

Community Services and Operations Committee
Comité des services communautaires et des opérations

Agenda 8
Ordre du jour 8

Wednesday, April 26, 2000 - 9:15 a.m.
Le mercredi 26 avril 2000 - 9 h 15

Victoria Hall, First Level
Bytown Pavilion, City Hall

Salle Victoria, niveau 1
Pavillon Bytown, hôtel de ville

**Confirmation of Minutes
Ratification des procès-verbaux**

Minutes 7 (April 12, 2000)

Procès-verbal 7 (Le 12 avril 2000)

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Councillor/Conseillère Inez Berg, Vice-Chairperson/Vice-présidente

Councillor/Conseillère Elisabeth Arnold

Councillor/Conseillère Diane Deans

Councillor/Conseiller Allan Higdon

Councillor/Conseiller Shawn Little

LZF

April 11, 2000

ACS2000-PW-ENG-0008
(File: LBT6210/0110)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

1. Encroachment By-law Number 167-73 - Minor Revision

Arrêté municipal 167-73 sur l'empiétement - Révision mineure

Recommendation

That By-law Number 167-73 be amended to allow for the construction of wheelchair (handicap) accesses on City of Ottawa boulevards in accordance with the wording set out in Document 1.



April 11, 2000 (10:33a)

Edward Robinson
Commissioner of Urban Planning and Public
Works



April 11, 2000 (12:57p)

Approved by
John S. Burke
Chief Administrative Officer

TH:th

Contact: Trevor Harris - 244-5300 ext. 1-3764

Financial Comment

There are no direct financial implications to the City.



April 11, 2000 (9:46a)

for Mona Monkman
City Treasurer

BH:cds

Executive Report

Reasons Behind Recommendation

The Ontario Building Code contains regulations regarding the construction, demolition, renovation and alteration of buildings within the Province of Ontario. Part 11 Renovation of the Provincial Regulations applies to buildings that have been in existence for at least five years and where construction is proposed. The basic principle of Part 11 is to ensure that the performance level of a building after alteration is equal to or greater than the performance level of a building prior to alteration. In those situations where, as a result of the extent of proposed alterations, it is determined that a building entrance must comply with the current barrier-free design standards, it may be necessary to construct a ramp in the barrier-free path of travel to and from the entrance to the building.

With a number of older buildings the set-back between the building entranceway and the property line/road allowance may be such that there is insufficient space to allow for the construction of a handicap/wheelchair ramp without some degree of encroachment on the public boulevard (road allowance). However, the Encroachment By-law, 167-73, does not permit the construction of new permanent encroachments on the public road allowance. In order to provide additional flexibility to owners who wish to upgrade or renovate existing buildings in compliance with the Ontario Building Code, it is recommended that handicap/wheelchair accesses be permitted on the boulevard subject to a number of conditions. These conditions would include the requirement that there be sufficient clear space for pedestrian movement and that the structure not be placed so as to interfere with maintenance operations. The changes to the By-law are outlined in Document 1.

Consultation

Given the proposed changes to the By-law are of a minor technical nature, no public consultation was considered necessary. Consultation with the office of the City Solicitor was conducted.

Disposition

Office of the City Solicitor

Undertake the necessary action to process the amending by-law to City Council.

Department of Urban Planning and Public Works, Engineering Branch

Enforce By-law 167-73 in accordance with the most recent revisions.

List of Supporting Documentation

Document 1 Amendments to the Encroachment By-law Number 167-73

Part II - Supporting Documentation

Document 1

BY-LAW NUMBER

A by-law of The Corporation of the City of Ottawa amending By-law Number 167-73.

The Council of The Corporation of the City of Ottawa enacts as follows:

1. By-law Number 167-73 entitled "A By-law of The Corporation of the City of Ottawa regulating encroachments on streets", as amended, is amended by adding, immediately after Section 7, the following section:

7A. The provisions of Section 6 of this by-law do not apply to prevent, in the case of renovations to an existing building, the erection of a permanent surface encroachment that is a ramp located in a barrier-free path of travel to and from an entrance to a building, provided that the addition of a ramp is required by Part 11 Renovation of O. Reg. 403/97 made under the Building Code Act, 1992, S.O. 1992, Chap. 23 and By-law Number 175-93, as amended, for a building entrance to comply with barrier-free design standards and the said encroachment complies with Section 26A.

2. The said By-law Number 167-93 is amended by adding, immediately after Section 26, the following section:

26A. If the proposed encroachment is a permanent encroachment that is a ramp located in a barrier-free path of travel to and from an entrance to a building and conforms in all respects with the provisions of this by-law, the Commissioner may approve the application provided that:

- (a) the applicant has obtained any permits required;
- (b) the applicant will undertake the appropriate circulation process and obtain the approval of underground utility agencies regarding the location of the ramp;
- (c) the encroachment will not be placed so as to constitute a visibility obstruction for pedestrians or vehicles, a safety hazard, a physical obstruction for pedestrians or vehicles or an obstruction to maintenance operations or any public service on the highway;
- (d) the encroachment will be placed so that at least 2.6 metres of sidewalk immediately adjacent to the ramp shall be maintained clear of all obstructions and available for uninhibited passage, except where the sidewalk is less than 2.6 metres in width, in which case at least 1.83 metres of sidewalk immediately adjacent to the ramp shall be maintained clear of all obstructions; and

April 11, 2000

ACS2000-PW-ENG-0009
(File: EW218-44-1)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
 - City Council / Conseil municipal
- Action/Exécution

2. Telephone Agreement - Bell Canada

Entente sur les services téléphoniques - Bell Canada

Recommendations

1. That City Council approve the Corporation of the City of Ottawa entering into an agreement with Bell Canada regarding telephone booths on City of Ottawa road allowances in accordance with the terms and conditions outlined in Document 1, subject to the approval of the Ottawa Transition Board.
2. That the Commissioner of Urban Planning and Public Works, be delegated the authority to make changes on an ongoing and as required basis to Schedule "A" of Document 1, with respect to the physical location and number of telephone booths provided that the terms and conditions of the above agreement have been met.



April 14, 2000 (9:12a)

Edward Robinson
Commissioner of Urban Planning and Public
Works



April 17, 2000 (9:21a)

Approved by
John S. Burke
Chief Administrative Officer

TH:th

Contact: Trevor Harris - 244-5300 ext. 1-3764

Financial Comment

Subject to approval of these recommendations, additional revenue in the estimated amount of \$8,400 will be credited to the appropriate accounts.



April 13, 2000 (3:06p)

for Mona Monkman
City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendations

The City has been approached by Bell Canada regarding the development of a comprehensive agreement with respect to telephone booths located on City of Ottawa property. Following a review of their proposal, the Department of Urban Planning and Public Works has entered into discussions with Bell Canada in order to develop a separate agreement for telephone booths located on City of Ottawa road allowances. It was felt that a separate agreement was in the best interests of the City in light of the unique safety and maintenance considerations relevant to public road allowances.

The proposed telephone booth agreement incorporates a number of terms and conditions that deal with vehicular and pedestrian traffic factors, public safety, and the protection of public road allowances. It should be noted that the agreement provides Bell Canada with a non-exclusive right to operate its telephone booths on City of Ottawa road allowances, which in no way restricts the right of the City to permit other service providers to place and operate telephone booths on the municipal road allowances. The agreement also provides that the agreement can be reassigned with the written consent of the other party thereby providing for a transition to the new City of Ottawa. In addition, the agreement improves the level of compensation that the City receives from existing telephone booths. Under the current arrangement the City receives compensation based on a sliding scale varying from 0% to 7% based on the level of net revenue. In accordance with the attached agreement the City would receive compensation at 16% of net revenue for each telephone booth on the road allowance.

In light of transition, approval of the agreement is required by the Ottawa Transition Board pursuant to Ontario Regulation 100/00 made under the *City of Ottawa Act*, 1999, S.O. 1999, c.14. Specifically, Ottawa Transition Board Financial Guideline No. 1, passed pursuant to Regulation 100/00, provides that an old municipality shall not enter into a contract that extends beyond December 31, 2000 unless it is done either with the approval of the Ottawa

Transition Board or falls within one of the prescribed exemptions. This particular agreement would not fall within an exemption and as a result would require the approval of the Ottawa Transition Board. Therefore, upon City Council's approval of the proposed agreement the Office of the Chief Administrative Officer is to forward the proposed agreement to the Ottawa Transition Board.

The proposed agreement formalizes terms and conditions with respect to existing telephone booths on the road allowance and provides the City with an improved level of compensation for this equipment. It is for these and the reasons outlined above that the Department recommends that the City enter into the proposed agreement with Bell Canada.

Consultation

Given the that the proposed agreement formalizes the situation with respect to existing telephone booths on City road allowance no public consultation was considered necessary. The office of the City Solicitor was involved in the development of the proposed agreement.

Disposition

Office of the Chief Administrative Officer

Office of the Chief Administrative Officer to process the request for approval of Document 1 to the Ottawa Transition Board.

Office of the City Solicitor

Upon approval of the Ottawa Transition Board of Document 1, the Office of the City Solicitor to finalize the execution of the agreement between Bell Canada and the City of Ottawa regarding telephone booths on City of Ottawa road allowances.

Department of Urban Planning and Public Works

The Commissioner of Urban Planning and Public Works to forward an original copy of the Agreement to the City Clerk and ensure that the terms and conditions of the agreement with Bell Canada are implemented and met.

List of Supporting Documentation

Document 1 Agreement between Bell Canada and the City of Ottawa related to telephone booths on City road allowances.

Part II - Supporting Documentation

Document 1

THIS AGREEMENT, made in triplicate this day of , 2000.

BETWEEN:

THE BELL TELEPHONE COMPANY OF CANADA
a body politic incorporated pursuant to the laws of Canada
(hereinafter referred to as "Bell Canada")

- and -

THE CORPORATION OF THE CITY OF OTTAWA
a municipal corporation incorporated pursuant to the
Municipal Act, R.S.O., 1990, c. M.45,
and to be re-structured under the
City of Ottawa Act, 1999, S.O. 1999, S.O. 1990, c. 14
(hereinafter referred to as the "City")

WHEREAS Bell Canada wishes to install public telephone equipment on municipal road allowances within the jurisdiction of the City;

AND WHEREAS Paragraph 122 of Section 210 of the Municipal Act, R.S.O. 1990, Chapter M-45 authorizes the council of local municipalities to enter into such contracts for the erection of public telephone booths upon the municipal road allowances or lands of the municipality;

AND WHEREAS the City and Bell Canada wish to set forth the terms and conditions relating to the location and operation of public telephone equipment (hereinafter referred to as the "telephone booth");

NOW THEREFORE in consideration of the mutual covenants and subject to the terms and conditions in this Agreement, the parties agree as follows:

1.00 LICENSE AND USE

- 1.01 The term of this Agreement shall commence on the date of execution and shall unless renewed, terminate five (5) years after the first day of the month in which the Agreement is executed, unless otherwise terminated in accordance with the terms of this Agreement.
- 1.02 This Agreement shall automatically renew for a three (3) year period on similar terms and conditions unless either the City or Bell Canada give written notice of cancellation to the other not less than six (6) months prior to the expiration of this Agreement or the renewal term at which time this Agreement shall terminate and the privileges thereunder shall come to an end.
- 1.03 Notwithstanding the expiry or termination of this Agreement, the liabilities and obligations of Bell Canada, its contractors and agents under this Agreement, including all fees and payments shall continue and remain in full force and effect until Bell Canada's equipment is removed from the road allowance and the road allowance is restored as provided for in this Agreement.
- 1.04 The City grants to Bell Canada a non-exclusive right to install telephone booths at various locations on municipal road allowances under the jurisdiction of the City, specifically on sidewalks and boulevards (hereinafter referred to as the "locations" and identified in Schedule "A" attached hereto), that are approved by the Commissioner of Urban Planning and Public Works, or his designate, based on the Conditions Related to Location as set out in Clause 2.00 of this Agreement. The list of telephone booth locations as identified in Schedule "A" constitutes an integral and essential part of this Agreement.
- 1.05 Upon the mutual agreement of Bell Canada and the Commissioner of Urban Planning and Public Works, additional telephone booths may be placed on the municipal road allowance and the new locations are to be added to Schedule "A" and initialled by the parties to this agreement.
- 1.06 Bell Canada shall ensure that telephone booths are placed at the agreed upon locations identified in Schedule "A" and meet all of the conditions as set forth in this Agreement.
- 1.07 Bell Canada shall obtain and maintain, at its cost and expense, all licenses, permits or approvals from federal, provincial, municipal or other government authorities that may be necessary to enable Bell Canada to conduct its business.
- 1.08 Bell Canada shall operate the telephone booth and shall carry on and conduct all activities in compliance with all requirements and directions of the Canadian Radio-television and Telecommunications Commission (CRTC) and all other federal, provincial and municipal statutes and by-laws, and will at all times obey all reasonable orders, directions and requests made by municipal and other public authorities.

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- 1.09 Bell Canada shall not permit any advertising of any kind whatsoever to be displayed on any telephone booth other than Bell Canada's logo.
- 1.10 Nothing in this Agreement shall restrict the right of the City to permit other parties to provide and operate telephone booths on its municipal road allowances.
- 1.11 Nothing in this Agreement shall restrict the right of the City to revoke or change any location of a telephone booth at its sole discretion. Bell Canada shall remove at its sole expense a telephone booth from any Location within three (3) days of receipt of notice in writing from the Commissioner of Urban Planning and Public Works.

2.00 CONDITIONS RELATED TO LOCATION

- 2.01 A telephone booth shall be placed such that the front surface is parallel to the direction of the sidewalk or pedestrian flow and if there is more than one telephone booth the front surfaces shall also line up with one another.
- 2.02 At least 2.6 metres of sidewalk immediately adjacent to the telephone booth shall be maintained clear of all obstructions and available for uninhibited passage, except where the sidewalk or other area used for pedestrian passage is less than 2.6 metres in which case the at least 1.83 metres immediately adjacent to the telephone booth shall be maintained clear of all obstructions.
- 2.03 A telephone booth shall not be placed within 10 metres of an intersection as measured from the edge of curb or curb extension in order to provide adequate sight lines.
- 2.04 A telephone booth shall not be placed so as to obstruct access to building entrances or to be located in such a way as to block windows.
- 2.05 A telephone booth shall not be placed on the municipal road allowance so as to constitute a visibility obstruction for pedestrians or vehicles, a safety hazard, a physical obstruction for pedestrians or vehicles, or an obstruction to maintenance operations.
- 2.06 Bell Canada shall not do or permit anything to be done at any of the locations which results in the creation of a nuisance.
- 2.07 A telephone booth shall not be placed so as to obstruct or interfere with passenger ingress or egress to or from a bus at an authorized public bus stop.
- 2.08 A minimum of 3 metres shall be maintained between a telephone booth and any private approach or vehicular access to the municipal road allowance.
- 2.09 On municipal road allowances without a sidewalk, telephone booths shall not be located closer than 3 metres to the curb or traveled portion of the roadway.
- 2.10 Excluding existing telephone booths which are identified in Schedule "A", any future new telephone booth placed on the road allowance will require the consent of the adjacent property owner.

3.00 INSTALLATION AND ALTERATIONS

- 3.01 Bell Canada agrees that all installation, repair or replacement of any telephone booth shall be made at Bell Canada's sole expense and shall be completed to the satisfaction of the Commissioner of Urban Planning and Public Works.
- 3.02 Bell Canada shall submit to the Commissioner of Urban Planning and Public Works upon the commencement of this Agreement a list of the total number of telephone booths that are located on municipal road allowances under the jurisdiction of the City, including their exact location as identified in Schedule "A".

4.00 MAINTENANCE AND REPAIR

- 4.01 Bell Canada shall, at all times, at its sole cost and expense, maintain the telephone booth in a clean, sanitary and safe condition with the physical integrity and appearance maintained. Bell Canada's obligations hereunder include, but are not limited to, the obligation to repair any damage due to vandalism and to immediately remove all posters, signs or graffiti placed on the booth.
- 4.02 Bell Canada shall be responsible for maintaining the surface underneath and immediately adjacent to the telephone booth.
- 4.03 Bell Canada shall repair any damage sustained to any property of the City or any third party, arising out of the enjoyment of the rights granted to Bell Canada by this Agreement.
- 4.04 The City may at any time during the term of this Agreement examine the condition or state of repair of any telephone booth to ensure that Bell Canada has complied with the provisions of this Agreement.
- 4.05 Where an inspection by the City reveals that repair or maintenance under this Agreement is necessary, the City shall give Bell Canada written notice of the need for such repair or maintenance. Bell Canada agrees promptly and in accordance with such notice to commence or cause the repair or maintenance to be commenced within the time limited in such notice and to diligently proceed to complete the same in a good and workmanlike manner.

5.00 COMPENSATION

- 5.01 The net daily average revenue ("NDAR") of a public telephone is defined as the net daily average of: *revenue derived over previous month from coins, collect calls, Calling Cards, commercial credit cards, QuickChange/LaPuce prepaid cash cards, 3rd number calls or Zenith calls; less payments over the previous month for both applicable taxes and settlement of long distance calls not wholly transported by Bell Canada*, for all local and long distance call originating from the telephone booth in question.

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- 5.02 Bell Canada shall pay to the City compensation based on the NDAR generated from each telephone booth listed in Schedule "A" over the previous month at a rate of **16%** of NDAR for each telephone booth.
- 5.03 Bell Canada shall issue payment for the previous month's compensation to the City no later than the last day of the current month where the previous month's aggregate compensation for the telephone booths specified in Schedule "A" is \$10.00 or more.
- 5.04 If the previous month's aggregate compensation for the telephone booths specified in Schedule "A" is less than \$10.00 then Bell Canada shall issue payment for the previous month's compensation to the City when either the accumulated compensation from subsequent months amounts to \$10.00 or more, or a six month period has elapsed, whichever occurs first. The City is not entitled to interest payment from Bell Canada on such outstanding balances.

6.00 TAXES, RATES AND FEES

- 6.01 Bell Canada shall pay all taxes, rates, and fees whether federal, provincial, municipal or otherwise, payable in connection with any of its activities or business carried on at the locations identified in Schedule "A" which are charged in each year of the term of this Agreement.

7.00 INDEMNITY AND LIMITATION OF LIABILITY

- 7.01 Bell Canada shall indemnify and save harmless the City, its servant, agents, and employees from and against; any and all losses, liabilities, claims, suits, actions, demands, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against the City or which the City may pay or incur and which arise out of or in connection with: any of the rights, licenses or privileges granted to Bell Canada pursuant to this Agreement; any breach, violation or non-performance by Bell Canada of its covenants or obligations pursuant to this Agreement.
- 7.02 Except in the event of willful default or gross negligence by the City, the City shall not be responsible in any way for any injury to any person or any loss or damage, however caused, to any property belonging to Bell Canada or the servants, agents, employees, invitees or licensees of Bell Canada howsoever caused and arising out of the installation, repair, replacement, use or existence of the telephone booth on City property.
- 7.03 Except in the event of willful default or gross negligence by the City, Bell Canada shall not have nor make any claim or demand, nor bring any action or suit or petition against the City, its servants, agents or employees for any damage which Bell Canada may sustain by reason of any suspension, interruption or discontinuance of use of any of the telephone booth in whole or in part from whatever cause.

8.00 INSURANCE

8.01 Bell Canada shall maintain during the term of the Agreement Commercial/Comprehensive General Liability insurance acceptable to the City and subject to limits of not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.

The Commercial/Comprehensive General Liability insurance shall include coverage for:

- (i) premises and operations liability
- (ii) cross liability
- (iii) severability of interest clause
- (iv) contingent employers liability
- (v) personal injury liability
- (vi) liability with respect to non-owned licensed motor vehicles, if applicable to the operations of the Agreement

8.02 The Commercial/Comprehensive General Liability insurance policy shall be in the name of Bell Canada and shall name the Corporation of the City of Ottawa as an additional insured thereunder.

8.03 Bell Canada shall maintain during the term of the Agreement, Motor Vehicle Liability insurance in respect to owned licensed Motor Vehicles subject to a limit of not less than \$1,000,000.00 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.

8.04 Such insurance policies shall contain an endorsement to provide the City with thirty (30) days written notice of cancellation.

8.05 Evidence of insurance satisfactory to the City's Insurance Administrator shall be provided prior to the execution of the Agreement.

9.00 DEFAULT, TERMINATION AND RELOCATION

9.01 In the event that Bell Canada is in default of any of its covenants, terms or conditions contained in this Agreement and if the City serves notice in writing upon Bell Canada specifying the default and requiring the Bell Canada to rectify the default within thirty (30) days following receipt of this notice, or if the default is such that, in the opinion of the City, it cannot be rectified within thirty (30) days and Bell Canada fails to commence rectification or fails to proceed with rectification in a manner satisfactory to the City within the said thirty (30) days, the City may at its option immediately terminate this Agreement upon written notice to Bell Canada.

9.02 In the event that Bell Canada makes an assignment for the benefit of creditors or becoming bankrupt or insolvent takes the benefit of any Act that may be in force for bankrupt or insolvent debtors, or if Bell Canada is wound up or accepts the surrender of its charter, then, in every such case, this Agreement may, at the option of the City, be terminated forthwith upon written notice to Bell Canada.

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- 9.03 Either party may terminate this Agreement upon giving thirty (30) days written notice to the other party.
- 9.04 Upon termination of this Agreement for any reason, Bell Canada shall immediately remove its telephone booth from the locations and shall restore, at its sole cost, the locations to the same condition in which they existed prior to the placement of the telephone booth at the locations. Bell Canada, in undertaking such removal shall do no damage to City property and shall make good any damage which may be occasioned thereto. If Bell Canada fails to remove any telephone booth and restore the locations within thirty (30) days of termination of this Agreement, the City may, at its option, remove and dispose of the telephone booth as it sees fit and restore the locations at the sole cost and expense of Bell Canada.
- 9.05 In the event that the City requires the removal or relocation of a telephone booth for the purposes of making repairs to, maintaining or constructing additional public services or infrastructure or for other reasons of a reasonable nature, Bell Canada shall cooperate in having the telephone booth removed or relocated at its expense and shall make no claim against the City in respect of such removal or relocation.

10.00 GENERAL

- 10.01 Bell Canada shall immediately pay and discharge any liens or other charges arising by reason of any act or omission on the part of Bell Canada, its servants, agents or employees, whether caused by any work, services or materials which it or its servants, agents or employees have performed or supplied in connection with the telephone booth or by failure to pay any sales, corporation, income or estate tax or any succession duty for which it or its estate is responsible. If Bell Canada fails to pay or discharge any charge registered against any City property and legal proceedings are taken which successfully validate the said charge, the City may pay the said charge or charges, secure the discharge thereof and require from Bell Canada the immediate repayment of all sums paid by the City in securing such discharge.
- 10.02 Any notices under this Agreement given to the parties hereunder shall be conclusively deemed to be sufficiently given if personally delivered, sent by prepaid registered mail or faxed as follows:

- (a) to Bell Canada at:

Bell Canada
Public Access Services
40 Norelco Drive Floor 2 Toronto,
Ottawa, Ontario
M9L 2X6

FAX NUMBER: 1-800-732- 0670

(b) to the City at:

Commissioner of Urban Planning and Public Works
 The Corporation of the City of Ottawa
 2nd Floor North, Rideau Pavilion
 111 Sussex Drive,
 Ottawa City Hall, Ottawa, Ontario
 K1N 5A1

FAX NUMBER: (613) 244-5474

or to any other address as may be designated in writing by the parties. Notice given by registered mail, if posted in Ontario, shall conclusively be deemed to have been received on the fifth business day following the date on which such notice is mailed. In the event of a postal strike, notice may only be given by personal delivery.

- 10.03 Nothing herein shall be construed as in any way constituting this a partnership among or a joint venture by the parties hereto, or be construed to evidence the intention of the parties to constitute such a relationship. Neither party shall hold itself out contrary to the terms of this clause by advertising or otherwise, nor become liable or bound by any representation, act or omission whatsoever of the other party contrary to the provisions of this clause.
- 10.04 All contracts, whether of employment or otherwise, entered into by Bell Canada with respect to this Agreement shall be made by Bell Canada as principal and not as agent of the City and the City shall have no liability thereon.
- 10.05 This Agreement is the entire Agreement between the parties with regard to the matters dealt with in it, and there are no understandings or Agreements, representations, warranties, conditions or collateral terms, verbal or otherwise, existing between the parties except as expressly set out in this Agreement. The consideration stated herein is the sole consideration and inducement for the execution of this Agreement.
- 10.06 Should any provision of this Agreement be void, voidable or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the said provision had not been included.
- 10.07 This Agreement shall be construed and governed by the laws of the Province of Ontario.
- 10.08 All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.
- 10.09 The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.
- 10.10 The reference to any legislation in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all statutes, including all

amendments thereto and regulations thereunder, that may be substituted for that legislation.

- 10.11 The waiver by the City or Bell Canada of the strict performance of any condition, covenant or Agreement herein contained shall not constitute a waiver of or abrogate such or any other condition, covenant or Agreement nor shall it be deemed a waiver of any subsequent breach of the same or of any other condition, covenant or Agreement.
- 10.12 This Agreement shall not be modified, varied or amended except by an instrument in writing signed by the parties hereto.
- 10.13 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, including successors in title, and permitted assigns.
- 10.14 If two (2) or more persons are liable under the terms of this Agreement to the City, their obligations shall be both joint and several.
- 10.15 Neither party will reassign this Agreement without the prior written consent of the other, which shall not be unreasonably withheld.
- 10.16 This Agreement is subject to the approval of the Ottawa Transition Board.

IN WITNESS WHEREOF The Corporation of the City of Ottawa has hereunto affixed its seal by the hands of its proper officer this day of 2000, Bell Canada has hereto affixed its seal by the hands of its proper officer this day of 2000.

SIGNED SEALED AND DELIVERED

**THE BELL TELEPHONE
COMPANY OF CANADA**

(I have authority to bind the corporation)
Per:
Office:

(I have authority to bind the corporation)
Per:
Office:

**THE CORPORATION OF THE
CITY OF OTTAWA**

Mayor

City Clerk

SCHEDULE "A"

LOCATION OF TELEPHONE BOOTHS

SCHEDULE "A"		
Bell Telephone Booths on City of Ottawa Road Allowances		
No.	Abutting Civic Address	Telephone No.
1	38 Bayswater Avenue	613-725-0986
2	38 Bayswater Avenue	613-725-0827
3	331 Cumberland Street	613-562-9090
4	331 Cumberland Street	613-562-3429
5	102 Fairmont Avenue	613-725-0164
6	391 Cumberland Avenue	613-562-3431
7	35 George Street	613-562-9071
8	35 George Street	613-562-9065
9	87 George Street	613-562-9130
10	87 George Street	613-241-9661
11	551 Gladstone Avenue	613-238-0918
12	469 Bronson (SE corner)	613-238-0117
13	31 Gloucester Street	613-780-9926
14	210 Gloucester Street	613-780-9211
15	297 Lisgar Street	613-238-0277
16	198 Main Street	613-238-0814
17	112.5 Osgoode	613-238-0279
18	170 Second Avenue	613-780-9274
19	435 Sunnyside Avenue	613-730-9913
20	41 Third Avenue	613-238-0665
21	61 Waverley Street	613-238-0160

April 11, 2000

ACS2000-PW-OPS-0004
(File: FPG1100/0110)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

**3. Tender 01400-96873-T02 Routine Sewer Cleaning Services
Tender 00100-91063-T01 Building Sewer Maintenance**

**Appel d'offres n° 01400-96873-T02 - Services de nettoyage périodique
des égouts**

**Appel d'offres n° 00100-91063-T01 - Entretien des branchements
d'égout**

Recommendations

1. That Tender 01400-96873-T02 for routine sewer cleaning services not be awarded to 3564177 Canada Inc (Aqua Flo), who submitted the lowest tender at a total cost of \$82,775.00 for the work in schedules A and B.
2. That Tender 01400-96873-T02 for routine sewer cleaning services be awarded to Sewer-Matic Inspection and Reconstruction Services Inc in the amount of \$126,665.00, this being the second lowest tender received for the work in schedules A and B.
3. That Tender 00100-91063-T01 for building sewer maintenance not be awarded to 3564177 Canada Inc (Aqua Flo), who submitted the lowest tender at a cost of \$63,600.00.
4. That Tender 00100-91063-T01 for building sewer maintenance be awarded to Sewer-Matic Inspection and Reconstruction Services Inc in the amount of \$68,220, this being the second lowest tender received.

5. That 3564177 Canada Inc (Aqua Flo) not be considered for any other City of Ottawa work for the year 2000.



April 14, 2000 (9:40a)

Edward Robinson
Commissioner of Urban Planning and Public
Works

RY:ry

Contact: Ray Yantha - 244-5300 ext. 1-3769



April 17, 2000 (9:08a)

Approved by
John S. Burke
Chief Administrative Officer

Financial Comment

Recommendation 2

Funds are available for the year 2000 estimated cost of \$126,665.00 in the Sanitary Sewer account 0810028 for these purposes.

Recommendation 4

Funds are available for the year 2000 estimated cost of \$68,220.00 in the Building Sewer Services account 0810025 for these services.



April 13, 2000 (3:04p)

for Mona Monkman
City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendations

The Department undertakes routine cleaning of its sanitary sewers on a two year cycle with one half of the sewers being cleaned one year and the other half being cleaned the following year. The Department also undertakes preventative maintenance of building sewer connections in situations where roots from a city tree are contributing to the sewer problem.

As the Department does not have the required resources to undertake this work, these services are purchased from the private sector.

The Purchasing By-law 205-99, section 19(6) delegates the authority to the Department Heads to award contracts emanating from a Request for Tender provided that the award is to the lowest responsive bidder; that sufficient funds are available and identified in appropriate accounts within Council approved departmental estimates including authorized revisions; and the provisions of the by-law are followed.

With respect to these particular tenders, the Department is recommending that these two contracts not be awarded to the lowest responsive bidder, therefore the award of these contracts must be submitted to City Council for consideration and approval.

Recommendation 1

Tender quotes were received for the routine cleaning of sewers as follows:

<u>Company</u>	<u>Schedule A</u>		<u>Schedule B</u>		<u>Cost</u>	<u>Total A + B</u>
	<u>Price/m</u>	<u>Total</u>	<u>Price/m</u>	<u>Total</u>		
Aqua Flo	\$0.215/m	\$39,775	\$0.215/m	\$43,000		\$ 82,775
Sewer-Matic	\$0.329/m	\$60,865	\$0.329/m	\$65,800		\$126,665
Drain-All	\$0.470/m	\$86,950	\$0.470/m	\$94,000		\$180,950
Scooter Rooter	\$1.280/m	\$236,800	\$1.270/m	\$254,000		\$490,800

While Aqua Flo did submit the lowest bid for the tendered work, the Department has had concerns with their declining performance for some time now and has been bringing these concerns to their attention on an ongoing basis, with the expectation that their performance would improve. Unfortunately, the required improvements have not materialized despite repeated assurances by representatives of Aqua Flo that they would. Following is a brief history of their recent contracts with the Department and a record of their performance.

In 1996 Aqua Flo was awarded one of three tenders the Department had called for the cleaning and video inspection of sewers. It was a one year contract with two one year extension options for 1997 and 1998. The work in these contracts was to commence in late April/early May with the majority of work being completed before the winter season (early November). Winter work is generally limited to emergency type situations.

In October of 1996 staff met with Aqua Flo to express concerns that only 10% of the required work had been completed between April and October. Staff received a commitment from Aqua Flo that they would complete the work by mid-December. This is documented in a letter to Aqua Flo dated November 15, 1996. On January 31, 1997 Aqua Flo was advised that they had only completed 54% of the required work in the contract, however, since they

were progressing and appeared intent on completing the work, the Department was prepared to give them the benefit of the doubt by giving them additional time to complete the tendered work. They were also advised that we would consider extending the contract for 1997, provided that all the outstanding work was completed prior to March 31, 1997. Aqua Flo did agree to this and again on March 24, 1997 the Department wrote to Aqua Flo to advise that 32% of the work was still outstanding and it was apparent that they would not complete the 1996 work before the end of March. As they were working on this contract daily and it was determined that they would complete the work, albeit, past the deadline, the 1997 extension was exercised.

In 1997 the work did improve and, therefore, the second extension option for 1998 was offered to Aqua Flo, by letter dated March 18, 1998, again subject to a commitment from them that all outstanding work from 1997 be completed prior to any new work being assigned to them and that they undertake the work in a progressive, continuous manner. This was accepted.

Throughout the summer of 1998, staff verbally communicated with Aqua Flo concerns that they were missing work too frequently and that the work was not progressing satisfactorily. Finally on September 24th staff met with Aqua Flo and advised that they had been at work only 33 out of a possible 100 working days and that only 38% of the contracted work had been completed. Staff were assured that Aqua Flo was committed to completing the work on schedule and that the required resources would be expended to ensure that all work was completed before October 30, 1998. Between September 24th and another meeting with Aqua Flo on November 2, 1998 numerous calls were placed to Aqua Flo expressing further concerns about their ability to complete the work on time. At the November 2, 1998 meeting further documents were provided which showed that they had been at work only 14 out of a possible 26 working days since the September 24th meeting, at which they had ensured staff that they would put additional resources on this contract to ensure that they would complete it on time. Aqua Flo was advised to return all uncompleted work to the City and the contract was terminated. A post contract evaluation was filled out which indicated that the contract requirements were only partially met. Staff indicated that Aqua Flo would be considered for future work only if they provided assurances that the tender would be completed on time and that they would attend work daily. Two appointments were made to meet with Aqua Flo staff to discuss the post contract evaluation but no company representative showed up for either meeting.

In 1999 two tenders for the cleaning and video inspection of sewers were tendered with Aqua Flo being the low bidder in one of them. The contractor's poor performance in previous years as well as their unsatisfactory post contract evaluation were seriously considered prior to agreeing to award them the contract. The contractor had acknowledged his previous difficulties and gave assurances that there would be no similar problems in 1999, therefore, staff decided to give them one last chance.

Staff met with Aqua Flo staff on May 5, 1999 to go over the expectations given the previous problems. It was pointed out again that while the quality of the work they did in previous years was good, their lack of commitment to completing the work in a timely manner was not acceptable and would not be tolerated in 1999. Staff were assured that there would be no problems completing the work on time. Throughout the year there was ongoing verbal contact between city staff and Aqua Flo staff regarding their lack of performance. On August 10, 1999 staff met with Aqua Flo to discuss the lack of progress as only 23% of the required work had been completed. At the conclusion of the contract, records showed that Aqua Flo had been at work only 66 out of a possible 120 working days and that consequently only 53% of the required work was completed.

A post contract evaluation was completed which reflected Aqua Flo's unsatisfactory performance. It indicated that the contract requirements were not met and that this firm was not recommended for future contracts with the city. The post contract evaluation was reviewed and signed by Denis Tremblay on January 5, 2000.

Aqua Flo have now submitted the lowest bid for the 2000 tender for the routine cleaning of sewers. In assessing their bid staff have given serious consideration to the following:

- the declining performance of Aqua Flo over the past four years,
- the numerous opportunities staff have given Aqua Flo to improve their performance,
- the numerous assurances Aqua Flo have given that they will fulfill their contractual obligations,
- their ongoing failure to fulfill their commitments to provide the work contracted,
- the marginal post contract evaluation in 1998, and
- the unsatisfactory post contract evaluation in 1999.

Taking into consideration all of the above factors, staff have no reason to believe that Aqua Flo's performance would be any better in 2000 than it has been over the past four years. While they have submitted a favourable price for the work tendered, it is imperative that the routine cleaning of sewers be undertaken in a timely and efficient manner and that the work be completed on time, to ensure that the City minimizes the risk of sewer blockages and possible backups into adjacent residences and/or businesses. As a result, staff have no alternative but to recommend that Aqua Flo not be awarded Tender 01400-96873-T02 for routine sewer cleaning services for the year 2000.

Recommendation 2

Sewer-Matic Inspection and Reconstruction Services Inc submitted the second lowest bid for the work tendered. They have provided contract work to the Department for numerous years and have satisfactorily completed the required work. As a result they have received favourable post contract evaluations for the work performed. In 1998 they were the contractor for the following works tendered by this Department:

- Cleaning and video inspection of sewers
- Special sewer cleaning services
- Building sewer maintenance
- Re-lining of building sewer laterals, and
- Catch basin sump cleaning.

Awarding the contract to the second lowest bidder will cost approximately \$44,000 more than awarding to the lowest bidder. However, given the lowest bidder's (Aqua Flo) unsatisfactory performance and unreliability, awarding the contract to the lowest bidder is not recommended. The Department does not have the resources required to undertake the work internally and therefore awarding the contract to the second lowest bidder is recommended.

In reviewing the bids received, the price submitted by the second lowest bidder is considered to be reasonable for the work being performed, and while it is substantially higher than the lowest bidder, it is reasonably in line with the tender prices from four and five years ago. The following outlines the unit prices for routine sewer cleaning for the past seven years.

1993	\$0.220 per metre
1994	\$0.179 per metre
1995	\$0.159 per metre
1996	\$0.278 per metre
1997	\$0.278 per metre
1998	\$0.227 per metre
1999	\$0.227 per metre

2000 low bidder	\$0.215 per metre
2000 second lowest bidder	\$0.329 per metre

The unit price of \$0.329 represents an increase of 18% over the unit prices from five years ago (1996).

Recommendation 3

Tender quotes were received for the building sewer maintenance as follows:

Aqua Flo	\$ 63,600
Sewer-Matic	\$ 68,200
Scooter Rooter	\$146,200

As detailed in recommendation 1 above, the performance of the low bidder, Aqua Flo over the past four years has not been satisfactory and as part of their post contract evaluation in the fall of 1999, the Department indicated that Aqua Flo should not be considered for future works. They have demonstrated very poor reliability and the Department is, therefore, recommending that Tender 0100-91063-T01 not be awarded to Aqua Flo

Recommendation 4

Sewer-Matic has performed numerous work for the Department satisfactorily, including this contract in 1999. They are the second lowest bidder and it is, therefore, being recommended that Tender 0100-91063-T01 be awarded to Sewer-Matic Inspection and Reconstruction Services Inc.

Recommendation 5

Given the unsatisfactory performance and unreliability of Aqua Flo over the past four years, the Department is not in favour of awarding any work to Aqua Flo in 2000, even if they are the lowest bidder. Should a situation arise whereby Aqua Flo is the low bidder on other works, the Commissioner would award the work to the second lowest bidder, without having to report to City Council, provided that all other provision of the purchasing by-law are adhered to.

Disposition

The Commissioner of Urban Planning and Public Works will issue the required contract award documents and purchase requisitions to effect the award of these tenders as approved by City Council.

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February 15, 2000

ACS2000-CV-DIA-0001
(File: ACS1300)

Disability Issues Advisory Committee

Ward/Quartier
City Wide

- Policy, Priorities and Budgeting
Committee / Comité des politiques, des
priorités et des budgets
- City Council / Conseil municipal

Action/Exécution

4. Licenses - Taxis - Accessible Cabs Permis - Taxis - Taxis Accessibles

Recommendations

1. That the Department of Urban Planning and Public Works and the Office of the City Solicitor develop the legislative requirements in the format of an application for special legislation for the “new” City of Ottawa to license, regulate and govern accessible taxicabs separately from taxicabs, and submit a report to City Council for its consideration.
2. That City Council, on approving the report referred to in Recommendation 1, forward the item to the “new” City of Ottawa requesting that the legislative authority be obtained as a priority.
3. That City Council, on approving Recommendation 1, forward its decision to the Transition Board so that the Board is aware of the community need for accessible taxicab service and request that the Board take whatever action it considers appropriate in the transition phase for the “new” City of Ottawa.



Bob Brown
Chairperson

BB:cl

Contact: Bob Brown 731-1989
Carole Langford - 244-5300 ext. 1-3617

Policy, Priorities and Budgeting Committee Recommendation - March 30, 2000

- ▶ *The Committee concurs and so recommends.*

City Council Decision - April 5, 2000

- ▶ 9/3 Moved by Mayor Watson, Seconded by Councillor Bickford,
Whereas the Disability Issues Advisory Committee has expressed concern with the lack of any accessible taxicabs to service the physically handicapped in the City of Ottawa;

And Whereas to address this concern it is proposed to increase the number of taxicab owner licences in accordance with the provisions of Schedule 19 of By-law L-6;

And Whereas it is further proposed that the additional taxicab owner licences will be subject to certain conditions, including the condition that the taxicab owner own an accessible taxicab;

And Whereas it is deemed appropriate that the Disability Issues Advisory Committee and representatives from the taxi industry be given an opportunity to make representations on this proposal;

Be It Therefore Resolved That:

- S the report from the Disability Issues Advisory Committee on Accessible Cabs (PP&B Report 6, Item 11); and
- S a recommendation to increase the number of taxicab owner licenses to a maximum of 12 new licences subject to a condition that the licences only be available to owners of accessible cabs be referred to the CSOC Committee of April 26, 2000 for consideration. - *Carried.*

Financial Comment

Subject to City Council's approval of this report, any required funds associated with Recommendation 1 are available within the approved annual estimates for the Department of Urban Planning and Public Works, as well as, the Department of Corporate Services, Office of the City Solicitor.



March 17, 2000 (1:30p)

for Mona Monkman
City Treasurer

RL:cds

Executive Report

Reasons Behind Recommendation

At its meeting of November 18, 1999, the Disability Issues Advisory Committee discussed the current accessible cab situation in the Region including the regulatory framework (Provincial legislation and municipal licensing), the reasons the private sector has not seen fit to offer the service in quantity, and the options that might be available to the City to ensure adequate accessible cab service.

The views of the Committee were in regards to OC Transpo's suggestion, repeated in the newspaper editorial, that to encourage provision any licensed accessible cab should be granted access to able-bodied fares throughout the Region instead of just within the boundaries of the municipality of license. The Committee agreed that while any first steps are welcome the idea is at best only a partial solution. For example, there would be no guarantee that priority service would be given to persons with disabilities, there would be no guarantee that a "critical mass" of accessible cabs would be provided, and without one broker managing a "fleet" there would be no central call and dispatch centre, and no assurances that there would be around-the-clock service.

The Committee discussed several options, including:

- accessible cabs to pick up able-bodied fares but with persons with disabilities somehow assured priority;
- to write the Editor of the Citizen with DIAC's views on the O-C Transpo (and editorial)suggestion

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- to write Mayor Watson requesting that he ask the Province for changes to the legislation;
- to recommend legislative changes by way of submission to PP&B and CC

Consultation

The Department of Urban Planning and Public Works, City Solicitor and Taxi Advisory Committee

DIAC at its meetings of November 18, 1999 and February 15, 2000 discussed the above-noted item.

Disposition

Department of Urban Planning and Public Works and Office of the City Solicitor.

April 17, 2000

ACS2000-CM-BUS-0008
(File: RRH3813/0110)

Department of Community Services

Ward/Quartier
OT3 - Southgate

- Community Services and Operations Committee / Comité des services communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

5. Royal Oak Pathway: Permanent Closure and Removal of Park Dedication

Sentier Royal Oak: fermeture permanente et suppression de la dénomination du parc

Recommendations

1. That the public pathway linking Royal Oak Court to the Greenboro open space system be permanently closed.
2. That Park Dedication By-Law 159-89, designating the Royal Oak pathway (Block 16, Plan 4M-702) as a public park, be rescinded.



April 17, 2000 (9:08a)

Janette Foo
Commissioner of Community Services



April 18, 2000 (8:14a)

Approved by
John S. Burke
Chief Administrative Officer

PL:pl

Contact: Paul Landry - 244-5300 ext. 1-4042

Financial Comment

There are no financial implications as a result of City Council approval of this report.

All costs and revenues generated as a result of the permanent closure and disposal of the public pathway have been identified in a companion report from Policies, Priorities and Budgeting Committee, recommending the sale of the walkway block to the abutting property owners.



April 17, 2000 (1:41p)

for Mona Monkman
City Treasurer

ML:cds

Executive Report

Reasons Behind Recommendations

On November 29, 1995 a public meeting was held in Greenboro to discuss the closure of a public pathway block linking Royal Oak Court to the Greenboro open space system (see Document 1 for location plan). A total of 28 residents of the Royal Oak/Royal Elm neighbourhood attended the meeting and expressed a strong desire to see the public pathway closed to reduce unwanted pedestrian “short-cut” traffic from Greenboro through their streets to the intersection of Hunt Club and Albion Roads. The residents testified to a significant amount of noise, vandalism, break-ins and other serious disturbances to their neighbourhood, which they attributed to non-residents using the pathway.

On December 6, 1995, City Council approved the following motions presented by the Ward Councillor:

THAT this pathway link be closed temporarily, for a period of two years, to allow the City and residents to evaluate the effectiveness of the closure in solving the problems experienced by residents on the courts;

THAT if the closure be deemed successful in reducing vandalism, robberies and disturbances on the two courts, that Council initiate the process to close the pathway permanently.

The pathway was closed in September 1996 by way of fencing erected across the rear of the pathway block and signage was installed indicating the temporary closure by order of City Council. The pathway has remained closed since the expiry of the two-year closure period in September 1998. A number of individual written statements and a group petition from area residents have been received, testifying to the sharp decline in disturbances to the neighbourhood in the period following the closure of the pathway.

In spring of 1999, the Ward Councillor and the residents of Royal Oak Court/Royal Elm Private formally requested that the City initiate the process of permanently closing the pathway. In keeping with the *Corporate Policy on Real Property Transactions Regarding City-Owned Parkland*, City Council approved on December 1st, 1999, by a two-thirds majority, the following recommendation:

THAT public consultations be held regarding the potential permanent closure of a public pathway linking Royal Oak Court to the Greenboro open space system.

A public meeting was held on March 7th, 2000 at the Greenboro Pavilion to discuss the pathway's permanent closure and the removal of its park designation. Twenty (20) residents from the Royal Oak/Royal Elm neighbourhood attended the meeting and were unanimous in their support for the permanent closure and disposal of the public pathway. At the meeting staff outlined the process for closure and disposal, stressing that in order to be declared surplus to the needs of the Corporation, an agreement of sale of the walkway property with one or both of the abutting property owners would have to be reached.

Both abutting property owners indicated their interest in purchasing the block. Property Services have advised that should Council approve Royal Oak Pathway no longer being required for parkland purposes, Property Services will immediately initiate discussions with the abutting property owners for the purchase of the subject lands. Should these discussions be successful, the final purchase agreement will be brought to PP&B on June 1 and subsequently forwarded to City Council for approval.

Consultation

As required under the *Corporate Policy on Real Property Transactions Regarding City-Owned Parkland*, two public meetings have been held on this issue. The first was held on November 29, 1995 to discuss the concerns of the residents of Royal Oak Court and Royal Oak Private over the pathway in question. A total of 28 residents were in attendance, as well as a representative of the SouthKeys/Greenboro Community Association and the Ward Councillor.

The second meeting was held on March 7th, 2000 to discuss the permanent closure and disposal of the walkway block. A total of 20 residents were in attendance, as well as the executive of the SouthKeys/Greenboro Community Association and the Ward Councillor.

Written statements from residents as well as a group petition supporting the permanent closure of the walkway have been received and are on file. The SouthKeys/Greenboro Community Association have passed the following resolution:

THAT the SouthKeys/Greenboro Community Association supports the permanent closure of the Royal Oak Pathway.

Disposition

A companion report, prepared by Property Services Branch, is on the May 11, 2000 agenda of the Policy, Priority and Budget Committee. This report recommends that the Royal Oak pathway be declared surplus to the needs of the City of Ottawa under the *Corporate Policy on Real Property Transactions Regarding City-Owned Parkland*, and that said property be sold to the abutting property owners at market value.

List of Supporting Documentation

Document 1 Location Plan for the Royal Oak Pathway

Part II - Supporting Documentation

Document 1

Location Plan for the Royal Oak Pathway

