

DISTRICT OPERATIONS – BUSINESS SERVICES
Reporting to Public Session, Tuesday, October 26, 2021

1. Byrne Creek Community Secondary – City of Burnaby Landscaping Right of Way

The City of Burnaby has requested a Landscaping Right of Way on the Byrne Creek Community Secondary School site to support the development of the twin ice area adjacent to the school. The reason for the covenant is to provide for an integrated site development plan, which includes a retaining wall and stair access.

Russell Horswill, Secretary-Treasurer, has prepared a board report outlining the request.

Recommendation:

It is recommended that the Board approve the land disposition bylaw as attached. It is recommended that Byrne Creek Community Secondary School Landscaping Right of Way Bylaw, 2021 receive three readings at this Board meeting and final adoption in accordance with the Board's Procedural Bylaw as follows:

- Motion 1 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 receive three readings at this Board meeting held October 26, 2021.

- Motion 2 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be read a first time.

- Motion 3 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a first time and read a second time.

- Motion 4 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a second time and read a third time.

- Motion 5 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a third time.

- Motion 6 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 having been read a first, second and third time, be finally passed and enacted the 26th day of October, 2021; that the Chair of the Board and the Secretary Treasurer be authorized to sign the bylaw; and that the bylaw be sealed with the corporate seal of the Board.

2. Duthie Union School Land Disposition

The Board identified in its Long-Range Facility Plan that the Duthie Union School site is surplus to the district's educational needs. Additionally, board direction was provided to engage in negotiations with the Conseil Scolaire Francophone School District (CSF) for their acquisition of the site to support their public education mandate.

The Purchase and Sale Agreement executed with the CSF provides for a closing date of December 31, 2021 and a possession date of July 31, 2022 or earlier if the building is vacated.

Russell Horswill, Secretary-Treasurer, has prepared a board report outlining the details.

Recommendation:

The following procedural motions should be considered and approved by the Board prior to the reading of the Land Disposition Bylaw Motions. The purpose of these motions is to establish the Board procedure.

THAT the Board of Education provide 1st and 2nd reading of the Duthie Union School Land Disposition Bylaw No. 2021-1 to the Conseil Scolaire Francophone School District at the October 26, 2021 Regular Board Meeting.

AND THAT the Board of Education place a notice on the district website of the intention to sell the Duthie Union School property.

AND THAT a public disposition information meeting be hosted through Zoom to provide interested residents an opportunity to learn more about the land disposition.

AND FINALLY that the Board of Education consider the Duthie Union School Land Disposition Bylaw No. 2021-1 at the November 23, 2021 Regular Meeting for 3rd and Final reading.

October 26, 2021 Land Disposition Bylaw Motions

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| Motion 1 | THAT Duthie Union School Land Disposition Bylaw No. 2021-1 receive two readings at this Board meeting held October 26, 2021. |
| Motion 2 | THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be read a first time. |
| Motion 3 | THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be approved a first time and read a second time. |
| Motion 4 | THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be approved a second time, and that third and final reading be considered at the Regular Board Meeting held on November 23, 2021. |

Board Report

Date: October 26, 2021
To: Board of Education – Regular Meeting
From: Russell Horswill, Secretary Treasurer
Subject: Byrne Creek Community Secondary – City of Burnaby Landscaping Right of Way

Background:

The City of Burnaby has requested a Landscaping Right of Way on the Byrne Creek Community Secondary School site to support the development of the twin ice area adjacent to the school. The reason for the covenant is to provide for an integrated site development plan, which includes a retaining wall and stair access.

Recommendation:

It is recommended that the Board approve the land disposition bylaw as attached. It is recommended that Byrne Creek Community Secondary School Landscaping Right of Way Bylaw, 2021 receive three readings at this Board meeting and final adoption in accordance with the Board's Procedural Bylaw as follows:

- Motion 1 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 receive three readings at this Board meeting held October 26, 2021.
- Motion 2 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be read a first time.
- Motion 3 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a first time and read a second time.
- Motion 4 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a second time and read a third time.
- Motion 5 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 be approved a third time.
- Motion 6 THAT Byrne Creek Community Secondary School City of Burnaby Landscaping Right of Way Bylaw, 2021 having been read a first, second and third time, be finally passed and enacted the 26th day of October, 2021; that the Chair of the Board and the Secretary Treasurer be authorized to sign the bylaw; and that the bylaw be sealed with the corporate seal of the Board.

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 41 (BURNABY)
BYRNE CREEK COMMUNITY SECONDARY SCHOOL LANDSCAPING RIGHT OF WAY
BYLAW, 2021

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, “land” includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS:

- (i) The Board of Education of School District No. 41 (Burnaby) (the “**Board**”) operates Byrne Creek Community Secondary School on lands owned by the Board (the “**Property**”);
- (ii) The City of Burnaby (“**City**”) has asked the Board to grant to the City a Landscaping Right of Way over a portion of the Property measuring approximately 604.3 square meters in area, located on the access road on the Property off 10th Avenue as shown on the site plan attached hereto as Schedule A for landscaping purposes;
- (iii) the Property is facility number 4141068;
- (iv) the address of the Property is 7777 18th Street, Burnaby, British Columbia, V3N 5E5, and the legal description of the Property is:

Parcel Identifier: 025-784-994
Lot C District Lot 53 Group 1 New Westminster District Plan BCP7569;
- (v) the Board is satisfied that the granting of the Landscaping Right of Way to the City will not interfere with the Board’s use of the Property for educational purposes.

NOW THEREFORE be it resolved as a Bylaw of the Board that the Board grant the Landscaping Right of Way to the City.

BE IT FURTHER resolved that the Secretary Treasurer be and is hereby authorized, on behalf of the Board, to execute and deliver the Landscaping Right of Way to the City in registrable form and on such terms as the Secretary Treasurer may consider advisable, and all related and ancillary documents required to complete the granting of the Landscaping Right of Way.

This bylaw may be cited as “Byrne Creek Community Secondary School Landscaping Right of Way Bylaw, 2021”.

Read a first time this 26th day of October, 2021

Read a second time this 26th day of October, 2021

Read a third and final time, passed and adopted this 26th day of October, 2021.

Chair

Secretary Treasurer

I HEREBY CERTIFY this to be a true and original version of the “Byrne Creek Community Secondary School Landscaping Right of Way Bylaw, 2021” enacted by the Board this 26th day of October, 2021.

Secretary Treasurer

Board Report

Date: October 26, 2021
To: Board of Education – Regular Meeting
From: Russell Horswill, Secretary Treasurer
Subject: Duthie Union School Land Disposition

Background:

The Burnaby Board of Education's 2019 - 2024 Strategic Plan contains the key priority “**A Modern, Safe, and Sustainable Learning Environment**”, Goal 2 - Develop a Long-Range Facility Plan consistent with Ministry Guidelines.

The current Long-Range Facility Plan contains the following recommendations:
Recommendation #5:

... THAT the Board of Education review the current and future educational needs of the Marian Secondary School, Duthie Union Elementary, and Riverway West Elementary School sites, and that a long-term plan be developed.

The Board identified in its Long-Range Facility Plan that the Duthie Union School site is surplus to the district's educational needs. Additionally, board direction was provided to engage in negotiations with the Conseil Scolaire Francophone School District (CSF) for their acquisition of the site to support their public education mandate.

The Purchase and Sale Agreement executed with the CSF provides for a closing date of December 31, 2021 and a possession date of July 31, 2022 or earlier if the building is vacated. During the 2021/22 school year the school district will continue to operate the site and will provide the facility to Puddle Splashers Childcare Society under the existing terms and conditions of the Licence to Occupy. Puddle Splashers Childcare Society will move operations to the new childcare centre located in the new Burnaby North Secondary School.

Regulatory Framework:

The disposition of land or improvements by a Board of Education is regulated by the School Act (sections 96(3), 65(5), and 168(2)t), Ministerial Order (M193/08) – Disposal of Land or Improvements Order, and Board Policy 7.55.00 – Disposal of Real Property and Improvements. Section 3 of the Ministerial Order states:

Boards must not dispose of land or improvements by sale and transfer in fee simple or by way of a lease of 10 years or more unless such disposal is to another board or an independent school for educational purposes or is approved by the Minister in accordance with section 5.

The CSF is a "board" as defined in the Ministerial Order and will be using the property for educational purposes and therefore the sale of Duthie Union School property to the CSF does not require Minister approval.

Board Policy 7.55.00 – Disposal of Real Property and Improvements addresses the requirement in the Ministerial Order for boards to develop and implement policies and procedures with respect to the disposal of land or improvements under section 96(3) of the School Act, consistent with the Order, and make the policies and procedures publicly available. Board Policy 7.55.00 is posted on the district website and is available for public access. Section 65(5) of the School Act states:

A Board may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw.

Board policy 7.55.00 states:

Where the Board determines that real property and improvements owned by the District should be disposed of, the Secretary Treasurer shall table with the Board procedures to be followed that are consistent with good business practices and the provisions of the School Act and Ministerial Order M16 (January 17, 2003) [replaced with order M193/08]. Any real property and improvements approved for disposal must be surplus to the current and future educational needs of the District and shall generally be disposed of through a public process and at fair market value.

Board Policy 7.55.00 includes Administrative Procedures on the disposal of real property and improvements. Policy Considerations:

1. The Board Committee of the Whole [acting as the Building and Grounds Committee] has considered and recommended the disposal of Duthie Union School property to the CSF.
2. The agreed purchase price of \$24.0 million has been determined to be fair market value for the land when used for educational purposes.
3. A Purchase and Sales Agreement has been executed with a condition that funding to the CSF is to be confirmed in writing by the British Columbia Ministry of Education.
4. Final acquisition and disposition is subject to both boards adoptions of the required property bylaw.

Much of the Administrative Procedure contemplates a public tender disposition process, which is not applicable given the sale is to another board as defined by the *School Act* to be used for educational purposes. Proceeds from the disposition will be accrued to the board Local Capital Reserve as local funds were used when the site was originally acquired.

The Ministerial Order "Questions and Answers" document issued February 2009 indicates that broad consultation is required prior to disposing of real property. However, the document also indicates that boards of education are in the best position to determine the type of community consultation that would be required for site-specific cases. As such, the following procedure is recommended by the Secretary-Treasurer as good business practices in this case as required for in Policy 7.55.00:

1. That the board provide 1st and 2nd reading of the Land Disposition Bylaw at the October 26, 2021 Regular Meeting, which shall serve to provide formal public notice of the intent to dispose of the Duthie Union School property;
2. That a notice of the intent to proceed with the land disposition be placed on the district website;

3. That a Media Release be issued confirming the intent to host an information session on November 9, 2021 at 6:30 pm by Zoom for residents to learn more about the land disposition to the CSF; and,
4. That the board consider 3rd and Final reading of the Land Disposition Bylaw at the Regular Meeting to be held on November 23, 2021.

Recommendation:

The following procedural motions should be considered and approved by the Board prior to the reading of the Land Disposition Bylaw Motions. The purpose of these motions is to establish the Board procedure.

THAT the Board of Education provide 1st and 2nd reading of the Duthie Union School Land Disposition Bylaw No. 2021-1 to the Conseil Scolaire Francophone School District at the October 26, 2021 Regular Board Meeting.

AND THAT the Board of Education place a notice on the district website of the intention to sell the Duthie Union School property.

AND THAT a public disposition information meeting be hosted through Zoom to provide interested residents an opportunity to learn more about the land disposition.

AND FINALLY that the Board of Education consider the Duthie Union School Land Disposition Bylaw No. 2021-1 at the November 23, 2021 Regular Meeting for 3rd and Final reading.

October 26, 2021 Land Disposition Bylaw Motions

- Motion 1 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 receive two readings at this Board meeting held October 26, 2021.
- Motion 2 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be read a first time.
- Motion 3 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be approved a first time and read a second time.
- Motion 4 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be approved a second time, and that third and final reading be considered at the Regular Board Meeting held on November 23, 2021.

November 23, 2021 Land Disposition Bylaw Motions

- Motion 1 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 be approved a third time.
- Motion 2 THAT Duthie Union School Land Disposition Bylaw No. 2021-1 having been read a first, second and third time, be finally passed and adopted the 23rd day of November, 2021; that the Chair of the Board and the Secretary Treasurer be authorized to sign the bylaw; and that the bylaw be sealed with the corporate seal of the Board.

**BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 41 (BURNABY)**

DUTHIE UNION SCHOOL LAND DISPOSITION BYLAW NO. 2021-1

THAT the Board approves:

- (1) the disposal of 5.75 acres of School District property municipally known as 7231 Frances Street, Burnaby, BC and legally described as:
PID: 008-541-086
Lot 203 District Lot 207 Group 1 New Westminster District Plan 38823 (the "**Property**");
- (2) the entering into and completion of the obligations contained in an agreement of purchase and sale (the "**Purchase and Sale Agreement**") in respect of the Property with Conseil Scolaire Francophone de la Colombie-Britannique (the "**Purchaser**") in the amount of \$24,000,000.00;
- (3) the Property is facility number 41-103780;
- (4) the taking of all such action and the execution and delivery of all such documentation ancillary to, or related to, the foregoing; and
- (5) the authorization of the Secretary-Treasurer to execute and deliver, on behalf of the Board, the Purchase and Sale Agreement and all such amendments thereto and all related and ancillary documents as the Secretary-Treasurer may, in their discretion, consider advisable.

The Board confirms that the Board will not require the Property for future educational purposes.

NOW THEREFORE be it resolved as a Bylaw of the Board that the disposal of land be to the Purchaser.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to execute and deliver the land disposition to the Purchaser in registrable form and on such terms as the Secretary-Treasurer may consider advisable, and all related and ancillary documents required to complete the disposition.

This bylaw may be cited as "Duthie Union School Land Disposition Bylaw No. 2021-1"

READ A FIRST TIME THE 26th DAY OF OCTOBER, 2021.

READ A SECOND TIME THE 26th DAY OF OCTOBER, 2021.

READ A THIRD TIME, PASSED AND ADOPTED THE 23rd DAY OF NOVEMBER, 2021.

Seal

Chairperson of the Board

Secretary-Treasurer

I HEREBY CERTIFY this to be a true and original of School District No. 41 (Burnaby) "Duthie Union School Land Disposition Bylaw No. 2021-1", Disposal of Surplus Property 7231 Frances Street, Burnaby, BC adopted by the Board the 23rd day of November, 2021.

Secretary-Treasurer