

**3. SPARKS STREET BUSINESS IMPROVEMENT AREA AND MALL
AUTHORITY GOVERNANCE REVIEW**

**EXAMEN SUR LA GOUVERNANCE DE LA ZONE D'AMÉLIORATION
COMMERCIALE ET DE L'ADMINISTRATION DU MAIL DE LA RUE SPARKS**

COMMITTEE RECOMMENDATIONS

That Council:

- 1. Approve amendments to By-law 244-94 that revise the composition of the Sparks Street Mall Authority Board to a six-member board, as described in this report;**
- 2. Direct the Economic Development and Innovation Department, in consultation with other City departments, to conduct a strategic governance session with the revised Sparks Street Mall Authority Board and develop a Memorandum of Understanding, as outlined in the report;**
- 3. Delegate authority to the City Manager to finalize and execute the Memorandum of Understanding, in consultation with the Ward Councillor and City Clerk and Solicitor; and**

4. **Direct the General Manager, Planning and Growth Management Department to include the development of a public realm plan for Sparks Street in their 2017-2018 draft Budget and Departmental Work Plan, subject to the Memorandum of Understanding, as outlined in this report.**

RECOMMANDATIONS DU COMITÉ

Que le Conseil :

1. **approuve les modifications au Règlement 244-94, qui revoit la composition du Conseil d'administration du mail de la rue Sparks à un conseil de six membres, comme le décrit le présent rapport;**
2. **demande au Service de l'innovation et du développement économique, en consultation avec d'autres services de la Ville, d'organiser une séance de gouvernance stratégique avec le nouveau Conseil d'administration du mail de la rue Sparks et de mettre au point un protocole d'entente, comme le décrit le présent rapport;**
3. **délègue au directeur municipal les pouvoirs de finaliser et de signer le protocole d'entente, en consultation avec le conseiller du quartier ainsi que le greffier municipal et chef du contentieux; et**
4. **demande au directeur général du Service de l'urbanisme et de la gestion de la croissance d'intégrer l'élaboration d'un plan de domaine public pour la rue Sparks dans son budget provisoire et le plan de travail du Service de 2017-2018, sous réserve du protocole d'entente, comme le décrit le présent rapport.**

DOCUMENTATION / DOCUMENTATION

Steve Kanellakos, City Manager, report dated 28 June 2016 / Directeur Municipal, rapport daté le 28 juin 2016 (ACS2016-CMR-OCM-0026)

**FINANCE AND ECONOMIC
DEVELOPMENT COMMITTEE
REPORT 16
13 JULY 2016**

15

**COMITÉ DES FINANCES ET DU
DÉVELOPPEMENT ÉCONOMIQUE
RAPPORT 16
LE 13 JUILLET 2016**

**Report to
Rapport au:**

**Finance and Economic Development Committee
Comité des finances et du développement économique
5 July 2016 / 5 juillet 2016**

**and Council
et au Conseil
13 July 2016 / 13 juillet 2016**

**Submitted on June 28, 2016
Soumis le 28 juin 2016**

**Submitted by
Soumis par:
Steve Kanellakos, City Manager / Directeur Municipal**

**Contact Person
Personne ressource:
Saad Bashir, Director / Directeur, Economic Development and Innovation /
Innovation et développement économique
613-580-2424 ext. 22339, Saad.Bashir@ottawa.ca**

Ward: SOMERSET (14)

File Number: ACS2016-CMR-OCM-0026

**SUBJECT: Sparks Street Business Improvement Area and Mall Authority
Governance Review**

**OBJET: Examen sur la gouvernance de la zone d'amélioration commerciale
et de l'Administration du mail de la rue Sparks**

REPORT RECOMMENDATIONS

That the Finance and Economic Development Committee recommend Council:

- 1. Approve amendments to By-law 244-94 that revise the composition of the Sparks Street Mall Authority Board to a six-member board, as described in this report;**
- 2. Direct the Economic Development and Innovation Department, in consultation with other City departments, to conduct a strategic governance session with the revised Sparks Street Mall Authority Board and develop a Memorandum of Understanding, as outlined in the report;**
- 3. Delegate authority to the City Manager to finalize and execute the Memorandum of Understanding, in consultation with the Ward Councillor and City Clerk and Solicitor; and**
- 4. Direct the General Manager, Planning and Growth Management Department to include the development of a public realm plan for Sparks Street in their 2017-2018 draft Budget and Departmental Work Plan, subject to the Memorandum of Understanding, as outlined in this report.**

RECOMMANDATIONS DU RAPPORT

Que le Comité des finances et du développement économique recommande au Conseil :

- 1. D'approuver les modifications au Règlement 244-94, qui revoit la composition du Conseil d'administration du mail de la rue Sparks à un conseil de six membres, comme le décrit le présent rapport;**

- 2. De demander au Service de l'innovation et du développement économique, en consultation avec d'autres services de la Ville, d'organiser une séance de gouvernance stratégique avec le nouveau Conseil d'administration du mail de la rue Sparks et de mettre au point un protocole d'entente, comme le décrit le présent rapport;**
- 3. De déléguer au directeur municipal les pouvoirs de finaliser et de signer le protocole d'entente, en consultation avec le conseiller du quartier ainsi que le greffier municipal et chef du contentieux; et**
- 4. De demander au directeur général du Service de l'urbanisme et de la gestion de la croissance d'intégrer l'élaboration d'un plan de domaine public pour la rue Sparks dans son budget provisoire et le plan de travail du Service de 2017-2018, sous réserve du protocole d'entente, comme le décrit le présent rapport.**

BACKGROUND

At its meeting on December 3, 2014, Ottawa City Council approved the following recommendation:

"That staff conduct a detailed governance review of the Sparks Street Business Improvement Area Board and the Sparks Street Mall Authority Board and report to the Finance and Economic Development Committee and Council no later than Q2 2015".

The original timeline of the review was extended to allow for sufficient stakeholder engagement.

The overall purpose of the review was to ensure that the powers and duties of the Business Improvement Area (BIA) and Mall Authority align with Council's intention for these boards. The review also involved consultations with major stakeholders – Public Services and Procurement Canada (PSPC), the National Capital Commission (NCC), internal City Departments and Sparks Street property and business owners – and aimed to ensure that the current and future needs of Sparks Street are addressed. This report

serves to provide the findings of the governance review as well as subsequent recommendations.

Current Governance of Sparks Street

In 1965, a “pedestrian promenade authority” was established under By-law 207-65, pursuant to the *City of Ottawa Act, 1960*. This authority was later designated as the Sparks Street Mall Authority in 1986 pursuant to private legislation, the *City of Ottawa Act, 1984* as per By-law 201-86. The authority provided in this By-law was repealed by By-law 77-92 as amended by By-law 244-94, and specifies that the Mall Authority Board of Management is empowered “to control, operate and manage the Mall as established pursuant to By-law 200-86”.

Bylaw 200-86 establishes Sparks Street as the pedestrian promenade as amended by By-law 89-95 and describes the permits that may be issued by the Mall Authority. Pursuant to By-law 200-86, the Mall Authority has the ability to issue permits for parking, parades, exhibition and entertainment, refreshment vehicles and retail activities. In addition, Bylaw 200-86 authorizes the Mall Authority to place, or authorize the placing in or upon the mall of, trees, shrubs, flower beds, and pools. The Mall Authority also has the ability to place, or authorize the placing of, benches, chairs, tables, displays, exhibits, and other things for the convenience, comfort, education, refreshment or entertainment of pedestrians. Examples of operation and management activities currently undertaken by the Mall Authority include the maintenance, repair and replacement of specialized surfaces, street furniture, concrete planters, decorative pedestrian lights, and lamp posts. In addition, the Mall Authority coordinates garbage pick-up for tenants on the north side of the street and regulates encroachments.

Currently, the governing By-law of the Mall Authority requires that the Board of Management be comprised of sixteen members; including five property owners abutting the Mall, seven individuals or corporations assessed for business assessment in the Sparks Street Mall BIA, two members at large, and two persons qualified to be elected to City Council. In 2016, Sparks Street Mall Authority members were levied a total of \$421,965; property owners and their tenants pay this levy, which is calculated by the size of the property fronting the Mall.

In 1983, By-law 162-83 established a Board of Management for the Sparks Street Business Improvement Area, which became the “Board of Management for the Sparks Street BIA,” via By-law 78-92 in 1992, as amended by By-law 245-94. Pursuant to Section 204(1) of the *Ontario Municipal Act, 2001*, the role of the BIA is to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality and to promote the area as a business or shopping area. The current governing By-law of the BIA requires that the Board of Management be comprised of the Ward Councillor and fifteen property owners and tenants in the Area. In 2016, Sparks Street BIA members were levied a total of \$437,808; property owners and their tenants pay this levy, which is calculated based on the assessed property value.

As described in the staff report titled, “Appointments to the Sparks Street Business Improvement Area Board and to the Sparks Street Mall Authority Board ” (ACS2014-CMR-CCB-0026), approved by City Council on April 9, 2014, the Sparks Street BIA Board and the Sparks Street Mall Authority Board are currently working together and having joint meetings; this despite separate municipal By-laws governing each of the entities. The joint Sparks Street BIA Mall Authority Board is comprised of twelve members and includes property owners, tenants and representatives from PSPC (Public Services and Procurement Canada) and the NCC (National Capital Commission). The City of Ottawa is represented via the Ward Councillor, who is a voting member.

It is worth noting that on April 1, 1992, the former City of Ottawa Council repealed and updated certain Sparks Street Mall Authority Board and BIA Board By-laws and also considered the “Amalgamation of the Sparks Street Mall Authority and Sparks Street BIA Board”. The report states that the amalgamation was for “operating purposes” only and that “Legally, both By-laws will still exist and on the books it will appear there are two separate bodies.” In this regard, the “amalgamation” at that time was intended for practical operational purposes and to create operational efficiencies as the Boards agreed to cost-share office space and staff, but continued to collect separate levies for their respective areas of jurisdiction (improvement, beautification and promotion for the BIA and separately, control, operation, overall management for the Mall Authority). As

such, it was not an amalgamation in the strict legal sense as distinct board By-laws and enabling statutes (*City of Ottawa Act, 1984* and the *Municipal Act, 2001*) continue to govern two separate legal entities, which collect two separate budgets for their distinct purposes and areas of jurisdiction. Such previous attempts to address governance issues have caused confusion for the Boards as well as the public and have, in part, initiated the current governance review.

As a pedestrian promenade, Sparks Street is unlike any other street in Ottawa. Located one block south of Parliament Hill, Sparks Street is a central shopping street, a tourist destination, and a vital part of the City's downtown core. It is also considered one of Ottawa's most significant heritage streets.

The buildings on the south side of Sparks Street are largely dominated by private sector commercial businesses, while the buildings on the north side of the street are currently operated by Public Services and Procurement Canada (PSPC). The Sparks Street Mall is a City of Ottawa right-of-way. The Public Works Department maintain this right-of-way in accordance with the Council approved Maintenance Quality Standards. Activities undertaken by the Public Works Department include; seasonal sidewalk/roadway sweeping and flushing, litter pick up, snow clearing, application of abrasives and snow removal as warranted. In addition, the City's Public Works Department provides surface repairs to the Street as required. By-law and Regulatory Services also enforce the following By-laws on Sparks Street: Traffic and Parking (By-law 2003-530), Use and Care of Roads (By-law No. 2003-498), Special Events on Public and Private Property (By-law No. 2013-232) and Business Licensing (By-law 2002-189).

DISCUSSION

Throughout the governance review, staff considered three options that would allow businesses to continue to play a role in the governance of the street. The first option involves a formalized merger of the Sparks Street Mall Authority and BIA, the second involves the dissolution of the Mall Authority, and the third involves a new governance model for the Mall Authority. Both the second and third options would see no change to the BIA.

Option 1: Merge the Sparks Street Mall Authority and BIA (Status Quo)

The first option analyzed by staff involves amending the relevant By-laws to formally merge the Sparks Street Mall Authority and BIA. A merger would formalize what is currently occurring with respect to the two boards.

This option is not recommended by City staff as there is sufficient information, gathered during stakeholder meetings and through City staff's analysis of the BIA and Mall Authority Board minutes and budgets, to demonstrate that at present, the Board places significant emphasis on BIA-related functions, such as beautification (flower arrangements) and on-street animation (festivals and events); while fulfillment of the Mall Authority mandate (operation and management of the street) would benefit from ongoing and more focused discussions among commercial property and business owners, and staff from the City, NCC and PSPC.

Option 2: Dissolve the Sparks Street Mall Authority

The second option analyzed by staff would see the relevant By-law repealed and the City of Ottawa absorb all assets, liabilities and responsibilities of the Mall Authority.

This option is not recommended as feedback received from stakeholders during the governance review indicated that management of the mall would benefit from the ongoing involvement of the private sector because of the unique nature of the private and public sector mix on the street. Additionally, dissolution of the Mall Authority would likely result in an annual, operational financial pressure on the City for the activities that are currently carried out by the Mall Authority.

Option 3: Amend the By-law for the Sparks Street Mall Authority Board

The third option analyzed by staff involves revising the composition of the Sparks Street Mall Authority Board to include a six-member board comprised of senior decision makers from each of the major stakeholders on the street. Specifically, staff would recommend that the board be comprised of the Ward Councillor; General Manager, Planning and Growth Management Department or designate appointed by the City Manager; a senior representative of the NCC; a senior representative of the PSPC; a representative from the Sparks Street BIA; and a representative from the Sparks Street Mall Authority area.

This option is recommended as it would result in a Mall Authority Board, which would focus solely on the control, operation and management of the street, as was originally intended in the By-law. Additionally, including senior management on the Board in cooperation with the private sector would enable a high-level platform for decision making. It is expected that the annual contributions made by members of the Mall Authority would continue and be used towards the Mall Authority Board's costs to operate and manage the Mall.

There are no proposed changes to the governing By-laws of the Sparks Street BIA. The BIA would continue with its mandate to beautify the street, make small-scale improvements (signage, way-finding) through partnership, coordination and agreement with the City, and attract tourists and shoppers to the area. Further, the Economic Development and Innovation Department will participate in developing a long-term programming strategy for the street with the BIA. In November 2015, Council approved the appointment of new BIA representatives to the Sparks Street BIA and Mall Authority Boards of Management; these new members would be able to continue in their role overseeing the BIA board.

Next Steps

Following amendments to the Mall Authority Board, staff recommend that the Economic Development and Innovation Department, in consultation with other City departments, conduct a strategic governance session with members of the revised Mall Authority Board. This governance session would provide an opportunity to develop a unified mandate for the Board as well as clearly define the roles and responsibilities of the major stakeholders (BIA, City, NCC, and PSPC). The outcomes of this governance session would be used to inform a Memorandum of Understanding (MOU) between all of the major stakeholders. Staff recommend that the MOU be finalized and executed in consultation with the Ward Councillor and City Clerk and Solicitor no later than Q4 2016.

Once an MOU is established amongst major stakeholders and subject to the approval of funds associated with recommendation 4 of this report, staff from the Planning and Growth Management department will lead the development of a Sparks Street public realm plan to re-establish a clear vision and vocation for Sparks Street that will be used

to guide future physical renewals and programming partnerships within the Sparks Street public right-of-way.

The public realm plan boundary will include the segments of the Sparks Street pedestrian promenade between Elgin Street and the eastern limits of Lyon Street as defined in bylaw By-law 89-95. The public realm plan will be informed by an extensive review of existing conditions, policies, plans, past proposals and contemporary best practises relating to pedestrian malls around the world.

Specific issues addressed through the public realm plan will provide direction and guidance relating to the accommodation of cyclists, vehicular access, loading and deliveries, infrastructure requirements, integration of public art, landscape treatments, unifying design themes, furniture and fixtures, public lighting, and public- private partnership and programming opportunities.

The public realm plan will identify a high level strategy and budget requirement to implement phased improvements to Sparks Street that will be brought forward to Council and major stakeholders who will be asked to jointly fund the functional, preliminary and detailed designs as well as the subsequent construction phases.

Public consultation will be integrated throughout the process.

RURAL IMPLICATIONS

There are no rural implications associated with the recommendations in this report.

CONSULTATION

NCC and PSPC

In early 2015, consultation with representatives from the NCC and PSPC confirmed support for the continuation of the BIA. Both organizations indicated that they valued the mandate of the BIA and saw merit in supporting Sparks Street as a viable commercial destination for shoppers and tourists. This consultation also revealed shared concerns of the NCC and PSPC regarding the Mall Authority's overlap in membership and duplicate responsibilities with the BIA in terms of activities, such as flowers and holiday decor.

Both the NCC and PSPC have indicated support for sitting on a revised Mall Authority Board, comprised of the major stakeholders on the street. The two organizations have also indicated support for a shared strategic governance session between the City, the NCC and PSPC.

Private Sector Property Owners

A letter from and a meeting with Sparks Street property owners, including the major property owner Morguard, revealed their concerns about the potential consequences resulting from the dissolution of the Mall Authority, including the threat of continued neglect by the City regarding maintenance of the pedestrian promenade. Property owners requested that regardless of the outcome of the governance review, an entity, be it the City or the Mall Authority, needs to maintain the right-of-way to a standard that supports economic development. Staff noted these concerns and indicated to the property owners that their feedback would be incorporated into the governance report.

Merged Boards of the Sparks Street Mall Authority and BIA

Discussions with members of the merged Boards of the Mall Authority and BIA in the fall of 2015 indicated an overall support of a formal merger of the Sparks Street Mall Authority and BIA. However, despite an internal policy and procedure review by the governance committee of the Boards of the Mall Authority and BIA, the resulting draft constitution tabled at the September 3, 2015 meeting of the Boards revealed continued confusion regarding membership eligibility and governing By-laws of the BIA versus the Mall Authority.

In follow-up to the first consultation, in May 2016, Executive members of the merged Boards of the Mall Authority and BIA confirmed their support for amending the Mall Authority board and developing a MOU between the City, NCC and PSPC.

City Departments

In preparation of this report, Economic Development and Innovation staff have also consulted with the City of Ottawa's Planning and Growth Management Department, Finance Department, City Clerk and Solicitor Department and Infrastructure Services Department.

COMMENTS BY THE WARD COUNCILLOR(S)

Councillor McKenney, Somerset Ward, provided the following comments: “The Councillor is aware of this report.”

LEGAL IMPLICATIONS

There are no legal impediments to approving the recommendations in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications at this time.

FINANCIAL IMPLICATIONS

Funds to complete recommendations 2 and 4 are contained within existing departmental budgets.

ACCESSIBILITY IMPACTS

There are no accessibility implications.

TERM OF COUNCIL PRIORITIES

The recommendations in this report support the following strategic priority of City Council:

Economic Prosperity (EP) – Use Ottawa’s unique combination of recreational, social, cultural and business assets, and natural environment and physical infrastructure to attract enterprises, visitors and new residents, while at the same time developing and retaining local firms and talent.

**FINANCE AND ECONOMIC
DEVELOPMENT COMMITTEE
REPORT 16
13 JULY 2016**

26

**COMITÉ DES FINANCES ET DU
DÉVELOPPEMENT ÉCONOMIQUE
RAPPORT 16
LE 13 JUILLET 2016**

DISPOSITION

The City Clerk and Solicitor will place the amending by-law as required on the agenda of Council for enactment.