



June 9, 2021

TO: Barrie City Council

re: Member Concerns with the BIA

Equitable,
empowered,
engaged.

Dear Mayor and Council,

This letter is in anticipation of the Downtown Barrie BIA's presentation to City Council on Monday, June 14. As you know by now, Engage Barrie has had a very active BIA Watch Group, which has raised a number of concerns about the governance and management of this Local Board of the City of Barrie.

We were, of course, very pleased last month to see Council's near-unanimous support of the Integrity Commissioner and her recommendations regarding Rob Hamilton's violations of the *Code of Conduct*. Council sent a very clear message to the community that the City will not tolerate abusive language or behaviour from its officials towards the residents of Barrie, and that it respects the value the Office of the Integrity Commission provides in strengthening local democracy.

As Ms. Craig stated that night, her role was created because residents wanted more accountability and transparency in municipal government, and those are two of Engage Barrie's core values. Thank you!

We are also pleased to see that Council is not treating the resignation of Mr. Hamilton as the end of the deep-seated issues within the BIA. The incident for which Mr. Hamilton was in front of the IC was quite egregious, but not isolated — as previously written by our other sub-group, *Supervised Consumption Saves Lives - Barrie*, there have been other Board members making similarly disparaging comments against the unhoused, and those with mental health and substance use issues — but there are also many other concerns that were problematic long before Mr. Hamilton recently took the Chair. We have seen no evidence of any of these improving since he resigned.

As mentioned in our February letter about the BIA, we have been approached by several of our own members with their concerns, as well as by BIA members who came to us in frustration after being ignored by their own organization. This lack of accountability and transparency is, to put it gently, highly concerning — and something that we and they had been hoping to see far more progress on over the past two years.

The downtown Councillors Riepma and Aylwin were trying in 2019 to bring the BIA under proper governance, which caused many Board members to take offence over their intent, and resign en masse. Instead of allowing the Councillors to continue fixing these issues, Councillor McCann moved to have them removed as Council Representatives, and had them replaced by Councillor Morales (later, Councillor Jim Harris was also appointed). These replacement Council Representatives have been mostly absent, leaving little to no City oversight — in 2020, Councillor Morales attended only 1 of 8 BIA meetings after being replaced as Interim Chair (9 of 16 meetings in total), and Councillor Harris attended only 6 of 10 after being appointed. Thus the BIA has been essentially left to their own devices, and two years later have still failed to provide the requested governance review, held an AGM, met the budget or other deadlines set out by Council, and continued their problematic "Emergency Executive Committee" meetings to make decisions behind closed doors.

As the replacement of the Council Representatives has done nothing to bring the BIA in line with *The Municipal Act* or the City's own regulations, and has allowed it to continue functioning as before — or, arguably, becoming even more dysfunctional — one might begin to question the motivation behind their replacement, and wonder

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whether this switch in representation was designed to specifically not do anything about the mess that the previous Councillors were trying to clean up?

This lack of action and accountability has left us with a fairly large catalogue of member complaints. The following is a shortlist of concerns that have been brought to us by both Engage and BIA members:

Governance

- Failure to produce the governance review that Council requested over a year ago
- No AGM held for several years
 - Constitution requires the AGM to be held by March each year
- **Budget**
 - *The Municipal Act* requires Budget to be presented to members for discussion before approval — the only meetings on the 2021 budget were two in camera “pre-budget” discussions in December, members were locked out of these discussions
 - Based on the BIA constitution, the AGM is where the budget discussion would generally take place, but there hasn’t been one — and BIA members have yet to see a copy of either the 2020 Financial Statements or the 2021 Budget already approved by Council in June.
 - *The Municipal Act* states that the BIA may not spend any money unless included in the budget approved by the municipality, or significantly alter the budget without approval, yet they moved \$28,000 from the approved 2020 budget towards a contract (unrelated to the BIA mandate) with a Toronto PR firm, WITHOUT getting the required approval to change the budget from Council -- in addition, this PR campaign was to fight city partners, and not to advance its mandate
- **“Emergency Executive Committee”**
 - An ongoing flaw in the current constitution — the creation of this committee, and giving it quorum every time they meet, is how the Board has remained under the control of a small group, which has been able to avoid bringing the Board as a whole up to speed on decisions made
 - Although decisions are being made in these meetings, and directions given to staff, this committee continues to refuse to acknowledge quorum, or take minutes that are available to members
 - Even as recently as the May/June meetings, references were being made to motions that had been passed — but were never made or voted on in the public meetings, nor accounted for in the minutes.
- **Invalid use of In Camera sessions**
 - Board meetings going in camera without valid reason under *The Municipal Act* — most recently, as advised to by Councillor Morales, when the Board wanted to discuss their position on the SCS (which he should know does not fall under *The Municipal Act* exceptions for a closed meeting)
 - Members’ questions as to the justification for going in camera ignored or brushed off by the Executive Director
 - In addition, the aforementioned “pre budget” discussions going in camera

• Election Irregularities

- The by-election that brought in the now-resigned Chair, Vice Chair, and three other Board members was called into question by the BIA's own lawyers, but their recommendations were ignored
 - As a result, Mr. Ing, who had previously resigned when the City tried to clean up the BIA's governance, returned to the Board as Vice-Chair, and along with Mr. Hamilton, was observed to be regularly pushing for actions outside the mandate of the BIA, as well as contributing to the derogatory language and attitudes towards the un-housed, and those with mental health and/or substance use challenges.
- The Bylaws state that the City Clerk should be the electoral officer, but Kathleen Trainor from Tourism Barrie was named to that position for the by-election, though never properly sworn in (another reason why the BIA lawyers suggested throwing out the results and starting over)
 - When questions arose on her qualifications or whether she had contacted the City Clerk for rules and references, Ms. Trainor quickly resigned
 - Tourism Barrie is a Board on which Mike McCann had considerable influence, and these election irregularities took place around the same time as his motion to replace the Councillors trying to clean up the governance — again, this throws into question whether there were hidden motivation and/or undue influence on the way this election process was also compromised?

• Board Makeup

- Resignations of Randy Aylwin, Michelle Huggins and Paul Lynch – with no replacements for the vacant seats until AFTER the final SCS consultations were complete
 - No Secretary-Treasurer (interim or otherwise) voted on or named for several months after Ms.Huggins's resignation, despite at least three Executive meetings and three public Board meetings being held — who was given signing authority in her absence, and on whose authority, if it wasn't voted on at the Board level?

• Documentation

- No written Policies or Procedures
- Lack of Procurement policy is especially troubling
- No written job descriptions for any staff positions
- No minute-taking procedure or policy
 - Staff taking minutes, instead of the Secretary Treasurer, and arbitrarily excluding or including details (depending, we can only presume, on their personal opinions towards certain issues or certain Board members)

Overreach of BIA Mandate

- As per *The Municipal Act*, the BIA's mandate 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 generally; and to promote the area as a business or shopping area."*
- Further, as per the City's *Code of Conduct*:
 - *"5.15. No Committee member / Local Board member may act beyond the mandate of the Committee / Local Board granted by Council. They must not undertake site visits, direct discussions with residents, informal meetings or communications including emails except:*

- a) *As granted the right to do so by Council;*
- b) *Pursuant to the duties of a Member of Council; or*
- c) *Otherwise if required by law.”*

- The BIA — and the former Chair and Vice Chair in particular — have been acting far beyond the BIA’s mandate, including (but not restricted to) their anti-SCS campaign.
 - It was highly questionable for Mr. Hamilton to have been meeting with MPPs, MPs and others about his proposed “Circle of Care”, and reporting these meetings back to the Board.
 - It is similarly questionable for Mr. Ing to be sitting on the SCS Site Selection Committee. There was never a motion passed authorizing either of them to do so.
- The BIA has no jurisdiction outside its boundaries, yet declared a position that they were against an SCS being located outside the perimeter of their jurisdiction

Accountability & Transparency

- Members of the public regularly getting shut out of even the public parts of BIA meetings – and being refused access to recordings of the public meetings
- Multiple outstanding FOI & Ombudsman complaints
- Initially requesting \$240 to review public meeting videos prior to determining whether to release them pursuant to a freedom of information request
- Breaking Canada’s Personal Information Protection and Electronic Documents Act, by repeatedly failing to use the BCC field in correspondence to public meeting registrants
- Some members who did complain to the BIA office have found themselves to be removed from the BIA mailing list
- One who called the office to express concerns over Mr. Hamilton’s language at the September meeting was told to “vote differently in 2022” if they didn’t like it.
- Members are no longer able to see which Directors are in attendance on Zoom meetings, or how/if each one voted on motions.
- No meeting Agenda available to members, either in advance or during meetings.
- No notice of additional or re-scheduled meetings sent to members.
- Recordings of meetings no longer available to members who can’t attend in person -- those who have asked to view them have been told there would be a fee to provide.

Allocation of Resources

- \$100,000 being collected per year for the purposes of the Meridian Place commitment, yet none of that money has been forwarded to the city — what has it been spent on instead? On whose authority? Directors asked where the funds had gone, as recently as the June 3 meeting, and were not given clear answers.
- Over half the operating budget is being spent on administration (rent, three current staff members, accounting, website, social media)
 - Outsourcing of tasks that should be in-house (hundreds of thousands spent over the years on web and social media content creation and upkeep, bookkeeping & payroll, etc.)
- A considerable amount of money per year being given to Sandbox, without any indication of what benefit this brings to BIA members
 - While the Sandbox is geographically within the BIA, they lease the space from the City, and are therefore exempt from paying the BIA levy — essentially resulting in a significant

amount of money being taken from paying BIA members and being put towards a non-paying private company

Conflicts of Interest

- January Board minutes show that Paul Lynch — since resigned, but at the time Chair of the BIA's Governance Committee — did not declare a recorded conflict during Budget deliberations, and voted on the Budget motions. This, despite the fact that the Budget included the BIA leasing office space from the property he still owned at the time — in direct violation of the Municipal Conflict of Interest Act. (A formal complaint was being prepared, but dropped after his resignation from the Board.)
- Former Vice Chair (but remaining Director) Ing is widely believed to be one of the funders and organizers of SafeBarrie — the anti-SCS group formed in 2019, and whose display of anti-SCS signs in Council Chambers appeared to have considerable influence on those who had been supportive of the SCS changing their vote last-minute.
 - When one of the sign-bearers in 2019 was asked by one of our members (or, now-member, since Engage Barrie had yet to form) why he was there, he replied that he didn't know anything about the issue, but his boss had told him to be there.

Code & Strategic Plan

- The BIA — and the former Chair and Vice Chair in particular — have spent a great deal of the BIA's resources in order to fight against the City's health care partners, including our Health Unit, and undermining their work for the City
 - Repeatedly stalling the SCS application
 - A \$28,000 contract with a PR firm to fight the CMHA and SMDHU's research and communications
- Paying for a legal opinion on trying to get out of their agreements re: funding for Meridian Place and the Streetscape project
- Attitudes, comments and actions – not just from Mr. Hamilton, but the BIA as a whole, in particular former Vice Chair Ing – against the *Code of Conduct* and basic human decency, about the un-housed, and those struggling with mental health and/or substance use challenges, including, but not limited to:
 - Derogatory comments from other board members in discussions about the SCS in meetings towards potential clients of the proposed SCS
 - Advocating against public benches in the West End, in case they are used by the un-housed, instead of “the right kind of people”

Failing to Engage / Communicate with or Represent Members

- Putting out a website claiming to “gather feedback” from BIA members about the SCS, but only allowing one action – that being sending an uneditable letter against an SCS to Council
- In a time when downtown businesses are struggling (due to both construction and COVID), spending \$28,000 on a PR campaign against the SCS instead of supporting downtown (i.e., their mandate)
- Failing to denounce the anti-mask, anti-science rallies that have been HARMING downtown
 - Yes, there were a few businesses that took part in the initial anti-lockdown rally (P_zza, for instance), but they too have come forward to denounce what subsequent rallies have turned into, and asked everyone to stay home for the safety of downtown

- Putting out a press release instead about the “positive and negative” effects of the rallies, just before the rally with speakers with known ties to white supremacists
- Another recent press release, without notifying or getting approval from Jasmine Botter’s public safety committee, essentially taking credit for her initiative and all her and the rest of the committee’s hard work
- Dismissing BIA members’ concerns when they call the office — instead of engaging in discussion about issues, telling members if they don’t like how they’re being represented, they should vote differently in 2022 (ironic, considering the debacle of the recent by-election)
- The BIA is meant to promote downtown as a business or shopping area, yet even in recent weeks, the new Chair, Councillor Morales, has been implying in the media that downtown is not a safe place —downtown businesses are struggling enough without their own Chair dissuading the public from visiting, why is this messaging being allowed to continue? It is continuing in the tradition of Rob Hamilton’s denigrating comments about downtown, and causing harm to the businesses trying to attract customers.

While Engage Barrie has had neither the time nor resources to fully investigate every complaint brought to us above, we can see a fairly clear pattern to the complaints. It is also rather alarming that members had to resort to FOI requests, closed meeting investigations, and complaints to the Integrity Commissioner and Ombudsman, when their attempts to get information or action from the BIA office were ignored, denied, or dismissed.

We are hopeful that the governance clean-up that Councillors Riepma and Aylwin were attempting in 2019 will finally resume, and that the Downtown Barrie BIA will be brought in line with municipal regulations, and start properly serving its mandate and members.

Sincerely,
The Admins, Members and BIA Watch Group of
Engage Barrie