

STAFF REPORT: Financial & Information Services



REPORT TO: Council
MEETING DATE: May 25, 2009
REPORT NO.: FIS.09.28
SUBJECT: Information Regarding Business Improvement Area Legislation
PREPARED BY: Robert Cummings, Director of Financial & Information Services

A. Recommendations

THAT Council receive Staff Report FIS.09.28, "Information Regarding Business Improvement Area Legislation" for information purposes.

B. Background

Recent correspondence from the Thornbury Business Improvement Area (BIA) regarding the dissolution of the BIA has prompted the need to update Council on their role regarding this Board of Management.

The dissolution of a BIA requires a number of steps and ultimately occurs by Council enacting a By-law to repeal the designation of the BIA. In order for Council to consider a Dissolution By-law, the *Municipal Act, 2001* states:

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).

There are 2 key distinctions in part b that needs to be emphasized. Firstly, the request is not based on one-third of the BIA levy, but rather one-third of property taxes for local municipal purposes. In the case of the Thornbury BIA, total taxes for municipal purposes within the rateable property area in all prescribed business property classes for 2008 are \$73,172.04. Therefore, the Thornbury BIA will require signatures from persons responsible for a total of \$24,390.68 to qualify a request for repeal under part b of the legislation for the dissolution of the BIA.

Secondly, the phrase "...persons who are responsible for... taxes levied..." could refer to the tenant or the property owner. It would depend on lease arrangements between owners and tenants. In order for Council to consider a request of this nature, Council must be informed and be able to certify as to who is responsible for the property taxes for municipal purposes and that the responsible person is signing the request.

Staff recommends any request of this nature include at least the following:

- Property Roll Number
- Property Owner Name
- Tenant Name
- Name of Person Responsible for Taxes
- Percentage of Property Taxes (local purposes) tenant is responsible for
- Total Property Taxes for municipal purposes for 2008 (does not include BIA Levy, County, or Education taxes)
- Property Owner's signature
- Tenant's signature

Once a request to repeal the By-law is received which meets the criteria set out in the Act, Council shall provide notice of the repeal of the By-law under the following section of the *Municipal Act, 2001*:

211. (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).

Once again the wording in part b is consistent with the section on the criteria for requesting a repeal, Section 211(1).

If the repeal of the By-law is successful, the board of management is dissolved. The *Municipal Act, 2001* Section 214 states upon dissolution, all assets and liabilities shall become the assets and liabilities of the municipality.

However, in the case where liabilities exceed assets, Council may impose a charge on all rateable property in the former BIA that is in a prescribed business property class. This is relevant to the Thornbury BIA with regard to the outstanding loan authorized by By-Law No. 2004-82 "Being a By-law to authorize the borrowing of \$150,000.00 by the Town and further authorizing the Town to loan \$150,000.00 to the Thornbury Business Improvement Area (BIA)."

The loan to the BIA represents the BIA's commitment to the cost of the works included with the CAUSE projects. CAUSE stands for Community Assist for an Urban Study Effort and is a vehicle for assisting communities to generate and compile solutions to a wide range of perceived urban problems. CAUSE projects that totalled about \$1.8 million made up part of the SuperBuild Grant projects that were 30% funded by senior

levels of government. Other sources of funding came from the Town, other donors and a \$150,000 commitment from the BIA. The specifics of the loan are found in By-law 2004-82. As at the end of 2008, the loan had \$75,000 of principal outstanding.

Should the BIA Board of Management be dissolved, Council should be aware of this loan and other smaller commitments that may have been made for the 2009 fiscal year.

C. The Blue Mountains' Strategic Plan

6. Providing a strong, well managed municipal government

D. Environmental Impacts

None at this time

E. Budget Impact

Information provided in attached report

F. Attached

1. Extract from the *Municipal Act, 2001* with respect to Business Improvement Areas
2. Thornbury By-law 25-1981 – Establishment of a Business Improvement Area
3. The Blue Mountains By-law 2004-82 – A By-law to authorize the borrowing of \$150,000 by the Town and further authorizing the Town to loan \$150,000 to the Thornbury Business Improvement Area (BIA)

Respectfully submitted,

Signature

For more information, please contact:

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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

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.

THE CORPORATION OF THE TOWN OF THORNHURRY

BY-LAW NO. 25-1981

A BY-LAW TO DESIGNATE AN IMPROVEMENT AREA WITHIN THE TOWN OF THORNHURRY AND TO ESTABLISH A BOARD OF MANAGEMENT FOR THE AREA?

WHEREAS pursuant to Section 217 of the Municipal Act, R.S.O. 1980, Chapter 302, the Council of the Corporation of the Town of Thornbury may pass a by-law to designate an improvement area within the Town of Thornbury and establish a Board of Management for the area;

AND WHEREAS notice of Council's intention to pass such a by-law was given pursuant to the said ACT on October 14th, 1981;

AND WHEREAS no sufficient petition objecting to the passing of the by-law has been received within the time limit prescribed by the said Act.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF THORNHURRY HEREBY ENACTS AS FOLLOWS:

1. THAT the area described herein is hereby designated an improvement area within the meaning of Section 217 of the Municipal Act, R.S.O. 1980, Chapter 302;

All and singular that certain parcel or tract of land and premises situate, lying and being in the Town of Thornbury, in the County of Grey and Province of Ontario and being composed of that part of the Town of Thornbury lying within the following boundaries.

Commencing at the angle formed by the easterly limit of Elma Street and the southern marge of Nottawasaga Bay.

Thence southerly along the easterly limit of Albert Street to the intersection thereof with the northerly limit of Louisa Street.

Thence easterly along the northerly limit of Louisa Street to the intersection thereof with the easterly limit of Bruce Street.

Thence southerly along the easterly limit of Bruce street 995½ feet to the southern boundary of lot one (1)

Thence easterly 714½ feet along the southern lot lines of lots one (1), eight (8), nine (9), ten (10), to the westerly limit of lot line lot ten (10).

Thence southerly 33½ feet and easterly 75½ comprizing lot ten (10) to the westerly marge at the Beaver River.

Thence northeasterly across the Beaver River mill pond to the westerly limit of McAuley Street.

Thence northerly along the westerly limit of McAuley Street 100½ feet to the intersection thereof with the northerly limit of Arthur Street.

Thence westerly along the northerly limit of Arthur Street to the intersection thereof with the westerly limit of Russell Street.

Thence north-easterly to the intersection of the southern limit of the Canadian National right - of - way.

Thence westerly along the southerly limit of the Canadian National Railways right-of-way to the westerly limit of Mill Street and the Canadian National Railways right-of-way.

Thence northerly along the western limit of Mill Street to the intersection thereof with the southerly margin at Nottawasaga Bay. Thence westerly along the southern margin at Nottawasaga Bay to the intersection thereof with the easterly limit at Elma Street. Being the point of Commencement.

2. Lands described are further shown in the heavy outline on the attached plan and marked as schedule "A" hereto attached. That a Board of Management is hereby established for the area designated in Clause 1 herein:
3. THAT the Board of Management shall be a body corporate and shall consist of six members at least one of whom shall be a member of Council and the remaining members shall be appointed by Council and shall be persons qualified to be elected as members of Council, and shall be persons qualified to be elected as members of Council, assessed for business assessment in respect of lands in the designated area or nominees of corporations so assessed;
4. THAT the Board of Management shall be known as the "Board of Management of the Thornbury Business Improvement Area" (hereinafter referred to as the Board).
5. THAT the short title for the board shall be the Thornbury Downtown Management Board."
6. THAT the Board is hereby entrusted with the improvement, beautification and maintenance of lands, buildings and structures in the designated area owned by the Town of Thornbury 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.
7. THAT each member of the Board shall hold office for a period of one (1) year from the time appointed, provided that he or she continues to be qualified as provided in Clause 3 herein.
8. THAT where a vacancy occurs from any cause, the Council shall appoint a person qualified as set out in Clause 3 herein, to be a member who shall hold office for the remainder of the term for which his predecessor was appointed.
9. THAT the members shall hold office until their successors are appointed and are eligible for re-appointment of the expiration of their term of office.
10. THAT 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 who may or may not be member of the Board.
11. THAT the Secretary of the Board shall keep proper minutes of every meeting of the Board and shall be responsible for keeping all of the records of the Board with the exception of the accounting records.
12. THAT the Board may appoint such other persons as it may deem necessary to properly conduct the business of the Board during the said year, provided that any remuneration paid to such persons shall have been included in the current estimates of the said Board which have been approved by Council.

13. THAT the Treasurer of the Board shall be the Treasurer of the Corporation of the Town of Thornbury who shall be responsible to keep the books and accounts of the Board and to assist the Board in the preparation of annual estimates and financial statements.
14. THAT the Auditors of the Town shall be the Auditors of the Board and all books, documents, transactions, minutes and accounts of the Board shall, at all times, be open to their inspection.
15. THAT the fiscal year of the Board shall be the fiscal year of the Town.
16. THAT on or before the first day of March 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 a balance sheet and revenue and expenditures statement.
17. THAT the Board shall submit to the Council an annual budget in a form satisfactory to the Treasurer of the Town on a date to be determined from time to time by Council.
18. THAT with the submission of its annual budget, the Board shall submit details of its improvements, beautification and/or maintenance proposals for all town-owned land, buildings and structures in the area and the Council shall within 45 days notify the Board, if in the opinion of Council, any project may adversely affect the use or function of any Town-owned property and upon such notification, the Board shall delete the project or alter the project to the satisfaction of the Council.
19. THAT the Board shall adequately insure itself against public liability and property damage in respect of all of the activities of the Board and shall deposit copies of such insurance policies with the Clerk of the Town. Such insurance policies shall indemnify the Town of Thornbury against liability for the actions of the Board.
20. THAT this By-law shall not come into force or effect until it has been approved by the Ontario Municipal Board.

READ A FIRST AND SECOND TIME this 14th day of December, 1981.

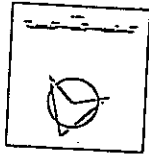
Gordon F. Pyatt
Mayor (signed)

Larry H. Stuck
Clerk (signed)

READ A THIRD TIME AND FINALLY PASSED THIS 14th day of December, 1981

Gordon F. Pyatt
Mayor (signed)

Larry H. Stuck
Clerk (signed)



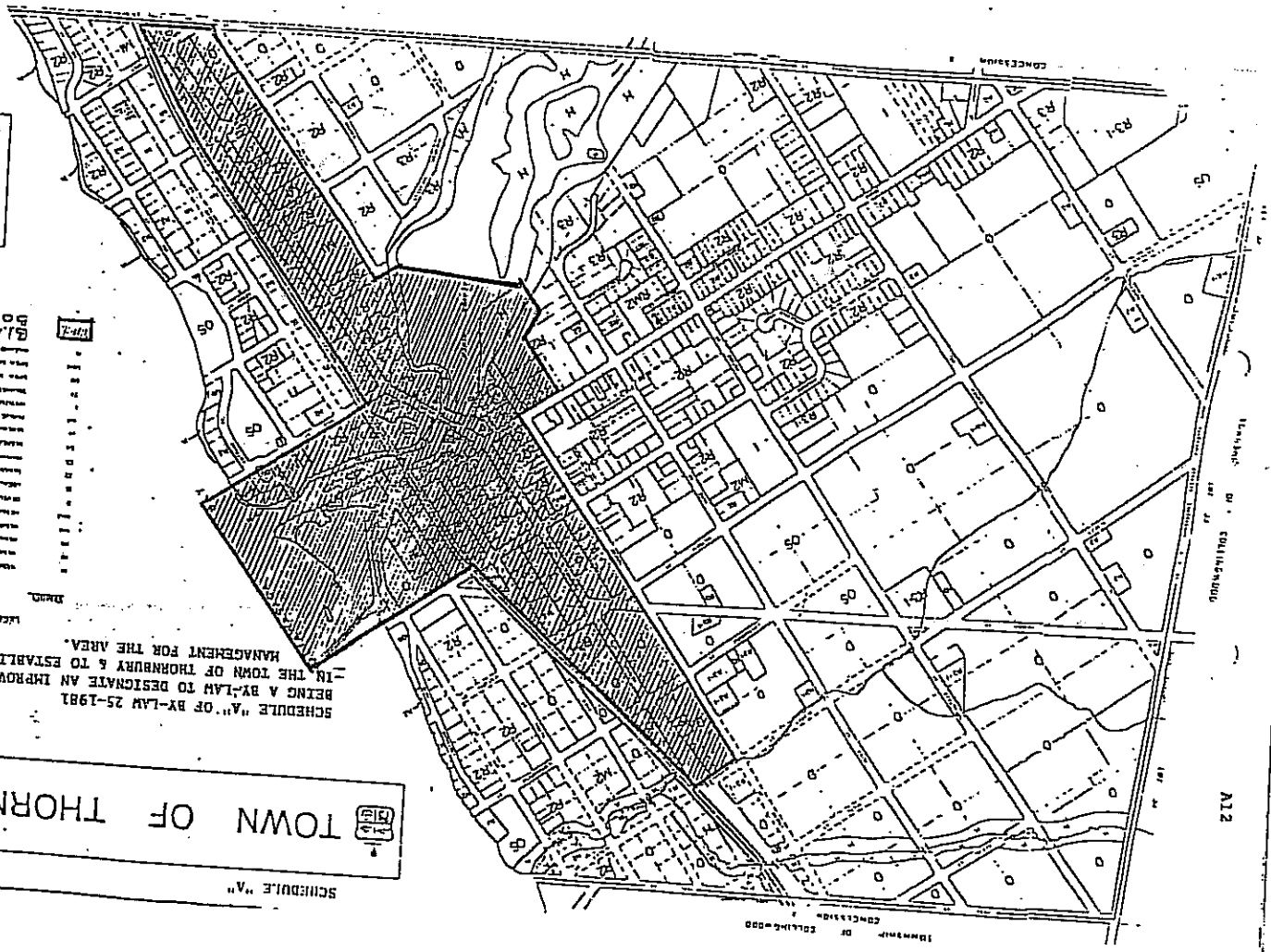
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SCHEDULE "A" OF BY-LAW 25-1981
 BEING A BY-LAW TO DESIGNATE AN IMPROVEMENT AREA WITH
 IN THE TOWN OF THORNBURY & TO ESTABLISH A BOARD OF
 MANAGEMENT FOR THE AREA.

TOWN OF THORNBURY

SCHEDULE "A"



EDMUNDP
 OF COLLINGWOOD
 CONCESSION 1

A12



Ontario

Ontario Municipal Board

M 820009

IN THE MATTER OF Section 217 OF
The Municipal Act (R.S.O. 1980,
c. 302)

- and -

IN THE MATTER OF an application
by The Corporation of the Town
of Thornbury for approval of
By-law 25-1981, passed on the
14th day of December, 1981, being
a by-law to designate a certain
area as a Business Improvement
Area

B E F O R E :

A.H. ARRELL, O.C.
Vice-Chairman

- and -

D.H. MOROBB
Member

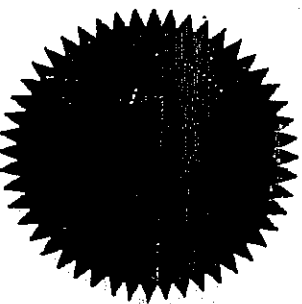
_____)
_____)
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_____)

Thursday, the 22nd day
of April, 1982

UPON IT APPEARING that notice of application to pass By-Law
25-1981 was given as required by statute and upon considering
the material filed with the Board;

THE BOARD ORDERS that this application is hereby granted and
By-law 25-1981, passed by Council of the Corporation of the
Town of Thornbury, designating a certain area described in
Schedule "A" attached hereto, as a Business Improvement Area,
is hereby approved.

SECRETARY



ENTERED
O. D. No. <u>182-1</u>
Folio No. <u>86</u>
MAY 6 1982
SECRETARY, ONTARIO MUNICIPAL BOARD

Thence westerly along the northerly limit of Arthur Street to the intersection thereof with the westerly limit of Russell Street.

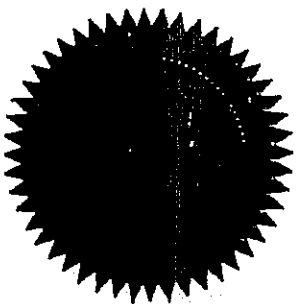
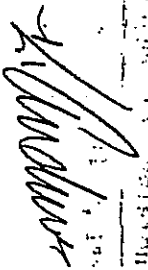
Thence northeasterly to the intersection of the southern limit of the Canadian National right-of-way.

Thence westerly along the southerly limit of the Canadian National Railways right-of-way to the westerly limit of Mill Street and the Canadian National Railways right-of-way.

Thence northerly along the western limit of Mill Street to the intersection thereof with the southerly marge at Nottawasaga Bay.

Thence westerly along the southern marge at Nottawasaga Bay to the intersection thereof with the easterly limit at Elma Street. Being the point of Commencement.

SECRETARY



Supervisor
Planning and Administration

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. 2004 - 82

Being a By-law to authorize the borrowing of \$150,000.00 by the Town and further authorizing the Town to loan \$150,000.00 to the Thornbury Business Improvement Area (BIA).

WHEREAS the Thornbury Business Improvement Area (BIA) and the Board of Management of the Thornbury Business Improvement Area were established by By-law No. 25-1981 on December 14, 1981;

AND WHEREAS the Thornbury Business Improvement Area (BIA) through its Board of Management has determined that \$150,000.00 is required to enable the BIA to undertake capital improvements within the Corporation of the Town of The Blue Mountains, such capital improvements being those that are within the contemplation of the beautification and other works that are within the authority of the BIA to undertake;

AND WHEREAS Council of the Corporation of the Town of The Blue Mountains is prepared to borrow money upon the credit of the Corporation for the purpose of raising the said \$150,000.00;

AND WHEREAS the Treasurer has updated the annual debt and financial obligation limit in accordance with the provision of the applicable Regulation (Ontario Regulation 799/94 and amendments thereto) and determined that the estimated annual amount payable in respect of the indebtedness will not cause the Corporation to reach or exceed its updated limit with the result that the Corporation can finance the BIA works without the approval of the Ontario Municipal Board;

AND WHEREAS it is desirable to issue debentures for raising the said \$150,000.00 to be payable within the term of 10 years which term of years does not exceed the life time of the works to be undertaken by the BIA;

AND WHEREAS the Council of the Corporation of the Town of The Blue Mountains has the authority under Section 107 of the *Municipal Act, 2001* and amendments thereto to give a grant or aid on such terms as to security and otherwise as Council considers appropriate to any person including the BIA and for the purpose of Section 107, Council has the further power to make a grant by way of loan and to charge interest on the loan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS ENACTS AS FOLLOWS:

1. That for the loan of \$150,000.00 to the Thornbury Business Improvement Area (hereinafter referred to as the BIA) for the BIA capital projects, there shall be borrowed upon the credit of the Corporation at large the sum of \$150,000.00 in lawful money of Canada and the Corporation shall issue debentures therefore;
2. The said debentures shall all be dated the 1st day of January, 2004 and as to both principal and interest shall be expressed in lawful money of Canada. The said debentures shall be payable in four installments of principal each year, due March 31, June 30, September 31, and December 31, in the amount of \$3,750 per installment, save and except for the year 2004, when there will be two installments in the amount of \$7,500 per installment due September 30 and December 31. Annual payments of principal will be paid as follows in each of the years 2004 to 2013, both inclusive:

<u>Year</u>	<u>Principal</u>
2004	\$ 15,000
2005	\$ 15,000
2006	\$ 15,000
2007	\$ 15,000
2008	\$ 15,000
2009	\$ 15,000
2010	\$ 15,000
2011	\$ 15,000
2012	\$ 15,000
2013	\$ 15,000
	<u>\$150,000</u>

The debentures shall bear interest payable on the same dates as principal is due in each year during their currency. The debentures shall bear a rate of interest as determined on the 1st day of January of each year, such rate of interest being the prime rate set by the Bank of Canada. These debentures are redeemable by the Municipality in whole or in part, the intention being that as the loan is paid back from the BIA to the Municipality, that the outstanding debenture(s) will be reduced. Interest will continue to apply on the debenture principal outstanding from time to time. The chargor is authorized to establish schedules of debenture repayments reflecting the provisions of this By-law for implementing the provisions of this By-law.

3. Interest shall be payable to the date of maturity of the debentures and shall be payable both before and after default and judgment. Any amounts payable by the Corporation as interest on overdue principal or interest in respect of the debentures shall be paid out of the current revenues of the Corporation, but shall be required to be included in the next ensuing budget for the BIA so as to ensure that the Corporation is completely indemnified.

4. The debentures shall be payable as to principal in lawful money of Canada at the principal office of the Corporation of the Town of The Blue Mountains. The debentures shall be in fully registered form with provision for payment of interest by cheque sent by post to the registered address of the registered holders or if authorized in writing by electronic transfer.

5. The debentures shall be sealed with the seal of the Corporation and signed by the head of the Council or by some other person authorized by by-law to sign them and by the Treasurer. The signature of the head of the Council, such other person authorized by By-law and the Treasurer on the debentures may be written or engraved, lithographed, printed or otherwise mechanically reproduced.

6. In each year in which a payment of an installment of interest or of principal of the said debt and interest becomes due, sufficient sums shall be raised for the payment of such interest and such principal and interest through the current revenues of the BIA and the budget as presented by the BIA to the Corporation for approval shall ensure that the \$150,000.00 loan or that portion of the loan remaining shall be retired within its 10 year lifetime and that all interest and where applicable, administration expense are included within the BIA budget for ensuring indemnification of the Corporation.

7. Pending the sale of the debentures or in lieu of selling them, the Council may by by-law or resolution authorize the head of the Council and the Treasurer to raise money by way of a loan on the security of the debentures, or upon the security of some part of them and to hypothecate any or all of the debentures as security for the repayment of the said loan.


8. The debentures may contain any provision for their registration authorized by law.

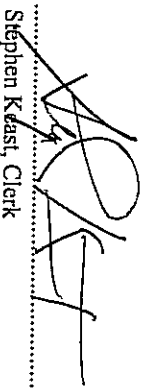
9. (1) The Mayor and the Treasurer are hereby authorized to cause the debentures to be sold or hypothecated at such price or prices as they may determine and the Mayor and the Treasurer are hereby authorized generally to do all things and to execute all documents and other papers in the name of the Corporation in order to carry out the sale or hypothecation of the debentures and the Treasurer is authorized to affix the seal of the Corporation on all such papers.

(2) The proceeds of the sale or hypothecation of the debentures after providing for the discount if any, and the expenses of negotiation and sale thereof shall be apportioned or applied for the purpose of the loan to the BIA for the contemplated works and for no other purpose except as permitted by the Municipal Act.
10. The holder of any debenture issued under the authority of this By-law may exchange such debenture for fully registered debentures of authorized denominations upon surrender of such debenture to the Treasurer of the Corporation. Debentures issued in substitution for any such debenture surrendered shall aggregate the same principal amount as the debenture surrendered, bear all unmaturing interest obligations, bear the same interest rate and maturity date and be the same in every respect except in denomination to such debenture surrendered.
11. The head of Council and the Treasurer are authorized to loan the \$150,000.00 to the BIA under the authority of a loan agreement whereby the BIA is required to repay the principal of the loan in not more than 10 years and not less than 10 equal annual principal payments together with interest and reasonable administration expenses so as to ensure that the Corporation is indemnified for the debt obligations incurred by the Municipality pursuant to its debentures authorized pursuant to the By-law.
12. This by-law shall come into force and take effect on the day of the final passing thereof.

Read a first and second time this 20th day of September, 2004

Read a third time and passed this 20th day of September, 2004


.....
Duncan McKinlay, Deputy Mayor


.....
Stephen Kast, Clerk