

Re: PROPOSED RESOLUTION FOR SUBMISSION TO THE U.B.C.M.
WITH REGARD TO THE PLANS CANCELLATION ACT

Council on June 28, 1976 approved several resolutions which were referred to the U.B.C.M. for consideration at the Annual Convention which is scheduled to convene on Wednesday of this week. Because of our experience at two recent Plans Cancellation Hearings, there is one additional resolution which we feel should be forwarded to the U.B.C.M. for consideration. This resolution is contained in the attached report from the Director of Planning.

The Municipality in 1968 submitted a resolution similiar to the one that is now before Council. The 1968 resolution, which was not acted upon by the Provincial Government, read as follows:

"WHEREAS the Plans Cancellation Act provides for the division of a highway, park or square amongst the owners of abutting lands, where an application is made to the Registrar under plans cancellation procedures to cancel or amend a plan of subdivision;

AND WHEREAS the Registrar is not necessarily bound by the general interest of the municipality in arriving at a decision to divide such lands even though the municipality is entitled to be represented at the hearing before the Registrar;

AND WHEREAS title to such lands can be vested in the adjoining owners, to the detriment of the property owners at large;

THEREFORE BE IT RESOLVED that the Union of B.C. Municipalities request the Provincial Government to amend the Plans Cancellation Act so that, under plans cancellation proceedings, title to all publicly-owned lands be vested in the municipality in which they are located in order that any benefits, financial or otherwise, may be shared by all the property-owners within the municipality."

We have been advised that although the subject resolution will not appear on the agenda for consideration and debate at this year's Annual Convention, as it is not only too late but also it is the subject of a previously endorsed resolution. The U.B.C.M. Executive will however endeavor to discuss it directly with the Minister of Municipal Affairs and/or other officials of the Provincial Government as it would do in other similar cases.

If Council approves the resolution as presented, it will be delivered to the U.B.C.M. Executive tomorrow morning (on September 14, 1976).

RECOMMENDATION:

1. THAT the subject resolution be referred to the U.B.C.M.

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ITEM 16 SUPPLEMENTARY
MANAGER'S REPORT NO. 57
COUNCIL MEETING Sept. 13/76

PLANNING DEPARTMENT
SEPTEMBER 13, 1976

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
SUBJECT: PROPOSED RESOLUTION FOR SUBMISSION TO THE U.B.C.M.
WITH REGARD TO THE PLANS CANCELLATION ACT

1.0 BACKGROUND

It has been the established operational policy of Council that compensation by way of cash payment or exchange of land is expected for any abandoned road allowance that is acquired by private owners. In addition, the Department of Municipal Affairs in a directive of January 7, 1974 has informed British Columbia municipalities that compensation should be obtained for any road allowances abandoned pursuant to Section 508 of the Municipal Act.

In the use of Road Closing and Road Exchange Bylaws, the Municipality has been able to obtain compensation for public rights-of-way which are closed and obtained by a private owner. However in two recent cases involving the Plans Cancellation Act, the Municipality argued at the statutory hearings that the Municipality should be compensated for the specific road rights-of-way to be cancelled and acquired by the adjoining property owner. The Registrar ruled that under the terms of the Plans Cancellation Act he had no authority to require compensation to the Municipality.

Therefore, it would appear that a uniform policy is required covering the various relevant existing statutes which would provide the Municipality with the means of obtaining compensation for all road allowances abandoned or cancelled. To our knowledge the Plans Cancellation Act is the only current statute involving cancelled or abandoned or cancelled road allowances which does not provide for compensation by statute or by provincial directive.

The purpose of this report is to request the approval of Council for the submission of the following resolution to the U.B.C.M.

ITEM 16 SUPPLEMENTARY
MANAGER'S REPORT NO. 57
COUNCIL MEETING Sept. 13/76

2.0 RECOMMENDATION

It is recommended THAT Council approve the following resolution and request that the resolution be submitted to the U.B.C.M. for consideration:

Resolution

Amendment to the Plans Cancellation Act enabling Municipalities to require compensation for cancelled rights-of-way.

WHEREAS the Department of Municipal Affairs has directed Municipalities to obtain compensation pursuant to Section 508 of the Municipal Act for abandoned road allowances to be acquired by private owners;

AND WHEREAS a uniform policy is required covering existing statutes providing a Municipality with the means of obtaining compensation for all road allowances abandoned or cancelled;

AND WHEREAS the Plans Cancellation Act provides for the division of a highway, park or square amongst the owners of abutting lands, where an application is made to the Registrar under plans cancellation procedures to cancel or amend a plan of subdivision;

AND WHEREAS the Registrar is not necessarily bound by the general interest of the municipality with respect to compensation in arriving at a decision to divide such lands, even though the municipality is entitled to be represented at the hearing before the Registrar;

THEREFORE BE IT RESOLVED that the Union of B.C. Municipalities request the Provincial Government to amend the Plans Cancellation Act so that, under plans cancellation proceedings, title to all publicly-owned lands be vested in the municipality in which they are located in order that any benefits, financial or otherwise, may be shared by all the property owners within the municipality.

A. L. Parr,
DIRECTOR OF PLANNING.

KI:cm

c.c. Municipal Clerk
Land Agent
Municipal Solicitor
Municipal Treasurer