

Report

City of Merritt
REGULAR Council Meeting
June 16, 2020

File Number: 3900.2283

To: Scott Hildebrand, Chief Administrative Officer
From: Greg Lowis, Deputy Corporate Officer
Date: June 10, 2020
Subject: Second Avenue Removal of Dedication Bylaw

RECOMMENDATION:

THAT Council give First Reading to Second Avenue Removal of Dedication Bylaw No. 2283, 2020

And

THAT Council give Second Reading to Second Avenue Removal of Dedication Bylaw No. 2283, 2020

And

THAT Council give Third Reading to Second Avenue Removal of Dedication Bylaw No. 2283, 2020

Background:

The City of Merritt has experienced flooding in recent years and is seeking to raise and armour the Voght Street corner to mitigate flood risk in that area. As this project will extend into what is currently river on the Voght Street side, a portion of the property at 2675 Garcia Street (the other side of the Nicola River from Voght Street) needs to be converted into river channel, to ensure sufficient river width and no net loss of fish habitat.

The owners of 2675 Garcia Street have indicated a willingness to engage in a land swap at no cost, where they give up the land necessary to do the work to protect the City (which would become part of the riverbed, owned by the Province), in exchange for a 0.249 hectare parcel of land adjacent to their lot which is currently dedicated as Second Avenue. In order to undertake this transfer, Council would need to approve the removal of highway dedication and the subsequent land transfer.

Legislative Authority (*Community Charter*)

Under s35 of the *Community Charter*, the soil and freehold of every highway in the municipality vests in the municipality, except for certain exceptions which do not apply to this situation. S40 of the *Community Charter* allows for the closure and removal of highway dedication, and s26 provides for the disposition of Municipal property, including land.

History of Highway plans in this area of Merritt

Prior to the incorporation of the City of Merritt, the *Nicola Herald* ran a story on July 2nd, 1908, reporting that a new bridge would be constructed to extend Voght Street north across the Nicola river, better linking Merritt and Nicola. To this end, a right of way had been obtained from Mr Conklin, over whose land the bridge would cross.

When the City of Merritt was first incorporated, the *Nicola Valley News* reported on September 23rd, 1910 that the area to be included was 3,970 acres, of which some 7% (282 acres) would come from Lot 124; the Conklin Estate, between Nicola Avenue and the Nicola River.

A decision appears to have been made around the same time to sell the Estate off as town lots; in June 1910, advertisements were placed stating that the Conklin Estate would be made available for sale “soon”. By June 24th, the *Nicola Valley News* reported that “a large share of the Conklin estate has already been disposed of”. This process appears to have accelerated over the next couple of years, following the death of Mr Conklin in Spokane, Washington.

A subdivision plan from July 1910 showed the intended layout of the land and lots covered by Lot 124. Although this is recognizable in the modern City, there are a number of features which were either altered with time, or never put in place as designed; for example, Merritt and Mamette Avenues would both continue as through roads east-west from Charters Street to Cleasby Street.

Most pertinent to this report, the July 1910 subdivision plan outlines a series of dedicated east-west roads intersecting with Garcia St between Merritt Avenue and the Nicola River; First, Second, and Third Avenues. None of these roads exist in the current

City, although Taylor Place has been constructed approximately half way between First and Second Avenues east of Garcia St, bisecting Parcel 21 of Lot 124.

Based on available newspaper reports, and City records of subdivision plans, there is no evidence that Second Avenue was ever constructed between the Nicola River and Garcia Street. Nevertheless, the subdivision plan containing its outline means it is theoretically a dedicated road, although there is no indication it has ever been opened.

Proposed highway removal of dedication

If a road has been opened, then it must be closed before it can have its dedication removed. Since there is no indication Second Avenue was ever opened in this location, and it certainly does not currently exist, there is no reason to believe it needs to be closed. As such, Second Avenue only needs to have its dedication removed.

S40(6) of the *Community Charter* has additional requirements for roads which were dedicated by the deposit of a subdivision plan and which were never opened, but these only apply if the parcel was owned by the same single owner both at the time the plan was deposited, and by the same single owner at the time the City intends to de-dedicate the road. Considering the number of purchase and sales of the affected area since 1910, these provisions do not apply.

If Council approves the removal of dedication, Staff would file the required documents with the Land Title Office to raise title to the parcel. Staff would then seek Council's authorization to dispose of the land in accordance with the proposal described above.

Financial / Risk Implications:

If Council does not remove the dedication of road, the land cannot be disposed of to the owners of 2675 Garcia Street, which would jeopardize the City's Voght Street Corner Flood Mitigation project.

Attachments:

Schedule A: Second Avenue Removal of Dedication Bylaw

Respectfully submitted,

Greg Lowis
Deputy Corporate Officer