

TO: CITY MANAGER

1997 AUGUST 11

FROM: CITY CLERK

SUBJECT: 1997 LOCAL IMPROVEMENT STREET LIGHTING PROGRAM

PURPOSE: To respond to concerns raised with respect to interest charges, ownership criteria and the validity of a signature on the petition for Local Improvement Project 97-041.

RECOMMENDATIONS:

1. THAT the Director Finance prepare a cost report under Section 635 of the Municipal Act for Local Improvement Project 97-041.
2. THAT on receipt of the cost report, the City Solicitor prepare a Local Improvement Construction Bylaw for Local Improvement Project 97-041.
3. THAT Mr. Gordon Earle, 6175 Berwick Street, Burnaby, B. C., V5H 1W3 be sent a copy of this report.

REPORT

Council, at the regular meeting held on 1997 July 21, received the Clerk's Certificate of Sufficiency for local improvement projects governing roadworks, speed humps and street lighting at various locations in Burnaby.

At that time Council also received a letter from Mr. Gordon Earle expressing concern with the criteria for residential vs. non-residential property ownership and its relationship to signing a local improvement petition. The writer also queried the validity of one signature on the petition for Local Improvement Project 97-041 and noted that in correspondence dated 1997 May 26 regarding the local improvement property charge, the City did not indicate the interest rate, nor whether it is levied on the unpaid balance.

Local Improvement Project 97-041 is for street lighting in the 6000 - 6200 Blocks of Berwick Street from Waltham Avenue to Gilley Avenue.

CRITERIA FOR SIGNING A LOCAL IMPROVEMENT PETITION

Section 631 of the Municipal Act of B. C. sets out the criteria for petitioning Council to undertake a local improvement initiative. It states, in part, as follows:

"(1) A petition to a council for a work is not valid unless all the following requirements are met:

- (a) the petition must be signed by 2/3 of the owners of the parcels liable to be specially charged;".....

The view Mr. Earle enunciates in his letter is that non-resident property owners should not have the right to participate in the petition process as they do not live in the neighborhood and therefore their lives are not impacted by any changes.

The Municipal Act does not differentiate between resident and non-resident owners as it is the property owners who will ultimately be responsible for payment of the charges regardless of where they live.

Changes to this requirement could only be enacted through legislative amendments at the Provincial level, not the local level.

VALIDITY OF SIGNATURE

Mr. Earle also draws attention to the signature on the petition for 6157 Berwick Street. The owner of 6157 Berwick did not sign the petition, however it is believed Mr. Earle was referring to the signature for 6191 Berwick beside which the owner of the property indicated that his wife, whose name appears on the petition, is deceased.

As Council can appreciate, petitions for local improvement projects are prepared well in advance of their circulation. At the time the petition was prepared Elizabeth Marsh's name appeared on the title and thus was included on the petition. However, between the time of preparation of the petition and the time the petition was circulated Mrs. Marsh's name was removed from the title.

It is our standard practice to research the title when petitions contain information relating to deceased owners or power of attorney. A title search of 6191 Berwick revealed that in early June, prior to the petition being signed, Mrs. Marsh's name was removed from the Title and therefore the only required signature is that of Mr. Marsh.

For Council's information, when a situation of power of attorney arises, we also require copies of the legal documentation establishing power of attorney from the property owner's lawyer.

LOCAL IMPROVEMENT CHARGES

Approximately 60% of the cost of the local improvement is charged to the property owner on a rate per taxable front foot. This rate is derived from the previous year's

program costs plus a rate of interest based on the Government of Canada bond rate for the appropriate length of maturity, in this case 10 years.

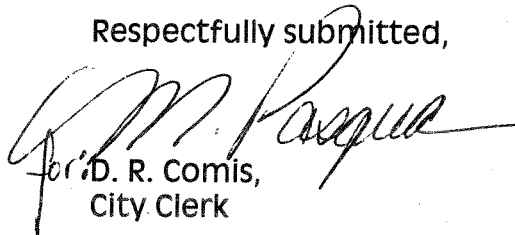
The rate for the 1997 Local Improvement Lighting Program was established by bylaw on 1996 August 12. The interest rate is 8.5%. A taxpayer can pay for the Local Improvement Lighting Program over 10 years or on payment up front. In Mr. Earle's case this equates to \$434.67 if paid in full the first year the annual charge appears on his Tax Statement or \$66.25 annually for 10 years. A property owner has the option to initially pay annually and in a subsequent year pay the remaining outstanding charges to realize an interest saving on the remaining balance.

The local improvement information circulated to property owners has been reviewed and changes will be made to clarify the information.

CONCLUSION

Local Improvement Project 97-041 is deemed to be sufficient as it represents at least two-thirds of the registered owners (26 of 36 owners) who, in turn, represent at least 50% of the value of the parcels liable to be specially charged (\$8,014,000 of a total assessed value of \$11,092,000). Therefore staff respectfully request Council's authorization to proceed with the street lighting project.

Respectfully submitted,



for: D. R. Comis,
City Clerk

- cc. Deputy City Manager -
Corporate Services
- Director Finance
- Director Engineering
- City Solicitor

