

The Corporation of the Municipality of Brockton



By-Law 2019-009

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Being a By-Law to Authorize the Signing of an Agreement With the Municipality of West Grey for the Management and Operation of the Elmwood Community Centre and Associated Recreation Facilities.

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**Whereas** Section 20(1) of the *Municipal Act, 2001, S.O., c.25* as amended allows Municipalities to enter into an agreement with one or more municipalities to jointly provide for their joint benefit, any matter which they have the power to provide within their own boundaries;

**And Whereas** the Corporation of the Municipality of Brockton jointly owns and operates the Elmwood Community Centre and associated recreation facilities with the Municipality of West Grey;

**And Whereas** the Council for the Corporation of the Municipality of Brockton deems it expedient to enter an agreement with the Municipality of West Grey with respect to the management and operation of the Elmwood Community Centre and associated recreation facilities;

**Now Therefore** the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That The Corporation of the Municipality of Brockton Council hereby enter into an agreement with the Municipality of West Grey which is attached as "Schedule A" and forms part of this By-Law;
- 2.0 The execution by the Mayor and Clerk of said agreement dated December 31, 2018, between the Corporation of the Municipality of Brockton and the Municipality of West Grey is hereby authorized, ratified, and confirmed.
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 That By-Law 2008-06 and By-Law 2015-007 are hereby rescinded.
- 5.0 This By-Law may be cited as the "West Grey Joint Recreation Agreement By-Law".

**Read, Enacted, Signed and Sealed this 22nd day of January, 2019.**

Original Signed By  
Mayor – Chris Peabody

Original Signed By  
Clerk – Fiona Hamilton

**SCHEDULE "A" TO BY-LAW 2019-009**

**ELMWOOD COMMUNITY CENTRE JOINT RECREATION  
AGREEMENT**

THIS AGREEMENT, made this 22nd day of January, 2019

BETWEEN

The Corporation of the Municipality of West Grey  
(hereinafter called the party of the first part)

and

The Corporation of the Municipality of Brockton  
(hereinafter called the party of the second part)

**WHEREAS** section 20(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended allows Municipalities to enter into an agreement with one or more municipalities to jointly provide for their joint benefit, any matter which they have the power to provide within their own boundaries; and

**WHEREAS** the title and ownership of the Elmwood Community Centre and appurtenant lands is in the names of both the Municipality of Brockton and the Municipality of West Grey; and

**WHEREAS** the parties now deem it necessary and desirable to enter into a formal agreement for the management and operation of the Elmwood Community Centre and associated recreation facilities and to assign the responsibility for the management of recreation programs at the said community recreation facilities;

**NOW THEREFORE WITNESSED** in consideration of the mutual terms and conditions hereinafter set forth, the parties covenant and agree as follows:

1. That, pursuant to the Municipal Act, 2001, as amended a joint Elmwood Community Centre Board be established to manage joint recreation programs and the operation of the Elmwood Community Centre Hall and the facilities associated with the Elmwood Community Centre property and Elmwood Lions Club park as described in section 11 and shall hereinafter be referred to as "the Board".
2. The Board shall consist of seven members appointed as follows:
  - One member of Brockton Council
  - One member of West Grey Council

Four members of the general public, two residing in the Municipality of Brockton and two residing in the Municipality of West Grey plus one member at large, as recommended by the Elmwood Chamber of Commerce and accepted by the Board. One of the public appointees shall be designated by the Board to act as a liaison between the Elmwood Community Centre Board and the Elmwood Chamber of Commerce

3. Council appointments shall coincide with the term of the Municipal Councils.

4. Upon passing of this by-law, public appointments shall be for a four-year term. Board members shall commence their annual terms of office on January 1<sup>st</sup> of each year.
5. Appointments of Council to the Board and replacement appointments for any reason are the exclusive right of the Councils of the respective participating municipalities. The Council of a municipality may designate another member of the Council to act as alternative representative to attend meetings of the Board in the absence of appointed members. The alternative representative shall have voting rights.
6. The Board shall appoint a Secretary and/or Treasurer who shall receive a yearly honorarium as set by the Board. The duties and responsibilities of the Secretary and/or Treasurer shall be as defined by the Board and this (these) positions do not have voting rights.
7. The Board shall be responsible to have its financial records audit ready on an annual basis and the records shall be audited on a yearly basis by a bona fide municipal auditor appointed by the Board as its municipal auditor. The fee charged for this audit will be the responsibility of the Board and will be included in the Board's yearly budget as an operating expense.
8. The Elmwood Community Centre buildings and property shall be covered for insurance purposes under the Board's insurance policies, the fee associated with such coverage as well as any deductibles due and payable will be the responsibility of the Board and will be included in the Board's yearly budget as an operating expense.
9. If at any time the Board requires an advancement of funds **on an emergency basis** for any capital project or capital acquisition or for cash flow purposes the Board shall make such request, in writing, to both Brockton and West Grey municipal councils. Any such requests must be approved by both municipal councils before funds are provided and the funds provided will be divided equally between the two municipalities. It should be noted that advancement of funds are to be on an emergency basis and should not occur on a regular basis.
10. The Municipalities of Brockton and West Grey shall each provide annual operating funds of \$15, 000 to the Elmwood Community Centre, 50% on January 15<sup>th</sup> and 50% on August 15<sup>th</sup> in each year. Annual capital funds of \$3500 each are transferred when the Board request the fund for capital purchases.
11. **Authority Duties and Responsibilities**  
The role of the Joint Elmwood Community Centre Board shall pertain to the Elmwood Community Centre, Park and Ball Diamond and the Elmwood Lions Park. The role of the Joint Elmwood Community Centre Board shall be achieved by advocating on behalf of and developing recommendations for Brockton and West Grey Council, via the municipal representatives within the following objectives:
  - a) policies governing the planning, development and direction of parks;
  - b) agreements, contracts, leases and/or partnerships to enhance and enable the provision of park services;
  - c) establish rates and fees for equitable and affordable access;

- d) ensure that the Community Centre and Parks are financially sustainable and viable over a long term and to develop financial strategies for long term organizational self- efficiency;
- e) ensure that facilities are safe, economical and cost effective while at the same time allowing equal access to all

12. **Function**

The Board shall function as follows:

- a) the Board shall elect a Chairperson annually, who shall preside over Board meetings;
- b) the Board shall elect a Vice-Chairperson annually and in the absence of the Chairperson shall act as Chairperson;
- c) the Board shall appoint a Secretary and/or Treasurer for the Board
- d) To hold regular monthly meetings, or more often at the call of the Chairperson or Vice-Chairperson when acting for the Chairperson, or at the request of a majority of Board Members. Notification must be given at least 24 hours in advance. All members shall be notified of meetings whether regular or special.
- e) The Chairperson shall have a vote on any and all matters.
- f) A tie vote shall defeat the motion.
- g) To prepare, annually, an estimate of operating revenues and expenditures for submission to and approval by each of the participating Municipal Councils by November 15<sup>th</sup> of each year and to make to the Councils full and complete annual and other reports as required. All parties to the agreement must approve the Board's annual budget as submitted or as amended on an annual basis and this mutual approval must be received prior to any new capital project being initiated or the commencement of any fundraising for a new capital expenditure.
- h) To review annually the rates and fees for all programs and the terms and conditions of any rental agreements.
- i) To ensure that proper tendering and purchasing procedures are followed for the acquisition of equipment, goods, and services. The Board shall follow the requirements of Brockton's current Procurement of Goods and Services By-law for this purpose. Appendix A- The Corporation of the Municipality of Brockton By-Law No. 2014-047
  - i. All Grant applications for the Elmwood Community Centre shall be processed under the Municipality of Brockton's policies and procedures.
  - ii. The Elmwood Community Centre processes purchases using the Municipality of Brockton's HST number.
- j) To ensure that Brockton's Municipal Alcohol Policy is implemented and enforced for any function that involves the consumption of alcohol held at facilities under the management of the Board as described in section 12.
- k) To ensure that proper records are kept, especially pertaining to registration, the number of participants in each program, and the

use of the facilities, and such records shall be presented regularly to the Board.

- l) To ensure that proper and adequate controls are in effect for the receipt of and accounting for all revenues.
- m) To regularly review all financial transactions and compare to the budget approved under item (g) above.
- n) To ensure that all participating Councils receive copies of the Minutes of all Board meetings and the Board Treasurer shall report monthly to the Board. The Board Treasurer shall promptly report to the Council of each participating municipality, in writing, on any event which may cause a substantial adverse effect on financial results.
- o) To submit an annual report to the Councils of the participating municipalities on activities of the Board for the previous year. Such report to accompany the Board's annual submission of its estimates for ensuing year.
- p) The Board shall obtain approval from the Councils of each of the participating municipalities before commencing the solicitation of funds or the conducting of fund-raising projects for either operating or capital projects.
- q) The annual operation deficits or surpluses resulting from the use and operation of community recreation facilities and all other recreation programs plus approved capital projects shall be shared on the following percentage.

Corporation of the Municipality of West Grey	50%
Corporation of the Municipality of Brockton	<u>50%</u>
	100%

- r) The cost of all future capital additions, replacements or improvements shall be shared as per the percentages in section 13(q) above.
- s) There shall be a Reserve Fund established by the Municipality of Brockton as part of its financial records identified as the Elmwood Community Centre Reserve Fund. This Reserve Fund shall be used primarily for Elmwood Community Centre future capital projects and also for purposes of off setting any year end operating surpluses or deficits of the Board. The Reserve Fund will be kept in a separate interest-bearing account. **Any additions to or withdrawals from the Reserves shall be authorized by a motion of the Board which must then receive approval of both municipal councils.** Any operating surplus at the calendar year end **must** be transferred to this Reserve Fund and any operating deficit at year end **must** be withdrawn from this Reserve Fund. Any contributions to Reserve Fund for future capital projects must be identified as to the proposed project and will be recorded separately as such in the financial records for the Reserve Fund.
- t) In carrying out the provisions of this agreement, the Board shall, at all times, be the agent of the participating municipalities and while acting bona fide within the limits of the authority of this agreement, neither the Board nor any member thereof, shall incur any liability by reason of anything done or left undone by the Board, provided, however, that nothing in the paragraph contained shall authorize or empower the Board to incur any

debt, liability or obligation for which their municipalities shall become liable, without having previously obtained the consent of the Councils of the participating municipalities.

13. **Rules and Regulations**

The rules and regulations contained in this by-law shall be observed in all proceedings of the Joint Elmwood Community Centre Board and shall be the rules and regulations for the dispatch of business by the Joint Elmwood Community Centre Board.

- a) Monthly meetings shall be held at a place and time agreed upon by the Board unless suspended by motion of the Board.
- b) The Chairperson may at any time, summon a special meeting.
- c) When the Chairperson is absent or refuses to act or the office is vacant, the Vice-Chairperson or presiding officer appointed from those members present shall act in the place and stead of the Chairperson and while so acting, may exercise all the rights, powers and authority of the Chairperson.
- d) The Chairperson or presiding officer may expel from a meeting, anyone who engages in improper conduct.
- e) All meetings shall be open to the public.
- f) Notwithstanding Section 14(e) above, a meeting of the Board may be closed to the public if the subject matter being considered relates to:
  - i. the security of the property of the municipality or local board;
  - ii. personal matters about an identifiable individual, including municipal or local board employees;
  - iii. a proposed or pending acquisition or disposition of land by the municipality or local board;
  - iv. labour relations or employee negotiations;
  - v. litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
  - vi. advice that is subject to solicitor-client privilege, including communications necessary for that purpose
  - vii. a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
  - viii. information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
  - ix. a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - x. a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value;
  - xi. a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board;
  - xii. a request under the Municipal Freedom of Information and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act;

- xiii. an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under the Ombudsman Act, and Ombudsman referred to in subsection 223.13 (1) of this Act, or the investigator referred to in subsection 239.2 (1);
  - xiv. the meeting is held for the purpose of educating or training the members, and at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.
- g) Before all or part of a meeting is closed to the public, the Board shall state by resolution:
- i. the fact of the holding of the closed meeting;
  - ii. the general nature of the matter considered at the closed meeting.
- h) Subject to subsection (i) below a meeting shall **not** be closed to the public during the taking of a vote.
- i) Despite subsection m) of section 19 **a meeting may be closed to the public during a vote if,**
- i. subsection (f) permits or requires a meeting to be closed to the public and,
  - ii. the vote is for a procedural matter or for giving directions or instruction to officers, employees or agents of the Board or person retained by or under contract with the Board and shall relate only to the items under section (f) above.
- j) Meetings or sessions which are closed to the public may be referred to as closed sessions.

**14. Agendas and Supporting Material**

- a) The Secretary shall prepare agendas and the agendas shall be generally formatted as follows but modifications to the matters to be included or order of business may be affected without requiring amendment to this by-law. Agendas shall be circulated at least five (5) calendar days prior to all meetings.
- 1) Disclosure of Pecuniary Interest
  - 2) Delegations
  - 3) Minutes of Previous Meeting(s)
  - 4) Treasurer's Report
  - 5) Business Items
  - 6) Adjournment
- b) The business of the Board shall be taken up in the order as listed on the agenda unless otherwise decided by the Chairperson or presiding officer.

**15. No Quorum**

If no quorum is present one-half hour after the time appointed for a meeting, the Secretary shall record the names of the members present and the meeting shall stand adjourned until the date of the next regular meeting or until rescheduled.

**16. Duties of the Chairperson**

It shall be the duty of the Chairperson or other presiding officer:

- a) to open the meeting by taking the chair and calling the members to order;
- b) to announce the business before the Board in the order in which it is to be acted upon;
- c) to receive and submit, in the proper manner, all motions presented by the members;
- d) to put to vote all questions which are moved and seconded, or necessarily arise in the course of the proceedings, and to announce the result;
- e) to decline to put to vote motions which infringe upon the rules of procedure;
- f) to enforce on all occasions the observance of order and decorum among the members;
- g) to call by name any member persisting in breach of the rules or order of the board thereby ordering the member to vacate the board meeting;
- h) to authenticate by signature all by-laws, resolutions and minutes of the board;
- i) to inform the Board when necessary or when referred to for the purpose, on a point of order or usage;
- j) to select the members of the Board who are to serve on Committees;
- k) to represent and support the Board, declaring its will and implicitly obeying its decisions in all things;
- l) to ensure that the decisions of the Board are in conformity with the laws and by-laws governing the activities of the Board;
- m) to adjourn the meeting without question in the case of grave disorder arising in the Board meeting;
- n) to order any individual or group in attendance at the meeting to cease and desist any behavior which disrupts the order and decorum of the meeting and to order the individual or group to vacate the Board meeting where such behavior persists.

**17. Conduct of Members of the Board and Guests**

No member shall:

- a) use offensive words or unparliamentarily language in or against the Board or against any member, staff or guest;
- b) disturb another, of the Board, staff or guest, by an disorderly conduct disconcerting to the speaker or the assembly;
- c) speak on any subject other than the subject in debate;

- d) resist the rules of the Board or disobey the decisions of the Chairperson or presiding officer or of the Board on questions of order or practice or upon the interpretation of the rules of the Board;
- e) leave a meeting without first obtaining permission from the Chairperson or presiding officer;
- f) be permitted to retake their seat after being ordered to vacate, having committed a breach of any rule of the Board, until the next meeting and without making an apology to the Board;
- g) interrupt the member who has the floor except to raise a point of order.

18. **Rules of Procedure**

- a) Delegations shall provide **at least** 48 hours notice prior to any meeting to the Secretary of a request to address the Board and such request shall identify the topic of discussion.
- b) No person shall be allowed to address the Board or speak in debate without permission of the Chairperson or presiding officer.
- c) A motion must be formally seconded before the question can be put or a motion recorded in the minutes.
- d) A motion to amend shall:
  - i. be dealt with by the Board before a previous amendment or the main motion;
  - ii. not be further amended more than once, provided that a further amendment may be made to the main motion;
  - iii. be relevant to the main motion;
  - iv. not propose a direct negative to the main motion.
- e) Once read or stated by the Chairperson or presiding officer a motion may not be withdrawn without the consent to the majority of the members.
- f) Immediately prior to voting on a motion, the Chairperson or presiding officer shall state the question in the precise form it is to be recorded in the minutes, including any amendment to the question.
- g) After a motion as amended is finally put, no member shall speak to the question nor shall any other motion be made until after the vote is taken and the result is declared.
- h) Members shall not speak more than once to the same question without the consent of the Chairperson or presiding officer.
- i) In an unrecorded vote, the manner of determining the decision on a motion shall be at the discretion of the Chairperson or presiding officer and may be by voice, show of hands, standing or otherwise.
- j) Where a vote is taken for any purpose and a member requests, before or after the vote, that the vote be recorded, each member present, except a member disqualified from voting by any Act, shall, in an order determined by the Chairperson or presiding officer, announce their vote openly, and any failure to vote by a qualified

member shall be deemed to be a negative vote and the Secretary shall record each vote.

- k) The Chairperson or presiding officer, except where disqualified to vote, may vote on all questions and when so doing, shall vote last.
- l) Except where expressly provided in Statute, any question on which there is an equality of voters shall be **deemed to be defeated**.
- m) Subject to subsection (i) of Section 14 no vote shall be taken by ballot or any other method of secret voting and every vote so taken is of no effect.
- n) Unless otherwise authorized by the Chairperson or presiding officer, all members, staff and guests shall address the Board through the Chair and only when recognized to do so.
- o) When two or more members seek to address the Board, the Chairperson or presiding officer shall designate the member who may speak first.
- p) Any member may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a member while speaking.
- q) The following matters and motions may be introduced orally without written notice and without permission except as otherwise provided by these rules:
  - a. a point of order or personal privilege;
  - b. presentation of petitions;
  - c. to lay on the table (to defer temporarily);
  - d. to postpone indefinitely or to a specific day;
  - e. to move the previous question (immediate vote on the main motion).
- r) The following motions may be introduced without notice and without permission:
  - a) to refer;
  - b) to adjourn;
  - c) to amend;
  - d) to suspend the rules of procedure.

#### 19. **Points of Order and Privilege**

- a) The Chairperson or presiding officer shall preserve order and decide questions of order.
- b) The Board, if appealed to, shall decide the question without debate and its decision shall be final.

20. **General**

- a) In all matters and under all circumstances, the members shall make a disclosure of pecuniary interest and the general nature thereof on the agenda and the Secretary shall record this disclosure of pecuniary interest.
- b) Individuals or groups which are listed on an agenda or are otherwise approved to appear before the Board shall be limited to not more than fifteen (15) minutes except that a delegation consisting of more than five (5) persons shall be limited to two (2) speakers each limited to speaking not more than ten (10) minutes.
- c) Any procedure under this agreement which is discretionary and not mandatory under statute may be suspended with the consent of a majority of the members present.

22. Either party to this Agreement may terminate this Agreement upon one (1) year **written notice of termination** to the other party, in which case this Agreement shall terminate one (1) year following the delivery of such notice. The party that **receives the notice** shall have the right to acquire the fifty (50) percent share of the assets of the Elmwood Community Centre owned by the party that **provided the notice**. The final details as to how the value of the fifty percent share of the assets of the Elmwood Community Centre is determined will be finalized by mutual agreement of both parties within the one (1) year notice period. If a mutual agreement cannot be reached between the two parties on the value or disposition of the assets then a final decision will be rendered by a mutually agreed upon mediator. This Agreement shall remain in force and effect during the one(1) year notice period as well as any mediation period that may extend beyond the one (1) year notice period.

23. This by-law shall be reviewed by both municipal Councils for any possible amendments prior to December 31<sup>st</sup>, 2018.

Signed & Sealed on:	)	<b>THE CORPORATION OF THE</b>
	)	<b>MUNICIPALITY OF WEST GREY</b>
	)	
December 17, 2018	_____)	
Date	)	Per: Original Signed By _____
	)	Mayor - Christine Robinson
	)	
	)	Per: Original Signed By _____
	)	Clerk - Mark Turner
	)	
	)	<b>THE CORPORATION OF THE</b>
	)	<b>MUNICIPALITY OF BROCKTON</b>
	)	
January 2, 2019	_____)	Per: Original Signed By
Date	)	Mayor - Chris Peabody
	)	
	)	Per: Original Signed By
	)	CAO - Sonya Watson
	)	