Report of the Executive Policy Committee dated February 16, 2000

Policy Statements Re: Establishment and Dissolution of Business Improvement Zones

File FL-7 (Vol. 5)

346 - 2. The Executive Policy Committee has been advised that the following policy statement had been provided previously, with the Executive Policy Committee asking for a further comment on whether the 50% + 1 threshold was appropriate for the creation of any new BIZ.

> WHEREAS The City of Winnipeg Act provides for the establishment of Business Improvement Zones (BIZs);
>
> AND WHEREAS The City of Winnipeg Act contemplates the process for establishing a BIZ to be initiated through a petition signed by at least 10% of businesses that represent at least 10% of the total business assessment in the proposed zone;
>
> AND WHEREAS Council wants to increase the threshold of those petitioning for the creation of a new BIZ to 50% + 1 of the businesses representing at least 50% of the total business assessment in the proposed zone in an effort to ensure any proposed new BIZ enjoys the support of a majority of its members;
>
> THEREFORE BE IT RESOLVED that Council will only initiate the process for the establishment of a new BIZ in circumstances where the petition requesting the such establishment is signed by more than 50% of the members who represent more than 50% of the total business assessment in the proposed zone.

There is no supporting documentation for why the threshold of 10% was chosen, however, one can speculate that:

- it was set at such a level to make creation relatively easy;
- it was set at 10% in order to ensure a viable core group existed, who would be numerous enough to staff the BIZ Board and ensure the BIZ was able to operate; and,
- it was not set at a level which would obligate those proposing to create a BIZ to contact every potential member, but rather the mailings by the City to all potential members were the vehicle intended to provide notice.

Therefore, the BIZs created to date have generally gone beyond the required 10% in their originating petition. The following chart sets out the experience to date.

Originating Petition	Number of businesses	Number of members

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	signing originating petition/% of Annual Rental Value	objecting to establishment/% of Annual Rental Value
Downtown	10/26	info unavailable
Exchange	11/18	info unavailable
Osborne Village	16/26	19/16
Corydon	19/20	11/13
West End (creation) (expansion)	16/26 30/23	19/16 13/15
Norwood Grove	15/28	16/13
W. Broadway/S. Sherbrook	13/81	9/3
Selkirk Avenue	42/47	15/11
Osborne South	45/51	17/21
North Main	17/26	20/15
Academy	51/57	10/6
Old St. Vital	38/41	11/9
Transcona	34/16	15/42
St. James	51/68	8/5
Grosvenor Square	12/40	1/3
French Quarter	20/27	34/26
Airport	11/15	19/24

The only area of The City of Winnipeg Act which is similar to the BIZ provisions is Part 10 - Local Improvements, which provides as follows:

- to initiate a local improvement, or to prevent a local improvement proposed by the City, requires a petition signed by at least 60% of the owners of land to be affected by the improvement; and

- to initiate a local improvement district, or to prevent such a district proposed by the City, requires a petition/objections from at least 50% of the owners of land within the district.

A survey of relevant legislation in other jurisdictions reveals the following:

	Ontario*	Alberta	Saskatchewan	New Brunswick
% of businesses required to establish	Council initiates, with no petition being required.	At least 25% of the taxable businesses in the proposed zone.	At least 1/3 representing at least 1/3 of the business assessment in the area; or any number of persons who represent at least one half of the business assessment in the area	Petition by five or more non-resident members
% of	--	More than 50%	Clerk to	1/3 or more of all

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businesses required to object		of the taxable businesses in the proposed zone.	determine sufficiency	non-residential users or by non-residential users who in the clerk's opinion would be liable for 1/3 or more of the levy.
How a BIZ can be dissolved	Council may dissolve a BIZ on its' own initiative, or where a petition is received from 25% of the members. Council shall dissolve a BIZ where a petition is received from 50% of the members.	No provision	No provision	No provision

* Note: Ontario provisions are as provided in the pending draft legislation "A Proposed New Municipal Act - Consultation Document, Spring 1998."

It is foreseeable that a policy increasing the threshold for establishing a BIZ may have the following impacts:

- while the creation of BIZs will continue to be possible, it is unlikely that a large BIZ will be created. Downtown, Exchange and Airport all were created with petitions just over the existing statutory threshold. Smaller, more focused BIZs, such as Academy, have been able to generate significantly more participation in the originating petition. As a result, size may become a dominant factor in creation of any new BIZ.

- the individuals who volunteer to work towards forming a new BIZ will face a more onerous task in assembling a larger petition.

- given that within the existing legislation, expansion and alternation of a BIZ follows the same process as creation, those processes will also be subject to any higher threshold established. To date, only one BIZ has had a change in boundaries, that being the West End, where it expanded in size from an ARV of approximately $3 million, to $ 23 million.

The following alternatives offer different rationales for consideration:

- 10% continues the status quo, and is in keeping with the intent of the existing legislation.

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- 33% setting the threshold at this level would obligate those proposing a BIZ to at least meet the same threshold as is required by those wishing to prevent the BIZ from forming. [The legislation provides no BIZ can be formed if at least 1/3 of the members file objections with the city.]

- 51% ensures creation has the support of a bare majority of the proposed membership. Also consistent with requirements for initiating a Local Improvement District.

- 60% would make establishment of a BIZ equivalent to a citizen initiated Local Improvement.

As can be seen from the above table, most of the legislation from other jurisdictions is similar to The City of Winnipeg Act, in that dissolution of an existing BIZ is not addressed.

The one which does, Ontario, provides that:

a) members may request Council consider dissolution through:

   i) a resolution from the Board requesting dissolution; or

   ii) presentation of a petition signed by 25% of the members representing 25% of the ARV;

b) members may require Council to dissolve a BIZ through a petition signed by 50% of the member representing 50% of the ARV; and,

c) notwithstanding the forgoing, Council may dissolve a BIZ at any time.

Rather than providing a dissolution mechanism, The City of Winnipeg Act provides for membership supervision of a BIZ through the budget process. Specifically, the legislation provides that the members must first approve any proposed program, zone levy and budget before it is submitted to Community Committee. Further, the legislation also provides that Community Committee must not forward those proposals on to Council where written notices of objection, from at least 1/3 of the members, have been received.

Experience to date has shown that those members who are opposed to their BIZ have focused their efforts within this budget process. For the Airport, dissolution came about as a result of the members defeating the proposed budget at an AGM, and then overwhelmingly passing a further motion asking that the BIZ be dissolved. West End members originally voted down the budget, and then subsequently submitted a petition against a revised budget, which also asked for repeal of the originating by-law, at the

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Community Committee stage. However, given that the petition was not signed by the required 1/3 of the members, Council proceeded to pass the proposed budget.

As a result, it is suggested that Council not consider a defeat of a budget at an AGM as in and of itself sufficient grounds for consideration of dissolution.

Rather, it is recommended that dissolution only be considered:

a) in relation to the budget process:

   i) where the proposed budget, zone levy and program of the BIZ has been defeated, either at an AGM, or through a petition presented to Community Committee; and

   ii) if the BIZ Board so chooses, the Board be given a fair opportunity to present to the members a revised budget, program, and zone levy, and that the revised budget is also defeated. [In order to fit into the City's budgetary schedule, this follow- up meeting should be held no later than November 30]

b) in relation to an inactive BIZ:

   i) subject to an extension granted to deal with unusual circumstances, where a BIZ Board fails to hold an Annual General Meeting of its members within a calendar year.

c) within the inherent jurisdiction of Council:

   i) where Council is satisfied a BIZ has ceased to serve the interests of its members; or,

   ii) where dissolution is appropriate to ensure proper stewardship of public assets is maintained.

The Executive Policy Committee asked for a further report regarding the establishment of Council policies in relation to the establishment, and dissolution, of Business Improvement Zones.

The Executive Policy Committee recommends:

I. That Council adopt a Policy regarding the establishment and dissolution of Business Improvement Zones, ("BIZ") such Policy include:

   a) that Council only consider initiating the process for the establishment of a new BIZ where the petition requesting the establishment is signed by more

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than 50% of the members, who represent more than 50% of the total business assessment, in the proposed zone; and

b) that the defeat of a budget at an Annual General Meeting ("AGM") of a BIZ not be sufficient grounds for consideration of dissolution; but rather that dissolution only be considered where:

i) a BIZ budget has been defeated at an AGM, or through a petition, and the BIZ Board has been given the opportunity to present a revised budget to the membership;

ii) a BIZ is inactive; or

iii) Council is satisfied a BIZ has ceased to serve the interests of its members.

Moved by His Worship Mayor Murray,
Adoption of the clause.

Carried