

NO: **R227**

COUNCIL DATE: **December 14, 2009**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **December 14, 2009**

FROM: **General Manager, Investment and
Intergovernmental Relations**

FILE: **6930-20**

SUBJECT: **Cloverdale Business Improvement Association Renewal**

RECOMMENDATION

The Investment and Intergovernmental Relations Department recommends that Council:

1. Approve the 'Council Initiative' process for the renewal of the Cloverdale Business Improvement Area (BIA);
2. Authorize the City Clerk to bring forward for the required readings the related by-law, attached as Appendix 1 to this report; and
3. Direct staff to proceed with the formal property owner notification process related to the renewal of the BIA.

BACKGROUND

A Business Improvement Area (BIA) is similar to a Local Improvement Area where funds are collected for specific purposes through a rate levied against properties in a specified area.

In 1995, Council approved the initial By-Law creating the Cloverdale Business Improvement Area. In 2000 and 2005, there was a renewal of the BIA for a further 5-year term. The current By-Law expires in March 2010. The Cloverdale BIA would like to renew their BIA for a further 5 years and has advised that there is continued support for the BIA by its members.

DISCUSSION

Under Provincial legislation (the *Community Charter*), a BIA may be established in one of two ways:

- i. Council Initiative - the BIA may proceed unless Council receives a sufficient petition against the service from the affected property owners within 30 days of notification being sent to these property owners.
- ii. Petition Process - the BIA may proceed if 50% of the property owners representing at least 50% of the total value of the properties that will be affected by the BIA support the establishment or extension of the BIA.

Municipalities have the discretion to select either process; however, the Cloverdale BIA has requested that Council use the “Council Initiative” process, which is the same process that was used for the BIA renewal in 2000 and 2005.

In British Columbia, virtually all BIA’s have been established by way of the Council Initiative process. This process places the onus on those property owners that are opposed to the BIA to state their concerns.

A BIA Bylaw identifies the organization representing the BIA, defines the geographical boundaries of the BIA, sets a budget for the expenditure of the funds collected through the related levy and outlines a time frame for the By-law to be in effect.

To meet the legal requirements for establishment of the BIA, Council must introduce and give three readings to the By-Law, and send out formal notification of the proposed Business Improvement Area to the owners of properties within the specified area as defined in the By-law. Property owners not in favour of proceeding with the BIA initiative have 30 days to petition Council not to proceed with the BIA. The BIA By-law may proceed to final adoption, if the City does not receive a sufficient petition against the By-law, being a petition containing the signatures of the owners of 50% of the properties within the specified area representing at least 50% of the total of value of the properties within the specified area.

Subject to property owner support being demonstrated and a By-Law adopted, an annual general meeting is to be held where Directors are elected and the first year’s budget is approved by the owners of properties within the specified area. Based on available information, the first year’s budget for the renewed Cloverdale BIA would be \$145,000, with \$5,000 annual increases thereafter similar to the current BIA By-Law. The City will collect through an annual tax levy the BIA revenues and will transfer the funds to a legally constituted BIA Society only after the requirements outlined in the legislation have been met.

CONCLUSION

The current Cloverdale Business Improvement Association has requested that Council renew the BIA for a further five-year period from March 2010 to March 2015 and has advised that there is support for the continued operation of the Cloverdale Business Improvement Area.

It is recommended that Council:

- Approve the 'Council Initiative' process for the renewal of the Cloverdale Business Improvement Area (BIA);
- Authorize the City Clerk to bring forward for the required readings the related by-law, attached as Appendix 1 to this report; and
- Direct staff to proceed with the formal notification process related to the renewal of the BIA.

Chris Gardner, General Manager
Investment and Intergovernmental Relations

Appendix A: Cloverdale BIA By-law

c.c. General Manger, Finance and Technology

CITY OF SURREY

BY-LAW NO. 17095

A By-law to establish the Cloverdale Business Improvement Area

WHEREAS a City Council may pursuant to Section 215 (2) of the Community Charter, S.B.C. 2003, c.26, as amended, grant money to an applicant that has as one of its aims, functions or purposes, the planning and implementation of a business promotion scheme;

AND WHEREAS a City Council may propose on its own initiative that a business promotion scheme be undertaken;

AND WHEREAS before a City Council grants money for a business promotion scheme, the City Council shall pass a by-law pursuant to Section 215 (3) of the Community Charter, S.B.C. 2003, c.26, as amended.

NOW, therefore, the City Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. This By-law be cited for all purposes as "Cloverdale Business Improvement Area By-law, 2009, No. 17095".
2. For the purpose of this By-law:

"Association" means the Cloverdale Business Association, or any other name that the members of the Association may approve;

"Business Promotion Scheme" means:

- (a) carrying out studies or making reports respecting the advancement of project plans and improvements designed to benefit the Area and carrying out of all studies incidental to the objects of the Association and to further these goals, and all management and administration necessary to implement the scheme of the Cloverdale Business Improvement Area;
- (b) the improvement, beautification or maintenance of streets and sidewalks in the Cloverdale Business Improvement Area;
- (c) the conservation of heritage property in the Cloverdale Business Improvement Area;
- (d) the encouragement and promotion of commercial business development and encouragement of entertainment, sports and cultural activities within the Area in furtherance of the economic and commercial welfare in the Cloverdale Business Improvement Area; and

(e) the creation of a pleasant physical environment.

"City" means the City of Surrey.

"City Council" means the Council of the City of Surrey.

"Cloverdale Business Improvement Area" or "Area" means the area of the City designated by Section 3 of this By-law.

"General Manager" means the General Manager, Finance and Technology for the City or designate.

"Taxable Property" means land or improvements, or both, that are classified as Class 5 or 6 property class under the Assessment Act – Prescribed Classes of Property Regulation, B. C. Reg. 438/81.

3. City Council hereby designates for a term of five (5) years those lands shown in heavy outline on Schedule "A" attached hereto and forming part of this By-law as Cloverdale Business Improvement Area.
4. City Council hereby approves a grant to the Association of an amount not exceeding One Hundred Forty Five Thousand Dollars (\$145,000) in Year 1, (2010), payable in accordance with the terms of this By-law. The amount shall increase by \$5,000 annually in Years Two to Five as follows:

(a)	Year 2	2011	\$150,000
(b)	Year 3	2012	\$155,000
(c)	Year 4	2013	\$160,000
(d)	Year 5	2014	\$165,000
5. Monies granted to the Association under this By-law must be expended only by the Association and in accordance with the conditions and limitations set out in this By-law and for the planning and implementation of a Business Promotion Scheme.
6. Money granted pursuant to this By-law shall be expended only for projects provided for in the annual budget submitted by the Association and ~~approved~~ **received** by City Council pursuant to Section 9.
7. All of the money granted to the Association pursuant to this By-law shall be recovered within the Cloverdale Business Improvement Area from the owners of land or improvements, or both, or from other persons from whom charges provided in the Community Charter, S.B.C. 2003, c.26 as amended, may be collected in the Cloverdale Business Improvement Area.

8. For the purpose of recovering the monies granted to the Association an annual tax shall be imposed on the Taxable Property within the Cloverdale Business Improvement Area and such tax shall be based on the assessed value of the land, improvements, or both.
9. The Association shall submit annually to City Council ~~for approval~~, on or before April 1st, a budget for the purpose of the Business Promotion Scheme which is based on a fiscal year commencing January 1st which contains information sufficient in detail to describe all anticipated expenses and revenues and which has been approved by a majority of the members present at the annual general meeting of the Association.
10. The Association shall keep separate from any other accounts, the account used for money granted to the Association by City Council pursuant to this By-law, and shall cause the revenue and expenditures resulting from the use of that separate account to be an audited schedule to the financial statements and reported separately as required by Section 17 of this By-law.
11. The Association shall not incur any indebtedness or other obligations beyond each budget year.
12. The Directors of the Association shall permit the General Manager, or a nominee of the General Manager, to inspect during normal business hours on reasonable notice, all books of account, receipts, invoices, and other financial position records which the General Manager deems advisable for the purposes of verifying and obtaining further particulars of the budget and any financial statements of the Association as they relate to money granted to the Association by City Council pursuant to this By-law.
13. Any money granted to the Association by the City Council pursuant to this By-law shall, if not required for immediate use, be invested only in such securities in which trustees are authorized by law to invest.
14. The Association shall at all times carry a policy of comprehensive general liability insurance in the amount of Two Million Dollars (\$2,000,000.00) with the City as an additional named insured and with a cross coverage provision, and such policy shall contain an endorsement to provide the General Manager with thirty (30) days written notice of change or cancellation. The Association shall deliver a certified copy of each policy to the General Manager for the City on or before June 30th of each of the years 2010, 2011, 2012, 2013 and 2014.
15. The Association shall give written notice of every general meeting not less than fourteen (14) days prior to the date scheduled for the meeting if delivered by hand or transmitted via facsimile or e-mail, or twenty-one (21) days by any other means to:
 - (a) the General Manager;

- (b) all persons who own a Taxable Property to their address as ascertained from the most recent assessment rolls for the City; and
 - (c) all persons who lease a Taxable Property and from which they carry on business, to their address as determined by directories, visual inspection or any other information system.
16. The Association shall not alter or approve amendments to its constitution or by-laws without providing the General Manager with two (2) months written notice of its intention to make such alteration or amendment, and where any alteration or amendment is made without such notice the City may withhold any payments of the grant referred to herein.
 17. The Association shall account for the money granted and approved by City Council for the previous year by submitting to the City on or before May 15th in each of the years 2011, 2012, 2013, 2014, 2015, an annual audited financial statement which shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet and a statement of revenue and expenditure. The financial statement shall be prepared on a calendar year basis.
 18. This By-law shall be in effect until March 14, 2015.

PASSED THREE READINGS by the City Council on the 14th day of December, 2009.

NOTICE OF INTENTION

ADVERTISED on the ____ day of January and the _____ day of January, 2010, in the NOW Community newspaper.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 200.

_____MAYOR

_____CLERK

