

## ESTABLISHMENT OF THE HIPVILLE BUSINESS IMPROVEMENT AREA

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### EXECUTIVE SUMMARY

City Administration received a request to establish a Business Improvement Area (BIA) in Highland Park. The proposed name for the BIA is HIPville BIA. The request meets the legislative requirements of the *Business Improvement Area Regulation*, AR 93/2016 (*BIA Regulation*). Therefore, Council must consider the request, and decide whether to establish the BIA. Consequently, Administration has prepared this report to assist Council. In addition, should Council decide it is appropriate to establish the BIA, Administration has prepared the proposed wording for a bylaw.

A group of affected businesses owners who do not support the BIA submitted a petition to oppose the establishment of the BIA. However, the petition does not meet the legislative requirements in the *Municipal Government Act*, RSA 2000, c. M-26, as amended (MGA) and the *BIA Regulation*. Therefore, Council may pass a bylaw to establish the proposed BIA.

The businesses in support of the new BIA seek to address the following issues in Highland Park: security and policing; business taxation; upgrades to improve the condition of streets and infrastructure; local economic conditions; and community economic development opportunities.

### ADMINISTRATION RECOMMENDATIONS

Administration recommends that the SPC on Community and Protective Services recommend that Council:

1. Consider whether to establish the HIPville Business Improvement Area; and
2. If Council decides to establish the HIPville Business Improvement Area:
  - a. give three readings to a proposed Bylaw to Establish the HIPville Business Improvement Area (Attachment 1); and
  - b. appoint, by resolution, the individuals listed in Attachment 2 as the interim HIPville Business Improvement Area Board until 2017 December 31.

### PREVIOUS COUNCIL DIRECTION / POLICY

On 2014 November 03 Council adopted PFC2014-0760 'Business Revitalization Zones 2015-2018 Business Plan, which identifies the growth of new BIAs (formerly known as BRZs) as a key outcome.

### BACKGROUND

In 1983 June the Government of Alberta amended the MGA to enable municipalities to enact a bylaw to establish a BIA. The bylaw establishes a board to govern the BIA, and the board members are appointed by Council. BIA boards operate as non-profit corporations and are subject to provincial legislation. Council's authority to establish a BIA is found in sections 50 to 53 of the MGA and sections 2 to 6 of the *BIA Regulation* (Attachment 3).

BIA operations are funded through a tax paid by all businesses that are assessed for business tax and operate within the BIA. The tax enables the business owners to collectively fund activities to promote and improve the economic vitality of their area for the purposes set out in the MGA. These purposes are to: improve, beautify and maintain property in the zone; develop, improve and maintain public parking; and, promote the zone as a business or shopping area. Calgary currently has 11 BIAs, established between 1984 and 2015.

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### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

#### **Request for the Establishment of a HIPville BIA and Required Processes**

A request to establish the HIPville BIA was submitted to The City on 2017 March 31. Administration assessed the request for compliance with sections 3(1) and (2) of the *BIA Regulation* which require the request to be signed by at least 25 percent of the businesses that would be liable to pay the BIA tax if the BIA were established. The request included valid signatures from 87 of the 304 businesses (28.6 percent) in the proposed BIA who would be required to pay the BIA tax.

Subsequently, as required by section 3(3) of the *BIA Regulation*, on 2017 April 25 Administration mailed a notice to all of the affected business within the proposed BIA of the request and their right to petition against the establishment of the BIA. The documentation related to the request can be found in Attachment 4.

#### **Petition Objecting to the Establishment of the BIA and Required Processes**

A *Petition Against the Establishment of the Highland Industrial Park Business Improvement Area* (the *Petition*) was submitted to the City Clerk's Office on 2017 June 26. Section 226(1) of the MGA requires the Chief Administrative Officer, within 30 days after a petition is filed, to make a declaration to Council on whether a petition is sufficient or insufficient. A petition against the establishment of a BIA is sufficient if it meets the requirements of sections 222 to 226 of the MGA and section 4 of the *BIA Regulation*.

The *Petition* was reviewed to determine whether it met the legislative requirements. On 2017 July 24 the City Manager made a declaration to Council that the *Petition* was insufficient because it did not comply with the mandatory requirements in the MGA. The *Petition* lacked the required affidavit of witness to signatures, and the required signed statement of the representative of the petitioners which must be attached to the *Petition*.

In addition, section 4 of the *BIA Regulation* requires the *Petition* to be signed by more than 51 percent of the BIA taxpayers in the proposed BIA. Signatures that do not meet the statutory requirements must not be counted. The total number of persons eligible to sign the *Petition* was 304. The minimum number of signatures required by section 4 of the *BIA Regulation* is 153. The *Petition* contained 158 signatures, but 39 signatures were excluded from the count as required by section 225 of the MGA. Therefore, the number of valid signatures was 119 or 39.1 percent. The Declaration of Insufficiency of the *Petition* can be found in Attachment 5.

The *BIA Regulation* sets out the process for businesses to request, and to object to, the establishment of a BIA. Where a valid request has been received by Council, and a sufficient petition has not been received, Council must consider the request and decide whether to establish the BIA. When deciding whether to establish the proposed BIA Council may, but is not required, to take any notice of a petition that is not sufficient.

#### **Stakeholder Engagement, Research and Communication**

Administration provided information and assistance to both the organizers of the request to establish the BIA and the organizers of the *Petition*. In addition, both groups were sent an identical letter reporting on the Declaration of Insufficiency of the *Petition* and the next steps in the process (Attachment 6).

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### **Strategic Alignment**

Municipal support for BIAs aligns with *Action Plan 2015-2018* and the associated Council Priorities to create “a Prosperous City” whereby Calgary is “...a place where there is opportunity for all, and the best place in Canada to start and grow a business,” and to create “a City of Inspiring Neighbourhoods” where “every Calgarian lives in a safe, mixed and just neighbourhood, and has the opportunity to participate in civic life”.

The BRZ/BIA 2015-2018 Business Plan identifies the growth of new BIAs as a key outcome.

### **Social, Environmental, Economic (External)**

BIAs provide an opportunity to promote Calgary as a great place to visit, live, meet, work, play and study. They play an important role in supporting economic activity and neighbourhood revitalization. BIAs make a significant contribution to Calgary’s economic well-being by helping to nurture the growth and development of business in the city and by improving the quality of life for those living and working in the areas. In shaping a dynamic business environment, BIAs attract visitors and residents alike to their vibrant business areas.

A BIA’s board members are appointed by Council under the terms of The City’s bylaw that established the BIA. The Board is responsible for addressing the needs of the defined area as identified by the business owners that are liable to pay the BIA tax.

### **Financial Capacity**

#### **Current and Future Operating Budget:**

There are no operating budget implications associated with this report. The revenue raised as a result of the additional levies paid by ratepayers in the BIA will be transferred directly to the HIPville BIA’s board.

#### **Current and Future Capital Budget**

There are no capital budget implications as a result of this report.

### **Risk Assessment**

The request to establish the proposed BIA and the *Petition* were reviewed for compliance with the MGA and the *BIA Regulation*. The legislation was reviewed to determine Council’s obligation to consider the request and Council’s authority to pass a bylaw to establish the BIA.

While the request meets the legislative requirements to form a BIA, the lack of consensus among the BIA taxpayers is evidenced by the filing of the *Petition*. Although section 226(3) of the MGA states that Council is not required to take any notice of a petition that is not sufficient, Council may still consider both the support and the opposition to the BIA when deciding whether to pass a bylaw to establish the proposed BIA.

Administration has notified the affected businesses of the meeting where this report will be considered, and advised them of their opportunity to make representations to the SPC. Some of the affected businesses have expressed an interest in communicating their support for, and their objections to, the establishment of the BIA. Public submissions from the affected businesses regarding the proposed BIA may help to clarify the reasons for the lack of consensus in the business community, and whether the lack of consensus will impact the effective operation of the BIA and the board’s ability to achieve the stated purposes and benefits of the BIA for the community.

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### **REASONS FOR RECOMMENDATIONS:**

The request to establish the HIPville BIA meets the legislative requirements. The *Petition* was not sufficient because it does not meet the legislative requirements. Where a sufficient petition is not received, the *BIA Regulation* requires Council to consider the request and to decide whether to pass a bylaw to establish the proposed BIA.

### **ATTACHMENTS**

1. Proposed Wording for the HIPville Business Improvement Area Bylaw
2. Interim HIPville Business Improvement Area Board
3. Excerpts of the Business Improvement Area Enabling Legislation
4. Documents Related to the Request to Establish the HIPville Business Improvement Area
5. Declaration of Insufficiency of the *Petition*
6. Letter Regarding the Declaration of Insufficiency of the *Petition*