

ITEM	4
MANAGER'S REPORT NO.	81
COUNCIL MEETING	1979 11 26

RE: EXECUTION OF LEGAL DOCUMENTS ON BEHALF OF THE MUNICIPALITY

Following is a report from the Municipal Solicitor regarding the execution of legal documents.

RECOMMENDATION:

1. THAT the recommendation of the Municipal Solicitor be adopted.

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TO: MUNICIPAL MANAGER

NOVEMBER 21, 1979

FROM: MUNICIPAL SOLICITOR

RE: EXECUTION OF LEGAL DOCUMENTS ON BEHALF OF THE MUNICIPALITY

RECOMMENDATION:

1. THAT the Clerk be designated as the authorized signatory of the Corporation and empowered to sign and seal all legal documents on behalf of the Corporation except as may otherwise be provided by Statute or by direction of Council.

REPORT

Section 158 of the Municipal Act provides that the municipality shall have a corporate seal which shall at all times be in the custody of the Clerk and "the Clerk shall cause the corporate seal to be affixed as required by this or any other Act, or as prescribed by by-law under section 172 or as otherwise required by the Council." Burnaby has a by-law under section 172, namely the Procedure By-Law, which contains no provision for affixing the corporate seal.

Section 183 of the Act lists the duties and powers of the Clerk and provides in part that "He shall have custody of the corporate seal and shall cause it to be affixed as required."

At the present time, all legal documents are executed on behalf of the municipality by the Mayor and Clerk, but nothing in the Municipal Act requires the Mayor to sign such documents. It is sufficient if the Clerk, authorized by Council, does so.

The Land Title Act, now in effect, provides for signature by "an authorized signatory". It would be sufficient under this Act if the Clerk alone signed on behalf of the municipality.

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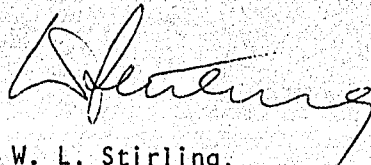
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- 2 -

It is therefore recommended that the Clerk be designated as the authorized signatory of the Corporation and empowered to sign and seal all legal documents on behalf of the Corporation except as may otherwise be provided by Statute or by direction of Council. For instance, section 266 of the Municipal Act provides that all debentures and other instruments relative to the contracting or repayment of debts duly authorized to be executed on behalf of a municipality shall, unless otherwise specially authorized or provided, be sealed with the seal of the municipality, and be signed by the Mayor and by the Treasurer. Council's attention is also directed to section 3 of the Municipal Act which provides

"3. Words in this or any other Act, or in any regulation passed under such Acts, or in any by-law or resolution of a Council, directing or empowering any officer of the municipality to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office and his lawful deputy, and such person as the Council may from time to time by by-law or resolution designate to act in his place or stead."

This section would, of course, authorize the Deputy Clerk to sign and seal all legal documents in the absence of the Clerk.



W. L. Stirling,
MUNICIPAL SOLICITOR

WLS:mc

CC: CLERK
TREASURER