



Date: July 9, 2004

TO: Board Members - Parks and Recreation
FROM: General Manager - Parks and Recreation
SUBJECT: Bates Park: Statutory Right-of-Way

RECOMMENDATION

THAT the Board approve the granting of a statutory right-of-way in perpetuity in favour of the City of Vancouver over a portion of Bates Park, based on the details provided in this report and Appendix 1, subject to the legal documents being prepared to the satisfaction of the General Manager of Parks and Recreation.

POLICY

The Vancouver Charter specifies that the Board has “exclusive jurisdiction and control of all areas designated as permanent public parks” (Section 488.1), and that “exclusive jurisdiction and control of real property includes the authority to determine how such real property shall be used” (Section 488.6).

BACKGROUND

Bates Park is a 0.35 hectare (0.86 acre) nature park located on a steep slope north of Fellowes Street between the Second Narrows Bridge and Boundary Road. The park is officially divided in two parts, separated by an unopened City street (see image below).

The northerly portion was granted to the City by the Province as a public park in 1989. The Vancouver Charter (Section 488.5) states that “real property is designated as a permanent public park by (e) covenant in a document transferring real property to the City indicating that the transferred lands are to be used for park purposes together with acceptance of same by the City”. The northerly portion of Bates Park is therefore “permanent public park”.

There is a road that crosses through the northern edge of Bates Park. It has been used for years by Canadian National Railways to access the rail tunnel and rail bridge northeast of Bates Park. More recently, the City’s Engineering Department has established it as part of the Trans-Canada Trail, connecting Vancouver to Burnaby.

In late 2003, a request was received by B.C. Hydro to underground some of the existing overhead electrical utilities that parallel this road. This request has generated a review of the permitted uses along this road that goes through a portion of Bates Park.



DISCUSSION

Park Board staff have reviewed the matter with the City Surveyor. Staff recognize the role of the road for travel and utility purposes. Staff also believe that allowing these functions will not undermine the integrity or the function of Bates Park as a nature park because the road is located at the base of a steep slope and therefore does not interfere with the upland natural area.

It is recommended that a statutory right-of-way in favour of the City be granted in perpetuity by the Park Board for road and utility purposes over the portions of Bates Park shown in Appendix 1. This means that the land will remain as a permanent public park while allowing the travel and utility functions to occur. The right-of-way grants permission to the City to modify or upgrade the road for a variety of travel modes as well as building, modifying or upgrading City utilities (e.g. water, sewer, street lighting) and privately-owned utilities (e.g. telephone, gas, hydro-electricity, etc.).

If approved, Park Board staff will work with the City Surveyor on the necessary legal documents to register the statutory right-of-way. These will be prepared to the satisfaction of the General Manager of Parks and Recreation.

CONCLUSION

The granting of a statutory right-of-way over a portion of Bates Park is being recommended. The right-of-way will allow travel and utility functions to occur, which staff believe will not undermine the integrity or the function of Bates Park as a nature park.

Prepared by:
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Appendix 1

**Plan Showing
Approximate Location of
Proposed Statutory Right-of-way
over Northern Portion of Bates Park**

