

DISTRICT OPERATIONS – BUSINESS SERVICES
Reporting to Public Session, Tuesday, December 14, 2021

1. Kincaid Street Land Disposition Bylaw 2021

The current Long-Range Facility Plan identifies the Board’s approval to proceed with the construction of the new Board Office to replace the old building located on Kincaid Street. The proceeds of the disposition of the Kincaid Street site will be placed in the Local Capital Reserve and will support the development of the new building located along Canada Way. The Board has reviewed and confirmed that the Kincaid Street land is surplus to the current and future educational needs of the district.

The Purchase and Sale Agreement executed with the City provides for a completion date of March 3, 2022, or 30 days after the district completes the required work to restore the site. The approval of this Land Disposition Bylaw removes all conditions of the Board.

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

Recommendation:

THAT the Board of Education consider the following Land Disposition motions:

- Motion 1 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 receive three readings at this Board meeting held December 14, 2021.

- Motion 2 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be read a first time.

- Motion 3 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a first time and read a second time.

- Motion 4 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a second time and read a third time.

- Motion 5 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a third time.

- Motion 6 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 having been read a first, second and third time, be finally passed and adopted the 14th day of December, 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. Parkcrest Elementary School Property Statutory Right-of-Way

BC Hydro is proceeding with the installation of an underground supply to Parkcrest Elementary School. The provision of underground power was a condition of the subdivision plan.

Providing a Statutory Right-of-Way is allowed under the *School Act*, however, is considered to be a disposition of real property. As such, the Board is required to approve the Statutory Right-of-Way by approving a bylaw in a public meeting. A copy of the required bylaw is attached to this Board Report.

Staff have reviewed the request for a Statutory Right-of-Way and confirm that granting such will not interfere with the Board's use of the Property for educational purposes.

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

Recommendation:

THAT the Board of Education approved the "Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021" as presented.

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| Motion 1 | THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 receive three readings at this Board meeting held December 14, 2021. |
| Motion 2 | THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be read a first time. |
| Motion 3 | THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be approved a first time and read a second time. |
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Board Report

Date: December 14, 2021
To: Board of Education – Regular Meeting
From: Russell Horswill, Secretary-Treasurer
Subject: Kincaid Street Land Disposition Bylaw 2021

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 identifies the Board's approval to proceed with the construction of the new Board Office to replace the old building located on Kincaid Street. The proceeds of the disposition of the Kincaid Street site will be placed in the Local Capital Reserve and will support the development of the new building located along Canada Way. The Board has reviewed and confirmed that the Kincaid Street land is surplus to the current and future educational needs of the district.

Board direction was provided to engage in negotiations with the City of Burnaby (the City) for their acquisition of the Kincaid Street site to support their municipal mandate. The Board expressed an interest to keep the land within the public realm to benefit the citizens of Burnaby.

The Purchase and Sale Agreement executed with the City provides for a completion date of March 3, 2022, or 30 days after the district completes the required work to restore the site. The approval of this Land Disposition Bylaw removes all conditions of the Board.

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 Minister of Education has provided necessary approvals to dispose of the Kincaid Street property.

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 Kincaid Street property to the City.
2. The agreed purchase price of \$16.4 million has been determined to be fair market value for the land.
3. Final acquisition and disposition is subject to the Board's 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 the City. The Secretary-Treasurer recommended that fair market value be obtained through two independent land appraisals, to which the results were provided to the Board.

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 was accepted by the Board as board consultation:

1. A "Welcome to our Community Information Meeting" document was provided to neighbours and published on our district website to solicit feedback on the potential land disposition.
2. On May 29, 2018, a Community Information Meeting for the proposed rezoning of 5325 Kincaid Street was held in order to provide information to the public about the project and collect feedback from the community regarding the proposed land use change. The event drew approximately 79 attendees, believed to be comprised of 40 current Burnaby School District employees and 39 community members. Attendees were provided comment cards to submit feedback, 12 of which were returned, in addition to 2 emails and 1 phone call.

The Community Information Meeting satisfied two purposes. First, the Board fulfilled its requirement for broad consultation with the community that it intends to proceed with the disposition of the Kincaid Street property. Second, as the district at the time was pursuing rezoning from the City, it resulted in the required public hearing report. The rezoning of the Kincaid Street property was abandoned when a Purchase and Sales Agreement was executed with the City for their acquisition of the land.

Recommendation

THAT the Board consider the following Land Disposition motions:

- Motion 1 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 receive three readings at this Board meeting held December 14, 2021.
- Motion 2 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be read a first time.
- Motion 3 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a first time and read a second time.
- Motion 4 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a second time and read a third time.
- Motion 5 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 be approved a third time.
- Motion 6 THAT School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021 having been read a first, second and third time, be finally passed and adopted the 14th day of December, 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)**

5325 KINCAID STREET PROPERTY DISPOSAL BYLAW 2021

WHEREAS a board of education may dispose of land or improvements owned or administered by the board under the authority of Section 96(3) of the School Act, subject to the Orders of the Minister of Education (the “Minister”);

AND WHEREAS the Minister issued Order M193/08 effective September 3, 2008 requiring fee simple sales and leases of land or improvements for a term of ten years or more to be specifically approved by the Minister, unless the transferee is an independent school or another school board;

AND WHEREAS Section 65(5) of the *School Act* requires a board of education to exercise a power with respect to the acquisition or disposal of property only by bylaw;

AND WHEREAS:

- (i) the Board of Education of School District No. 41 (Burnaby) (the “**Board**”) owns land and improvements in Burnaby known as the former Burnaby School Board administration office (the “**Property**”);
- (ii) the Board proposes to sell the Property (the “**Sale**”) to the City of Burnaby (the “**City**”) pursuant to the terms of a purchase and sale agreement dated September 27, 2021 (the “**Agreement**”) for a purchase price of \$16,400,000.00, adjusted in accordance with the terms of the Agreement (the “**Purchase Price**”);
- (iii) the Property is facility number 04141501;
- (iv) the address of the Property is 5325 Kincaid Street, Burnaby, B.C., V5G 1W2, and the legal description of the Property is:
 - Parcel Identifier: 009-239-383
Lot 13 Except: Part Dedicated Road on Plan 36222; District Lot 80 Group 1 New Westminster District Plan 10063;
 - Parcel Identifier: 009-239-421
Lot 14 Except: Part Dedicated Road on Plan 36222; District Lot 80 Group 1 New Westminster District Plan 10063; and
 - Parcel Identifier: 009-239-464
Lot 15 Except: Part Dedicated Road on Plan 36222; District Lot 80 Group 1 New Westminster District Plan 10063;
- (v) the Board has determined that the Board will not require the Property for future educational purposes, that the Purchase Price represents the fair market value of the Property, and that it is in the best interests of the Board to complete the Sale as contemplated in the Agreement;

NOW THEREFORE be it enacted as a Bylaw of the Board that the Agreement and the completion of the Sale be and are hereby authorized, ratified and approved, subject to approval by the Minister of Education of the proposed disposal of the Property (the **“Minister’s Approval”**).

BE IT FURTHER enacted that the Secretary-Treasurer be and is hereby authorized on behalf of the Board to execute and deliver the Agreement and, subject to the Minister’s Approval, all related transfer and other documents required to complete the Sale.

This Bylaw may be cited as “School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021”.

Read a first time this 14th day of December 2021.

Read a second time this 14th day of December 2021.

Upon unanimous agreement of the Trustees of the Board in attendance, this Bylaw was read a third time on the 14th day of December 2021, and finally passed and enacted this 14th day of December 2021.

Chairperson of the Board

Corporate Seal

Secretary-Treasurer

I HEREBY CERTIFY this to be a true original of School District No. 41 (Burnaby) 5325 Kincaid Street Property Disposal Bylaw 2021, enacted by the Board the 14th day of December 2021.

Secretary-Treasurer

Board Report

Date: December 14, 2021
To: Board of Education – Regular Meeting
From: Russell Horswill, Secretary-Treasurer
Subject: Parkcrest Elementary School Property Statutory Right-of-Way

Background:

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

- ii) Develop and implement a multi-year strategy to seismically mitigate all schools with a "High" (H1, H2, or H3) government rating.

BC Hydro is proceeding with the installation of an underground supply to Parkcrest Elementary School. The provision of underground power was a condition of the sub-division plan.

Considerations:

Providing a Statutory Right-of-Way is allowed under the *School Act*, however, is considered to be a disposition of real property. As such, the Board is required to approve the Statutory Right-of-Way by approving a bylaw in a public meeting. A copy of the required bylaw is attached to this Board Report.

Staff have reviewed the request for a Statutory Right-of-Way and confirm that granting such will not interfere with the Board's use of the Property for educational purposes.

Recommendation

THAT the Board of Education approved the "Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021" as presented.

Motion 1 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 receive three readings at this Board meeting held December 14, 2021.

Motion 2 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be read a first time.

Motion 3 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be approved a first time and read a second time.

Motion 4 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be approved a second time and read a third time.

Motion 5 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 be approved a third time.

Motion 6 THAT Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021 having been read a first, second, and third time, be finally passed and adopted the 14th day of December, 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)**

**PARKCREST ELEMENTARY SCHOOL BC HYDRO STATUTORY 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) British Columbia Hydro and Power Authority (“**BC Hydro**”) proposes to register a Statutory Right-of-Way on land owned by The Board of Education of School District No. 41 (Burnaby) (the “**Board**”) legally described as PID: 031-269-923 – PART OF LOT 1 DISTRICT LOT 129 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP97359 on Parkcrest Elementary School site (the “**Property**”);
- (ii) BC Hydro proposes a 7.5 m² Statutory Right-of-Way located on the south-east corner of the Property as shown on the site plan attached hereto as Schedule A, subject to the Standard Charge Term agreement;
- (iii) the Property is facility number 4141041;
- (iv) the address of the Property is 6055 Halifax Street, Burnaby, British Columbia, V5B 2P4, and the legal description of the Property is:

Parcel Identifier: 031-269-923
Part of Lot 1 District Lot 129 Group 1 New Westminster District Plan EPP97359;
- (v) the Board is satisfied that the granting of the Statutory Right-of-Way to BC Hydro 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 Statutory Right-of-Way to BC Hydro.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on

behalf of the Board, to execute and deliver the Statutory Right-of-Way to BC Hydro 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 Statutory Right-of-Way.

This bylaw may be cited as “Parkcrest Elementary School BC Hydro Statutory Right-of-Way Bylaw 2021”.

Read a first time this 14th day of December 2021.

Read a second time this 14th day of December 2021.

Read a third and final time, passed and adopted this 14th day of December 2021.

Chairperson of the Board

Corporate Seal

Secretary-Treasurer

I HEREBY CERTIFY this to be a true and original Parkcrest Elementary School BC Hydro Statutory Right of Way Bylaw 2021, adopted by the Board this 14th day of December 2021.

Secretary-Treasurer



2112-08960-5-EPP11
3538-SRW.pdf

EXPLANATORY PLAN OF STATUTORY RIGHT OF WAY OVER
 PART OF LOT 1 DISTRICT LOT 129 GROUP 1
 NEW WESTMINSTER DISTRICT PLAN EPP97359

PLAN EPP113538

BCGS 92G.026
 FOR BC HYDRO PURPOSES
 PURSUANT TO SECTION 99(1)(e) OF THE LAND TITLE ACT



ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF

THE INTENDED PLOT SIZE OF THIS PLAN IS 864mm IN WIDTH
 BY 560mm IN HEIGHT (D SIZE) WHEN PLOTTED AT A SCALE OF 1:1000

THIS PLAN LIES WITHIN INTEGRATED SURVEY AREA NO.25,
 CITY OF BURNABY, NAD83(CSRS)4.0.0.BC.1.MVRD

GRID BEARINGS ARE DERIVED FROM PLAN EPP97359

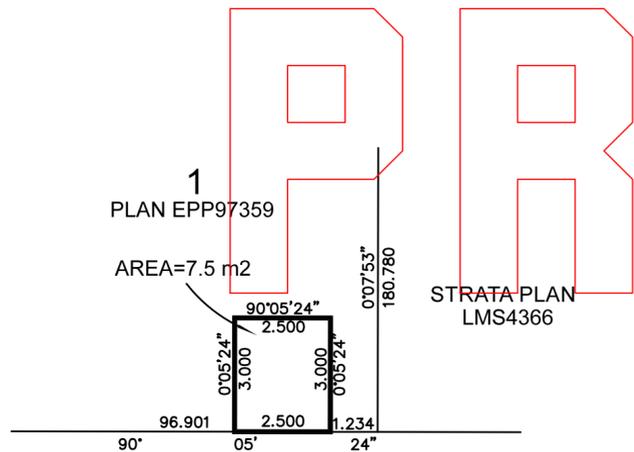
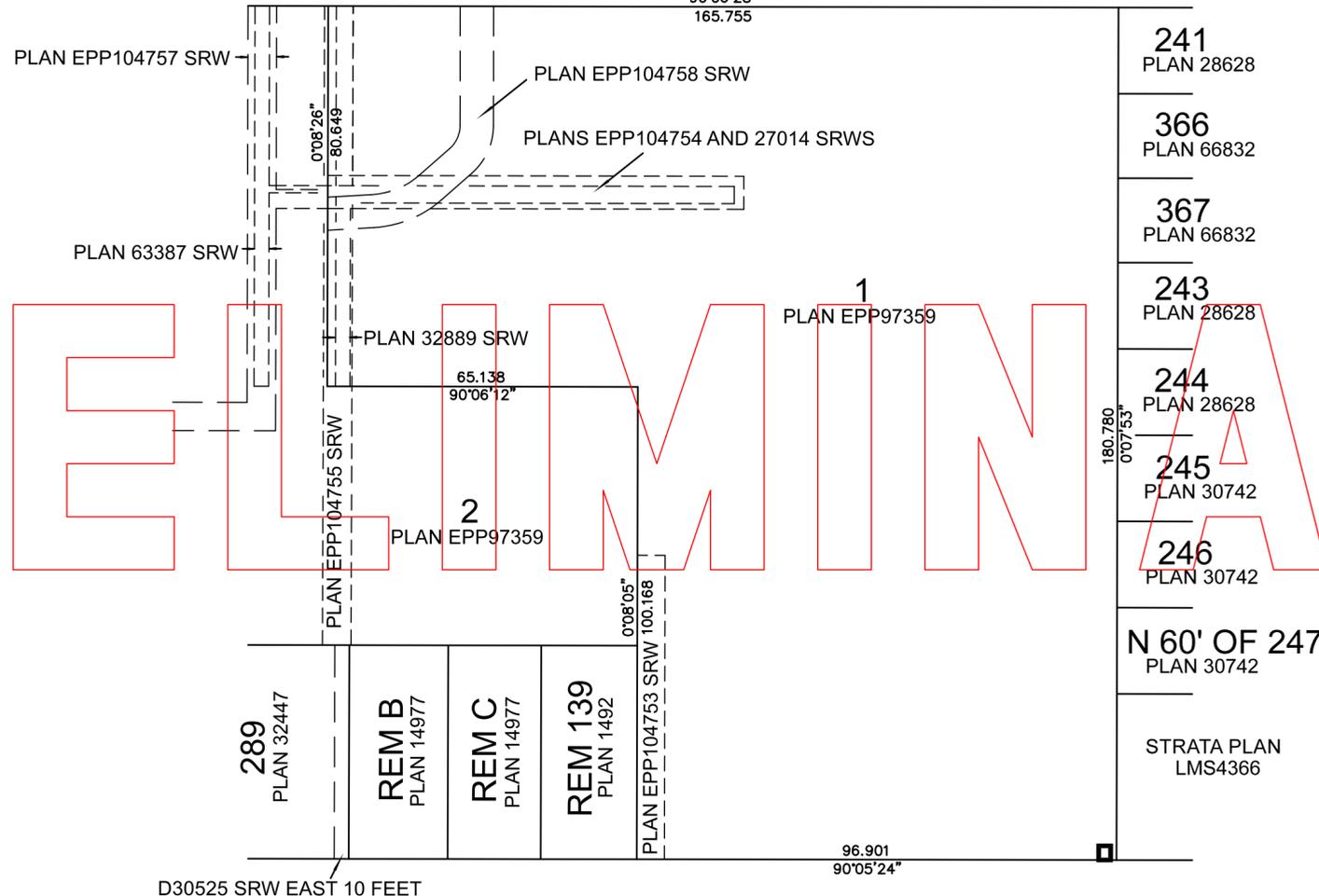


LEGEND

m2 DENOTES SQUARE METRES

WINCH STREET

90°06'28"
 165.755



HALIFAX STREET

DETAIL
 NOT TO SCALE

HALIFAX STREET

SEE DETAIL

THIS PLAN IS BASED ON THE FOLLOWING
 LAND TITLE AND SURVEY AUTHORITY OF BC RECORDS:
 EPP97359
 THE 30TH DAY OF NOVEMBER, 2021
 JASON G. HAMEL, BCLS 821

THIS PLAN LIES WITHIN THE METRO VANCOUVER REGIONAL DISTRICT

McELHANNEY ASSOCIATES LAND SURVEYING LTD.
 SUITE 100, 8837 201 STREET
 LANGLEY, BC V2Y 0C8
 TEL: 604-596-0391
 FILE: 2112-63116-SUB
 ECP DATE: --20