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Date: June 20, 2018
To: Mayor and Council
Author: Peggy Van Mierlo-West, CAO
RE: BIA Request Regarding Pop Up Shops
Report No.: CAO 02-2018

AIM

Aim to provide information regarding a request from the BIA to investigate pop ups and the requirement of membership within the BIA.

BACKGROUND

At the April 23rd Council meeting, Council requested that administration review the following request from the Kingsville BIA.

“BIA-042-2018 Move J. Martin, seconded by H. Brown, to send a letter to the Town of Kingsville Council regarding pop up businesses and request notifications of business licenses granted.

This motion is to respectfully ask the Town of Kingsville to conduct research to learn of any legal methods to prevent pop up businesses from conducting business in the designated BIA Boundaries.

A Business Improvement Area (BIA) allows local business people and commercial property owners and tenants to join together and, with the support of the municipality, to organize, finance, and carry out physical improvements and promote economic development in their district.

Traditionally, a BIA is a body established by a municipality using the specific business improvement area provisions in the Municipal Act, 2001. It is governed by a board of management.

Once a traditional BIA is approved by municipal council, businesses within its boundaries become members and pay the BIA levy along with their property taxes. A traditional BIA view is that this structure reflects the principle that all who benefit should be required to bear their fair share of the cost of the program. In addition, the arrangement provides a secure source of funding for BIA activities.

Non-traditional ways of receiving funding include; private-public partnerships (ie advertisements), grants and associate memberships.

The Town registers businesses and reviews the businesses for appropriate zoning, usage, building approvals etc. Inspections are conducted to verify that these businesses are conducting themselves in a safe manner according to the Municipal bylaws. Businesses that have not registered are requested to comply with our bylaws and should they not be able to comply are closed.

DISCUSSION

The question regarding the legality of a pop up shop, or restrictions on pop up shops within a shopping district can be a tricky to navigate. It should be noted that the BIA levy is levied onto the parcel of land within the catchment area. Should a property be vacant or leased the levy is still charged to the property and in return allocated to the BIA for annual initiatives.

A temporary store or shop, open for no more than six months, which sells merchandise or food. Pop-ups create short-term stores and/or restaurants that utilize vacant property or serve a temporary need/use. Pop-up stores are a way for business owners to launch a new product, test a business idea or market, gauge interest in their product, and vet a business idea or location before investing in a permanent space.

There are benefits to hosting a pop-up shop such as: they provide a visible presence in Kingsville for local and regional retail establishments, they highlight available vacant properties and create opportunity for potential long-term leases, they reduce start-up costs for entrepreneurs by leasing temporary space and they provide an opportunity for retail incubators or micro-business development.

For a pop-up shop to start the prospective business owner must;

- Identify a potential location.
- Contact the property owner for permission to utilize the space for a pop-up shop.
- Obtain written approval from the property owner. Develop an agreement regarding rental costs, utilities, hours of operation and any other terms of the short-term use of space.
- Review that the zoning is appropriate for the business
- Submit building applications should any renovations occur
- Submit a registration business application to the Corporate Services Department
- Have the appropriate municipal and county departments inspect the premises

Ultimately a pop-up shop requires to complete the same approval process that any business would have to complete.

The question arose regarding the Town mandating these pop up shops becoming Associates Members with the BIA. It would not be recommended that the Town mandate these memberships. Any business that is located within the BIA catchment area essentially pays into the BIA levy through their rent of the space. To request that these businesses also become Associates Members would essentially be double billing the patron.

The ultimate question was can the Town not permit pop up shops within the Town. Simply the Town could change our bylaws to not permit a pop up shop however, this would be going against all of the goals of the Town's Strategic Plan.

- Adopt a community-based focus
- Grow specific business sectors
- Encourage a positive community business culture
- Align and inspire town resources
- Attract and retain a new generation of entrepreneurs and workforce

Also it would be essentially be over stepping the Town's bounds for private enterprise as the Town would be mandating lengths of leases.

However, there are other circumstances that the Town currently does enforce the non-registered businesses. Should a business set up on a sidewalk the Town will request the business to be removed. However, the current issue with this is that the Town currently does not have the resources to have by-law enforcement on weekends and evenings. Should Council wish to review the costing of increased by law enforcement Administration would be willing to provide this information within another report.

LINK TO STRATEGIC PLAN

Support growth of the business community.

FINANCIAL CONSIDERATIONS

None

CONSULTATIONS

RECOMMENDATION

That this report be forwarded onto the BIA Board for informational purposes and that the Town's current practices regarding business registration and inspection be maintained and that when a business is registered that the BIA is informed.

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.

Chief Administrative Officer