



May 11, 2022

Mayor Clark and City Councillors
Governance & Priorities Committee
City of Saskatoon
222 3rd Avenue North
Saskatoon, SK

Dear Mayor Clark and City Councillors:

Re: The Business Improvement Districts Bylaw

Understanding that a proposed bylaw was tabled at your March 21, 2022 GPC meeting and deferred until May 16, 2022, this letter serves to outline several aspects of the proposed bylaw that we, with respect, believe need to be amended prior to City Council approving it.

Following the March 21 meeting, discussions were had with the Executive Directors of the Broadway, Riversdale, Sutherland Business Improvement Districts on the proposed bylaw. Prior to that, Cindy Yelland and Adam Tittlemore both attended a board meeting of the Downtown Business Improvement District on October 21, 2021. Most recently, I have been in communication with Adam Tittlemore and outlined aspects of the proposed bylaw where amendments could be made to improve the bylaw, reducing the opportunity for issues to arise in the future due to the current proposed wording.

The format this letter will take is to provide the current wording of the bylaw listing section and the proposed wording, and then will outline what is believed to be the issue arising from it. It would be appreciated if City Council would allow further time for City Administration and the BIDs to work through these areas and bring back the Bylaw later in 2022 for your further consideration.

Definitions - Section 2 (c) “member business” means a business in the district that pays the levy mentioned in section 24.

In actuality, the levy is paid for by the property owner of a commercially or industrially zoned property, and not an individual business. The city collects the BID levy through the collection of property tax process, but the levy itself is over and above the property tax and not specifically paid by a business who occupies the property the levy is collected from.



Purpose of Districts - Section 5 (a) improve, beautify, and maintain publicly owned lands, *buildings*, and structures in the district, in addition to any improvement, beautification or maintenance that is provided by the City.

Historically, BIDs have not maintained buildings. As such a better term might be public spaces rather than buildings.

Composition of Boards - Section 8 (1)(b)(i) operate a business in the district;

Wording should be added to include or own commercially or industrially zoned property in the district.

Board Member Responsibilities - Section 11 (3)(d) Every board member shall advise an officer of the board if they are unable to attend a board meeting or general meeting.

Wording should be added to include “Every board member shall advise an officer of the board or designated staff person if they are unable to attend a board meeting or general meeting.” Practice of our BID is that board members would notify the designated staff person and it was not clear who was considered an officer of the board?

Board Member Responsibilities - Section 11(4)(b) A board member who is a member of City Council shall report information reasonably considered to be confidential by the board in camera to the Governance and Priorities Committee and Council.

Unless the BID board approves such communication, a Councillor should not report on matters deemed confidential by the BID to GPC or Council. This is no different than members of City Council who sit on the Board of Police Commissioners, who should be disclosing confidential information provided to them by virtue of that appointment.

A way to restructure Section 11(4)(b) is to include wording as follows: A board member who is a member of City Council shall not report information reasonably considered to be confidential by the board in camera to the Governance Priorities Committee and Council without the approval of the respective Business Improvement District Board.

Role of the Chair and Vice-Chair - Section 14(1)(b) In addition to the board member responsibilities described in section 11, the chair shall: speak on behalf of the board and district to the media and at Councillor Standing Policy Committee meetings, as required.

This section does not reflect the decades long practice of having the Executive Director speak on behalf of the board and present at Council meetings and it is suggested that wording be amended to add wording that the Chair can delegate any of these matters to the designated staff person or any member of the Board.



General Meetings – Section (2) At least 15 days prior to a general meeting, the board must provide notice to every member business of the date, time, location and agenda of the general meeting.

For a special or general meeting, it would be prudent to reduce the notification period to at least 7 days instead of 15. It is also important to note that at no time do the BIDs have 100% reliable data of all property owner and business contacts. As such, any provision of notice should be done through a notice on our website, through general e-mail communication, and utilizing social media.

Annual General Meeting – Section 19(1) Within the four month period following its most recent fiscal year, the board must conduct a general meeting that it has designated as the annual general meeting.

This should be stated as within the six-month period following its most recent fiscal year. We do not get our financial statements back from the auditor to put before our board before the April meeting. Being required to then have an AGM by the end of April would be challenging as the key piece at AGM's is the presentation of the financial records and we would not be able to circulate or post in a timely manner.

Annual General Meeting – Section 19(3) – A board's completed audited financial statements, with balance sheet and revenue and expenditure statements, must be made available during the annual general meeting notice period and at the annual general meeting.

All this information is currently publicly available and submitted to the City at BID budget approval time and by April 30 of each year, financial information for the year prior is submitted to the City of Saskatoon.

Other questions that flow from the current wording in Section 19 are:

1. Who can attend the annual general meeting as property owners pay the levy?
2. Is a property owner able to select a proxy to attend the AGM on their behalf? If so, who is an authorized proxy and must they reside in the city of Saskatoon, or is the owner of a property from another country able to attend?
3. Should an AGM occur, appropriate notice must be provided by someone planning to attend. We suggest this notice be provided to the BID no later than 7 days in advance of the meeting. This provides an opportunity for the right location to be selected (depending on attendance), ensure appropriate numbers of copies are printed, and ensures that only those who meet the requirements of being able to attend are authorized into the meeting.



4. Best practice for AGM's indicates that providing at least 21 days' notice of the meeting be provided.

Authority of City Manager – Section 20 – The City Manager has the authority to attend and address board meetings, committee meetings, general meetings, and annual general meetings, including in camera sessions.

To anyone's knowledge, the City Manager has not attended an in-camera meeting of any BID in the over 30 years some of the BIDs have existed. If the City Manager wishes to attend a meeting to address the board and answer questions about city policies, the Boards will make time. However, it is not the place of the City Manager to inject themselves into in-camera discussions that may involve human resource matters, strategy, or any other matter deemed to be confidential by the board.

Levy – Section 24(1) A levy is authorized to be paid by the operators of businesses in a district that Council considers sufficient to raise the amount required for the purposes of the proposed expenditures included in the approved estimates of the board, less any revenues to be received by the board under clauses 23(2)(a) to (d).

Once again, clarification is sought as the levy is paid by the owners of commercially or industrial zoned properties and not individual businesses. There is currently no provision for the city to collect the levy from a business unless that business is also the owner of the property in question.

Expenditures by Board – Section 25(3) A board shall not incur indebtedness extending beyond the current year.

This wording needs to reflect the reality that a lease for office space lasts longer than one year. In the case of the Downtown BID, we have a lease for our own office and another lease to operate the Community Support Program. When signed, both were for terms longer than one year. Would that run afoul of wording to disallow indebtedness beyond the current year? While it has not occurred, a BID may decide to purchase a larger piece of equipment or vehicle and pay it off over a period of years. Would that be disallowed if this wording was kept?

Insurance – Section 28 The City shall provide commercial general liability insurance against third party liability and third-party property damage in respect of the activities of the board.

1. Does this wording include Errors and Omissions and Directors and Officers Liability insurance?
2. If so, what is the amount of the coverage and does that include both board members and employees?



3. What exactly does the commercial generally liability insurance cover the BID for?
4. Could wording be added to ensure that each year the BID is provided appropriate insurance information without having to ask for it?

Disestablishment of a District – Section 33(1)(3) Council may disestablish a district by bylaw if upon the disestablishment of a district, the board is dissolved, and the assets and liabilities of the board become the assets and liabilities of the City.

1. Should the city dissolve a BID, why would all the BID assets be returned to the city when most of any assets are the result of the levy paid by property owners, which is not property tax that otherwise would have flowed to the city? Would it not make sense that upon disestablishment, any assets are distributed back to property owners who contributed through the levy to the BID in the year in which disestablishment occurred.
2. Funds received from the city for the parking revenue allocation would be returned to the city, but not the levy amounts.
3. Should the city dissolve a BID, is the city liable for any contractual payments to employees that are triggered by the city decision, and not that taken by the BID board?

It would be appreciated if City Council would allow further time for City Administration and the BIDs to work through these areas and bring back the Bylaw later in 2022 for your further consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brent Penner'.

Brent Penner
Executive Director

cc: Jeff Jorgenson, City Manager
Cindy Yelland, City Solicitor
Adam Tittlemore, City Clerk
Chris Beavis, Chair, Downtown Saskatoon