

Sale of the Public Lane known as Barnaby Place

Date:	May 6, 2009
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	27 – Toronto Centre Rosedale
Reference Number:	P:\2009\Internal Services\F&re\Gm09042F&re - (AFS-9969)

SUMMARY

The purpose of this report is to authorize the sale of the public lane known as Barnaby Place to the adjoining owner, the Hospital for Sick Children.

The terms for completing the transaction, as set out herein, are considered to be fair, reasonable and reflective of market value.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. Subject to City Council authorizing the permanent closure of the public lane, being the unnamed lane on Plan 60 (aka Barnaby Place) north of Elm Street, abutting Lot 25 and shown as Part 1 on Sketch No. PS-2008-133 (the “Lane”), the City of Toronto enter into an Agreement of Purchase and Sale with the adjoining owner, the Hospital for Sick Children (“HSC”), for the sale of the Lane, in the amount of \$900,000.00, substantially on the terms and conditions outlined in Appendix “A” to this report.
2. The City of Toronto grant a permanent easement to Enwave Energy Corporation (“Enwave”) and to any other affected utility companies, for nominal consideration, prior to the completion of the sale to HSC on terms and conditions satisfactory to the City in consultation with Enwave and any other affected utility companies.
3. Authority be granted to direct a portion of the proceeds of closing to fund the outstanding expenses related to the Lane and the completion of the sale transaction.

4. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending or waiving terms and conditions, on such terms as she considers reasonable.

Financial Impact

We anticipate revenue in the amount of \$900,000.00 (net of GST), less closing costs and the usual adjustments from this sale.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In accordance with the City’s Real Estate Disposal By-law, No. 814-2007, the Lane was declared surplus on May 6, 2009 (DAF No. 2009-062) with the intended manner of disposal to be by inviting an offer to purchase the Lane from HSC.

ISSUE BACKGROUND

Staff of Transportation Services received a request from HSC to investigate the feasibility of the permanent closure of the Lane for incorporation into HSC’s proposed development of a 21-storey research and education building on its site at 674-686 Bay Street, 72-74 Elm Street, 85-87 Walton Street and on a portion of the Lane. HSC has requested to permanently close the Lane in order that it can be included in the development. One of the conditions of site plan approval is for HSC to obtain City Council’s approval for the closure and sale of the Lane including completion of the sale transaction.

COMMENTS

Transportation Services has reviewed the feasibility of closing the Lane and are submitting a report to the Toronto and East York Community Council meeting scheduled for May 14, 2009, recommending that the Lane be permanently closed.

Details of the Lane are as follows:

Approximate Size: North/south measurement: East/west measurement:	25.0 m ± (82 ft ±) 6.1 m ± (20 ft ±)
Approximate Area:	154.2 m ² ± (1,660.0 ft ² ±)
Current Status:	Public Lane

The ward Councillor has advised the Director of Real Estate Services that he intends to ask City Council to authorize the transfer of the Lane to HSC for nominal sum consideration as a grant in kind.

Section 82 of the City of Toronto Act (“COTA”) provides the over-riding principle with respect to bonusing: stipulating that the City shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose, including leasing or selling any property of the City at below fair market value. However, this does not prevent the City from making grants to eligible individuals and entities. The City derives its grant making authority from COTA, Section 83, General Power to Make Grants, and grants are broadly defined and include both grant funding and grants in kind.

A “grant in kind”, broadly defined, is a transfer of an asset other than cash, such as property or the right to use property, to another entity in exchange for nominal or non consideration or for consideration with less than fair market value. Section 83(2)(b) of COTA provides that the City has the authority to make a “grant in kind” of land to any person, group, or body that is not a manufacturing business or other industrial or commercial enterprise, for any purpose that Council considers to be in the interests of the City.

As of the writing of this report, not all of the steps necessary to comply with the City’s real estate disposal process, as set out in Chapter 213 of the City of Toronto Municipal Code have been complied with, as notice of the proposed sale has not been given. However, by the date of consideration of the Government Management Committee, the required public notice will have been given. The recommendations in this report are in compliance with the requirements of Section 82 of COTA relating to the sale of City land at fair market value and Chapter 213 of the Municipal Code governing the sale of real property.

A Cost Centre has been put in place to charge costs directly related to the sale of City-owned properties. This report includes a recommendation to direct a portion of the sale proceeds to fund the outstanding expenses related to the property and the completion of the sale transaction.

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix “A” – Terms and Conditions of Offer to Purchase
Appendix “B” – Site Map and Sketch No. PS-2008-133