

ITEM 28

MANAGER'S REPORT NO. 92

COUNCIL MEETING Dec. 10/73

28. Re: Lane East of Brantford Avenue and South of Stanley Street
Subdivision Reference #122/73
(Item 19, Report 83, November 5, 1973)
(Item 18, Report 90, December 3, 1973)
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Council on December 3, 1973 tabled Item 18, Report 90, pending an opinion from the Parks and Recreation Commission on the lane east of Brantford Avenue and south of Stanley Street. The Secretary to the Commission in a letter dated December 6, 1973 to the Manager advised as follows:

"At its meeting of November 21, 1973 the Parks and Recreation Commission gave a hearing to Mr. A.S. Gregson with regard to the development of the above lane. The (Parks and Recreation) staff were requested to submit a report comparing this situation with that which existed near Lyndhurst Park. This report, which was presented at the meeting of December 5, 1973, recommended that the Commission oppose the creation of the lane on the west side of Brantford School - Park.

The Commission, however, directed that Council be advised that in so far as the Commission is concerned, if the majority of the affected residents on Brantford Avenue want to have the lane developed as a local improvement, then the lane should be developed and the Commission is prepared to give up 20 feet of the recently acquired property on Stanley Street."

The Deputy Clerk complied with Council's instruction to forward a copy of Item 18, Report 90, to "all those abutting owners involved in opening this lane, whether or not they signed the petition". The abutting owners in a letter dated December 4, 1973 were advised that "a request of Mr. Gregson to address Council will be placed on the Agenda for the December 10th Council meeting. The Council expects that if any other affected owner wishes to speak at that time, he will so signify by contacting myself (the Deputy Clerk). If you wish to address Council, kindly notify me to that effect by no later than noon of this Friday."

Attached is a further report from the Approving Officer regarding the subject lane. This report is submitted in reply to certain inquiries that were made by members of Council during discussion of this matter on December 3, 1973.

This is for the information of Council.

ITEM 28

MANAGER'S REPORT NO. 92

COUNCIL MEETING Dec. 10/73

PLANNING DEPARTMENT
6 DECEMBER, 1973

SUBJECT: SUBDIVISION REFERENCE #122/73
LANE EAST OF BRANTFORD AND SOUTH OF STANLEY STREET

At the December 3, 1973 meeting of the Municipal Council, the question was raised as to the methods of closing lane rights-of-way; what monies were deposited in trust for the construction of the subject lane, and the ownership of the land which was dedicated for the lane. I would report on these items as follows:

(1) METHODS OF CLOSING LANE RIGHTS-OF-WAY

On October 29, 1973 the Manager requested the Planning Department to provide him with the various circumstances under which the lane in question could be abandoned. This request was precipitated by a letter to the Manager from Mr. Gregson on the subject. The Municipal Solicitor was asked to answer Mr. Gregson's enquiry and his response is attached for the information of Council.

(2) WHAT MONIES WERE DEPOSITED IN TRUST FOR THE CONSTRUCTION OF THE LANE?

A search of the Engineering Department's records has revealed that no money is on deposit for this construction.

(3) WHO OWNED THE LAND WHICH WAS DEDICATED FOR THE LANE RIGHT-OF-WAY PRIOR TO DEDICATION?

The Land Agent's records show that the Corporation purchased four properties, one of which was subsequently transferred to the School Board. In the purchase of three of the properties, the land bought included the land which was dedicated for the lane right-of-way. The fourth did not and it could be said, therefore, that the owner dedicated the right-of-way. The balance of the property acquisition was undertaken by the School Board who use private agents to acquire land. Consequently, to determine who owned the land prior to dedication, would be quite involved. We have not, therefore, included this information in this report. Should Council require this information, we would undertake to obtain it.

RECOMMENDATION

THAT the Municipal Council receive this report for information.

Respectfully submitted,


A. L. Parr,
APPROVING OFFICER

PB:ea
Attchmt.

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MANAGER'S REPORT NO. 92

COUNCIL MEETING Dec. 10/73

CORPORATION OF THE DISTRICT OF BURNABY

INTER-OFFICE COMMUNICATION

TO: Manager

DEPARTMENT:

DATE: Nov. 2, 1973

FROM: Solicitor

DEPARTMENT:

OUR FILE #

SUBJECT: Lane East of Brantford Avenue and
South of Stanley Street

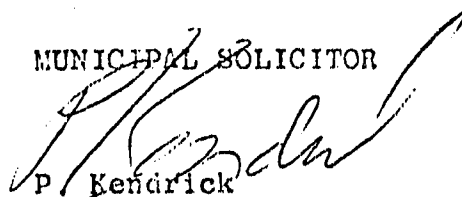
YOUR FILE #

Mr. Bloxham of the Planning Department has asked me to attempt to answer the question Mr. Gregson raised in his letter. All his questions seem to work out to the same question worded in a different manner. I feel Mr. Gregson should be informed that there are two ways of closing lanes; one by Plans Cancellation proceedings, which are under the control of the Land Registrar, (this method would probably be unacceptable in this particular lane because of the large number of different plans involved), and of course, the other method is Section 508 of the Municipal Act which Mr. Gregson mentions. As you are aware the final decision on whether or not the lane is to be cancelled under Section 508 is up to Victoria through the Lieutenant-Governor in Council. As a rule Victoria demands consents from each of the adjoining owners, but have at times waived the consents if Burnaby can show reasonable cause. In my experience reasonable cause for refusing a consent has not been the lack of compensation. Therefore, to answer Mr. Gregson's question directly a lane cannot be closed without the consent of the abutting owners and there is no compensation for loss, as there has been no loss. It is not a majority of owners who must consent, but rather they all must consent. The property owners cannot apply for abandonment except for the aforementioned Plans Cancellation Act procedure and there certainly would be no compensation as the adjoining owners would receive half the lane allowance. All owners abutting the portion of the lane which is to be closed would have to apply under the Plans Cancellation Act, and finally, again Burnaby would need the consent of all the owners and there would be no compensation paid.

I trust this will enable you to answer Mr. Gregson's questions, if not let me know.

MUNICIPAL SOLICITOR

By:



P. Kendrick

PK:ph

c.c. Director of Planning