SUBJECT: Proposed Permanent Closure and Sale of a Portion of Kelly Street and Proposed Permanent Closure of a Portion of Elgin Street, Hamilton - (PW09066) - (Ward 2)

RECOMMENDATION:

That the application of the Hamilton Wentworth District School Board to permanently close a portion of Kelly Street and Elgin Street in Hamilton and to purchase said portion of Kelly Street, be approved, subject to the following:

(a) That the City Solicitor be authorized and directed to prepare a by-law to permanently close a portion of Elgin Street and Kelly Street in Hamilton;

(b) That the appropriate by-law be introduced and enacted by Council;

(c) That the Real Estate Section, Planning and Economic Development Department, be authorized to negotiate the sale of the lands, in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299;

(d) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper Land Registry Office;

(e) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper Land Registry Office;

(f) That the Public Works Department publish a notice pursuant to Section 34 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, of the City’s intention to pass the by-law.

Gerry Davis, CMA
General Manager
Public Works Department
SUBJECT: Proposed Permanent Closure and Sale of a Portion of Kelly Street and Proposed Permanent Closure of a Portion of Elgin Street, Hamilton - (PW09066) - (Ward 2) - Page 2 of 5

EXECUTIVE SUMMARY:
The Hamilton-Wentworth District School Board has submitted an application to permanently close a portion of Kelly Street and Elgin Street in conjunction with the development of a new Dr. J. Edgar Davey School and Beasley Community Centre. A portion of Kelly Street will facilitate the new building and those lands will be transferred to the School Board at fair market value. The City will also close but retain ownership of a portion of Elgin St. which will be used for a parking area. An objection was received from a business abutting the closure area, however access is available to that property from both Cannon Street and Ferguson Avenue. As the impact on the business would be minimal, this Department supports the application of the Hamilton Wentworth District School Board for the closures and sale.

BACKGROUND:
That the information/recommendations contained within this report primarily affects Ward 2.

An application has been received from the Hamilton Wentworth District School Board to permanently close a portion of Elgin Street and to permanently close and purchase a portion of Kelly Street, in Hamilton. The lands are required to facilitate the construction of a new Dr. J. Edgar Davey School and Beasley Community Centre.

Notice was circulated to residents and owners of property within a 400’ radius of both roads and the results are as follows:

Number of Notices Circulated: 176
In Favour: 1  Opposed: 2  No Comment: 173

A business abutting the closure area is opposed to the closure as they “need access to their building.” However, the property fronts onto Cannon Street and access to this building is currently provided through both Cannon Street and Ferguson Avenue. Although there is one pedestrian door at the backside of the building, facing Kelly Street, there is no sidewalk, driveway or walkway from Kelly Street to the building. Therefore, the impact of the road closures on the business is considered minimal as access can still be provided from Cannon Street or Ferguson Avenue.

The other property owner opposed does not abut the subject lands and no comments were provided to support their opposition to the closure.

Municipal departments and public utilities were circulated and no negative comments were received. The Planning and Economic Development Department, Development Engineering Division requires easements on both Kelly Street and Elgin Street to ensure access to sewers and water mains for maintenance purposes. Open Space Development recommends an easement on Kelly Street to allow neighbourhood residents a convenient pedestrian access to Beasley Park. Bell Canada requires easement protection over both Kelly Street and Elgin Street and Horizon Utilities will require an easement for the electrical substation adjacent to Elgin Street.

As the closures will facilitate a large development in the downtown core with minimal impact on the neighbourhood, this Department supports the application.
ANALYSIS/RATIONALE:
The closures and sale will benefit the City through the development of a new school and Community Centre, with minimal impact on the neighbourhood. Therefore, this Department is in favour of the proposal.

ALTERNATIVES FOR CONSIDERATION:
The roads could remain open, however, the closures are necessary for the proposed development.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
The Hamilton Wentworth District School Board has paid the appropriate user fee. The City will receive the proceeds from the sale of a portion of Kelly Street at fair market value, as determined by the Real Estate Division.

The City Solicitor will prepare the by-law to permanently close the subject lands and will register this by-law in the Registry Office once Council has approved it. The City Solicitor will complete the transfer of the subject lands to the applicants pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Real Estate Section.

POLICIES AFFECTING PROPOSAL:
The roads must be closed by by-law under the Municipal Act. The closures and sale to the Hamilton Wentworth District School Board will fulfill the City of Hamilton Strategic Plan requirement of delivering municipal services and managing capital assets in a sustainable, innovative and cost effective manner. In addition, the closure and sale will fulfill the priorities established in Innovate Now! under the heading of “Communities” as it includes the requirement of establishing “mutually beneficial charters with external customers”.

RELEVANT CONSULTATION:
Notices were circulated to:
- 400’ radius of the neighbourhood.
- Public utilities: Horizon Utilities, Union Gas, Bell Canada and Hydro One
- Municipal departments: Planning & Economic Development, Public Works
- Office of the Mayor

Ward 2 Councillor, Bob Bratina supports the closures and sale of the subject lands.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The closures will facilitate the development of the lands as a new school site.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
Economic Well-Being is enhanced. ☑ Yes ☐ No
The City will transfer the lands to the School Board at fair market value, as determined by the Real Estate Division.

Does the option you are recommending create value across all three bottom lines?
☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
☐ Yes ☑ No