

STAFF REPORT TO COUNCIL

From: Joanna Winter, Manager of Legislative Services
 Meeting Date: March 4, 2019
 File No: 3900-20-2004
 RE: **BYLAW TO CLOSE A PORTION OF FARRELL ROAD**

RECOMMENDATION:

That Council:

1. Authorize that a portion of Farrell Road located on the property at 674 Farrell Road be closed and that the highway dedication be removed;
2. Give first, second and third readings to Town of Ladysmith Road Closure and Dedication Removal Bylaw 2019, No. 2004;
3. Direct staff to refer Bylaw 2004 to the Ministry of Transportation and Highways in accordance with applicable legislation; and
4. Direct staff to provide public notice of its intent to adopt Bylaw 2004 in accordance with the *Community Charter*.

PURPOSE:

The purpose of this staff report is to seek Council authorization to close a portion of Farrell Road in order to facilitate the sale of the property.

PREVIOUS COUNCIL DIRECTION

Resolution	MeetingDate	ResolutionDetails
CE 2017-110	2017-06-05	That Council direct staff to list the Town-owned property at 674 Farrell Road as an exclusive listing with Lorne Gait and Jill Dashwood of Royal LePage Nanaimo Realty, with an asking price of \$200,000.
CE 2019-011	2019-02-04	That Council rise at 6:45 p.m. with report at an appropriate time on the following: <ul style="list-style-type: none"> • Resolution CE 2019-010 That Council: <ol style="list-style-type: none"> 1. Accept the Offer to Purchase the property at 674 Farrell Road for \$160,000, as amended by the following: <ol style="list-style-type: none"> a. Add the statement: <p>"Nothing in this Agreement shall be interpreted as prejudicing or impairing the Seller in the exercise of any statutory or legislative powers under the Local Government Act, the Community Charter or any other enactment, all of which may be exercised as if this Agreement had not been executed."</p>

Resolution	MeetingDate	ResolutionDetails
		b. Add a new condition: Subject to the Town of Ladysmith publishing statutory notice by February 28, 2019 of its intent to dispose of the property. 2. Authorize the Corporate Officer to sign the Offer to Purchase as amended; and 3. Direct staff to issue statutory notice of disposition in accordance with the Community Charter.

INTRODUCTION/BACKGROUND:

The unserviced property at 674 Farrell Road is 0.471 acre (~0.19ha) and is zoned RU-1. It was acquired by the Town in 2007 from the BC Transportation Authority and is currently vacant. In 1998, the provincial government closed the portion of Farrell Road that is shown on the property in the diagram below.

Although the road is officially closed, the Town does maintain it with snow and ice removal in winter, and sweeping at other times of the year. In addition, the public does occasionally use the cul de sac as a turn-around or for parking.

Section 42 of the *BC Transportation Act* stipulates that where a closed road has been used by members of the public, and some public funds have been expended to maintain the roadway (not including snow and ice removal), the road is considered a highway regardless of whether it has previously been closed.



The Town has accepted an offer to purchase the property at 674 Farrell Road. However, due to the existence of the closed road on the property, and the potential for it to qualify as a highway under section 42 of the Transportation Act, staff recommend that the Town proceed with a new road closure and dedication removal bylaw to protect the interests of both the Town and the purchaser.

This portion of Farrell Road is a dead end, has not been dedicated as a road since 1998, and does not provide access to any adjoining properties. Any future development in the area will be required to meet all statutory obligations for road access.

ALTERNATIVES:

Council could choose not to give first three readings to Bylaw 2004 at this time. However, time is of the essence due to the accepted purchase offer on the property.

FINANCIAL IMPLICATIONS:

Should the property sale not proceed, the Town could forego the sale price of \$160,000.

LEGAL IMPLICATIONS:

In accordance with the legislation, the Town cannot sell property that contains an active highway. Although the road on the 674 Farrell Road property has previously been closed by the province, the fact that it is occasionally used as a turnaround or for parking by the public means that the road could be considered to be a highway. To protect the interests of the Town and comply with legislation, it is recommended that Council enact a road closure and dedication removal bylaw in accordance with applicable legislation.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

N/A

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input type="checkbox"/> Employment & Tax Diversity | <input type="checkbox"/> Natural & Built Infrastructure |
| <input type="checkbox"/> Watershed Protection & Water Management | <input type="checkbox"/> Partnerships |
| <input type="checkbox"/> Communications & Engagement | <input checked="" type="checkbox"/> Not Applicable |

SUMMARY:

In order to protect the Town's interests and to comply with applicable legislation with respect to the sale of a Town-owned property, it is recommended that council enact a Road Closure and Dedication Removal bylaw for a previously closed road (cul de sac) on the Town-owned property at 674 Farrell Road.



Joanna Winter, Manager of Legislative Services

February 27, 2019

I concur with the recommendation.

Guillermo Ferrero, City Manager