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MANAGER'S REPORT NO.	89
COUNCIL MEETING	1978 12 18

RE: AUTHORITY FOR EXECUTION OF LEGAL DOCUMENTS

RECOMMENDATION:

1. THAT Council pass the following resolutions which would become effective immediately upon their passage:
  - (1) "The Municipal Council does hereby authorize the acquisition in 1979 of all easements and rights-of-way required for municipal purposes and the payment of compensation therefore not exceeding \$1000 in each case"; and
  - (2) "The Municipal Council does hereby authorize the execution of all documents in 1979 that pertain to the release or cancellation of ancillary rights where in the opinion of the Engineering Department such rights are no longer required"; and
  - (3) "The Municipal Council does hereby authorize the Mayor and Municipal Clerk to execute documents on behalf of the Corporation, and the Engineer to sign letters, without reference to Council, pertaining to encroachment of easements and road allowances, and reduction of easement widths, for 1979"; and
  - (4) "The Municipal Council does hereby authorize the Mayor and Municipal Clerk, pursuant to Section 24A of the Land Registry Act, to execute documents on behalf of the Corporation, without reference to Council, pertaining to the following restrictive covenant, for 1979:  
  
Limitation of building elevations due to:
    - (1) Sewer depth
    - (2) Topography
    - (3) Access
    - (4) Land subject to flooding;" and
  - (5) "The Municipal Council does hereby authorize the acquisition in 1979 of all truncations required for municipal purposes and the payment of compensation therefore not exceeding \$1000 in each case, with the understanding that such cost in each case may include the restoration and/or relocation of plant material;" and
  - (6) "The Municipal Council does hereby authorize the Mayor and Clerk in 1979 to execute on behalf of the Corporation those covenants that involve limitations on the occupancy of single-family and two-family dwellings, pursuant to Section 24A of the Land Registry Act."

REPORT

Council each year is requested to provide authority for the execution of certain documents so that related transactions can be completed without the express approval of Council in each specific instance. This approach eliminates the need for individual reports and allows transactions of a relatively inconsequential nature to be consummated efficiently and at minimal administrative expense. It is for this reason that blanket authority is requested for execution of the following documents:

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(1) Easements and Rights-of-Way

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From 1973 to 1976, Council passed a resolution authorizing staff to acquire all easements and rights-of-way for municipal purposes when such acquisitions involved compensation that did not exceed \$100. This was increased to \$1000 in 1977. This allows staff to execute negotiated transactions without having to refer to Council for approval each acquisition where the cost is less than the stipulated allowable limit. Because this method of acquiring easements and rights-of-way has proved to be very effective, it is recommended that the same procedure be followed in 1979.

(2) Ancillary Rights

Council in each of the last three years has also extended authority to cover the release or cancellation of ancillary rights where in the opinion of the Engineering Department they are no longer required. It is recommended that authority to execute documents pertaining to such matters be extended to cover 1979.

(3) Right-of-Way Encroachment Agreements

From time to time the Engineering Department receives written and verbal requests to allow encroachments into Corporation easements and road allowances and reduction in easement widths. The requested encroachments take the form of (a) asphalt pavement to make use of the easement as a driveway, (b) eave overhang for a to-be-constructed house so as to maximize the sideyard use., (c) existing encroachment permission to obtain a mortgage, and sometimes (d) as a reduction for the width of the easement for siting purposes

When the Engineering Department receives these requests they are processed to ascertain if the encroachment would hinder maintenance or prevent access to the engineering services contained within the easement. The application is checked further to ensure that the encroachment will not in any way endanger the services.

If the Engineering Department has no objection to the encroachment and regards it as minor, the Engineer by letter consents to the encroachment. If the Engineering Department considers the encroachment to be more than minor, but is prepared to consent providing the municipal works are properly protected, the Legal Department drafts a modification of the original easement agreement which the applicant must sign and which is registered, subject to the approval of the Registrar, in the Land Registry Office.

Authority to execute these documents on behalf of the Corporation without referral to the Council was given to staff for the first time in March, 1975.

(4) Restrictive Covenants

Restrictive covenants are allowed under Section 24A of the Land Registry Act which reads as follows:

"There may be registered as annexed to any land that is being or has been registered a condition or covenant in favour of the Crown or of a Municipality that the land, or any specified portion thereof, is not to be built upon, or is to be or not to be used in a particular manner."

In 1975, Council gave blanket authority to staff to execute the following type of restrictive covenant:

Limitation of building elevations due to:

- (a) Sewer depth
- (b) Topography
- (c) Access
- (d) Land subject to flooding

5. Truncations

The Corporation is periodically required to purchase truncations from private property owners in order to accommodate the design and construction of works relative to Local Improvement Programs. If staff is given blanket authority to purchase truncations in cases where the cost is \$1,000 or less including whatever sum may be required for relocation of landscape material, the number of reports to Council on such truncations would be reduced considerably (Council increased the amount from \$300 to \$1000 in 1977).

This is the second year that staff has requested blanket authority to execute these documents which, in almost every case, are fairly routine and involve only a nominal cost.

6. Covenants/Limitations on the Occupancy of Single and Two Family Dwellings

The Building Department has, in the past, experienced difficulty in the control of building permits applied for by builders, developers or other persons for the finishing of lower floor accommodation in single-family and two-family dwellings.

Following a request from the Building and Planning Departments, the Council, on 1977 August 15, provided the necessary authorization for the Mayor and Clerk to execute covenants from time to time on behalf of the Corporation without prior approval from Council, as set forth under Section 24A of the Land Registry Act.

Such covenants assist in the enforcement of the regulations of the Burnaby Zoning By-law and provide a greater degree of control of building permits for finishing lower floor (generally basement) accommodation and thus are of considerable importance in the prevention of the authorized conversion of single family dwellings to two family use and in the fourplexing of duplex units. It is also considered that this is the most suitable method of providing a potential purchaser with the lawful use of property in advance of a transaction being made.

It would be necessary for Council to adopt the resolutions as recommended in order to have the authorities as outlined above extended to cover the current year.