

Re: Local Improvement Project on Brantford Avenue

- a) Letter from Mr. C.A.C. Venning that appeared on the Agenda for the May 5, 1975 Meeting of Council (Item 2e, Page 20)
- b) Letter dated May 6, 1975 from Mrs. E. Titterington, 6358 Brantford Avenue
- c) Letter dated May 7, 1975 from Mrs. A.S. Gregson, 6376 Burns Street

Appearing on the Agenda for the May 5, 1975 meeting of Council was a request from Mr. C.A.C. Venning for reinitiation of a Local Improvement on Brantford Avenue. Council, at the Manager's request, tabled a report on this matter (Item 25, Report No. 33), and Mr. Venning upon being so advised decided to defer his appearance as a delegation for one week. We also at this time have on the Agenda for the May 12, 1975 meeting of Council letters from Mrs. E. Titterington and Mrs. A.S. Gregson who are opposed to the reinitiation of the work.

Item 25, Report No. 33, recommended that the work be reinitiated, but we now find that this recommendation should be withdrawn as Section 592(1) of the Municipal Act provides that the Clerk shall determine the sufficiency of a petition and his certificate once given is final and conclusive. Regardless of the petitions, the dates on which they were received, their form or their intent, the fact is that the Municipal Clerk did issue his certificate. In this case, he certified that a sufficient petition had been presented against the work. It appears that courts have ruled that even when the Clerk has made a mistake in law (and we are not suggesting that an error was made in this case), his certificate is still final and conclusive. Therefore, it seems clear that this particular local improvement work has been defeated.

Further, Section 590 of the Municipal Act provides that Council may not initiate the same local improvement within the initiative plan if the work has been defeated by a sufficient petition within one year after the presentation of the petition. It is clear, therefore, that this work having been defeated, Council may not re-institute it until one year has elapsed.

At this point, one of two alternatives could be exercised:

1. The affected property owners can petition for the work and if a two-thirds majority is obtained, inclusion of the work into the 1975 General Local Improvement contract can proceed expeditiously. If this approach were followed, the petition would have to be presented to the Clerk no later than May 20. Mr. Venning has been advised of this deadline, but he feels that it is not possible to obtain the necessary two-thirds majority.
2. Because the work was defeated on the initiative basis, it cannot be reinitiated by Council for a period of one year unless the scope of the work is changed. This could be accomplished by having the scope changed from Imperial Street to Strawson Street rather than from Imperial Street to Oakland Street as defeated. This, of course, is a more time consuming procedure which even if successful would not allow for construction to proceed in connection with the 1975 General Local Improvement contract. If approved, the revised description of the work would be 28' pavement with 5' curb walks on both sides of Brantford Avenue from Imperial Street to Strawson Street. The length would be approximately 3,430 feet. The estimated cost of the work is \$171,500.

Circumstances relating to this local improvement strongly suggest that it will not be possible to obtain a two-thirds majority. Even if the second alternate is exercised and approved by a simple majority of the property owners, it is not likely that the work could be undertaken and completed this year.

RECOMMENDATIONS:

1. THAT Item 25, Report No. 33, be lifted from the table; and
2. THAT the recommendations contained therein be withdrawn; and
3. THAT the work as amended with the revised limits be initiated in 1976; and
4. THAT a copy of this report and Item 25, Report No. 33, be sent to all petitioners.