

THE CORPORATION OF THE
CITY OF WHITE ROCK

15322 BUENA VISTA AVENUE, WHITE ROCK, B.C. V4B 1Y6

MEETING NOTICE

Pursuant to the *Community Charter* Special to Close and Closed meetings of Council have been called to begin at **4:30 p.m.** on **Monday, July 25, 2022.**

DATE: July 25, 2022

MEETING TIME: 4:30 p.m.

LOCATION: WHITE ROCK CITY HALL COUNCIL CHAMBERS –
15322 BUENA VISTA AVENUE, WHITE ROCK BC

These meetings have been called to discuss items that are in accordance with Sections 90(1) (a), (b), (c),(d),(e) (f), (g), (h), (i), (j), (k), (l), (m) and 90(2) (b) of the *Community Charter*:

- 90** (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
 - (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
 - (c) labour relations or other employee relations;
 - (d) the security of the property of the municipality;
 - (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
 - (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
 - (g) litigation or potential litigation affecting the municipality;

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- (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
 - (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
 - (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
 - (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];
 - (m) a matter that, under another enactment, is such that the public may be excluded from the meeting; and
- (2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:
- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

PURPOSE:

- Legal Advice
- Litigation
- Land, Potential Sale, Purchase, Improvement
- Helen Fathers Centre Street Walkway – Right of Way Litigation
- Review Content of Closed Meetings – Sept 1, 2021 to June 30, 2022



Tracey Arthur, Director of Corporate Administration
(July 20, 2022)

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The Corporation of the
CITY OF WHITE ROCK



Closed Council Meeting
AGENDA

Monday, July 25, 2022, 4:30 p.m.

City Hall Council Chambers

15322 Buena Vista Avenue, White Rock, BC, V4B 1Y6

T. Arthur, Director of Corporate Administration

	Pages
1. CALL MEETING TO ORDER	
2. ADOPTION OF AGENDA	
<u>RECOMMENDATION</u> THAT the Corporation of the City of White Rock Council adopt the agenda for its closed meeting scheduled for July 25, 2022 as circulated.	
3. ADOPTION OF MINUTES	5
<u>RECOMMENDATION</u> THAT Council adopt the June 27, 2022 closed meeting minutes as circulated.	
4. Legal Privilege	
[Redacted]	
[Redacted]	
[Redacted]	
5. Property Matter	10
[Redacted]	
Property Matter	
[Redacted]	

Property Matter

[Redacted]

6.

Property Matter

19

Property Matter

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

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[Redacted]

- [Redacted]

[Redacted]

5. [Redacted]

7.

REVIEW CONTENT OF CLOSED MEETINGS - SEPTEMBER 1, 2021 - JUNE 30, 2022 AND CLOSED ACTION TRACKING (5:20 P.M. - 5:30 P.M.)

210

[Community Charter 90 (1) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 90 (2) (b)]

Corporate report dated July 25, 2022 from the Director of Corporate Administration titled "Review Content of Closed Meetings - September 1, 2021 - June 30, 2022.

RECOMMENDATION

THAT Council authorize the release and waive legal privilege over the content of the records included within Appendix A and Appendix B to this corporate report, save and except the content outlined in red, in accordance with *Freedom of Information and Protection of Privacy* legislation.

8. Property Matter

[REDACTED]

9. HELEN FATHERS CENTRE STREET WALKWAY - RIGHT OF WAY (6:00 P.M.)

407

[Community Charter 90 (1) (f), (g), (h), and (i)]

Corporate report dated July 25, 2022 from the Director of Engineering and Municipal Operations titled "Helen Fathers Centre Street Walkway - Right of Way".

Mr. Matthew Voell, Lidstone & Company, to be in attendance to discuss this topic.

RECOMMENDATION

THAT Council:

1. Receive for information the corporate report dated June 27, 2022, from the Director of Engineering and Municipal Operations, titled "Helen Fathers Centre Street Walkway – Right of Way;"
2. Direct staff to prepare a bylaw for the project in accordance with Section 40 of the *Community Charter*.
3. Approve information related to this report being released on a date to be confirmed with the City Solicitor.

10.

Legal Privilege

[Redacted]

412

Legal Privilege

[Redacted]

[Redacted]

[Redacted]

11.

RELEASE OF ITEMS FROM CLOSED COUNCIL MEETINGS

12.

CONCLUSION OF THE JULY 25, 2022 CLOSED COUNCIL MEETING

THE CORPORATION OF THE
CITY OF WHITE ROCK
CLOSED CORPORATE REPORT



DATE: July 25, 2022
TO: Mayor and Council
FROM: Jim Gordon, P. Eng., Director, Engineering and Municipal Operations
SUBJECT: Helen Fathers Centre Street Walkway – Right of Way

RECOMMENDATIONS

THAT Council:

1. Receive for information the corporate report dated June 27, 2022, from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Walkway – Right of Way;”
 2. Direct staff to prepare a bylaw for the project in accordance with Section 40 of the *Community Charter*.
 3. Approve information related to this report being released on a date to be confirmed with the City Solicitor.
-

EXECUTIVE SUMMARY

This report advises of the Court’s rejection of the legal injunctions that were being sought by the three parties with encroachments on the Helen Fathers Centre Street Walkway – Right of Way and provides legal options available with respect to removing the encroachments before construction commences in early 2023.

LEGISLATION

The general rule is that meetings must be open to the public, except as provided in section 90(1) of the Community Charter.

Meetings that may or must be closed to the public

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
- (g) litigation or potential litigation affecting the municipality;
- (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

PREVIOUS COUNCIL DIRECTION

Motion # & Meeting Date	Motion Details
2022-IC-061 June 25, 2022	<p>THAT Mayor and Council:</p> <ol style="list-style-type: none"> 1. Receive for information the corporate report dated June 27, 2022, from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Walkway Contract Award Follow-Up with Grant Application Updates;” 2. Direct staff to defer the project for retendering in January 2023; and 3. Direct staff to release this item from Closed Council on July 11, 2022.
2022-250 June 13, 2022	<p>That Council endorse, in regard to the Helen Fathers Centre Street Walkway project, that Option 3 noted in the corporate report: The city hold approval of the award of the contract pending the grant availability of the Active Transportation Fund 2022 by Infrastructure Canada.</p> <p>Note: evaluation results to be anticipated in June/July 2022, or future grant application for Active Transportation Fund 2022/2023 by BC Ministry of Transportation and Infrastructure with evaluation results to be anticipated in September 2022.</p> <p style="text-align: right;">CARRIED</p>
2021-414 October 25, 2021	<p>That Council give first, second and third reading to “White Rock Financial Plan (2021-2025) Bylaw, 2021, No. 2377, Amendment No. 2, 2021, No. 2403” as presented and circulated ON -Table</p> <p style="text-align: right;">CARRIED</p> <p>Note: White Rock Financial Plan (2021-2025) bylaw, 2021, No. 2377, amendment No. 2, 2021, No. 2403 Bylaw 2403 – A bylaw to amend the Financial Plan for 2021 to 2025 as follows:</p> <ul style="list-style-type: none"> • add \$111K to the 2021 Financial Plan for a new regular full time Solid Waste Coordinator position starting in December 2021, \$8K to 2021 and \$103K to 2022, funded from Reserves; • Add \$650K for the Centre Street Walkway Project funded from CAC’s; and (as presented On-Table); • Add \$50K to the 2021 Financial Plan for a consultant to assist with the Request for Proposal for a Solid Waster Contractor funded from Reserves.
2021-361 October 4, 2021	<p>THAT Council support R.F. Binnie & Associates’ Centre Street Walkway Preliminary Design Option as circulated, as it is more walkable, sustainable, and cost-effective; and direct staff to proceed with the detailed design and construction of Option B.</p> <p style="text-align: right;">CARRIED</p>

2021-116 March 8, 2021	<p>THAT Council approve a budget of \$900K from Community Amenity Contributions (CAC) based on the conceptual design for the Centre Street Walkway provided to Council in 2014 and attached as Appendix A and direct staff to commence the initial project steps, including preliminary design, as described in this report.</p> <p style="text-align: right;">CARRIED</p>
2021-F&A-030 February 22, 2021	<p>THAT The Finance and Audit Committee reconfirms the project noted in February 22, 2021, the corporate report titled “Community Amenity Contribution (CAC) Project Options Update” as a. Centre Street Walkway Upgrades/ but now noting 2021 as the year/with the budget amount \$500,000.</p> <p style="text-align: right;">CARRIED</p> <p>Note: It was noted the design from 2014 included tree trunks, these were not well received, and the Committee does not want them to come back again as part of the future plan.</p>
2021-F&A-030 February 22, 2021	<p>THAT The Finance and Audit Committee requests the project noted in the February 22, 2021, corporate report titled “Community Amenity Contribution (CAD) Project Options Update” as a. Centre Street Walkway Upgrades be started” shovel in the ground “2021”/started ASAP.</p> <p style="text-align: right;">CARRIED</p>
2014-319 October 20, 2014	<p>THAT Council receives for information the corporate report dated October 20, 2014, from the Director of Engineering and Municipal Operations titled “Updated on Progress of Centre Street Road Allowance Improvements Task Force.”</p> <p style="text-align: right;">CARRIED</p>

INTRODUCTION/BACKGROUND

In 2014, following public engagement, staff presented a concept plan for the recently named Helen Fathers Centre Street Walkway Project between Marine Drive and Columbia Avenue with a cost estimate of \$800K. The project was not approved by Council in 2014.

At the Finance and Audit Committee meeting on February 22, 2021, Council directed that the project be moved forward. At the Regular Council Meeting on March 9, 2021, Council approved a budget of \$900K based on the option proposed in 2014 and directed staff to commence the initial project steps including the preliminary design.

R.F. Binnie and Associates was retained to provide engineering services in June 2021. Two options were developed in the preliminary design and presented to Council at the Regular Council Meeting on October 4, 2021. Following Council’s approval, the option of better walkability, stability, and sustainability, was incorporated into the detailed design. On October 25, 2021, Council approved additional funding of \$650K from CACs accumulating a total budget of \$1.550K for the project.

Upon the completion of the detailed design, a Request for Proposals (RFP) for the construction was posted on BC Bid and Cedar Crest Lands BC Ltd. achieved the highest score as it presented the best value for the City among seven proponents.

The evaluation results were presented to Council at the Regular Council Meeting on June 13, 2022, seeking approval to award the newly named Helen Fathers Centre Street Walkway (HFCSW) project to Cedar Crest Lands BC Ltd., subject to a Financial Plan amendment to accommodate the cost increase. Council expressed concern about the proposed budget of \$3.104K compared to the post-design project budget of \$1.550K. Council directed that award of the RFP be held pending a response from Infrastructure Canada about the City's project grant application.

On June 25, 2022 Council directed that staff to defer the project for retendering to January 2023.

FINANCIAL IMPLICATIONS

Based upon the low bid submitted by Cedar Crest Lands BC Ltd. as per their RFP submission, the full project cost of \$3.235M must be incorporated into the Financial Plan. This means an approximate additional \$1.7M is required before reissuance of the RFP in 2023. The additional funding could potentially come from a combination of grants and the City's CAC Reserve. If full grant funding of \$996K is received from the Active Transportation Fund plus the \$48K from the TransLink grant an additional \$641K will be required from city funds. If the Active Transportation Fund grant is not received an estimated \$1.7M of additional funding will be required from city funds.

LEGAL IMPLICATIONS

On March 25, three residents with encroachments on the HFCSW filed a Petition in the BC Supreme Court seeking to stop the city from proceeding with the project. Their primary argument is that the October 4, 2021 decision to proceed with Option B amounts to a permanent road closure to vehicular traffic on the HFCSW, and that pursuant to the *Community Charter* Council may only close roads to types of traffic by bylaw. The residents also sought an interim injunction to stop construction of the project until their Petition was heard by the Court.

On July 5, 2022 the interim injunction application was dismissed by the Court. The Court found that the owners would not suffer irreparable harm if construction occurred prior to the Petition being heard. The hearing of the Court Petition is scheduled for August 18 and 19, 2022.

Given that Council has instructed staff to retender the project, and that construction will not start until 2023, Council may wish to adopt a bylaw directing staff to proceed with the detailed design and construction of Option B in 2023. This would render the Petitioners (three residents') arguments moot. As above, Section 40 of the *Community Charter* provides that Council may, by bylaw, "close all or part of a highway that is vested in the municipality to all or some types of traffic", so it is at least arguable that the project requires adoption of a bylaw. Before adopting any such bylaw, section 40(3) provides that Council must:

- (a) give notice of its intention in accordance with section 94 [public notice], and
- (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.

COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS

Following Council's decision, staff will update the project information available to the public on the city's website.

ALIGNMENT WITH STRATEGIC PRIORITIES

The HFCSW project is a Community Amenity Contribution “Shovel-in-the-Ground” project and is a Council’s Top Priority.

OPTIONS / RISKS / ALTERNATIVES

It is recommended that Council direct staff to prepare a bylaw to proceed with the detailed design and construction of Option B in 2023.

The following alternate option is available for Council’s consideration:

1. Proceed without preparation of a bylaw as per Section 40 of the Community Charter; however, this does not reduce the risk of the project being stopped by a potential decision by the Court following the hearing in August.

CONCLUSION

Three property owners along the HFCSW project sought an interim injunction to stop the project. This interim injunction was denied by the Court on July 5, 2022. A hearing of the Court Petition is scheduled for August 18 and 19, 2022 for resolution of this matter.

In order to reduce the strength of the Petitioners claims in the legal proceeding that are opposing the project, Council may wish to direct staff to prepare a bylaw for the project in accordance with section 40 of the *Community Charter*.

Respectfully submitted,



Jim Gordon, P.Eng.
Director, Engineering & Municipal Operations

Comments from the Chief Administrative Officer

I concur with the recommendations of this corporate report.



Guillermo Ferrero
Chief Administrative Officer

Closed Council Meeting of White Rock City Council

Minutes



July 25, 2022, 4:30 p.m.

City Hall Council Chambers

15322 Buena Vista Avenue, White Rock, BC, V4B 1Y6

PRESENT: Mayor Walker
Councillor Chesney
Councillor Johanson (via electronic means) (departed at 4:50 p.m.)
Councillor Kristjanson (arrived at 4:35 p.m.)
Councillor Manning
Councillor Trevelyan

STAFF: Guillermo Ferrero, Chief Administrative Officer
Tracey Arthur, Director of Corporate Administration
Anne Berry, Director of Planning and Development Services
Candice Gartry, Director of Financial Services
Jim Gordon, Director of Engineering and Municipal Operations
Ken Overton, Manager of Property, Risk and FOI (departed at 5:14 p.m.)
Debbie Johnstone, Deputy Corporate Officer

1. **CALL MEETING TO ORDER**

The meeting was called to order at 4:31 p.m.

2. **ADOPTION OF AGENDA**

Motion Number: 2022-IC-063 It was MOVED AND SECONDED

THAT the Corporation of the City of White Rock Council adopt the agenda for its closed meeting scheduled for July 25, 2022 as circulated.

Absent (1): Councillor Kristjanson

Motion CARRIED (5 to 0)

3. **ADOPTION OF MINUTES**

Motion Number: 2022-IC-064 It was MOVED and SECONDED

THAT Council adopt the June 27, 2022 closed meeting minutes as circulated.

Absent (1): Councillor Kristjanson

Motion CARRIED (5 to 0)

4. **Legal Privilege**

[Redacted text block containing multiple lines of greyed-out content under the heading "Legal Privilege"]

Legal Privilege

[Redacted]

[Redacted]

Councillor Johanson departed the meeting at 4:50 p.m.

5. Property Matter

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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6. Property Matter

[Redacted]

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Property Matter

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Property Matter

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. REVIEW CONTENT OF CLOSED MEETINGS - SEPTEMBER 1, 2021 - JUNE 30, 2022 AND CLOSED ACTION TRACKING (5:20 P.M. - 5:30 P.M.)

[Community Charter 90 (1) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 90 (2) (b)]

Corporate report dated July 25, 2022 from the Director of Corporate Administration titled "Review Content of Closed Meetings - September 1, 2021 - June 30, 2022".

Motion Number: 2022-IC-071 It was MOVED and SECONDED

THAT Council authorize the release and waive legal privilege over the content of the records included within Appendix A and Appendix B to this corporate report, save and except the content outlined in red, in accordance with *Freedom of Information and Protection of Privacy* legislation.

Absent (1): Councillor Johanson

Motion CARRIED (5 to 0)

K. Overton departed the meeting at 5:14 p.m.

8. **Property Matter**

[Redacted]

[Redacted]

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9. HELEN FATHERS CENTRE STREET WALKWAY - RIGHT OF WAY

[Community Charter 90 (1) (f), (g), (h), and (i)]

Corporate report dated July 25, 2022 from the Director of Engineering and Municipal Operations titled "Helen Fathers Centre Street Walkway - Right of Way".

Mr. Matthew Voell, Lidstone & Company, attended electronically to discuss this topic.

Motion Number: 2022-IC-073 It was MOVED and SECONDED

THAT Council:

- 1. Receive for information the corporate report dated June 27, 2022, from the Director of Engineering and Municipal Operations, titled "Helen Fathers Centre Street Walkway – Right of Way";**
- 2. Direct staff to prepare a bylaw for the project in accordance with Section 40 of the *Community Charter*; and**
- 3. Approve information related to this report being released on a date to be confirmed with the City Solicitor.**

Absent (1): Councillor Johanson

Motion CARRIED (5 to 0)

10. **Legal Privilege**
[Redacted text block]

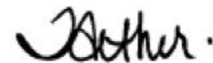
11. **RELEASE OF ITEMS FROM CLOSED COUNCIL MEETINGS**

None

12. **CONCLUSION OF THE JULY 25, 2022 CLOSED COUNCIL MEETING**

The meeting was concluded at 6:04 p.m.

Mayor Walker



Tracey Arthur, Director of
Corporate Administration