

THE CORPORATION OF THE
CITY OF WHITE ROCK
CORPORATE REPORT



DATE: January 16, 2023
TO: Mayor and Council
FROM: Jim Gordon, P.Eng., Director, Engineering & Municipal Operations
SUBJECT: Helen Fathers Centre Street Walkway 2023 Update

RECOMMENDATIONS

THAT Council:

1. Receive for information the corporate report dated January 16, 2023, from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Walkway 2023 Update” for consideration; and
 2. Provide direction to staff to either:
 - a) Proceed with the Helen Fathers Centre Street Walkway project and report back to Council on the next steps; or
 - b) Discontinue work on the Helen Fathers Centre Street Walkway project.
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EXECUTIVE SUMMARY

The Helen Fathers Centre Street Walkway (HFCW) is a project to upgrade the Centre Street road right of way with a zig zag walkway, viewing areas and potentially, public art. The project is intended to facilitate public usage and amenity of the right of way through the construction of zig zag walks to reduce steep grades, provision of benches, and installation of viewing areas (Appendix A).

Conceptual versions of the project have been under discussion for many years, including public engagement in 2014; however, the Council at that time did not approve the project. Starting on March 8, 2021, Council directed staff to develop the project through various stages from concept to detailed design and tender (Appendix B).

Although the city received conditional grant approvals totaling slightly more than \$1M, design details and market conditions in the fall of 2022 resulted in the need for a Financial Plan Amendment to fund the projected \$3.4M budget (Appendix C). Council did not approve the Financial Plan Amendment, nor did it approve Bylaw 2445 “A Bylaw to authorize the construction of the Helen Fathers Centre Street Walkway Project” when these items were considered at the October 3, 2022 Regular Council Meeting (Appendix D). The final step in securing grant approvals through Contribution Agreements was put on hold due to the lack of confirmed city project funding.

On January 11, 2023, Infrastructure Canada advised that the conditional approval of \$996K for the project is withdrawn.

In addition to cost, challenges to the project include the inherent risk of steep hillside construction and the opposition to encroachment removal from three property owners. Legal action initiated by the three property owners resulted in a judgement confirming that the city has the legal authority to remove the encroachments (Appendix E).

This report seeks Council direction on whether to move forward with the HFCW project. If approval to proceed is given, staff will report back to Council on next steps, including funding and resolution of encroachment related issues.

PREVIOUS COUNCIL DIRECTION

Motion # & Meeting Date	Motion Details
2022-405 October 3, 2022	THAT Council give final reading to “White Rock Financial Plan (2022-2026) Bylaw, 2022, No. 2428, Amendment No. 2, 2022, No. 2442” DEFEATED
2022-403 October 3, 2022	THAT Council receive and accept all written and verbal submissions for the public comment process regarding “Authorization for Construction of Helen Fathers Centre Street Walkway Bylaw 2022, No. 2445” CARRIED
2022-378 September 20, 2022	THAT Council direct that public input take place at the October 3, 2022 Regular Council meeting for the “Authorization for Construction of Helen Fathers Centre Street Walkway Bylaw 2022, No. 2445” CARRIED
2022-377 September 20, 2022	THAT Council give first, second and third readings to “Authorization for Construction of Helen Fathers Centre Street Walkway Bylaw 2022, No. 2445” CARRIED
2022-359 September 20, 2022	THAT Council: <ol style="list-style-type: none"> 1. Receive for information the corporate report dated September 20, 2022 from the Director of Financial Services, titled “White Rock Financial Plan (2022-2026) Bylaw, 2022, No. 2428, Amendment No. 2, 2022, No. 2442” for consideration and give first, second and third readings to the draft Bylaw attached as Appendix A (includes increased funding for the Helen Fathers Centre Street Walkway Project). CARRIED
2022-358 September 20, 2022	THAT Council: <ol style="list-style-type: none"> 1. Receive for information the corporate report dated September 20, 2022 from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Update” for consideration; and 2. Authorize the Mayor to sign the contribution agreement between the City and Infrastructure Canada in the amount of \$996K for the successful award of the Active Transportation Fund. CARRIED

<p>2022-IC-073 July 25, 2022</p>	<p>THAT Council:</p> <ol style="list-style-type: none"> 1. Receive for information the corporate report dated July 25, 2022, from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Walkway – Right of Way;” 2. Direct staff to prepare a bylaw for the project in accordance with Section 40 of the <i>Community Charter</i>; <p>Approve information related to this report being released on a date to be confirmed with the City Solicitor.</p> <p style="text-align: right;">CARRIED</p>
<p>2022-IC-061 June 27, 2022</p>	<p>THAT Mayor and Council:</p> <ol style="list-style-type: none"> 1. Receive for information the corporate report dated June 27, 2022, from the Director of Engineering and Municipal Operations, titled “Helen Fathers Centre Street Walkway Contract Award Follow-Up with Grant Application Updates;” 2. Direct staff to defer the project for retendering in January 2023; and 3. Direct staff to release this item from Closed Council on July 11, 2022. <p style="text-align: right;">CARRIED</p>
<p>2022-250 June 13, 2022</p>	<p>That Council endorse, in regard to the Helen Fathers Centre Street Walkway project, Option 3 noted in the corporate report.</p> <ul style="list-style-type: none"> • The City hold approval of the award of the contract pending the grant availability of the Active Transportation Fund 2022 by Infrastructure Canada. <p>Note: Evaluation results to be anticipated in June/July 2022, or future grant application for Active Transportation Fund 2022/2023 by BC Ministry of Transportation and Infrastructure with evaluation results to be anticipated in September 2022.</p> <p style="text-align: right;">CARRIED</p>
<p>2021-414 October 25, 2021</p>	<p>That Council give first, second and third reading to “White Rock Financial Plan (2021-2025) Bylaw, 2021, No. 2377, Amendment No. 2, 2021, No. 2403” as presented and circulated ON -Table</p> <p>Note: White Rock Financial Plan (2021-2025) Bylaw, 2021, No. 2377, Amendment No. 2, 2021, No. 2403 Bylaw 2403 – A bylaw to amend the Financial Plan for 2021 to 2025 as follows:</p> <ul style="list-style-type: none"> • add \$111K to the 2021 Financial Plan for a new regular full time Solid Waste Coordinator position starting in December 2021, \$8K to 2021 and \$103K to 2022, funded from Reserves; • Add \$650K for the Centre Street Walkway Project funded from CAC’s; and (as presented On-Table); • Add \$50K to the 2021 Financial Plan for a consultant to assist with the Request for Proposal for a Solid Waste Contractor funded from Reserves. <p style="text-align: right;">CARRIED</p>

2021-361 October 4, 2021	<p>THAT Council support R.F. Binnie & Associates’ Centre Street Walkway Preliminary Design Option as circulated, as it is more walkable, sustainable, and cost-effective; and direct staff to proceed with the detailed design and construction of Option B.</p> <p style="text-align: right;">CARRIED</p>
2021-116 March 8, 2021	<p>THAT Council approve a budget of \$900K from Community Amenity Contributions (CAC) based on the conceptual design for the Centre Street Walkway provided to Council in 2014 and attached as Appendix A and direct staff to commence the initial project steps, including preliminary design, as described in this report.</p> <p style="text-align: right;">CARRIED</p>
2021-F&A-030 February 22, 2021	<p>THAT The Finance and Audit Committee reconfirms the project noted in February 22, 2021, the corporate report titled “Community Amenity Contribution (CAC) Project Options Update” as a. Centre Street Walkway Upgrades / but now noting 2021 as the year / with the budget amount \$500,000.</p> <p style="text-align: right;">CARRIED</p> <p>Note: It was noted the design from 2014 included tree trunks, these were not well received, and the Committee does not want them to come back again as part of the future plan.</p>
2021-F&A-030 February 22, 2021	<p>THAT The Finance and Audit Committee requests the project noted in the February 22, 2021, corporate report titled “Community Amenity Contribution (CAD) Project Options Update” as a. Centre Street Walkway Upgrades be started” shovel in the ground “2021”/started ASAP.</p> <p style="text-align: right;">CARRIED</p>
2014-319 October 20, 2014	<p>THAT Council receives for information the corporate report dated October 20, 2014, from the Director of Engineering and Municipal Operations titled “Updated on Progress of Centre Street Road Allowance Improvements Task Force.”</p> <p style="text-align: right;">CARRIED</p>

INTRODUCTION

The Helen Fathers Centre Street Walkway (HFCW) is a project to upgrade the Centre Street road right of way with a zig zag walkway, viewing areas and potentially, public art. The project is intended to facilitate public usage and amenity of the right of way through the construction of zig zag walks to reduce steep grades, provision of benches, and installation of viewing areas (Appendix A).

Conceptual versions of the project have been under discussion for years, including public engagement in 2014; however, the Council at that time, did not approve the project. Starting on March 8, 2021, Council directed staff to develop the project through various stages from concept to detailed design and tender (Appendix B).

BACKGROUND

In 2014, following public engagement, Council was presented with a concept plan for the Centre Street Walkway Upgrades project between Marine Drive and Columbia Avenue with a cost estimate of \$800K. The project was not endorsed by Council at that time.

At the February 22, 2021, Finance and Audit Committee meeting, Council directed that the Centre Street Walkway Upgrades project be endorsed as a Community Amenity Contributions (CAC) project and to begin as soon as possible. At the March 9, 2021, Regular Council meeting, a budget of \$900K was approved based on the conceptual plan presented in 2014 and directed staff to commence the initial project steps including the preliminary design.

R.F. Binnie and Associates was retained to provide engineering services in summer 2021. Two preliminary design options were presented at the October 4, 2021 Regular Council Meeting. Following Council's approval, specifics surrounding better walkability, stability, and sustainability were incorporated into the detailed design. On October 25, 2021, Council approved additional funding of \$650K from the CAC account, accumulating a total budget of \$1550K for the Centre Street Walkway Upgrades project, now formally known as the Helen Fathers Center Street Walkway (HFCW) project.

Upon the completion of the detailed design, a Request for Proposals (RFP) for the construction was posted on April 11, 2022 and closed on May 10, 2022 with seven (7) proposals received. The evaluation concluded that Cedar Crest Lands BC Ltd. presented best value to the city.

On June 13, 2022 at the Regular Council meeting, the evaluation results were presented, seeking approval to award the HFCW project to Cedar Crest Lands BC Ltd., subject to a Financial Plan amendment to accommodate the cost increase. Council expressed concern about the proposed budget of \$3104K and directed that the award of the RFP be postponed pending a response from Infrastructure Canada about the city's project grant application to the Active Transportation Fund (ATF) of Infrastructure Canada

FINANCIAL IMPLICATIONS

The estimated project cost, based on Summer 2022 market conditions projected to 2023, is \$3.4M. If the project is to proceed, the Financial Plan will need to include \$3.4M. The actual cost could potentially vary considerably depending on current market conditions. If Council directs staff to report back on next steps, staff will provide an updated budget figure.

Given the cancellation of conditional grant approval of \$996K from Infrastructure Canada and assuming that the \$48K grant from Translink remains, Community Amenity Contribution funding of \$3,352K will be required if the project is to proceed.

LEGAL IMPLICATIONS

Three properties adjacent to the right of way have long standing encroachments. Legal action initiated by the three property owners resulted in a judgment confirming that the city has the legal authority to remove the encroachment (Appendix E).

It is believed that some, if not all of these property owners, spoke against the project during consideration of Bylaw 2445, titled "Authorization for Construction of Helen Fathers Centre Street Walkway Bylaw 2022, No. 2445" on October 3, 2022. Although first, second and third readings of the Bylaw were approved on September 20, 2022, Council has not approved Bylaw adoption.

COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS

Communications staff will continue to update the city website and social media on the project status.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

Engineering, Financial Services and Communications staff are working together on the project.

IMPLICATIONS FOR TREE PRESERVATION AND TREE CANOPY ENHANCEMENT

Negligible effects.

OPTIONS / RISKS / ALTERNATIVES

Options for Council consideration include:

1. Proceed with the Project – This will provide residents with the amenity of an upgraded and more user friendly walkway with viewpoints and potentially, opportunities for public art placement. The risks include increased costs and possible continuation of litigation through the appeal process following the December 30, 2022 Court decision. Alternatively, the CAC funding could be used on other city projects.
2. Do Not Proceed with Project – Sunk costs of approximately \$170K will be lost and the planned revitalization of the walkway for pedestrian usage linking to the waterfront will not proceed.

CONCLUSION

The HFCW project is intended to facilitate public usage and amenity of the Centre Street right of way through the construction of zig zag walks to reduce steep grades, provision of benches, and installation of viewing areas. The project has been under consideration for several years but faces challenges including increased costs and potential ongoing litigation through an appeal process. Council is requested to provide direction on whether the project is to proceed.

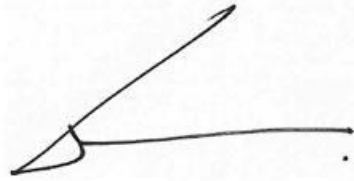
Respectfully submitted,



Jim Gordon, P.Eng.,
Director, Engineering and Municipal Operations

Comments from the Chief Administrative Officer

This report is provided for Council's consideration and direction to staff.

A handwritten signature in black ink, consisting of a stylized, sweeping line that starts at the bottom left and curves upwards and to the right, ending in a horizontal stroke.

Guillermo Ferrero
Chief Administrative Officer

- Appendix A: R.F. Binnie & Associates' Centre Street Walkway Preliminary Design Option B approved by Council October 4, 2021
- Appendix B: March 8, 2021 Corporate Report, titled "Community Amenity Contributions – Centre Street Walkway; Maccaud Park Upgrade Including Pickleball; Playground Updates" with minutes extract.
- Appendix C: September 20, 2022 Corporate Report, titled "Helen Fathers Centre Street Walkway Update."
- Appendix D: On Table Bylaw 2445: Authorization for Construction of Helen Fathers Centre Street Walkway Bylaw 2022, No. 2445."
- Appendix E: Supreme Court Reasons for Judgement – Pinnacle Care Group Ltd. v. White Rock (City) 2022 BCSC 2278