

Nanaimo Ladysmith Public Schools

BOARD OF EDUCATION
PUBLIC MEETING

ACTION SHEET

DATE: March 15, 2017
TO: Board of Education
FROM: Secretary-Treasurer, Carrie McVeigh
SCHOOL DISTRICT NO. 68 (NANAIMO-LADYSMITH) OLD VICTORIA ROAD SITE DISPOSAL BYLAW, 2017
SUBJECT: Disposition of Property – 838 Old Victoria Road / Clay Tree Society

Recommendation:

(Pursuant to the School Act Section 68 (4), a board may not give a bylaw more than 2 readings at any one meeting unless the members of the board who are present at the meeting unanimously agree to give the bylaw all 3 readings at that meeting.)

Motion

That the Board of Education of School District No.68 (Nanaimo-Ladysmith) give the School District No. 68 (Nanaimo-Ladysmith) Old Victoria Road Site Disposal Bylaw, 2017 Bylaw all three readings at one meeting, March 15, 2017.

Moved by _____
Seconded by _____
All those in favour _____
Carried OR Defeated _____

Motion

First Reading

That the Board of Education adopts School District No. 68 (Nanaimo-Ladysmith) Old Victoria Road Site Disposal Bylaw, 2017 pursuant to the School Act, as attached and described herein:

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, "land" includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS section 96 (3) of the *School Act* provides that a board of education may dispose of land or improvements, or both, subject to the orders of the Minister of Education (the "**Minister**");

AND WHEREAS section 3 of Ministerial Order M193/08 Disposal of Land or Improvements Order (the "**Disposal Order**") provides that boards must not dispose of land or improvements by sale and

transfer in fee simple or by way of lease or 10 years or more unless such disposal is to another board or an independent school for educational purposes or is approved by the Minister in accordance with section 5 of the Disposal Order;

AND WHEREAS section 5 of the Disposal of Land or Improvements Order provides that the Minister may approve, with any terms and conditions, a disposition of land or improvements;

AND WHEREAS:

- (i) The Board of Education of School District No. 68 (Nanaimo-Ladysmith) (the “**Board**”) has determined and hereby confirms that the land and improvements at 838 Old Victoria Road, Nanaimo, B.C. (the “**Property**”) is not required for future educational purposes;
- (ii) the address of the Property is 838 Old Victoria Road, Nanaimo, British Columbia, V9R 6A1, and the legal description of the Property is:

Parcel Identifier: 005-493-471
Lot 1, Section 1, Nanaimo District, Plan 8961;
- (iii) the Board entered into a Memorandum of Understanding dated February 24, 2017 with Clay Tree Society for People With Developmental Disabilities (the “**Society**”) providing, among other things, for the negotiation of a Purchase and Sale Agreement (the “**PSA**”) pursuant to which the Board would sell the Property to the Society (the “**Sale**”) for a purchase price of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) (the “**Purchase Price**”), payable over forty-three months with interest at 2% per annum and secured by an Agreement for Sale, subject to conditions including completion of a public consultation process, adoption of a bylaw by the Trustees of the Board in their discretion and approval of the Sale by the Minister;
- (iv) the Board has completed a public consultation process regarding the proposed Sale; and
- (v) the Board is satisfied that the Purchase Price represents fair market value for the Property.

NOW THEREFORE be it resolved as a Bylaw of the Board that, subject to the approval of the Minister, the Board enter into the PSA and complete the sale of the Property to the Society for the Purchase Price, on the terms and subject to the conditions set out in the PSA.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to settle, execute and deliver the PSA and all such amendments thereto (except as to the Purchase Price) as the Secretary-Treasurer may, in her discretion, consider advisable, and all related and ancillary documents required to complete the sale of the Property to the Society pursuant to the terms of the PSA.

That the Board of Education School District No.68 (Nanaimo-Ladysmith) give the bylaw first reading.

Moved by _____
 Seconded by _____
 All those in favour _____
 Carried OR Defeated _____

Second Reading

That the Board of Education adopts School District No. 68 (Nanaimo-Ladysmith) Old Victoria Road Site Disposal Bylaw, 2017 pursuant to the School Act, as attached and described herein:

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, "land" includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS section 96 (3) of the *School Act* provides that a board of education may dispose of land or improvements, or both, subject to the orders of the Minister of Education (the "**Minister**");

AND WHEREAS section 3 of Ministerial Order M193/08 Disposal of Land or Improvements Order (the "**Disposal Order**") provides that boards must not dispose of land or improvements by sale and transfer in fee simple or by way of lease or 10 years or more unless such disposal is to another board or an independent school for educational purposes or is approved by the Minister in accordance with section 5 of the Disposal Order;

AND WHEREAS section 5 of the Disposal of Land or Improvements Order provides that the Minister may approve, with any terms and conditions, a disposition of land or improvements;

AND WHEREAS:

- (i) The Board of Education of School District No. 68 (Nanaimo-Ladysmith) (the "**Board**") has determined and hereby confirms that the land and improvements at 838 Old Victoria Road, Nanaimo, B.C. (the "**Property**") is not required for future educational purposes;
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- (iv) the Board has completed a public consultation process regarding the proposed Sale; and
- (v) the Board is satisfied that the Purchase Price represents fair market value for the Property.

NOW THEREFORE be it resolved as a Bylaw of the Board that, subject to the approval of the Minister, the Board enter into the PSA and complete the sale of the Property to the Society for the Purchase Price, on the terms and subject to the conditions set out in the PSA.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to settle, execute and deliver the PSA and all such amendments thereto (except as to the Purchase Price) as the Secretary-Treasurer may, in her discretion, consider advisable, and all related and ancillary documents required to complete the sale of the Property to the Society pursuant to the terms of the PSA.

That the Board of Education School District No.68 (Nanaimo-Ladysmith) give the bylaw second reading.

Moved by _____
Seconded by _____
All those in favour _____
Carried OR Defeated _____

Third and Final Reading

That the Board of Education adopts School District No. 68 (Nanaimo-Ladysmith) Old Victoria Road Site Disposal Bylaw, 2017 pursuant to the School Act, as attached and described herein:

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, "land" includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS section 96 (3) of the *School Act* provides that a board of education may dispose of land or improvements, or both, subject to the orders of the Minister of Education (the "**Minister**");

AND WHEREAS section 3 of Ministerial Order M193/08 Disposal of Land or Improvements Order (the "**Disposal Order**") provides that boards must not dispose of land or improvements by sale and transfer in fee simple or by way of lease or 10 years or more unless such disposal is to another board or an independent school for educational purposes or is approved by the Minister in accordance with section 5 of the Disposal Order;

AND WHEREAS section 5 of the Disposal of Land or Improvements Order provides that the Minister may approve, with any terms and conditions, a disposition of land or improvements;

AND WHEREAS:

- (i) The Board of Education of School District No. 68 (Nanaimo-Ladysmith) (the "**Board**") has determined and hereby confirms that the land and improvements at 838 Old Victoria Road, Nanaimo, B.C. (the "**Property**") is not required for future educational purposes;
- (ii) the address of the Property is 838 Old Victoria Road, Nanaimo, British Columbia, V9R 6A1, and the legal description of the Property is:

Parcel Identifier: 005-493-471
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- (iii) the Board entered into a Memorandum of Understanding dated February 24, 2017 with Clay Tree Society for People With Developmental Disabilities (the “**Society**”) providing, among other things, for the negotiation of a Purchase and Sale Agreement (the “**PSA**”) pursuant to which the Board would sell the Property to the Society (the “**Sale**”) for a purchase price of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) (the “**Purchase Price**”), payable over forty-three months with interest at 2% per annum and secured by an Agreement for Sale, subject to conditions including completion of a public consultation process, adoption of a bylaw by the Trustees of the Board in their discretion and approval of the Sale by the Minister;
- (iv) the Board has completed a public consultation process regarding the proposed Sale; and
- (v) the Board is satisfied that the Purchase Price represents fair market value for the Property.

NOW THEREFORE be it resolved as a Bylaw of the Board that, subject to the approval of the Minister, the Board enter into the PSA and complete the sale of the Property to the Society for the Purchase Price, on the terms and subject to the conditions set out in the PSA.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to settle, execute and deliver the PSA and all such amendments thereto (except as to the Purchase Price) as the Secretary-Treasurer may, in her discretion, consider advisable, and all related and ancillary documents required to complete the sale of the Property to the Society pursuant to the terms of the PSA.

That the Board of Education School District No.68 (Nanaimo-Ladysmith) give the bylaw third and final reading.

Moved by _____
 Seconded by _____
 All those in favour _____
 Carried OR Defeated _____

Background:

Clay Tree Society has been attempting to purchase the school district property on which they currently operate, 838 Old Victoria Road. In early January, Clay Tree presented staff with an offer to purchase the entire property. In further discussions, Glenys Patmore, Executive Director, Clay Tree Society and staff reached an agreement on a sale price of \$750,000 and staff signed a Memorandum of Understanding (attached) outlining the various terms and condition on which a legal and binding agreement would be negotiated.

The Board entered into a consultation process on March 1, 2017. Consultation included information about the potential sale and disposition on the School District website, a public engagement survey and the placement of newspaper ads. NLPS only received feedback through the engagement survey which resulted in 11 respondents of which 5 skipped the feedback portion. Informal feedback from community members and partner groups is very positive. There is overall community support for Clay Tree’s contribution to the Nanaimo community. As the property is surplus to the school district’s needs, community members and partner groups felt the sale would provide local capital monies to the school district to support other capital needs.

Clay Tree Consultation

Media Release (See appendix)

Clay Tree property webpage: http://www.sd68.bc.ca/?page_id=10647

Clay Tree survey: <https://www.surveymonkey.com/r/WRWDKJ2>

Clay Tree Society – 838 Old Victoria Road – Newspaper Ad Info

- Nanaimo News Bulletin – Tuesday, March 7
- Gabriola Sounder – Tuesday, March 7
- Ladysmith-Chemainus Chronicle – Wednesday, March 8

Clay Tree Memorandum of Agreement

The Board is governed by the Board's policies and procedures on Disposal of Property, The Disposal of Land or Improvements Order and the Ministry processes for disposal of property. The sale of property details include:

- Sale Price: \$750,000
- Down payment: \$350,000
- School District to hold Mortgage
- Mortgage is: \$400,000
- Interest Rate is 2%
- Mortgage Term: 42 months (3.5 years)
- Balloon Payment of \$200,000: month 24
- Monthly Payments: \$3,000
- Final payment is at the beginning of month 43

Appendices:

- School District No. 68 (Nanaimo-Ladysmith) Old Victoria Road Site Disposal Bylaw, 2017
- Memorandum of Agreement - Clay Tree and Nanaimo Ladysmith Public Schools, February 24, 2017
- Media Release, Clay Tree and Nanaimo Ladysmith Public Schools, March 1, 2017
- Newspaper Advertisement, Clay Tree and Nanaimo Ladysmith Public Schools
- Engagement Survey – See website for feedback