



STAFF REPORT ACTION REQUIRED

York Eglinton Business Improvement Area (BIA) Poll Results on New Boundary and the Creation of a New BIA

Date:	January 29, 2007
To:	Economic Development Committee
From:	Donald G. Eastwood, General Manager Economic Development, Culture & Tourism
Wards:	15 and 17
Reference Number:	P:\2007\Cluster A\EDCT\ed-0702-003

SUMMARY

To report on and make recommendations regarding the poll results for the proposed revised western boundary for the York Eglinton Business Improvement Area (BIA), and for the creation of a new BIA on lands within the current York Eglinton BIA.

RECOMMENDATIONS

The General Manager of Economic Development, Culture & Tourism recommends that:

1. Based on the results of the City Clerk's poll to change the western boundary of the York Eglinton BIA, Council pass a by-law to designate Dufferin Street as the western BIA boundary for the York Eglinton BIA (see attachment No. 1);
2. Based on the results of the City Clerk's poll respecting the intention to designate the area within the current York Eglinton BIA boundaries west of Dufferin Street as a new BIA, Council pass a by-law to designate this area as a new Business Improvement Area (see attachment No. 2);
3. The assets and liabilities of the current York Eglinton BIA as identified in their December 31, 2006 audited financial statements be divided between the new unnamed BIA and the newly configured York Eglinton BIA based on their

- respective total assessed value of the business class properties used to calculate the 2006 BIA levy;
4. All current capital/fixed street assets shall be divided between the new unnamed BIA and the newly configured York Eglinton BIA based on the current location of the fixed assets;
 5. An overseer be appointed by the Deputy City Manager & Chief Financial Officer to monitor and allocate the expenditures according to derived benefits received by the York Eglinton BIA and the new BIA from January 1, 2007 until the new BIA board of management is approved by Council and operating, and until the current York Eglinton BIA assets and liabilities have been divided and a portion transferred to the new BIA;
 6. City of Toronto Municipal Code Chapter 19, Business Improvement Areas, be amended as necessary to reflect the change in boundary of the York Eglinton BIA;
 7. Council approve the application of sections 204 to 215, both inclusive, of the Municipal Act, 2001 to the creation and operation of this and any other new BIAs and their boards of management, until Council adopts a new set of policies and procedures for BIAs;
 8. Leave be granted for the introduction of the necessary bills in Council to give effect thereto; and
 9. the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

There are no additional financial impacts for the recommendations included in this report. However, there are now two BIAs instead of one covering the same area.

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

DECISION HISTORY

On June 15, 2006, the York Eglinton BIA Board of Management passed a motion requesting the City to realign its western boundary to Dufferin Street to make their BIA smaller.

On September 25, 26, 27 and 28, 2006, Council considered Economic Development and Parks Committee Report 6(12), and authorized a poll to be sent to eligible voters within

the York Eglinton BIA to determine support for moving the western BIA boundary to Dufferin Street; and a poll to be sent only to those BIA members eligible to vote west of Dufferin Street to determine support for establishing a new BIA within the old boundaries of the York Eglinton BIA west of Dufferin Street.

ISSUE BACKGROUND

Request for BIA Boundary Change

The York-Eglinton BIA Board of Management has determined that the present area of their BIA is too large and does not allow for efficient management and supervision, that it would be better able to carry out its mandate if the BIA was smaller, and that the appropriate western boundary for a smaller BIA is Dufferin Street. For these reasons, the Board of Management submitted a request to the City in June 2006 to realign its western boundary to Dufferin Street.

Their request for a smaller BIA is supported by many members with businesses on both sides of Dufferin Street within their BIA boundaries.

During the last few years, there have been differences in opinion between BIA members on the east and west sides of Dufferin Street on budget allocations, the marketing of the BIA, and a general vision on what projects the BIA should be undertaking. This has led to some resignations from the BIA Board of Management.

At the annual general meetings on October 18, 2005 and November 8, 2006, the differences in approach between the two groups resulted in the Board of Management's proposed Capital Budget being reduced to zero and the Operating Budget being reduced to allow for only minor office administrative expenses. As a result, the York-Eglinton BIA has undertaken no new capital or event or marketing projects in 2006, has planned no capital or event projects for 2007 and has been hard-pressed to maintain existing street furnishings and decorative lighting owned by the BIA. Attempts to mitigate the situation by City staff have been unsuccessful. This situation will most likely continue unless a split between the two groups is formalized.

In order to accommodate the Board of Management request in the most efficient and least disruptive manner possible, Economic Development Culture and Tourism recommended in September 2006 that the existing York-Eglinton BIA be maintained for the area east of Dufferin Street, and that a new BIA be created for the current area in the York-Eglinton BIA that is west of Dufferin Street. The Clerk's office subsequently conducted polls of the BIA members on these two strategies in November and December 2006.

Polling

Section 209 of the Municipal Act, 2001, provides that a Business Improvement Area may change its boundaries subject to providing notice of the proposed boundary change by by-law be sent by prepaid mail 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 in the proposed Business Improvement Area.

In addition, the Municipal Act, 2001, provides that a Business Improvement Area may be designated by by-law in order 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 and to promote the area as a business or shopping area. Before passing a by-law to create a Business Improvement Area, the Municipal Act requires notice of the proposed by-law to be sent by prepaid mail 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 in the proposed Business Improvement Area.

Any person who receives a notice(s) of the proposed by-law(s) must, within 30 days, 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. The person must also give the clerk of the municipality a list of every tenant and the share of the taxes that each tenant is required to pay, and indicate the share of the taxes that the person in receipt of the original notice is required to pay.

A municipality shall not pass a by-law to change a boundary or designate a Business Improvement Area if written objections are received by the City Clerk of the municipality within 60 days after mailing the notices and if the objections have been signed by at least one-third of the total number of persons entitled to notice. In addition, the objectors must be responsible for at least one-third of the taxes levied for the purposes of the general local municipality levy on rateable property in all prescribed business property classes in either the improvement area or the geographic area the proposed by-law would add to the existing improvement area.

The clerk shall determine whether all conditions have been met and, if they are, shall issue a certificate affirming that fact.

COMMENTS

The City Clerk plays a statutory role in establishing a Business Improvement Area and in changing any BIA boundaries. Through the Registry Services section, Notices of Intention to modify a BIA boundary and to create a BIA are mailed to every assessed business class property owner in the prescribed areas.

First Poll Notice

On October 16, 2006, the City Clerk mailed a Notice of Intention to reduce the boundary of the York Eglinton BIA to all persons assessed with respect to rateable property in the area shown in Attachment Nos. 1 and 2 to determine whether or not to change the BIA boundary.

Within 30 days after the notices were mailed, 21 tenant lists were returned to the City Clerk by the owners. Twenty five commercial tenants were identified from the lists and added to the original 286 notice recipients for a total number of persons entitled to receive notice of 311. The full amount of taxes levied on the rateable property that is in the prescribed business property class in the York Eglinton BIA totals \$3,267,042.00.

As provided above, the written objections received must have been signed by at least one-third of the total number of persons entitled to notice. Twenty-four petitions of objection to reducing the boundary of the York Eglinton BIA were received by the City Clerk by December 15, 2006, the end of the full notice period.

On December 20, 2006, the poll result was released at a public meeting. The number of objecting petitions regarding the reducing the boundary of the York Eglinton BIA does not meet the sufficiency benchmarks required by s.210 (3) of the Municipal Act. Based upon the results, it is recommended that Council pass a by-law to reduce the boundary of the York Eglinton BIA having Dufferin Street as its western boundary, under Section 204 of the Municipal Act, 2001. The reconfigured York Eglinton BIA is outlined in Attachment No. 1.

Second Poll Notice

On October 16, 2006, the City Clerk mailed a Notice of Intention to create a new BIA in an area currently within the existing York Eglinton BIA west of Dufferin Street to all persons assessed with respect to rateable property in the area shown in Attachment No 2. to determine whether or not to create a new BIA.

Within 30 days after the notices were mailed, 3 tenant lists were returned to the City Clerk by the owners. Four commercial tenants were identified from the lists and added to the original 102 notice recipients for a total number of persons entitled to receive notice of 106. The full amount of taxes levied on the rateable property that is in the prescribed business property class in the proposed BIA area totals \$1,387,368.00.

As provided above, the written objections received must have been signed by at least one-third of the total number of persons entitled to notice. One petition of objection to create a new BIA west of Dufferin Street within the current York Eglinton BIA was received by the City Clerk by December 15, 2006, the end of the full notice period.

On December 20, 2006, the poll result was released at a public meeting. The number of objecting petitions regarding the creation of a new BIA does not meet the sufficiency

benchmarks required by s.210 (3) of the Municipal Act. Based upon the results, it is recommended that Council pass a by-law to create a new BIA in an area currently within the existing York Eglinton BIA west of Dufferin Street, under Section 204 of the Municipal Act, 2001. The new BIA, titled for the purpose of this report – New BIA – Eglinton West is outlined in Attachment No. 2.

The City of Toronto Act, 2006

The City of Toronto Act, 2006 came into force on January 1, 2007. Section 429 provides that every BIA board of management that exists immediately before that section comes into force is continued as a local board of the City. Sections 204 to 215 of the Municipal Act, 2001 apply to those boards of management and to the City for the purposes of those boards. BIA boards of management created after January 1, 2007 are not governed by either the Municipal Act, 2001 or the new City of Toronto Act, 2006. Accordingly, it is recommended that Council approves the application of sections 204 to 215 of the Municipal Act, 2001, to the creation and operation of new BIAs and their boards of management until Council adopts a new set of policies and procedures. Staff expect to report to Council with a new set of policies and procedures in April 2007.

Division of Assets and Liabilities

In order to implement the poll results, the City has to divide the assets and liabilities between the existing York Eglinton BIA and the new BIA to be formed to the west of Dufferin Street along Eglinton Avenue West.

City staff has received agreement from both the York Eglinton BIA executive and the new BIA steering committee on a proposal to divide the assets/liabilities of the current York Eglinton BIA. The hard capital street assets will be split based on location. Those assets east of Dufferin Street shall remain with the York Eglinton BIA, and those assets west of Dufferin Street will go to the new BIA. All other assets and liabilities will be split based on the total percentage of business property assessment in each of the two areas. The date of record for the calculations will be December 31, 2006. A City overseer will monitor the spending of the York Eglinton BIA until the division of assets and liabilities has been completed.

Both the York Eglinton BIA executive and the Steering Committee for the new BIA would like the City to proceed on the division of assets/liabilities as soon as possible. This will allow both BIAs to proceed with their own business strategies and programs for their areas.

BIA Boards of Management and Budgets

The existing York Eglinton BIA has scheduled a second annual general meeting on March 21, 2007 for their smaller BIA. The BIA executive intends to reduce the size of their Board of Management and complete a revised budget to fit their new circumstances.

The resignations from the current BIA Board of Management and the revised 2007 budget will be subject of a further report to Council.

The new BIA will have to schedule an annual general meeting to appoint a Board of Management and to pass a 2007 BIA budget. Both the nominees for the Board of Management, the name of the new BIA and the proposed 2007 BIA budget will be the subject of a further report to Council.

CONTACT

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SIGNATURE

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ATTACHMENTS

1. Map of Reduced Boundary of York Eglinton BIA.
2. Map of Proposed new BIA West of Dufferin Street within the Old York Eglinton BIA Boundaries.