

DISTRICT OPERATIONS – BUSINESS SERVICES
Reporting to Public Session, Tuesday, November 23, 2021

1. 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:

Board Consideration at November 23, 2021 Land Disposition Bylaw Motions:

Following broad community engagement as determined by the Board, the following two motions are required to finalize the Duthie Union School Land Disposition Bylaw No. 2021-1

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| 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 23 rd 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 Report

Date: November 23, 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.

Board Approved Procedural Motion

The Board approved the following procedural motion at the October 26, 2021 Regular Meeting:

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

The Board approved the following four motions at the October 26, 2021 Board Meeting to provide initiate the Land Disposition Bylaw:

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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. |

Recommendation:

Board Consideration at November 23, 2021 Land Disposition Bylaw Motions:

Following broad community engagement as determined by the Board, the following two motions are required to finalize the Duthie Union School Land Disposition Bylaw No. 2021-1

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