

THE CORPORATION OF THE DISTRICT OF BURNABY

28 January, 1966.

REPORT NO. 5, 1966.

His Worship, the Reeve,
and Members of the Council.

Gentlemen:

Your Manager reports as follows:

1. Re: (1) Recreational Development on Burrard Inlet
(2) Barnet Beach

At its meeting held 20th December, 1965, Council asked the Parks and Recreation Commission to obtain an estimate of the cost of making Barnet Beach available for recreational purposes next summer, including the construction of a pedestrian overpass and restrooms.

The following information has now been received from the Parks and Recreation Commission:

"The Burnaby Parks and Recreation Commission received a memo dated December 22, 1965 from the Municipal Clerk, at its meeting of January 19, 1966.

At the same time the Commission reviewed a summary of all correspondence received from the Burnaby Citizens' Committee together with 'Some Observations on Recreational Development around Burrard Inlet with specific reference to "Barnet Beach"' which had been prepared for the Chairman.

The Commission directed that Council be supplied with the following detailed estimate costs of a minimum development at Barnet Beach, together with copies of the above items.

Estimate of minimum practical development of Barnet Beach

*Soils Consultant	\$ 1,000.00
*Pedestrian Overpass	25,000.00
*Structural Engineering Fee	2,500.00
Restrooms - 1,000 square feet @ \$12.00 per sq.ft.	12,000.00
Parking and access - 150 cars - about 3 acres	20,000.00
Safety Fencing - 4,700 lineal feet @ \$7.50	35,250.00
Grading and grassing area north of tracks	<u>5,000.00</u>
TOTAL	<u>\$100,750.00</u>

*To comply with the requirements of the Board of Transport Commissioners and the Canadian Pacific Railway, the overpass must be an engineered structure. Soil stability problems are known to exist in the area and the services of a soil consultant would be required before design details could be finalized. The above estimates are subject to adjustments to conform to the findings of the Structural and Soils Consultants."

2. Re: Boundary Road South from Marine Drive

Mr. N. Micholls of 3976 S.E. Marine Drive, Burnaby submitted a suggestion to Council on the 13th December, 1965 for a 4-lane Highway from Second Narrows Bridge on Boundary Road and a crossing of the North Arm of the Fraser River. The plan was sent to the Planning Department.

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(Item #2 - Re: Boundary Road South from Marine Drive cont.)

The Planning Department is pleased to report that the suggestion made by Mr. Micholls has been an integral part of the Planning Department's major road plan for a number of years. The Department considers the plan has high merit, although the crossing of the North Arm of the Fraser River is a long range view.

In 1964 the "Stanford Report" reviewing Transportation Plans for Metro Vancouver produced the "1985 Recommended Freeway Plan" and "Freeway System Levels". These show a crossing of the North Arm by 1985. Burnaby Planning Department is of the opinion that a Boundary Road Bridge Crossing should be considered in lieu of the one proposed in the Stanford Report, and is also of the opinion that there is a better location for the proposed Annacis Island crossing and future Freeway.

There is no evidence that the Boundary Road Route has ever been considered by others as a possible freeway route on the Metropolitan Scale.

3. Re:Water Damage Claims -
5100 Block Hastings Street

Resulting from a break in a water main on Hastings Street in June 1965, the Corporation received two claims for damages and received notice of a third claim which did not materialize.

The claims actually received were:

Mr. & Mrs. S. A. Williams	-	\$ 500.00 approximately
Mr. J. G. Moore	-	1,212.23

The claim of J. G. Moore exceeded the \$1,000.00 liability of the Corporation under its Insurance Policy so this claim was forwarded to the Insurers. Because one claim was in the hands of the Insurers, the other claim by Mr. & Mrs. Williams has been rejected but Council has not had an opportunity to deal with an appeal to Council by the Williams for consideration.

Dated 11th January 1966 the Insurers, Yorkshire Insurance Managers Limited, have given the following opinion regarding this incident with particular reference to liability of the Corporation and the principle of ex gratia settlements by the Corporation.

"This letter will confirm our telephone conversation of December 15th, 1965, wherein you advised that Council is considering an appeal by Mrs. Williams for some financial contributions toward the cost of repairing the damage to her premises.

We understand that Mrs. Williams' repair costs total between \$400.00 and \$500.00, which is of course less than the policy deductible and that we are being asked for our thoughts on the advisability of an ex gratia payment to Mrs. Williams because one of the other claims arising out of this occurrence, is in excess of the policy deductible.

We must firstly point out that we are concerned here with a legal liability policy and that consequently there can be no claim under the policy unless the Corporation of the District of Burnaby is found to be legally liable for the damage caused by the ruptured water main.

We have considered the information you have forwarded concerning the cause of the rupture, including the Engineer's report and in our opinion, the rupture was not a result of negligence on the part of the District or its employees. In the absence of any negligence, we would take the stand that the District is not legally liable for the

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(Item #3 - Re: Water Damage Claims -
5100 Block Hastings Street cont.)

resultant damage and would strongly oppose any claims made against the District, to the point of defending them in court if necessary.

We would then point out that the liability policy has primarily two main functions, the first, to defend the District against any actions brought against the District where it is alleged that bodily injury or property damage resulted from the District's negligence and the second, to pay those claims for which the District has been found legally liable.

We cannot prevent the District from making ex gratia payments of the type presently proposed in the case of Mrs. Williams. However, we are definitely opposed to such payments for the following reasons:

1. They create very dangerous precedents which make it most difficult for the District and ourselves to deny claims arising out of future, similar fact situations,
2. They can be brought up in evidence at trials involving similar situations in the future and could prove damaging or weightening to an otherwise successful defence,
3. They undermine the protection provided to the District by the Municipal Act and the protection which the District purchases for itself in the form of a legal liability policy,
4. They can turn an otherwise desirable risk sour, in the eyes of Insurance Underwriters, if such payments are made too frequently.

In this particular instance, it would appear that Mrs. Williams has been placed in a position of hardship, because she alone, of the home owners concerned, chose not to carry normal fire and supplemental perils coverage on her house. Should such a person then be compensated out of public funds? We have been advised by some municipalities that they do not feel that they have the right to spend public funds for such a purpose. Council may wish to consider their position further, from this point of view.

If Council does decide to make a payment in this instance, we would suggest that it be limited to no more than 50% of the amount of the damages and that it be clearly stipulated to be an ex gratia or charity payment, with a strong and clear denial of all liability."

As previously stated, all claims have been rejected by the Corporation.

4. Re: "Burnaby Road Acquisition and Dedication By-law 1966" No. 4879

The above mentioned By-law is being presented for the consideration of Council.

The By-law provides the authority for the acquisition and dedication of rights-of-way required in connection with the 6th Street Sewer Area #18 Project.

Reports covering the individual acquisitions will be presented to the Council in the usual manner.

5. Re: Newcombe Sanitary Sewer Project #19

Tenders have been received for the construction of the above mentioned project and were opened in the presence of Messrs. Kennedy, Constable and Dick and representatives of the firms bidding. A tabulation of the tenders is attached.

The scope of the work consists of approximately 24,833 feet of sewer and 416 house connections.

It is recommended that the low tender submitted by H. B. Contracting Limited for the dirty work method for \$290,930.47 be accepted.

6. Re: Acquisition of Easement - D.L. 94

An easement is required for storm sewer purposes as follows:

Owner - Jeen Joost Vanens and Froukje Vanens,
5293 Imperial Street, Burnaby 1, B. C.
Property - The Westerly 7' of The East Half of Lot 37, D.L. 94, Group 1,
Plan 720 except the South 10' thereof, N.W.D.
Location of Easement - 5293 Imperial Street, Burnaby 1, B. C.
Consideration - \$250.00 plus restoration of the easement area.
This is a flankage easement.

It is recommended that authority be granted to acquire the above easement and that the Reeve and Clerk be authorized to execute the easement documents on behalf of the Corporation.

7. Re: Block 8, D.L. 218

In June 1965, Council dealt with a proposal by Goodwin-Johnson (1960) Ltd. with respect to a log-sorting operation on the Water Lot adjoining Block 8 D.L. 218 and exploratory work relating to a Pulp Mill on Block 8 itself.

Council (a) granted permission for the exploratory work on Block 8;
(b) refused permission as an upland owner for the proposed log-sorting operation.

Goodwin-Johnson (1960) Ltd. appear to have abandoned the original idea of Pulp Mill but are now considering another possible use for Block 8.

The following letter has been received from Goodwin-Johnson (1960) Ltd. dated 21st January 1966.

"We are prepared to go ahead with the construction and installation of a deep sea loading wharf fronting Lots 6 & 7 of D.L. 218 which is the property we purchased last year from Imperial Oil Limited.

Our wharf would be constructed to meet all the requirements for docking and safe tying of ocean vessels, and while its location is not ideal for a one ship wharf, its location is such that it ties in with our future plans for a major terminal facility.

In order to properly secure vessels it is necessary that we install anchors fore and aft of the vessel and therefore we hereby request your consent that anchors may be placed in the water on water lot fronting the Burnaby owned Lot 8 of D.L. 218.

(Item #7 - Re: Block 8, D.L. 218 cont.)

Upon approval we intend to submit our plans to the necessary Federal authority for approval and expect to be able to commence construction of this wharf without delay, as we have a schedule of vessels to load this spring and summer already booked.

We are enclosing a preliminary sketch plan showing the location."

This request has been discussed with the National Harbours Board and the Port of Vancouver Development Committee Director. At present Goodwin-Johnson (1960) Ltd. have a month-to-month interim lease of the water lots opposite Lots 6 & 7 for log storage only.

The proposed wharf would:

- a) actually extend into the water lot opposite Lot 8, owned by Burnaby;
- b) in essence, fix the use of the water lots opposite Lots 6 & 7 for log sorting.

National Harbours Board and Port Development do not favour this type of use and it is recommended that Burnaby withhold upland owner's approval of this recent request by Goodwin-Johnson (1960) Ltd.

8. Re: Applications for Rezoning

Submitted herewith for your consideration are two additional reports prepared by the Municipal Planner covering rezoning applications in D.L. 14.

It is recommended they be referred to the Council meeting on unfinished Planning Items to be held Tuesday, 1st February 1966.

9. Re: Application for rezoning - Lots 6,7,8,9, Block 2, D.L. 119, Plan 4307 from Residential R5 to Commercial C3

Council last Monday considered the report on the application for the rezoning of the above property and tabled the report to allow discussions between the Department and the applicant to determine if a more suitable location in the same area could be found.

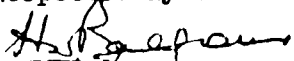
Discussions have now been held with representatives with Mohawk Oil who indicate that they have searched this area thoroughly for a suitable service station site which must be located on either Lougheed or Willingdon. Sites which meet their needs and reflect the Corporation's goals do not appear to be available.

The outcome of the discussions was that Mohawk are prepared to go along with the Department's recommendation as their obvious interest is in providing an outlet for their products. The coin operated car wash is of secondary interest and they are prepared to attempt to locate this use elsewhere if permitted to construct a service station in this location.

In conclusion, it is recommended following discussions with the applicant that Council adopt in principle the idea of Comprehensive Development zoning on Lots 8 and 9 for Service Station use. Creation of a suitable plan will then be worked out with the applicant by Planning.

It is recommended this item be referred to the Council meeting to be held Tuesday, 1st February, 1966.

Respectfully submitted,


H. W. Balfour
MUNICIPAL MANAGER

10. Re: Canada Safeway Limited,
Store #4, Hastings and Rosser

Canada Safeway Limited applied for the rezoning of D.L. 121, Block 12, Lot "C", Plan 16620 and Lots 24 and 25, Plan 1054 from Residential R5 to General Commercial C3. The rezoning was requested to allow the consolidation of a larger site on which they were at that time building a new store.

As a result of conditions pertaining to the rezoning, Burnaby passed By-law #4690 being "Burnaby Highway Exchange By-law 1965". This was a relatively simple Street Exchange By-law but has now become a rather complex procedure involving more lane closure; a different approach; and an undertaking rather than a dedicated alternate lane. Fortunately By-law #4690 has not been filed in the Land Registry Office.

Rezoning of the property has not been finalized pending a report from Planning that the conditions established had been met.

It must be stated here that Safeway is quite prepared to meet the conditions and the problem is merely one of arriving at suitable mechanics. However, since the approach is a revised one, Planning considers that Council agreement, in principle, should be obtained before any further steps are taken.

Briefly, it has been tacitly agreed now, as set out in a letter from Mr. F. K. S. Collins, Solicitor for Safeway, and all subject to Council concurrence that:

1. Safeway by Plans Cancellation will obtain the lane from Rosser to Lots 13/24.
2. Safeway would deed to the Corporation Lot 23 on the understanding that if a lane outlet was necessary or the remaining lots were not acquired, the easterly 20' would be dedicated as lane and the remaining 13' would be conveyed to Safeway. There is already money on deposit to cover the cost of construction if necessary.

There are several points raised by the Company's Solicitor on which concurrence must be obtained:

- (a) In the event that Safeway does acquire Lots 19 to 22 Burnaby will reconvey all of Lot 23 to Safeway. At this time Safeway proposes that Lot 23 be held by Burnaby unregistered in trust. There would be no cash consideration payable by either Safeway or Burnaby in respect of any and all conveyances between Safeway and Burnaby of all or part of Lot 23.
- (b) Upon receipt of the conveyance of Lot 23 by Burnaby, Burnaby will return the earlier conveyance of a portion of a lot toward the middle of the block considered earlier as a reserve for lane purposes.
- (c) There is tenancy of Lot 23 to 31st March 1966 and Burnaby's acceptance of Lot 23 would be subject to this. Also, Safeway reserves the right to demolish or sell the improvements on Lot 23.

Planning put forward the following as reasonable requirements of the Corporation respecting the tacit agreement as outlined by Mr. Collins:

- (i) Easements should be provided at no cost to the Corporation to protect any services and utilities which fall within the consolidated site.

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(Item #10 Re: Canada Safeway Limited,
Store #4, Hastings and Rosser cont.)

- (ii) Following the demolition or removal of the improvements on Lot 23, the Lot should be graded and left in a condition acceptable to the Corporation.
- (iii) All legal and survey costs should be at Safeway's expense.
- (iv) The deed for Lot 23 should be registered and not unregistered in trust.
- (v) Regarding tenancy of Lot 23, Safeway should be responsible for providing this Corporation with vacant tenancy of the Lot 23 by 30th April, 1966.

Once the foregoing has been accepted and the various undertakings and agreements have been obtained the Zoning Amendment By-law can then be introduced.

It is recommended that Council approve, in principle, of the arrangements made between Safeway and the Planning Department subject to the observations of the Planning Department numbered (i) to (v) immediately above.

Finally, it will be necessary for Council to rescind By-law #4690, which, as previously mentioned, fortunately, has not been filed in the Land Registry Office.

11. Re: Acquisition of Easements - Sixth Street Sanitary Sewer Area #18

Easements are required in connection with the above Sewer Project as follows:

- (a) Owner - Leslie Cecil Carpenter and M. Joan Carpenter,
7951 Goodlad Street, Burnaby 1, B. C.
Property - The Northwesterly 10' of the Easterly Half of Lot 40, being measured perpendicularly to the Northwest boundary thereof, Block 1, D.L. 90, Group 1, Plan 555, being all that portion of said Lot 40 lying East of a straight line bisecting the Northerly and southerly boundaries thereof, N.W.D.
Location of Easement - 7951 Goodlad Street, Burnaby 1, B. C.
Consideration - \$1.00 plus restoration of the easement area.
- (b) Owner - Paul Munger and Ruth Munger,
7947 Goodlad Street, Burnaby 1, B. C.
Property - The Northwesterly 10' of the Westerly Half of Lot 40, being measured perpendicularly to the Northwest boundary thereof, Block 1, D.L. 90, Group 1, Plan 555, being all that portion of said Lot 40 lying West of a straight line bisecting the Northerly and Southerly boundaries thereof, N.W.D.
Location of Easement - 7947 Goodlad Street, Burnaby 1, B. C.
Consideration - \$1.00 plus restoration of the easement area.

It is recommended that authority be granted to acquire the above easements and that the Reeve and Clerk be authorized to execute the easement documents on behalf of the Corporation.

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12. Re: Lane Acquisition - Sixth Street Sanitary Sewer Area #18

The following lane acquisition is required for the above noted Sanitary Sewer Project as follows:

The Southeasterly 10' of the East Half of Lot 20, Block 2, D.L. 90, Group 1, Plan 555, N.W.D., owned by John D. Mitchell and Shirley A. Mitchell of 7950 Goodlad Street, Burnaby 1, B. C. The consideration is \$37.50 for 50' of fence at 75¢ per foot.

It is recommended that the portion of property referred to be acquired for lane purposes and that the Reeve and Clerk be authorized to sign the necessary documents.

13. Re: Sanitary Sewer Service to Canada Safeway -
11th Avenue and 15th Street

In order to provide sanitary sewer service to the Canada Safeway plant at 11th Avenue and 15th Street, it is necessary to cross the B. C. Hydro right-of-way at Station 29 + 45, Safeway Industrial Lead, Mile 2.92, Central Park Branch.

The standard type Agreement has been prepared between B. C. Hydro Authority and the Corporation to provide the crossing.

It is recommended that the Reeve and Clerk be authorized to sign the Agreement on behalf of the Corporation.

14. Re: By-law #4884 being "Burnaby Incinerator and Garbage Disposal By-law, 1953, Amendment By-law #1"

The recent action of the City of Vancouver in amending their garbage rates coupled with a severe restriction in the use of the Kerr Road Disposal Area has made Burnaby's Stride Pit Disposal Area very attractive to Commercial enterprises and private individuals seeking a disposal area.

No difficulty was experienced until late last week but then the situation could not be handled and Burnaby's own collection vehicles were held up.

A new Garbage By-law has been prepared but this will require considerable discussion and policy decision by Council.

In the meantime it is considered that the existing By-law should be amended to provide for the following disposal charges:

Up to 100 lbs.	Free of charge
Any load in any vehicle over 100 lbs but less than 1,000 lbs.	\$ 1.50
Any load over 1,000 lbs.	\$ 1.50 first 1,000 lbs. plus 1.25 for every 1,000 lbs or portion thereof over 1,000 lbs.

It is considered that the above rates should be sufficient to get things back under control and make Stride Avenue Pit less attractive.

Respectfully submitted,



H. W. Balfour
MUNICIPAL MANAGER

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