



# Agenda

[penticton.ca](http://penticton.ca)

**Special Council Meeting**  
to be held at the City of Penticton, Council Chambers  
171 Main Street, Penticton, B.C.

Thursday, March 24, 2022  
at 1:00 p.m.

1. **Call Special Council Meeting to Order**
2. **Adoption of Agenda**
3. **Delegation:**
  - 3.1 Downtown Penticton Business Improvement Association  
Lynn Allin, Executive Director, Steve Brown, Finance Chair, and Trevor Guerard, President 1-4
4. **Discussion**
5. **Public Question Period**
6. **Adjournment**



March 17<sup>th</sup>, 2022

To Acting Mayor and Council,

It was with shock and despair that the delegation from the Downtown Penticton Business Improvement Association watched as Councilors passed a motion directing the DPBIA to solicit a positive petition to secure a levy renewal and thus continue its operation. After 25 years in existence and with 2 previous Board Presidents sitting on City Council, this decision is unfathomable, especially given that both those past presidents understand the unlikelihood of such a petition being successful. Also, the renewal of all previous levies has used the Reverse Approval process, including when the now Councils sat as President of the DPBIA. There didn't seem to be an issue with the process then, what changed?

As a result of this decision and the time frame before funding runs out (April 30<sup>th</sup>), we are now in the processes of winding down operations by the end of April, while at the same time working with staff to navigate how we could possibly get this petition completed within the time frame. Given that we know most of the bigger landowners do not even live in Penticton and normally do not involve themselves in civic politics (Banks specifically), our ability to secure 50.1% of assessed value is next to impossible. On top of that, we will have to deal with the usual apathy of owners resulting in what we believe will be a low voter response.

This decision by Council has far-reaching effects, beyond killing the DPBIA, which are going to reflect negatively on the city and for which they will need to explain themselves to the business community and the public.

The DPBIA has worked closely with Council on joint projects that were mutually beneficial, but now Council will need to consider how to handle the following on their own or with others:

**Community Market** – Set to open in May with many vendors already signed up but who will now need refunds. We cannot, under the circumstances, continue to accept more applications, therefore, you will be responsible for informing the public that you have effectively killed the market for 2022.

**Graffiti Removal Program** – If you wish it to continue, the City will need to cover the amount normally paid by the property owners and find someone to coordinate the program, increasing costs and time. Alternatively, you may revert to the old graffiti removal bylaw, increasing costs to property owners and dealing with the fallout.

**Security Camera Monitoring Service** – No DPBIA means no one to handle the project. You will need to find another private organization to handle cameras on private property or drop what has been a successful program. This program cannot continue without a private partner.

**Civic Events** – The DPBIA and City had reached an agreement in principle for 2022 to organize and run civic events on behalf of the city, including Canada Day, BC Day, and Music in Gyro Park. The City is aware of why this partnership is more cost effective than trying to run them on their own. As of today, all planning for these events has stopped. Again, we cannot in good conscience continue to organize and commit to future programs when we do not know our own fate.

**Loss of Jobs** – an unfortunate consequence of this decision is the loss of two skilled, dedicated, and loyal staff members. In addition, there will be no Summer Student program that has allowed a Penticton university student to gain useful job experience and earn money toward their continuing education.

While only 48 hours has passed since Council's decision, we are asking for it to be reconsidered. On the one hand, we are being optimistic by assuming that this decision was made in haste and that the consequence of it may not have been completely understood by all Councilors.

On the other hand, if it is Council's intention that they want the BIA dissolved, then they should have the fortitude to come out and say so publicly and state their reasons for such a decision. Hiding behind a petition process would be an unacceptable approach, and we will make every effort to broadcast the misleading nature of it, should that be the case. Due to the experience of past DPBIA Presidents on Council, we're of the mind that this decision may have been premeditated and that we may have been ambushed in bad faith, with the understanding that securing a positive petition in the given timeframe would be highly unlikely.

Finally, we have been in contact with the British Columbia Business Improvement Association, the provincial working group of BIAs, to inform them of the council's decision. Attached is a letter from that provincial body expressing their concerns and the results of such decisions being made by other municipalities.

In addition, we have summarized our request below:

### **Levy Bylaw Renewal**

Options for the Establishment of a Levy Bylaw Renewal for a Business Improvement Area:

**Option 1:** Local Area Service on a Council Initiative Subject to Petition Against

**Option 2:** Petition for Local Area Service

### **Our Request**

Downtown Penticton Business Improvement Association is seeking Council approval for Option 1

**Option 1:** Best Practice for other BIAs in British Columbia because of limited access to property owner information province wide. This is the well-established method for the original Levy Bylaw (1998) and subsequent renewals to date.

**Option 2:** Requires extensive time and resources for engagement and access to detailed information from all property owners, which is not available through the Privacy & Protection Law.

City Council now has an opportunity to correct what we see as an unintended error of circumstance, and it is our hope that upon reflection, Councilors will recognize the full implication of that decision and reverse course.

We look forward to your timely response as time is of the essence in this matter, any delay only makes possibilities worse. We are available to meet and may be contacted by phone at:

Thank you for your consideration,

The Downtown Penticton Business Improvement Association Board of Directors



March 18, 2022

Mayor John Vassilaki  
City of Penticton  
171 Main Street  
Penticton, BC V2A 5A9

Delivered by email

Dear Mayor Vassilaki and Council:

The Business Improvement Areas of BC (BIABC) is the umbrella organization representing 67 of the province's BIAs.

I'm writing to express our deep concern in reference to the proposed renewal of the Downtown Penticton BIA --- specifically that Council has directed BIA renewal will proceed by way of Petition (rather than by Council Initiative, which is a counter-petition process). We believe this is an unfortunate decision that will lead to termination of the Downtown Penticton BIA, and all the benefits it provides to the city of Penticton, its residents, businesses and commercial property owners.

In short, the Petition process is unworkable. Here's why:

- BIAs cannot go door-to-door to speak with commercial property owners in their areas. Unlike business members, most landlords are not physically present on their property but benefit from BIA programs.
- Increasingly, property owners don't reside in the community. In many cases, the owner may hold the property as part of an investment portfolio and may never even have seen the property or have been to the community.
- For the reasons above, BIAs rarely possess contact information for the commercial property owners. Therefore, they are dependent on property owner mailing addresses that are provided by BC Assessment to municipalities for the purpose of mailing property tax notices.
  - o FIOPPA restricts municipalities from sharing personal information unless a specific exemption has been adopted by Council. As property owner mailing lists may contain personal information, many municipalities (including Penticton) have declined to provide this information to BIAs. This hamstring BIAs from being able to communicate the value proposition of BIA programs and initiatives and makes it impossible to make the case for BIA renewal.
  - o The problem of communication to property owners is compounded if the municipality declines to insert BIA promotional materials along with the formal renewal notifications (as we understand is the case in Penticton). The insertion of BIA materials with Council Initiative notifications is standard practice in the City of Vancouver.



- The intention behind BIA enabling legislation is to foster universal business contribution toward local business promotion and area improvement through municipal levies. Because BC municipalities don't have business taxation powers, the businesses contribute indirectly through levies on the property owners passed to the tenants in the form of lease payments. Therefore, the real test of support is the BIA's business members.
- The Petition process requires BIA property owners to respond positively. Long experience has shown that a municipality is unlikely to receive sufficient owner responses (petitions) to meet the 50% threshold of property owners and property value in support of renewal. It is unreasonable to expect that property owners who may be – despite BIA efforts – insufficiently aware of BIA programs and benefits would respond in the required numbers set out in the Community Charter. The Petition process is a recipe for failure.
- By comparison, the Council Initiative process requires property owners to respond to a notification if they do not approve of the renewal (the 'counter-petition' process). If a property owner is motivated to oppose a BIA's renewal, that owner should be prepared to make that effort. If fewer than 50% of the owners respond to the Council Initiative, then it should be understood, that property owners are satisfied with the BIA. In recent history, all or most BC municipalities have employed the Council Initiative process for the reasons outlined.

Our BIAs are accountable to their members each and every day, providing a solid return on their investment. We can only assume that Penticton Council also values their BIA's contribution to the well-being of their downtown and the entire Penticton community and wishes the BIA to continue its good work. Therefore, we implore Council to reconsider its decision to invoke the Petition renewal process or face the very real possibility the Downtown BIA will cease to operate.

Given the time frame under which this process needs to be accomplished, even with Council approval, any delay will be prohibitive. We urge the Council to address this as quickly as possible (within days not weeks) and with city staff working with the Downtown Penticton BIA to help it meet the deadlines.

Best regards,

A handwritten signature in black ink that reads 'Teri Smith'. The signature is fluid and cursive, with the first name 'Teri' being more prominent than the last name 'Smith'.

Teri Smith  
President

cc. Donny van Dyk, CAO, City of Penticton  
Anthony Haddad, General Manager of Community Services, City of Penticton  
Lynn Allin, Executive Director, Downtown Penticton BIA

The Corporation of the City of Penticton

Bylaw No. 2022-09

*A bylaw to renew the Business Improvement Area for the Downtown Penticton Business Improvement Association.*

---

WHEREAS the Council may, by majority vote, grant money to a corporation or other organization for the purpose of planning and implementation of a Business Promotion Scheme;

AND WHEREAS the Council has received an application from the Downtown Penticton Business Improvement Association for a grant of money under a business improvement area scheme;

AND WHEREAS before a Council grants money for a Business Promotion Scheme, the Council shall pass a business improvement area bylaw;

AND WHEREAS a notice of the intention of Council to establish a local service area for the purpose of funding the "Downtown Penticton Business Improvement Association", (known hereafter as the Applicant) to do certain works and services and to market and promote business within the business improvement area, has been advertised, and served upon the owners of the parcels liable to be specially charged;

THEREFORE BE IT RESOLVED that the Municipal Council of the Corporation of the City of Penticton in open meeting assembled hereby enacts as follows:

**1. Title:**

This bylaw may be cited for all purposes as the "Downtown Business Improvement Area Bylaw No. 2022-09".

**2. Designation of Area:**

For the purposes of this bylaw, the Downtown Business Improvement Area to which this Bylaw is applicable, being the local service area for the business improvement services, shall be comprised of those tracts of land shown shaded in green on Schedule "A" attached hereto and forming part of this bylaw.

**3. Grant/Tax:**

Based on the assessed values of land and improvements, the annual costs of the business improvement area service, as noted in the table below, shall be recovered by applying an annual tax rate to the properties that are assessed in Class 5 and 6 within the business improvement area subject to a maximum levy of \$12,000.00 and a minimum levy per parcel of \$300.00. The annual rate will differ for each year, will be applied per thousand dollars of assessed value and be set annually as part of City of Penticton Tax Rates Bylaw.

Year	Levy Amount
2022	\$303,523
2023	\$315,664
2024	\$328,290
2025	\$341,422
2026	\$355,079

The City shall pay 50% of the revenue from this tax to the Applicant on or before the first day of February and the remainder in July in each year of the grant.

**4. Term:**

The term of the grant under this Bylaw shall be five (5) years commencing May 1, 2022.

**5. Expenditure:**

The money granted under this Bylaw shall be expended only (1) by the Applicant; (2) in accordance with the conditions and limitations set out in this bylaw; (3) for the Downtown Business Promotion Scheme set out in Schedule "B" attached hereto and forming part of this bylaw.

**6. Recovery:**

All of the money granted to the Applicant pursuant to this bylaw shall be recovered under this Bylaw within the Downtown Business Improvement Area shown on Schedule "A".

**7. Conditions and Limitations:**

- 7.1 The money granted pursuant to this Bylaw shall be expended by the Applicant for the purpose of carrying out the Downtown Promotion Scheme more particularly set out in Schedule "B".
- 7.2 The Applicant shall submit to the Chief Financial Officer, on or before April 1<sup>st</sup> of each year, 2022 through 2026 inclusive, a budget for the Association's fiscal year 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.
- 7.3 The Applicant shall submit to the Chief Financial Officer an annual 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. The financial statement relating to the year of the grant shall be submitted by the Applicant on or before the first day of April of the year following.

**8. Insurance:**

The Applicant shall contract for General and Comprehensive liability insurance coverage in the amount of FIVE MILLION DOLLARS (\$5,000,000) with the City of Penticton named as an additional insured and shall deliver proof of coverage annually to the City.

**9. Expiration Date and Renewal**

This bylaw shall come into effect May 1, 2022 and cease to have effect on the 30<sup>th</sup> day of April 2027. The applicant shall apply for a renewal to Council no later than October 31, 2026.

**10. Severability:**

If any section, subsection or clause of the Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this Bylaw.

READ A FIRST time this            day of                            , 2022  
READ A SECOND time this        day of                            , 2022  
READ A THIRD time this         day of                            , 2022  
ADOPTED this                        day of                            , 2022

Notice of intention to proceed with this bylaw was published on the \_ and \_ of \_\_, 2022 in the Penticton newspapers, pursuant to Section 94 of the *Community Charter*.

---

John Vassilaki, Mayor

---

Angie Collison, Corporate Officer

# SCHEDULE "A"



## Schedule A to Downtown Business Improvement Area

Bylaw No. 2022-09



**Legend**

- Business Improvement Area (2022)
- Legal Parcel

Terms of Use: The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.

1:10,000  
February-23-17  
9:03:57 AM

Meters  
0 125 250



penticton.ca

## **SCHEDULE "B"**

### **BUSINESS PROMOTION SCHEME**

The Business Promotion Scheme to be undertaken by the Downtown Penticton Business Improvement Association pursuant to the provisions of this bylaw shall encompass the following activities:

- a) General marketing and promotion of downtown Penticton including organization and/or support for large and small events;
- b) The improvement, beautification or maintenance of streets, sidewalks or municipally owned land, buildings or structures in the business improvement area including the use of security cameras to safe guard infrastructure;
- c) The removal of graffiti from buildings and other structures in the business improvement area;
- d) The encouragement of business in the business improvement area including efforts towards potential new businesses and filling vacant spaces or properties.