

ITEM	12
MANAGER'S REPORT NO.	64
COUNCIL MEETING	1979 09 24

RE: NEW WESTMINSTER PORTION OF TENTH AVENUE BETWEEN
KINGSWAY AND TWENTIETH STREET
(TRAFFIC SAFETY COMMITTEE REPORT, 1979 SEPTEMBER 17, ITEM 7)

RECOMMENDATIONS:

1. THAT Item 7 in the Traffic Safety Report which Council considered on 1979 September 17 be lifted from the table; and
2. THAT a copy of this report be sent to the Transportation Committee with a request for information on when it will meet with representatives of New Westminster.

REPORT

On 1979 September 17, Council tabled the following item which appeared in the Traffic Safety Committee Report:

"7. TENTH AVENUE - NEW WESTMINSTER PORTION

The Traffic Safety Committee recommended that the Municipal Council of The Corporation of the District of Burnaby refer to the Minister of Transportation, Communications and Highways, the adjudication of the road classification pertaining to Tenth Avenue with respect to the New Westminster portion between Kingsway and Twentieth Streets drawing to the attention of the Minister the provisions of Section 537 of the Municipal Act."

A copy of Section 537 of the Municipal Act is attached.

It will be recalled that during the discussion of this matter, mention was made of the fact that this had been referred to the Transportation Committee. Following is the recommendation that was adopted by Council on 1979 February 05 with respect to this referral:

"In view of the length of time this matter has been in front of Council, we would recommend to Council that no action be taken on this matter at this time, and that the Transportation Committee be asked to take this problem into its consideration when dealing with the whole matter of Burnaby transportation needs."

For convenience reference, attached is a copy of the report which Mayor Constable, Alderman Lewarne and Alderman Ast submitted to Council on 1979 February 05.

As a result of the completion of the Transportation Committee's report on the Conceptual Transportation Plans for Burnaby, it has been confirmed that Tenth Avenue will maintain its primary arterial classification between Mission Street and Newcombe. It has been further confirmed that this same portion of road is an integral part of the truck route system for the Municipality. It is expected that the Transportation Committee will now proceed to meet with representatives of New Westminster to discuss all aspects of the Transportation Plan including the status of Tenth Avenue in accordance with the following recommendation on Page 59 of the Transportation Plan which has been adopted by Council:

- "3. THAT following adoption of recommendation 1 above, arrangement be made for a series of meetings between representatives of the Municipality and of adjacent municipalities in order that Municipality's comprehensive transportation plan can be explained and their cooperation requested in the advancement of the various proposals and policies associated with this report and the report, Transportation Policies For Burnaby."

In summary, the appropriate course of action is for the Transportation Committee to meet with New Westminster and to then report back to Council.

* * * * *

ITEM	12
MANAGER'S REPORT NO.	64
COUNCIL MEETING	1979 09 24

150

APPENDIX "A"

CHAP. 255

MUNICIPAL

9 ELIZ. 2

Effect of by-laws respecting inter-municipal roads.

537. (1) No by-law of the Council of one of the municipalities interested in a boundary-line highway has any force with respect to such boundary-line highway until mutually acceptable by-laws have been adopted by the Council having joint jurisdiction.

(2) In case any Council, for three months after notice of a by-law adopted under subsection (1), omits to adopt an acceptable by-law, such omission shall be an inability to agree within the meaning of section 536, and the provisions of such section apply.

(3) This section does not apply to a work of local improvement undertaken on petition wholly at the cost of the owners of abutting property so long as the work is within the municipality proposing to execute such work and one month's notice of intention has been given the Council or Councils of the other municipality or municipalities having jurisdiction. 1957, c. 42, s. 537; 1966, c. 31, s. 15.

10

ITEM	12	REPORT Council Meeting 1979 February 05
MANAGER'S REPORT NO.	64	
COUNCIL MEETING	1979 09 24	

THE CORPORATION OF THE DISTRICT OF BURNABY

1979 January 31

TO THE MEMBERS OF COUNCIL:

During the Council Meeting of 1978 October 10, the following motion was adopted:

"That His Worship, Mayor Constable, and two members of this Council arrange to discuss with Mayor Evers and members of the New Westminster City Council, the question of the current truck restrictions on the New Westminster side of Tenth Avenue between Kingsway and Nineteenth Street in an effort to arrive at a solution satisfactory to all concerned."

The meeting referred to was held on 1979 January 12 in the Council Lounge, in Burnaby Municipal Hall. Members representing Burnaby Council were Alderman Ast, Alderman Lewarne and Mayor Constable. The participants in the meeting discussed very thoroughly the background of the issue and also the possibilities of resolving this matter. The meeting lasted approximately one hour and the conclusion reached was that the City of New Westminster Council were not prepared to effect any changes with regard to the posted restriction of truck movement on the New Westminster side. They did feel, however, that further discussions could take place in the future, particularly with reference to what effect the construction of Marine Way and Stormont Interchange may have on Tenth Avenue truck traffic. It was also mentioned at this meeting that Burnaby had designated Tenth Avenue as a truck route without consultation with New Westminster Council.

There are other factors that should be taken into consideration in reaching a decision on this matter.

As Council are probably aware, the G.V.R.D. are currently proceeding with a study for a five year regional roads plan. It is expected that this will be completed in the very near future. There are also the numerous questions related to traffic that are being looked at by our Transportation Committee.

In view of the length of time that this matter has been in front of Council, we would recommend to Council that no action be taken on this matter at this time, and that the Transportation Committee be asked to take this problem into its consideration when dealing with the whole matter of Burnaby transportation needs.

For your information, we have had staff prepare a chronological review of discussions and actions related to this matter which are attached.

We would recommend to Council that no action be taken at this time.

Respectfully submitted,

Tom W. Constable, MAYOR.

W. Lewarne, ALDERMAN.

G. Ast, ALDERMAN.

- AGENDA 1979 02 05
- COPY-MANAGER
- ENGINEER
- PLANNER
- Att.

ITEM	12	
MANAGER'S REPORT NO.	64	Attachment to report of
COUNCIL MEETING	1979 09 24	Mayor Constable...79 01 31 Tenth Avenue Truck traffic

For many years, the residents on both sides of Tenth Avenue complained to their respective Councils about noise and vibrations being generated by truck traffic emanating from the McDonalds Consolidated Warehouse on 11th Avenue in Burnaby travelling via Tenth Avenue to the Provincial Highway System. The disturbances complained about occurred during the day and night as well.

Both municipalities had designated Tenth Avenue as a truck route but, with the continued complaints, New Westminster authorities notified Burnaby that they would be banning truck traffic on their side of Tenth Avenue, whether or not Burnaby took similar action. It was considered that as Tenth Avenue was a boundary road between two municipalities, both would have to agree to any regulation instituted. New Westminster did not agree and proceeded to ban truck traffic movements on their side of Tenth Avenue from 21:00 h to 07:00 h (this action became effective on 1970 September 01).

By letter dated 1970 July 24, the Municipal Solicitor wrote to the Deputy Minister of Municipal Affairs for clarification as to the legality of the New Westminster action.

An answer from the Deputy Minister dated 1970 August 03, requested a legal clarification. This letter was answered on 1970 August 04.

By letter dated 1972 December 13, the Solicitor of the City of New Westminster advised that his Council had decided to retain the truck ban in spite of Burnaby's submission to them dated 1972 November 28.

The Municipal Solicitor again wrote to the Deputy Minister of Municipal Affairs on 1973 January 04, and requested that if the present Section 537 of the Municipal Act will not resolve the difference of opinion between Burnaby and New Westminster, would the Deputy Minister consider recommending appropriate legislation.

On 1973 January 15, Council ratified and endorsed the action taken by the Municipal Solicitor and directed that the report item which was received on that occasion (Item 7, Report No. 3) be sent to all Burnaby Members of the Legislative Assembly with the request that each lend her or his support to resolving the problem of conflicting truck traffic regulations on Tenth Avenue. A copy of that report is attached.

On 1973 May 28, the Solicitor advised the Department of Municipal Affairs that the problem had not been resolved, and asked if such resolution could not be achieved by having applicable legislation introduced for consideration. There was no acknowledgment, and the Solicitor wrote again on 1973 August 13. As there was still no acknowledgment, the Manager wrote to the Department on 1973 December 20.

On 17 January 1974, a letter from the Department of Municipal Affairs advised that "your request will be studied during our preparation of amendments to the Municipal Act for introduction at the forthcoming session of the Legislature."

On 1974 May 08, the Manager requested a status on the matter from Victoria. There was no acknowledgment, and a follow-up letter was sent to the Department of Municipal Affairs on 1974 October 22.

Correspondence from the Minister's office dated 1975 March 06 advised that the Provincial Government was still looking into the matter. This was in reply to a letter dated 1975 March 03 from the Solicitor asking for information on the likelihood of legislation to resolve the problem.

ITEM	12
MANAGER'S REPORT NO.	64
COUNCIL MEETING	1979 09 24

On 1977 April 07, the Minister of Municipal Affairs introduced to the Legislature for first reading a number of changes to the Municipal Act as contained in Bill 42. The following is one of the amendments which was subsequently enacted by the Legislative Assembly:

- " S. 536A. 10. The Act is further amended by inserting the following after section 536:
Disputes
over
inter-
municipal
highways.
- S36A. (1) Where 2 or more adjoining municipalities, which may include the City of Vancouver, are served by a highway that transects those municipalities, and, as a result, are interested in, but unable to agree on, the use, location, function, maintenance, repair, or improvement of the highway, the Minister of Highways and Public Works may, on his own initiative, or on the application of one or more of the Councils of those municipalities,
- (a) determine the use and location of the highway or extensions of it,
 - (b) designate the function of the highway, and
 - (c) fix the amount that each municipality shall be required to spend on the highway and the mode of expenditure,
- and his award and decision is final and binding on the municipalities.
- (2) An award and decision made by the Minister under subsection (1) may be enforced as provided in section 536.
- (3) Section 537 applies to a highway under this section."

Although the amendment was clearly intended to authorize the Minister of Highways and Public Works to arbitrate inter-municipal disputes concerning the use, location, function or costs of roads, it does not, in the opinion of the Municipal Solicitor, solve the problem of traffic regulation on Tenth Avenue between Burnaby and New Westminster because this highway does not transect either municipality (according to the dictionary, "transect" means to cut across). This opinion was expressed in correspondence which the Manager sent to the Department of Municipal Affairs on 1977 May 02 and June 03. The last letter on file from the Department is one dated 1977 June 09 from the Minister in which he states that "he is aware of this matter."

The question of regulation arose again on 1978 April 03 when Council requested that the problem involving the operation of trucks on Tenth Avenue be reviewed again in order that truck traffic on other Burnaby Streets such as Edmonds Street can be alleviated.