

NO: R035

COUNCIL DATE: February 25, 2019

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **February 21, 2019**

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

FILE: **0250-20**

SUBJECT: **Renewal of Newton Business Improvement Area**

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## RECOMMENDATION

The Investment & Intergovernmental Relations Department recommends that Council grant final adoption to *Bylaw No. 19696* (the “Bylaw”) that will renew the Newton Business Improvement Area for a further five-year term that will take effect on April 1, 2019 and terminate on March 31, 2024.

## INTENT

The purpose of this report is to obtain Council approval to adopt the Bylaw that will renew the Newton Business Improvement Area (Newton BIA) for another 5-year term.

## BACKGROUND

On December 17, 2018, Council approved Corporate Report No. R258; 2018 (attached as Appendix “I”) authorizing staff to undertake the necessary actions to facilitate the renewal of the Newton BIA using the Council Initiative process as requested by the Newton BIA. Subsequently, Bylaw No. 19696 (attached as Appendix “II”) was introduced and given three readings by Council.

On January 4, 2019, notices including the estimated tax levy amount and copy of a petition form were mailed out to the owner(s) of class 5 and 6 properties within the area shown in Schedule A of Appendix “II,” specifying the City’s intention to renew the Newton BIA for the period of April 1, 2019 through to March 31, 2024. Each notice advised the owner that they had thirty days to petition against the renewal of the Newton BIA. Public notification (attached as Appendix “III”) was placed in the January 7 and January 14, 2019 editions of the Surrey Now-Leader Newspaper and Peace Arch News.

The deadline for receiving petitions against the proposed Newton BIA passed at 4:30 p.m. on February 19, 2019.

## DISCUSSION

Based on the 2018 assessment roll, there are 144 property owners subject to the Newton BIA tax levy within the Newton BIA boundary. Collectively, these properties have a total assessed value of \$724,625,500.00. Of the 144 property owners, 18 (12.5%) negative petitions with a combined assessed value of \$66,325,400.00 (9.15%) were received by the deadline.

Under the Community Charter, in order to halt the renewal of a BIA, petitions against the renewal of the BIA must:

1. represent at least half of the land owners; and
2. these land owners must represent at least 50% of the total assessed value of the properties liable to be charged under the proposed BIA.

As such, there are insufficient petitions against the proposed Newton BIA to halt the renewal of the Newton BIA, as certified by the City Clerk (attached as Appendix “IV”).

Once Council adopts the Bylaw, the Finance Department will include the Newton BIA assessment on the property taxes for each property within the specified area in order to collect the Newton BIA revenues through an annual tax levy. The funds collected through the Newton BIA levy funds are then transferred to the legally constituted Newton BIA Society (Association) subject to the requirements outlined in legislation having been met.

## **SUSTAINABILITY CONSIDERATIONS**

The renewal of the Newton BIA supports the objectives of the City’s Sustainability charter 2.0. In particular, this work relates to Sustainability Charter 2.0 theme of Economic Prosperity and Livelihoods and Inclusion. Specifically, this project supports the following Desired Outcomes (DO) and Strategic Direction (SD):

- Innovation DO16: Surrey’s businesses are active participants in the community and create economic value in a way that generates value for society; and
- Community Pride and Engagement SD19: Support placemaking opportunities at the neighbourhood level and the creation of community gathering spaces.

## **CONCLUSION**

Based on the above discussion, the Investment & Intergovernmental Relations Department recommends that Council grant final adoption to Bylaw No. 19696 that will renew the Newton BIA for a further five-year term that will take effect on April 1, 2019 and terminate on March 31, 2024.

Donna Jones  
General Manager, Investment & Intergovernmental Relations

### Attachments:

- Appendix “I”: Corporate Report No. R258: Renewal of the Newton Business Improvement Area
- Appendix “II”: Newton BIA Bylaw No. 19696
- Appendix “III”: Newton BIA Notice of Intention
- Appendix “IV”: Certificate of Sufficiency



# CORPORATE REPORT

NO: R258

COUNCIL DATE: December 17, 2018

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## REGULAR COUNCIL

TO: Mayor & Council

DATE: December 17, 2018

FROM: General Manager, Investment &  
Intergovernmental Relations

FILE: 0250-20

SUBJECT: Renewal of the Newton Business Improvement Area

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## RECOMMENDATION

The Investment & Intergovernmental Relations Department recommends that Council:

1. Approve the use of the "Council Initiative" process as the means by which to measure property owner support for the renewal of the Newton Business Improvement Area (Newton BIA);
2. Authorize the City Clerk to bring forward the necessary Newton Business Improvement Area By-law No. 19696 (the "Bylaw") for the required readings and authorize staff to undertake all the necessary related actions; and
3. Request that staff proceed with the formal property owner notification process related to the renewal of the Newton BIA and submit a further report on the matter complete with recommendations for Council's consideration after the expiry of the "Council Initiative" notice period.

## BACKGROUND

A Business Improvement Area (BIA) is similar to a Local Service Area where funds are collected for specific purposes through a rate levied against benefitting properties in a specified area. The establishment of a BIA is an effective means for businesses in an area to finance programs in support of keeping businesses in the area healthy and prosperous. In most circumstances such collaboration between businesses is not possible by other means.

In 2014, Council approved the initial Newton Business Improvement Area By-law No. 18105 creating the BIA. The current By-law expires on March 31<sup>st</sup>, 2019. The Newton Business Improvement Association (the "Association"), would like to renew their BIA for a further five years and has advised that there is continued support for the BIA by its members.

The area covered by the Newton BIA is illustrated in Appendix "I" attached to this report. The Association is not seeking to expand their boundaries during this renewal period.

## DISCUSSION

Under the *Community Charter*, the level of support for the establishment or renewal of a BIA may be determined using either of the following means of consultation with the property owners within the area proposed to be covered by the BIA:

- i. **Council Initiative:** Under this approach Council advises property owners that it will enact the related BIA By-law unless more than half of the land owners, representing at least 50% of the assessed value of land and improvements that would be subject to the BIA tax levy, register their dissent within 30 days of notification; and
- ii. **Petition Process:** Under this approach at least half of the property owners, representing at least 50% of the assessed value of land and improvements that would be subject to the BIA tax levy, must sign a petition indicating their support for the establishment of a BIA.

Local governments may select either approach. The City has received a letter, dated November 2, 2018, (attached as Appendix "II") as part of the renewal package from the Association requesting the City use the "Council Initiative" approach to formally assess the level of support for the renewal of the Newton BIA. The vast majority of BIAs in British Columbia have been established or renewed using the Council Initiative process to measure business support.

As part of the process of establishing a BIA under the Council Initiative process, Council must introduce and give three readings to a BIA By-law for the area that will be subject to the BIA tax levy. The By-law:

- Identifies the organization representing the BIA;
- Defines the geographic area covered by the BIA and specifies the funding formula to be used in establishing the BIA tax levy that will be paid by each property that is covered by the BIA; and
- Establishes the term that the By-law will be in effect.

A draft of the proposed Newton BIA By-law No. 19696, including Schedule "A" and Schedule "B", is attached as Appendix "III" to this report.

After the By-law is given three readings, formal notification of the proposed BIA is to be sent by the City to all property owners within the area that is covered by the By-law. If using the Council Initiative process, property owners not in favour of proceeding with the BIA renewal are advised that they have 30 days to petition Council not to proceed. Unless a sufficient petition against the BIA is received, the BIA By-law can proceed to final adoption. A sufficient petition against proceeding with the BIA requires at least half of the land owners, representing at least 50% of the total assessed value of the properties liable to be charged under the proposed BIA. Following the requisite notifications, a further report will be brought back to Council with recommendations regarding the next steps in the process.

Subsequent to a BIA By-law being adopted by Council, BIA revenues are collected by the City through an annual tax levy on each property within the BIA area and are transferred to the BIA Society subject to the requirements outlined in the *Community Charter* having been met. There are approximately 145 properties (Class 5 and 6) that would pay into the tax levy within the Newton BIA. Based on the Extraordinary General Meeting (EGM) held by the Association on October 18, 2018, the 2019 tax levy for the Association would be \$500,000 (a 25% initial increase at

renewal over the 2018 tax levy) followed by a 3% increase each year between years two to five. While the proposed initial tax levy increase at renewal is significant, other Business Improvement Associations such as the Downtown Surrey Business Improvement Association (DSBIA) have seen major increases including a 22.5% increase at renewal in 2012 and a 15% increase at renewal in 2017. These significant increases are typically initiated by the BIAs to develop new programs and activities to promote businesses in their area.

It should be noted that this increase will ultimately bring the Newton BIA in-line with the previous two year’s spending levels and does not represent significant new programming or activities during this renewal period. Due to the fact that the Association did not have many activities in their first year of establishment they were able to redeploy funding from their first year of operation to augment activities in subsequent years leading up to this renewal.

### Outreach

The Association conducted outreach to their membership using various methods to gauge support for the renewal and to determine priority areas for the five-year term as reflected in the attached Appendix “IV.” The Association made reasonable efforts to engage the property and business owners in the area as demonstrated in the chart below. According to the Association, they have access to the contact information of 533 businesses and property owners in the designated area for the purpose of survey outreach.

<b>Membership Outreach</b>	
<b>Survey</b>	
Mail	89 property owners
Email	301 business & property owners; 3 reminders
Phone & In person	3 staff members made 750 in-person visits between May to October of 2018.
<b>Extraordinary General Meeting Notification</b>	
Mail	444 businesses & 89 property owners
Email	574 notices to business and property owner representatives*; 2 reminders

\* Some businesses and property owners had multiple contact email addresses on file.

Overall, the Association received 121 completed surveys from both property owners and businesses (representing 22.7% of the Association membership) with over 94% of the respondents in favour of the renewal. The Association board developed the new proposed budget for the five-year term utilizing the feedback from the surveys and the strategic plan. The proposed budget was voted on unanimously at the EGM, by 12 members, representing 9 businesses and 12 properties, to proceed with the BIA renewal and the budget for the next five years.

Businesses are included in the consultation process and the vote on budget as the BIA tax levy is typically passed on by property owners to tenants (either whole or in part). As such, it is important that business tenants be part of the process, even though legislation directs that approval for the BIA be sought solely from the property owners.

### Legal Services

Legal Services has reviewed this report and has no concerns.

## SUSTAINABILITY CONSIDERATIONS

The renewal of the Newton BIA supports the objectives of the City's Sustainability charter 2.0. In particular, this work relates to Sustainability Charter 2.0 theme of Economic Prosperity and Livelihoods and Inclusion. Specifically, this project supports the following Desired Outcomes (DO) and Strategic Direction (SD):

- Innovation DO<sub>16</sub>: Surrey's businesses are active participants in the community and create economic value in a way that generates value for society; and
- Community Pride and Engagement SD<sub>19</sub>: Support placemaking opportunities at the neighbourhood level and the creation of community gathering spaces.

## CONCLUSION

The Newton Business Improvement Association Board is requesting the City use the "Council Initiative" to renew the BIA for a further five-year period from March 2019 to March 2024. Based on the above discussion it is recommended that Council:

1. Approve the use of the "Council Initiative" process as the means by which to measure property owner support for the renewal of the Newton BIA;
2. Authorize the City Clerk to bring forward the necessary Newton Business Improvement Area By-law No. 19696 for the required readings and authorize staff to undertake all the necessary related actions; and
3. Request that staff proceed with the formal property owner notification process related to the renewal of the BIA and submit a further report on the matter complete with recommendations for Council's consideration after the expiry of the "Council Initiative" notice period.



Donna Jones  
GM, Investment & Intergovernmental Relations

### Attachments:

Appendix "I": Boundaries of the Newton Business Improvement Area

Appendix "II": Letter, dated November 2, 2018, from Newton Business Improvement Association including the 2019-2024 Renewal Package

Appendix "III": Draft Newton Business Improvement Area By-law No. 19696

Appendix "IV": Newton Business Improvement Association Membership Survey Results

*Appendices to be provided upon request.*

CITY OF SURREY

BYLAW NO. 19696

A Bylaw to establish the Newton Business Improvement Area

WHEREAS a City Council may pursuant to Section 215 of the Community Charter, S.B.C. 2003, c.323, as amended, grant money to an applicant that has as one of its aims, functions and 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 Bylaw pursuant to Section 215 of the Community Charter, S.B.C. 2003, c. 323, as amended;

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

1. This Bylaw be cited for all purposes as "Newton Business Improvement Area Bylaw, 2019, No. 19696"

2. For the purpose of this Bylaw:

"Association" means the Newton Business Improvement Association, or any other name that the members of the Association may approve.

"Business Promotion Scheme" means:

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

“City” means the City of Surrey.

“City Council” means the Council of the City of Surrey.

“Newton Business Improvement Area” means the area of the City designated by Section 3 of this Bylaw.

“Taxable Property” means land or improvements, or both, that fall within Class 5 or 6 of the Assessment Act - Prescribed Classes of Property Regulation, B.C. Regulation 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 Bylaw as Newton Business Improvement Area.
4. City Council hereby approves a grant to the Association of an amount not exceeding five hundred thousand dollars (\$500,000) in Year 1 (2019). The amount shall increase year over year as follows:

(a)	Year 2	2020	\$515,000
(b)	Year 3	2021	\$530,450
(c)	Year 4	2022	\$546,364
(d)	Year 5	2023	\$562,754
5. Monies granted to the Association under this Bylaw must be expended only by the Association and in accordance with the conditions and limitations set out in this Bylaw and for the planning and implementation of a Business Promotion Scheme.
6. Monies granted to the Association pursuant to this Bylaw shall be for projects provided for in the annual budget submitted by the Association and approved by City Council pursuant to Section 9 of this Bylaw.
7. All of the money granted to the Association pursuant to this Bylaw shall be recovered within the Newton Business Improvement Area from the owners of land or improvements, or both, or from persons from whom charges provided in the Community Charter, S.B.C. 2003, c.323, as amended, may be collected in the Newton 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 Newton 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 the City Council for approval, on or before April 1<sup>st</sup> in each year, a budget for the purpose of the Business Promotion Scheme based on a fiscal year commencing April 1<sup>st</sup> which contains information sufficient in detail to describe all anticipated expenses and revenues and which have 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 the City 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 of the Association and reported separately as required by Section 19 of this Bylaw.



11. The Association shall not carry out any borrowing that results in indebtedness or other obligation as to money granted to it by the City pursuant to this Bylaw which extends beyond the fiscal year in which the money was granted.
12. The directors of the Association shall permit the General Manager, Finance of the City, or a nominee of the General Manager, Finance, to inspect during normal business hours on reasonable notice, all books of account, receipts, invoices, and other financial position records which the General Manager, Finance deems advisable for the purpose 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 the City pursuant to this Bylaw.
13. Any money granted to the Association by the City pursuant to this Bylaw shall, if not required for immediate use, be invested in only such securities in which trustees, by law, are authorized to invest.
14. The Association shall at all times carry a policy of comprehensive general liability insurance in the amount of five million dollars (\$5,000,000) with the City added as an additional named insured and containing a cross coverage provision, and such policy shall also contain an endorsement to provide that the policy shall not be cancelled, lapsed or materially altered without giving thirty (30) days' notice in writing to the General Manager, Finance.
15. The Association shall give 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, twenty-one (21) days by other means to:
  - (a) the General Manager, Finance;
  - (b) all persons who own Taxable Property within the Newton Business Improvement Area, to their addresses as ascertained from the most recent assessment rolls for the City; and
  - (c) all persons who lease Taxable Property within the Newton Business Improvement Area and from which they carry on business, to their address as determined by directories, visual inspections or any other information system.
16. For the purposes of Section 15(b), the City will provide to the Association upon request the name and address of every owner of Taxable Property within the Newton Business Improvement Area according to the most recent assessment information provided to the City by the Assessment Authority.
17. The bylaws of the Association must include the provisions set out in the Schedule "B" to this Bylaw.
18. The Association shall not alter or approve amendments to its constitution or bylaws without providing the General Manager, Finance with two (2) months' notice in writing of its intentions 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 in this Bylaw.

19. The Association shall account for the money approved by City Council for the previous year by submitting to the City on or before May 15<sup>th</sup> in each of the years 2020, 2021, 2022, 2023 and 2024, an annual audited financial statement of the Association 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.
20. The Association shall not incur any indebtedness or other obligations beyond each budget year.
21. This Bylaw shall be in effect until March 31, 2024.

PASSED FIRST READING on the 17th day of December, 2018.

PASSED SECOND READING on the 17th day of December, 2018.

PASSED THIRD READING on the 17th day of December, 2018.

NOTICE OF INTENTION

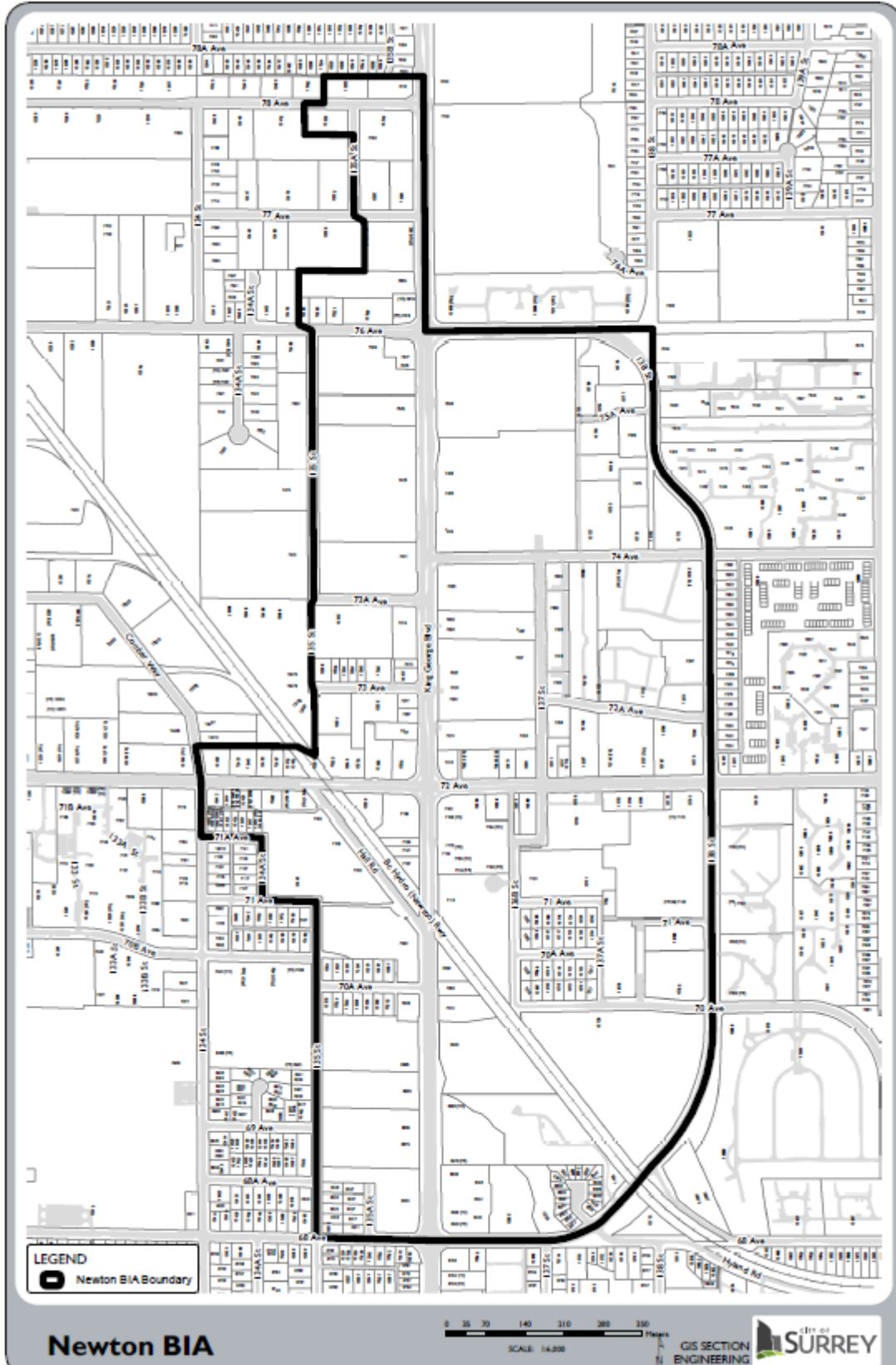
ADVERTISED on the 11 day of January, 2019 and 18 day of January, 2019.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the \_\_\_\_\_th day of \_\_\_\_\_, 2019.

\_\_\_\_\_MAYOR

\_\_\_\_\_CLERK

# BIA BYLAW SCHEDULE "A"



The data provided is compiled from various sources and is NOT warranted as to its accuracy or sufficiency by the City of Surrey.  
This information is provided for information and convenience purposes only. For more, legal descriptions and encumbrances must be confirmed at the Land Title Office.

Source: G:\GIS\Templates\BIA\NewtonBIA\NewtonBIAArea\newton\_2018BIA\_BW\_3.mxd  
Cartographer: CHW © City of Surrey. Date: 15-Dec-2018

**BIA BYLAW  
SCHEDULE "B"**

The Bylaws of the Association must include the following provisions:

**Definitions**

1. "Authorized Representative" to be defined as follows:

"Authorized Representative" means a person who has authority to act on behalf of a member of the Association in its day to day operations and who is authorized in writing by that member to represent the member at any meeting of the Newton BIA.

2. "Property Owner" to be defined as follows:

"Property Owner" means a person who is:

- i. registered in the Land Title Office as the fee simple owner, or the purchaser under a registered agreement for sale; or
- ii. a tenant,

of Class 5 or Class 6 real property as described in *Prescribed Classes of Property Regulation*, B.C. Reg. 438/81 that is located within the Newton Business Improvement Area.

3. "Tenant" to be defined as follows:

"Tenant" means a person who is a tenant pursuant to a lease or rental agreement for a term of years which, including all options to renew, is less than 60 years in aggregate, of Class 5 or Class 6 real property as described in *Prescribed Classes of Property Regulation*, B.C. Reg. 438/81 that is located within the Downtown Surrey Business Improvement Area.

**Members and Meetings of Members**

4. There will be only two classes of members: voting members and associate members.
5. Only a Property Owner or a Tenant may be a voting member.
6. The number of associate members must not exceed the number of voting members.
7. Voting by proxy is not permitted at meetings of members.

**Directors**

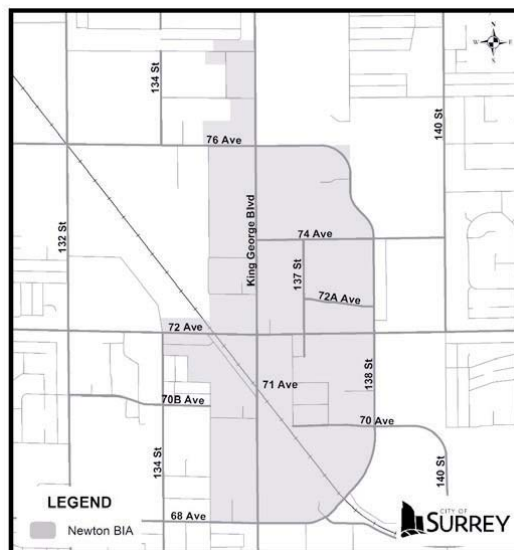
8. No person may be elected or appointed as a director unless that person is a voting member of the Association or an Authorized Representative of a member.
9. A maximum of two directors may be elected or appointed who are associate members of the Association.

# CITY OF SURREY

## NOTICE OF INTENTION Newton - Business Improvement Area (BIA)

**TAKE NOTICE THAT:** The Council of the City of Surrey proposes to renew for a further five-year period, a Business Improvement Area (BIA) for the Newton area. The purpose of the BIA is to promote, stimulate and improve the economic viability of the area.

The BIA is to be funded by a local service tax levy on Commercial and Industrial properties prescribed as Class 5 (Light Industry) or Class 6 (Business or other). The estimated total cost is \$2,654,568 over the following five years: 2019, 2020, 2021, 2022 and 2023. The property owners will pay 100% of the cost. The estimated levy of \$0.69 per \$1,000 of assessed value will be included on your 2019 tax statement and must be paid in full by the tax due date. The area of the BIA is shown as follows:



**FURTHER, TAKE NOTICE THAT** pursuant to Section 213 of the Community Charter, S.B.C. 2003, c.26, as amended, the BIA may proceed unless Council receives sufficient petition against the renewal of the BIA within 30 days after the second date of this publication in the Surrey Now-Leader and Peach Arch newspapers. A sufficient petition must:

1. Be signed by the owners of at least 50% of the parcels that would be subject to the local service tax; and
2. The persons signing must be the owners of parcels that in total represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax.

Persons who want to petition against the renewal of the Newton Business Improvement Area must do so by submitting their petition, in writing, within 30 days of the second date of publication of the "Notice of Intention" in the Surrey Now-Leader and Peach Arch newspapers dated January 11 and January 18, 2019. The final date for the acceptance of petitions will be Tuesday, February 19, 2019 at 4:30 pm.

If you wish to petition against the renewal of the Newton Business Improvement Area, the petition form can be obtained from the Office of the City Clerk, Surrey City Hall, 13450 - 104 Avenue, Surrey, BC, V3T 1V8, telephone (604) 591-4132, fax (604) 501-7578, or email: [clerks@surrey.ca](mailto:clerks@surrey.ca).

Kelly Rayer  
Acting City Clerk



**Certificate of Sufficiency**  
 Formal Petition for Local Area Service

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I, Jennifer Ficocelli, City Clerk for the City of Surrey, British Columbia, certify that that I have given notice of Council's intention to undertake the following work as a Local Area Service as required by Section 213 of the *Community Charter* and that sufficient petition against the Local Area Service has NOT been received.

**General Description: Renewal of Newton Business Improvement Area - Local Area Service**

The following table contains the details regarding this Petition:

Number of Properties within Petition Area	144	100%
Petitions Received stating "Do Not Agree"	18	12.5%

The total assessment of the defined boundary of the local service area is \$724,625,500 (100%). The 18 Petitions received stating "Do Not Agree", have a total assessment value of \$66,325,400 (9.15%) and do not meet the requirement that the Petitions signed must represent at least 50% of the assessed value of the defined boundary.

The Council may, by bylaw, renew the Local Service Area (Newton Business Improvement Area) described above.

Jennifer Ficocelli  
 City Clerk

Date: February 20, 2019