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MANAGER'S REPORT NO.	3
COUNCIL MEETING	1980 01 14

RE: AUTHORITY FOR EXECUTION OF LEGAL DOCUMENTS IN 1980

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 1980 of all easements and rights-of-way required for municipal purposes and the payment of compensation therefore not exceeding \$1,000 in each case"; and
 - (2) "The Municipal Council does hereby authorize the execution of all documents in 1980 that pertain to the release or cancellation of easements, or ancillary rights where in the opinion of the Municipal Engineer such rights are no longer required"; and
 - (3) "The Municipal Council does hereby authorize the 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 1980"; and
 - (4) "The Municipal Council does hereby authorize the Municipal Clerk, pursuant to Section 215 of the Land Title Act, to execute documents on behalf of the Corporation without reference to Council, pertaining to the following restrictive covenants, for 1980:
 - a. Limitation of building elevations due to:
 - i) Sewer depth
 - ii) Topography
 - iii) Access
 - iv) Land subject to flooding
 - b. Vehicular access restriction
 - c. Landscape buffer
 - d. Rear yard setback
 - e. Side yard setback"; and
 - (5) "The Municipal Council does hereby authorize the acquisition in 1980 of all truncations required for municipal purposes and the payment of compensation therefore not exceeding \$1,000 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 Municipal Clerk in 1980 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 215 of the Land Title Act"; and
 - (7) "The Municipal Council does hereby authorize the Municipal Clerk in 1980 to execute on behalf of the Corporation, without reference to Council, discharges involving rights-of-way that become redundant as a result of the subdivision process"; and
 - (8) "The Municipal Council does hereby authorize the Municipal Manager in 1980 to approve for payment, without reference to Council, the payment of claims that do not exceed \$1,000, subject to the receipt of appropriate releases"; and
 - (9) "The Municipal Council does hereby authorize the Municipal Manager in 1980 to approve, without reference to Council, all requests for attendance at conferences when estimated costs related to a single conference does not exceed \$400." 101

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 a considerable number of 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 matters: 102

(1) Acquisition of Easements and Rights-of-Way

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 \$1,000 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 1980.

(2) Cancellation or Release of Easements and Ancillary Rights

Council in each of the last four years has extended authority to cover the release or cancellation of easements and ancillary rights where in the opinion of the Engineering Department they are no longer required (ancillary rights permit the Corporation to traverse across other portions of the same property for the purpose of gaining access to that area of the property which is protected by an easement). It is recommended that authority to execute documents pertaining to such matters be extended to cover 1980.

(3) Right-of-Way Encroachment Agreements

From time to time, the Engineering Department receives written and verbal requests to allow encroachments onto 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 and Lands 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 Council has been given to staff for each of the last five years.

(4) Restrictive Covenants

Restrictive covenants are allowed under Section 215 of the Land Title Act.

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

Limitation of building elevations due to:

- i) Sewer depth
- ii) Topography

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Council is being requested at this time to broaden the scope of authority to include the following additional routine covenants:

(a) Vehicular Access Restriction

Covenants are applied to new lots that are created through subdivision process which abut high traffic volume streets. The covenant precludes vehicular access via these streets. Access is alternatively provided either by an abutting street with less traffic volume or by an abutting lane.

(b) Landscape Buffer

When lots are created that back onto arterial routes, a covenant is applied to protect a landscape buffer area which the subdivider must install. Covenants are prepared subsequent to departmental review and approval of the landscape plans and the submission of the bonding monies and inspection fee.

(c) Rear Yard Setbacks

When lots are created which back onto arterial routes, a greater lot depth is required in order that a covenant can be applied to maintain a 27.5 m (90') rear yard setback for principal buildings.

(d) Side Yard Setbacks

Occasionally, new lots are created which comply with the subdivision by-law in area but have a lesser width due to the available frontage being subdivided. In these instances, covenants are applied in order to ensure that required sideyard setbacks and distances between adjacent dwellings are maintained.

(5) Truncations

The Corporation is occasionally required to purchase truncations from private property owners in order to accommodate the design and construction of works relative to Local Improvement Programs.

Council has, during each of the past four years, given staff blanket authority to execute documents pertaining to the acquisition of truncations. The current limit of authority is \$1,000 for each truncation including whatever sum may be required for relocation of landscape material (Council increased the limit from \$300 to \$1,000 in 1977).

(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, Council on 1977 August 15 provided the necessary authorization for the Municipal Clerk to execute covenants from time to time on behalf of the Corporation without prior approval from Council, as set forth under Section 215 of the Land Title 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 the finishing of a lower floor accommodation (generally the basement) and thus are of considerable importance in the prevention of unauthorized 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.

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7. Discharge of Redundant Rights-of-Way

During the subdivision process, rights-of-way occasionally become redundant with respect to either their location or to their use. Consequently, they must be discharged and sometimes replaced by new rights-of-way. All discharges are registered concurrently with the items pertaining to the subdivision. 104

This is the first time that Council has been requested to provide blanket authority to staff for execution of such discharges.

8. Claims

The Municipality from time-to-time receives claims from persons who are of the opinion that damages which they have sustained were caused by negligence on the part of the Municipality. Although the nature of claims varies, many are related to flooding conditions that allegedly stem from work that has been done by or on behalf of the Municipality, or some blockage or impediment that interferes with the proper functioning of storm water and sewage systems.

Council has, during the past several years, given authority to the Municipal Manager to approve all claims that do not exceed a stipulated amount (the limit was increased from \$400 to \$1,000 on 1979 November 13).

Following is the procedure that is followed at this time:

- (a) The Municipal Solicitor may by authority delegated to him by the Municipal Manager, approve and authorize for payment all claims up to but not exceeding \$500;
- (b) The Municipal Manager may approve and authorize for payment all claims up to but not exceeding \$1,000;
- (c) A report recommending payment is submitted to Council whenever the amount exceeds \$1,000.

This is the first time that this annually submitted report includes information on claims. This inclusion is made because Council should not be expected to deal with this type of delegated authority on an irregular and piecemeal basis. A far more preferable alternative is to have all such delegations of authority contained in one report for Council's consideration each year. This will ensure that each delegation of authority is properly reviewed on an on-going basis, and will afford an efficient means of making any changes that may be desired.

9. Conferences

A policy requiring Council to approve requests for municipal employees' attendance at conferences was established in 1966. The amended policy which has been in effect since 1979 February 13 is as follows:

1. Authorization for attendance is obtained from the Municipal Manager when estimated costs related to a single conference in Canada or the United States does not exceed \$400; and
2. Authorization for attendance is obtained from Council when estimated costs related to a single conference exceed \$400.

This is the first time that this annual report includes information on conferences. Subsequent reports of this nature will include reference to this matter.

Previous Councils, incidentally, have regarded training courses, seminars and workshops to be administrative in nature. This type of activity has therefore always been dealt with on the staff level with referrals to Council only if there are any unusual circumstances related to a particular event. Unless Council directs to the contrary, this practice will be continued in the future.

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In conclusion, Council's adoption of the recommendation would enable the nine matters referred to in this report to be transacted more efficiently and economically in 1980.

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