



The Corporation of the District of Saanich

Report

To: Mayor and Council
From: Heidi Boudreau, Municipal Solicitor
Date: December 13, 2024
Subject: Shelbourne Street Improvements Project - Phase 3 Expropriation Authorization

RECOMMENDATIONS

That Council adopt the following resolutions pursuant to its authority under section 31 [expropriation power] of the *Community Charter*:

- The expropriation of a portion of the following properties for road dedication is hereby authorized:
 - 1580 Cedar Hill Cross Road, 3669 Shelbourne Street, 3675 Shelbourne Street, 3750 Shelbourne Street, 3810 Shelbourne Street, 3819 Shelbourne Street and 3820 Shelbourne Street.
- The Municipal Solicitor is hereby authorized to execute all documents and complete necessary steps to carry out the above expropriation.

PURPOSE

The purpose of this staff report is to request that Council adopt resolutions pursuant to section 31 of the *Community Charter*, as the “expropriating authority”, to authorize the expropriation of portions of lands as described above.

BACKGROUND

The above noted expropriation authorization is to support the ongoing Shelbourne Street Improvements Project - Phase 3 (**SSIP-P3**). The goal of the project is to deliver the short-term improvements to Shelbourne Street as identified in the Shelbourne Valley Action Plan (SVAP). Phase 3 is the final phase of the SSIP and, when complete, it will provide for a continuous 3+ kilometre long north-south (All Ages and Abilities) active transportation corridor running from Torquay Ave all the way to the Victoria border (linking to Victoria’s AAA Shelbourne bike lanes). The SSIP also includes upgraded utilities, transit facilities, new pavement and significant safety improvements.

DISCUSSION

Staff have been working with the property owners for several months to reach negotiated agreements for the above noted properties. Based on the construction schedule for the project, all road dedications must be completed on or before May 1st, 2025 to avoid causing construction delays. If Council adopts the recommended resolution and ongoing negotiations fail or we determine negotiations are unlikely to be completed within the required time frame, next steps will be for staff to serve formal notice of the expropriation on the owner and charge-holders on title, file the notice against title to the land, and post a copy of the notice on the land itself.

Once expropriation notice has been served, a report will then be brought to Council as “approving authority” under the *Expropriation Act*, to approve the expropriation. For expropriation, Council wears two “hats” under the *Expropriation Act*. It is the “expropriating authority” aka the public authority that requires the lands, and it is the “approving authority” aka the municipality where the expropriation lands are located.

Section 18(2) of the *Expropriation Act* provides that where (as here) the expropriation is for purposes of a linear development, such as a highway, the approving authority “must” approve it.

Following such formal approval, staff will proceed with the remaining steps in the process, including further notices to the owner, payment of compensation in the amount Saanich has determined together with delivering a copy of the appraisal, and filing of the final notice at the Land Title Office to effect the legal transfer of ownership to Saanich.

The owner will have one year from the date of Saanich’s payment of compensation to decide whether it is satisfied, or whether it wishes to pursue a legal claim for additional compensation in the BC Supreme Court

COUNCIL OPTIONS

1. That Council adopts the resolutions recommended by staff.
2. That Council provides alternate direction to staff.

LEGAL IMPLICATIONS

With an expropriation rather than a negotiated agreement, owners have the option of making a claim for additional compensation. The time for making such a claim is one year from the date the compensation is paid to the owner.

FINANCIAL IMPLICATIONS

The anticipated costs to acquire the subject lands have been included in the 2024-2028 Financial Plan. It should be noted that expropriation may be necessary to avoid construction delays and the associated extra construction contract costs to the District that may result from such delays.

STRATEGIC PLAN IMPLICATIONS

The SSIP-P3 is a critical component of the Active Transportation Plan, the Official Community Plan and the Shelbourne Valley Action Plan. As well, completion of the SSIP-P3 will realize significant progress towards the key goals of the District’s 2023-2027 Strategic plan including:

- Climate action and environmental leadership

- Community well-being
- Housing
- Transportation
- Economic development

The SSIP also supports and aligns with the goals and priorities of the Official Community Plan, Shelbourne Valley Action Plan, District of Saanich Climate Action Plan, Active Transportation Plan, Housing Strategy and Water Sewer & Drain Master Plan.

CONCLUSION

Saanich must acquire a small portion of several properties to allow construction of the SSIP-P3 which will improve the safety and utility of Shelbourne, for the benefit of the community. Staff will endeavor to finalize negotiated agreements with the affected property owners but, should that fail, staff will commence the expropriation process. Expropriation will allow the District to avoid or minimize potential construction delays and associated extra construction contract costs that may result if the required acquisitions are not completed before May 1st, 2025.

Prepared by: Heidi Boudreau, Municipal Solicitor

Approved by: Angila Bains, Director of Legislative and Protective Services

Approved by: Harley Machielse, Director of Engineering

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation from the Municipal Solicitor.

Brent Reems, Chief Administrative Officer