

ITEM	11
MANAGER'S REPORT NO.	69
COUNCIL MEETING	Nov. 1/76

Re: CENTRAL PARK LEASE
 (ITEM 11, REPORT NO. 54, AUGUST 30, 1976)
 (ITEM 14, REPORT NO. 64, OCTOBER 12, 1976)

The Municipal Council received Item 14, Manager's Report NO. 64 on October 12, 1976 which was substantially an information item pointing out that we had written to the Minister of Environment on September 3, 1976, that he had responded on September 23, 1976, that since he did not specifically answer the questions raised in the Municipal Manager's letter of September 3, 1976, a further letter was written to the Minister on October 7, 1976.

The Municipal Manager has now received the attached response dated October 25, 1976 from the Honourable James A Nielsen, Minister of Environment, the contents of which are self-explanatory.

In Item 11, Manager's Report No. 54 which was considered by Council on August 30, 1976, the Municipal Engineer is quoted as advising that with respect to the construction of a turning bay on the north side of Imperial at Boundary Road for a distance of 580 feet east of Boundary Road, "...\$3,639.33 has been expended to 20 August." In the same report we have advised Council that the Minister of Environment told our Deputy Municipal Engineer on August 20, 1976 by telephone "... that the Surveyor General did not have the authority to give us the indication that he did in his letter of 8 June, 1976, that he would sign the plan required as an official plan for the widening of Imperial Street". On the same date we were advised by telegram that approval to create this turning lane had not been granted and that we should refrain from any further construction work within the boundaries of Central Park and restore the land to its natural condition. The work was stopped forthwith and no further work has taken place since that time. The Municipal Engineer advises that it will cost about \$2,000 to replace the top soil and seed grass within the park area.

At this point authority has not been given by Council to make the expenditure involved to make this necessary correction if we are to comply with the Minister's order.

In this same Item 11 that was considered by Council on August 30, 1976, we proposed an alternative design for the work on Imperial Street which would have kept the turning bay within the existing right-of-way, but we would have been forced to use ten foot travelling lanes, which are below standard. Further, a more serious problem is the fact that we would not have a concrete divider adjacent to the left turning lane -- it would only be a painted line; and there would be a misalignment with the traffic lanes on the Vancouver side of Boundary. The Engineer is quoted as saying in that report that the alternative will serve to solve the problem at hand, i.e., the construction of a left turn lane. Under the existing circumstances, the Engineer is not prepared to recommend that we proceed with this alternative at this time. While we do not agree with the position taken by the Province in this respect, rather obviously the Province has the final say, unless we are prepared to challenge the matter in Court. We are not prepared to recommend such a challenge now. We are therefore inclined to feel that we should complete the restoration of the property concerned and address ourselves to the question of realistic legislation that authorizes reasonable intrusions for the carrying of traffic on roads adjacent to Central Park. Once that matter is resolved, then we will have to concern ourselves with what will be done at the intersections of Imperial at Boundary and with Boundary at Kingsway.

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In summary, this whole issue has become very heated and it is difficult to talk about the subject in an objective fashion under such circumstances. We therefore do not propose to recommend any changes to the two intersections in question, and we propose to restore the very small strip of park land as soon as weather permits. Basically all that we will be able to do this year is replace the top soil, and the seeding will have to wait until next year. As for the intersection at Boundary Road on the south side of Kingsway, we are only proposing very minimal paving work which will probably take place within the first 150 feet of the intersection. This work will be within the right-of-way but it will not develop the turning lanes as originally recommended, or even those suggested on the reduced design version.

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RECOMMENDATION:

1. THAT Council authorize the expenditure of \$2,000 to replace the top soil and seed grass within the Central Park area on Imperial Street; and
2. THAT Council consider the work called for under Work Order No. 32-894 to be completed when this corrective work has been undertaken.

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THE GOVERNMENT OF
THE PROVINCE OF BRITISH COLUMBIA
MINISTER OF ENVIRONMENT

VICTORIA, B. C.

October 25, 1976

OCT 25 1976
MUNICIPAL MANAGER
OFFICE

M.O. 4537
File: 0336329 #4
Your File: 3-7-76

The Corporation of the District
of Burnaby,
Municipal Hall,
4949 Canada Way,
Burnaby, B. C.
V5G 1M2

Attention: Mr. Melvin Shelley,
Municipal Manager

Dear Sirs:

Receipt is acknowledged of your letter of October 7, 1976, dealing with the Central Park lease.

- (1) I have reviewed the request by the Corporation of the District of Burnaby to intrude into Central Park for road widening purposes and it is the opinion of my colleagues that further encroachment within the park boundaries for uses not authorized by the governing statute cannot be approved. I am aware of the encroachment of Kingsway within the park boundary but I think the fact that the plan has not yet been registered speaks for itself. I cannot turn back the clock with respect to those uses of the park area that occurred or were allowed in the past in violation of the Central Park Act and I do not think the Municipality of Burnaby can expect me to build on the mistakes of the past by authorizing further abuses of this nature.
- (2) While the municipality may consider that a sidewalk within the park boundaries is desirable to accommodate pedestrian traffic along this side of Imperial Street, the governing statute does not provide for same.
- (3) The Minister of Highways has no more authority than any other minister of the Crown to violate the laws passed by the legislature.

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Please advise me when the Crown lands have been restored to their natural condition.

Yours truly,



James A. Nielsen,
Minister of Environment.

cc: Planner
Engineer
Treasurer
Parks and Recreation Administrator
Solicitor
Mayor