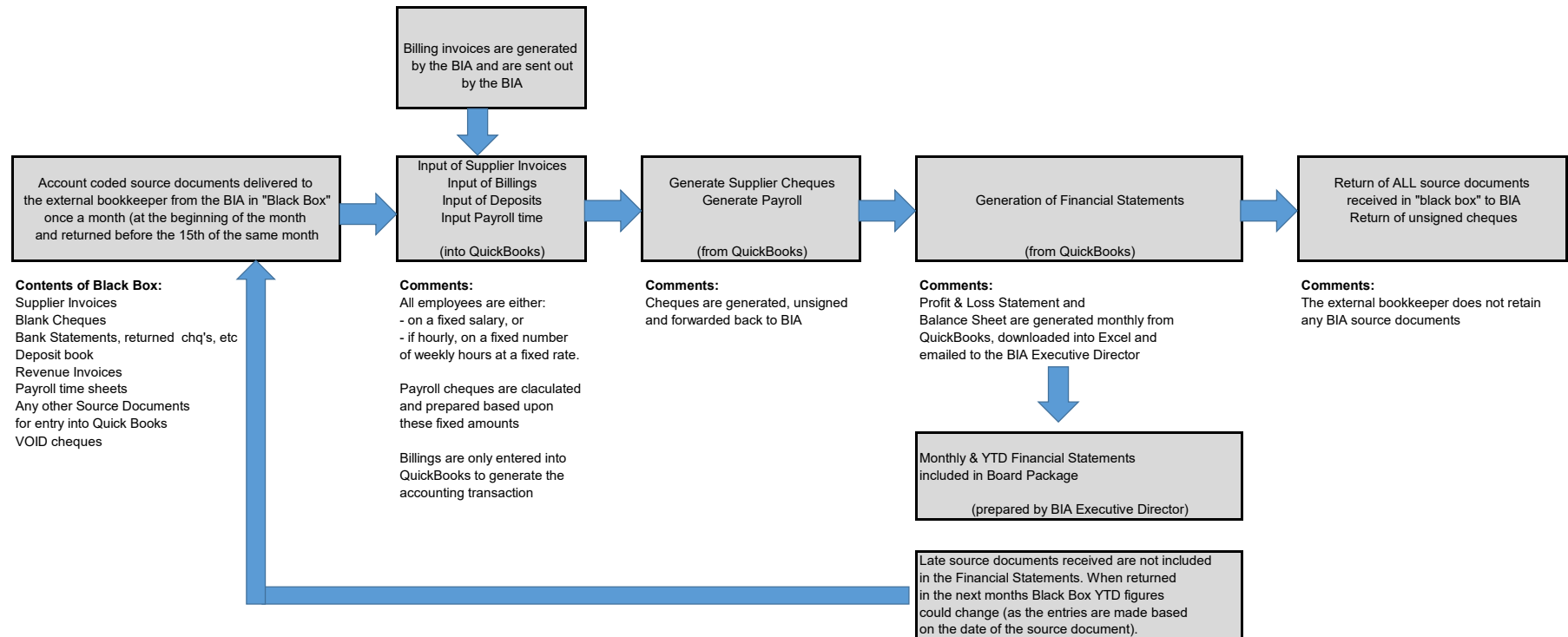
## 8.0 Cash Management

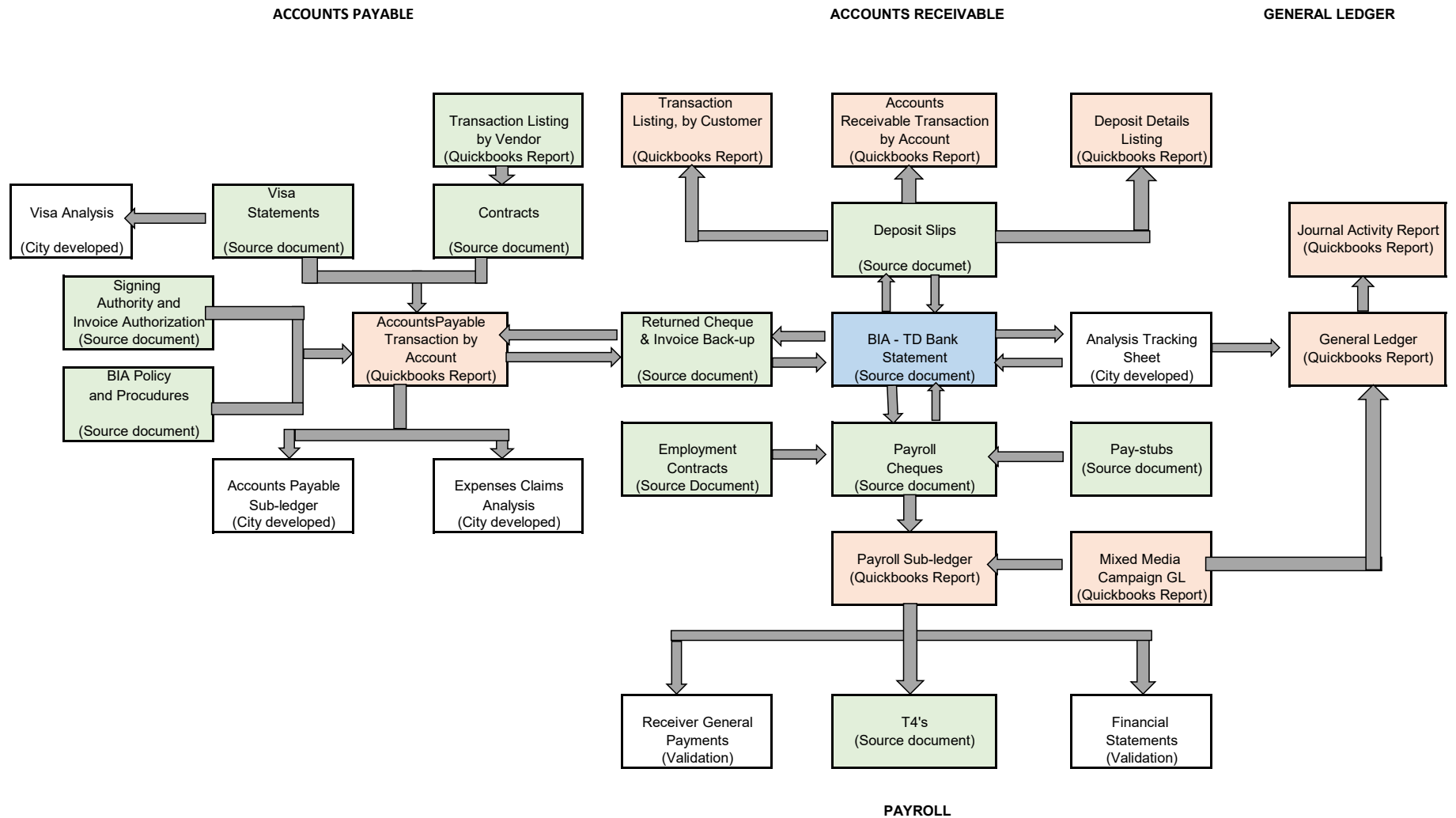
Purpose	
<p>To ensure controls around petty cash, cash floats and VOID cheques exist and are recorded in the O.C.B.D.I.A. general ledger appropriately.</p> <p>To ensure controls around the TD Visa card information.</p>	
Documents Reviewed	
<ul style="list-style-type: none"> <li>• General Ledger Report</li> <li>• Journals Report</li> <li>• Source Documents (VOID cheques)</li> <li>• Visa Statements</li> </ul>	
Findings	
1.0	The line-by-line transactional review identified that the O.C.B.D.I.A. does not control the expenses, payments and accounting of petty cash or event floats appropriately.
2.0	According to the Board Financial Statements, the Petty Cash account for fiscal 2019 fluctuated from \$68.85 to \$70.48 and in 2020 remained at \$70.48 until May then increased to \$135.93. The O.C.B.D.I.A. general ledger reflected a credit balance in the Petty Cash account for September, October and November 2019 then offset by a \$300.00 reallocation from grant revenue to Petty Cash. The balance of the account is too be maintained at \$200 if the accounting is properly recorded. The expenses and reimbursements have not been allocated appropriately and have been recorded directly to the expense report with reimbursement to the employee. This method of accounting for Petty Cash does not prevent due diligence around cash controls.
3.0	<p>The O.C.B.D.I.A. Staff do not account for event floats appropriately. Event floats are withdrawn by cheque and deposited through cash deposit to the bank. Currently the O.C.B.D.I.A. Staff is recording these transactions as a credit to the event revenue and a debit to the event expense. Cash floats are a balance sheet account that are created to ensure all floats are accounted for properly.</p> <p>This method of recording event floats does not control cash appropriately and may underestimate event revenues if floats are misappropriated.</p>

4.0	The O.C.B.D.I.A. Staff has accounted for VOID cheques appropriately with the exception of one cheque that was VOIDED February 10, 2020 (chq #1567) for \$847.49 Multitech Graphics Inc. and has not been reversed or reissued as at May 31, 2020
5.0	A document was located that had all Corporate TD Visa information on it including, card holder name, signature, card number, expiry date and security code.
Recommendations	
<ul style="list-style-type: none"> <li>• The O.C.B.D.I.A. Staff is not recording Petty Cash correctly and is simply reimbursing the employee for expenses. The O.C.B.D.I.A. Staff should work on a proper accounting process for the issuance and recording of petty cash to prevent errors, misuse of funds and control cash.</li> <li>• The O.C.B.D.I.A. Staff should be recording the withdrawal and related deposit of event floats through a Balance Sheet account. The O.C.B.D.I.A. Staff should create a float account and adapt correct accounting to ensure maintenance of controls around cash and that misappropriation of funds is mitigated.</li> <li>• Ensure that the Corporate TD Visa card information is secured and any documents that contain card information are shredded.</li> </ul>	



**Monthly Document Process Flow**  
**External Bookkeeper / BIA Information Process Flow**  
**Appendix A**





Attachment 11 to Report CNCL-20-169 is closed pursuant to the Municipal Act, 2001 Section 239 (2)(b) as it relates to personal matters about an identifiable individual, including City or local board employees and pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990 Section 14 (3)(d) and (f) as it relates to employment or educational history and describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness.