SUBJECT: Request by John Weston - Property Removal from the Locke Street Business Improvement Area (B.I.A.) (PED08079) (Ward 1) – Referred from Economic Development and Planning Committee of November 22, 2007

RECOMMENDATION:

a) That the request from John Weston of 260 Locke Street South to have his property removed from the Locke Street B.I.A. not be supported by Committee and Council.

b) That the request to be removed from the Locke Street B.I.A. item, referred from the Economic Development and Planning Committee on November 22, 2007, be identified as completed and removed from the Outstanding Business List of the Economic Development and Planning Committee.

EXECUTIVE SUMMARY:

Although appropriate notice in accordance with the Municipal Act, 2001 was given in the establishment of the Locke Street B.I.A., City Council has received the attached letter (see Appendix ‘A’) from Mr. John Weston of 260 Locke Street South requesting that his property be removed from the B.I.A. Such a request has never been received by the City in the experience of staff. Both the Locke Street Board of Management and the Hamilton Association of Business Improvement Areas (H.A.B.I.A.) have opposed this request. Similarly, staff does not support this request as explained in the body of this report.
BACKGROUND:

On July 12, 2006, City Council approved the designation of a B.I.A. on a portion of Locke Street and directed staff to give appropriate notice as per the Municipal Act, 2001. On July 24, 2006, notice was sent to all affected property owners within the proposed B.I.A. (see Appendix ‘B’ for copy of list). Included in that mail out was notice to Mr. Weston sent to the address listed on the assessment roll. The last day for objection was September 25, 2006. Subsequently, the City Clerk’s Division confirmed that no objections had been received and on October 11, 2006, By-Law No. 06-309 to designate the Locke Street B.I.A. was enacted by Council. (see Appendix ‘C’ for a copy of the Locke Street B.I.A. Boundary Map).

A year later, on October 25, 2007, the City Clerk received correspondence from Mr. John Weston of the Locke Street B.I.A. requesting removal of his property from the B.I.A. In response to this request, this report has been prepared.

The City of Hamilton has never received a written request of this nature in the experience of staff. In preparation of this report, staff requested a position on this matter from the Locke Street B.I.A. The Locke Street B.I.A. Board of Management has submitted a letter, dated January 18, 2008, to the Downtown and Community Renewal Division, Planning and Economic Development Department (see Appendix ‘D’) indicating that they do not support any request for a business to be removed from a designated business improvement area.

In addition, due to the significance of this request, this matter was presented to H.A.B.I.A., at its meeting of December 11, 2007, H.A.B.I.A. stated: “Under no circumstances will H.A.B.I.A. support any withdrawal or removal of properties in any B.I.A.” (see Appendix ‘E’).

It is to be noted that this is Item Y on the Outstanding Business List of the Economic Development and Planning Committee. With preparation of this report it is appropriate that said item be removed from the Outstanding Business List of the Economic Development and Planning Committee.

ANALYSIS/RATIONALE:

Mr. Weston has submitted his request and cites the provisions of the Municipal Act, 2001. Likewise, we would advise that the notice and establishment of the B.I.A. were done in accordance with the relevant provisions of the Municipal Act, 2001. We would emphasize that Mr. Weston was provided notice of this via mail to the address on the assessment roll.
SUBJECT: Request by John Weston - Property Removal from the Locke Street Business Improvement Area (B.I.A.) (PED08079) (Ward 1) – Referred from Economic Development and Planning Committee of November 22, 2007 - Page 3 of 4

Legal Counsel for the City has confirmed that under Sections 209/210 or 216 of the Municipal Act, 2001, Council has the authority to remove a property from a B.I.A. It is instructive to note the opposition to this request to remove a property from a B.I.A. from both the Locke Street B.I.A. and the umbrella B.I.A. group in the City of Hamilton, H.A.B.I.A.

We would point out removal of a property from a B.I.A. under Section 209 of the Municipal Act, 2001 must be preceded by notice of the proposed by-law to all B.I.A. members and the Board of Management of the B.I.A. (Section 210). Paraphrasing the Municipal Act, 2001, if one-third of the total number of persons entitled to receive notice object and the objectors are responsible for at least one-third of the taxes levied on rateable properties within the improvement area, then said by-law shall not be enacted by Council. Section 216 of the Municipal Act, 2001 does not prescribe a procedure for removal; however, as with Section 209 and 210, notice and an opportunity to respond to the notice would have to be given to the B.I.A. members and the Board of Management of the B.I.A.

In the context of the present request before Council, it is important to note that unanimous consent is not required in order to establish a B.I.A. Provided that those responsible for more than two-thirds of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area do not object, Council may enact a by-law to establish the B.I.A. which would include the properties of those who objected but who were responsible for less than one-third of the taxes levied.

Another aspect to be considered is that of equity in that a property so removed would still receive the public space improvements and benefits from marketing undertaken by B.I.A.s without contributing to these elements.

**ALTERNATIVES FOR CONSIDERATION:**

Based on authority provided under the Municipal Act, 2001, Council could instruct staff to give notice of the change of boundaries requested by Mr. Weston. If there were sufficient support for this proposed by-law, Council could pass a by-law removing Mr. Weston from the B.I.A. This alternative is not recommended as it would be contrary to the position of both the Locke Street B.I.A. and H.A.B.I.A.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial** – There are no financial implications to the City. However, the Locke Street B.I.A. may not be able to implement all the initiatives that were identified in their proposed budget that was approved by Council on February 27, 2008 as there would be a write off in the amount of the levy charge for the property.

**Staffing** – No staffing implications based on this individual request.
Legal – If Mr. Weston’s request is not supported, the property that he owns will continue to be within the B.I.A., as designated by by-law, and subject to the B.I.A. levy. If the request is supported and all other applicable requirements are met, his property could be removed either under Sections 209/210 or under Section 216 of the Municipal Act, 2001.

POLICIES AFFECTING PROPOSAL:

Not applicable.

RELEVANT CONSULTATION:

Locke Street B.I.A. Board of Management
The Hamilton Association of Business Improvement Areas (H.A.B.I.A.)
Legal Services Division, Corporate Services Department

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
B.I.A. members are involved in developing and implementing local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
B.I.A. initiatives help create an attractive business district that extends to the local residents through the creation of safer, cleaner and more aesthetically attractive districts with positive results in the quality of life of its residents.

Economic Well-Being is enhanced. ☑ Yes ☐ No
B.I.A. initiatives help retain and attract businesses and investment in our community.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

EM: vk
Attachments. (5)
October 22 2007

Attention: Economic and planning Committee,

I am writing to you about a request to be removed from the Locke St. BIA. I called in the spring requesting a tax statement to find out how much I owed, and found out I was a member of a BIA and asked how and why my taxes went up $699.42 and an additional $1273.92 because of the BIA, leaving an increased total of $1973.34. I was never informed of the BIA and have not received my tax bill in a few years. I cannot afford to pay this almost $2000 a year increase on top of what I am already paying. This increased cost will hurt my business significantly. In 2005-2006 my taxes alone went up $1058.90. I do not support a BIA in any way and was told that if I had of known of the BIA from the beginning, I could have objected to it. I was told a red line could have been drawn around me excluding me from the BIA and leaving only those who wished to be in it. The municipal advisor Marco Melia, as well as Ron Marini from the City Hamilton have told me this. I am requesting sections 209 (changes to the boundary and any further relevant sections be considered under the business improvement Areas act). I am requesting to be present for the hearing of this issue. I would like it to be moved to council as soon as possible. I can be reached at 905-388-4758.

Yours Truly,
John Weston.

[Signature]
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<th>Current Mailing Address</th>
<th>City</th>
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Locke Street Business Improvement Area
230 ½ Locke Street South, Hamilton, ON

January 18, 2008

Eileen Maloney, BIA Co-ordinator
City of Hamilton Planning & Economic Development Department
Downtown Renewal Division
77 James Street North, Suite 250
P.O. Box 2040 LCD 1
Hamilton, ON L8N 0A3

Dear Eileen,

Re: Request from a property owner to be removed from the BIA

On behalf of the Locke Street BIA, I would like to advise you that our organization does not support this application. We believe that it would set a precedent that would undermine the viability of the Locke Street Business Improvement Area.

Our organization would be pleased to work with the property owner on any issues that might be related to the BIA and to help him take advantage of the programs and services provided through the BIA. However, we cannot support a request for a business within the designated BIA area to leave the BIA.

I trust this letter will clarify our position.

I remain,

Yours Truly,

Tony Greco
Chair, Locke Street BIA
BIAs and Downtown and Community Renewal will be maintained. The group requested that Tim McCabe, General Manager Planning and Economic Development attend the January 2008 meeting to speak to this matter.

**ACTION:** E. Maloney to request that Tim McCabe attend the January meeting.

c) The Economic Development and Planning Committee has received a letter from a property owner requesting that his property be removed from the BIA. E. Maloney has been requested to prepare a report to the committee. It was requested that HABIA provide input regarding their position. D. Mills MOTIONED that, Under no circumstance will HABIA support any withdrawal or removal of properties in any BIA, SECONDED by M. Pocius, CARRIED unanimously.

d) The King Street West BIA requested that their contribution amount be used to cover cost of their insurance premium. It was MOVED by K. Drewitt, SECONDED by T. Greco, APPROVED.

**ACTION:** E. Maloney to prepare a cheque requisition for King Street West BIA.

Main West Esplanade BIA requested that their contribution amount be used for their Christmas Decorations. It was MOVED by M. Pocius, SECONDED by K. Drewitt, APPROVED.

**ACTION:** E. Maloney to prepare a cheque requisition for the Main West Esplanade BIA.

8. **Next Meeting**

   The next meeting is scheduled for January 8, 2008 at 8 a.m.

   **Please note new location:** Hamilton City Centre, 77 James Street North, Suite 250, Room 250A (Reception Area, Planning & Economic Development) The existing parking passes will remain allowing parking at City Hall.

9. **Adjournment**

   The meeting adjourned at 10:35 a.m.

Eileen Maloney, Co-ordinator
Business Improvement Areas
Downtown and Community Renewal Division
/em