Report - Standing Policy Committee on Property and Development - September 12, 2005

Item No. 16 Acquisition - Proposed Rapid Transit Project - northwest corner Stradbrook and Harkness Avenues
File FI-2(32)

STANDING COMMITTEE RECOMMENDATION:

On September 21, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the acquisition of the northwest corner of Stradbrook and Harkness Avenues, shown as "Proposed Opening" on Misc. Plan No. 11948/2, be approved at a purchase price of $37,000.00, in accordance with the terms and conditions specified on Schedule "A1" attached to the report from the Director of Planning, Property and Development dated September 8, 2005.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development - September 12, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 12, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Acquisition - Proposed Rapid Transit Project
North-West Corner of Stradbrook Avenue and Harkness Avenue
City Centre Community
Fort Rouge – East Fort Garry Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: September 8, 2005

Recommendation(s):

That the proposed acquisition of the North-West corner of Stradbrook Avenue and Harkness Avenue shown as "Proposed Opening" on Misc. Plan No. 11948/2 be approved at a proposed purchase price of $37,000.00 and in accordance with the terms and conditions as specified on the attached Schedule "A1".

REPORT SUMMARY

Key Issues:

- On July 23, 2003, Council approved the Rapid Transit Project and "authorized the Director of the Planning, Property and Development Department to negotiate such property acquisitions as the Transit Department through its consultants may identify for completion of Stage 1 of the Southwestern Corridor and Stage 1 of the Eastern Corridor, and to report back with the results thereon".
- The City requires the subject property shown as "Proposed Opening" on Misc. Plan No. 11948/2 for the Southwestern Corridor of the proposed Rapid Transit Project.
- In a fax dated August 11, 2005, the owner's representative agreed to sell the subject property to the City in accordance with the proposed purchase price, terms and conditions as recommended by the City, subject to the date for vacant possession, payment of the purchase price and tax adjustments being no later than October 5, 2005.
- This acquisition will ensure possession of the subject property and the City will not have to concern itself with market conditions in future years which could potentially increase the acquisition cost.
- This acquisition will also eliminate the need to acquire the subject property by way of an expropriation, which is a time-consuming and costly process.
- The City has recently acquired the Manitoba Hydro property, which is also required for the Southwestern Corridor of the proposed Rapid Transit Project.

Implications of the Recommendation(s):

General implications:

[X] **None**

	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- No environmental issues are anticipated. However, as a precaution, the proposed transaction contains terms and conditions that protect the City's interests regarding environmental matters.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

- The Transit Department has advised that adequate funding for this land acquisition is available in Capital Account No. 442-181000-420754-4220000394-PROPERTY CNOTH.

REASON FOR THE REPORT:

Council's approval would be required for an acquisition of the subject property at a purchase price of $37,000.00 and in accordance with the terms and conditions as negotiated and specified on the attached Schedule "A1".

HISTORY:

On July 23, 2003, Council approved the Rapid Transit Project and "authorized the Director of the Planning, Property and Development Department to negotiate such property acquisitions as the Transit Department through its consultants may identify for completion of Stage 1 of the Southwestern Corridor and Stage 1 of the Eastern Corridor for construction after 2004, and to report back with the results thereon".

Ensuing negotiations conducted with the Winnipeg Winter Club has produced a proposed agreement to sell the subject property to the City. The particulars of the subject property and negotiated settlement are as follows:

Location:	North-West Corner of Stradbrook Avenue and Harkness Avenue
Legal Description:	Part Lots 156/162, Plan 52 shown as "Proposed Opening" on Misc. Plan No. 11948/2, attached.
Ownership:	Winnipeg Winter Club c/o Gestur Kristjansson, Mercor Management Inc., 1445 - 444 St. Mary Avenue, Winnipeg, Manitoba, R3C 3T1
Certificate of Title Nos.:	Part 1349458; Part 1349461
Zoning:	"C-2" Commercial District
Site Size/Area:	Proposed Opening - ± 342.1 square metres (± 3,683 square feet)
Description of Property:	The property requirement forms part of an asphalt parking lot for the Winnipeg Winter Club and is improved with chain-link fencing. Any and all affected improvements are to be relocated by the City in the future as part of the proposed Rapid Transit Project.

DISCUSSION:

Negotiations produced the owner's agreement to the proposed purchase price of $37,000.00 or a rate of $10.00 per square foot. This rate reflects the estimated market value of the subject

property as supported by an independent appraisal. In addition, the proposed terms and conditions of purchase identified in Schedule "A1" are acceptable conditions in the proposed purchase of a privately owned parcel of land by the City.

By proceeding with this proposed acquisition, based on the proposal as recommended herein and the terms and conditions as accepted by the property owner, the City will be in possession of the subject property in order to accommodate the Southwestern Corridor of the proposed Rapid Transit Project. Furthermore, the City will not have to concern itself with market conditions in future years which could potentially increase the acquisition cost.

This proposed agreement will also eliminate the need for this property to be expropriated by the City, which is a time-consuming and costly process.

Thus, the Transit Department and the Planning, Property and Development Department are both of the opinion that it would be in the best interests of the City to conclude this matter on the basis of the proposal as specified herein.

The Transit Department has advised that adequate funding for this proposed land acquisition is available in Capital Account No. 442-181000-420754-4220000394-PROPERTY CNOTH.

Financial Impact Statement

Date: September 8, 2005

Project Name:

First Year of Program 2005

Proposed Acquisition for Proposed Rapid Transit Project - North-West Corner of Stradbrook Avenue and Harkness Avenue

	2005	2006	2007	2008	2009
Capital					
Capital Expenditures Required	$ 38,110	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	38,110	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ 3,430	$ 3,430	$ 3,430	$ 3,430
Less: Incremental Revenue/Recovery	1,110	-	-	-	-
Net Cost/(Benefit)	$ (1,110)	$ 3,430	$ 3,430	$ 3,430	$ 3,430
Less: Existing Budget Amounts	(1,110)	3,430	3,430	3,430	3,430
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The capital cost of $38,110 consists of the $37,000 purchase price plus $1,110 in short-term financing and admin costs charged to Transit's capital budget. The financing and admin costs are offset by equal recoveries in Transit's current budget. The $3,430 charged to Transit's current budget from 2006 onward represent debt and finance charges on the capital expenditure.

"Original signed by"
Mike McGinn, CA
Manager of Finance

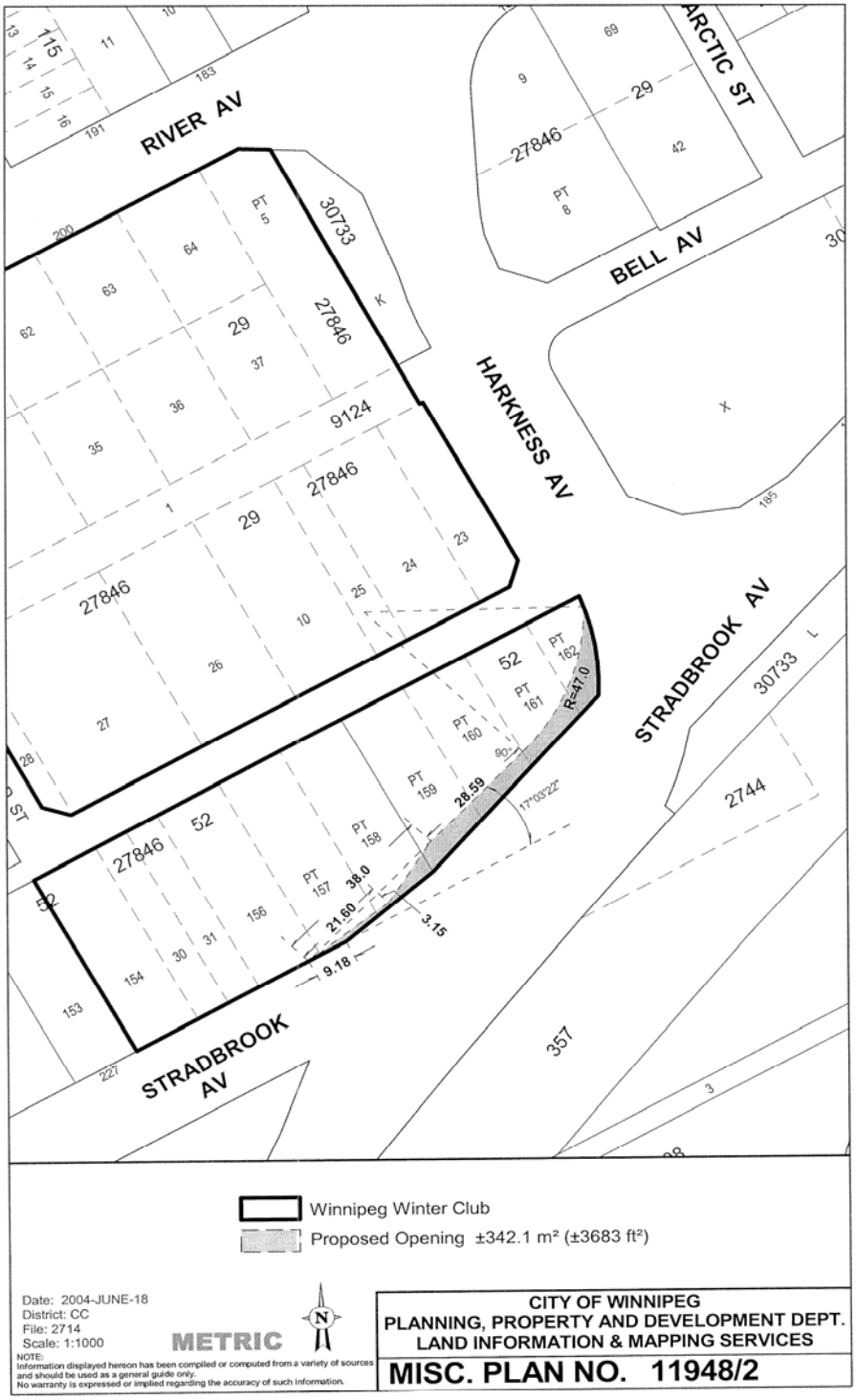
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

The Transit Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: Maria Haddock, Senior Negotiator
PPD File #: 2714

Document name: O:\Reports Directive\Real Estate\Acquisition\mh_rapid transit-Stradbrook.doc


RIVER AV
ARCTIC ST
BELL AV
HARKNESS AV
STRADBROOK AV
STRADBROOK AV
30733
27846
9124
52
PT 162
PT 161
PT 160
PT 159
PT 158
PT 157
R=47.0
28.59
38.0
21.60
3.15
9.18
17°03'22"
2744
357
Winnipeg Winter Club
Proposed Opening ±342.1 m² (±3683 ft²)
Date: 2004-JUNE-18
District: CC
File: 2714
Scale: 1:1000
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only.
No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11948/2

SCHEDULE "A1"

PROPOSED PURCHASE AND SALE –
STRADBROOK AVENUE AT HARKNESS AVENUE - PART LOTS 156/162, PLAN 52

Proposed terms and conditions for the acquisition of ±342.1 m2 (±3683 square feet) of the property situated at Stradbrook at Harkness Avenue and described as Part Lots 156/162, Plan 52:

1. A proposed purchase price of THIRTY-SEVEN THOUSAND ($37,000.00) DOLLARS for the subject property as shown shaded and identified as "Proposed Opening: ±342.1 m2 (±3683 sq.ft.)" on the attached Misc. Plan No. 11948/2.

2. The subject property is to be conveyed to the City free and clear of any and all liens, charges, encumbrances and leasehold interests, excepting any utility easements registered against the title to the subject property.

3. The date for vacant possession, payment of the purchase price and tax adjustments shall be arranged by mutual agreement, and shall be no later than sixty (60) days after final approval of City Council.

4. The City to attend to the survey work required by the Winnipeg Land Titles Office in order to dedicate the subject property as Street Right-of-Way at no cost to the Vendor.

5. The City to absorb the cost of relocating the portion of affected chain link fence to the limits of the new property line along Stradbrook Avenue; the said cost to be the lowest of at least three (3) Contractor quotations to be obtained by the Vendor, and to be submitted to the City for approval prior to the commencement of the relocation work.

6. The Vendor covenants, warrants and represents to the City and it is a condition of the agreement that to the best of the Vendor's knowledge and belief:
   (a) the subject property complies with all applicable environmental laws, regulations and by-laws;
   (b) there are no outstanding governmental orders or requests for information;
   (c) there are no existing, pending or threatened actions of an environmental nature;
   (d) there are no waste disposal sites on the property, nor has the property ever been used as a landfill or waste disposal site, or for temporary storage of special wastes on an interim basis pending treatment or fill;

(e) The Vendor shall provide copies of any environmental audits or reports that it has in its possession.

8(a) The Vendor permits the City, at its discretion and expense, prior to possession, to conduct or have conducted on its behalf, an environmental assessment together with any soil testing and analysis required.

8(b) The Vendor acknowledges and agrees that in the event the City conducts an environmental audit and/or soil testing of the Vendor's land, the City shall:

i) ensure that all work done in connection with the testing is completed no later than the possession date;
ii) maintain the Vendor's land in a safe condition at all times during the conduct of any work done;
iii) restore the Vendor's land to the same condition as prior to its entering in or upon the same;
iv) indemnify and save harmless the Vendor from and against all damages and claims arising out of or in any way attributable to the conduct of the testing.

8(c) The Vendor further acknowledges and accepts that should the City determine that there are environmental concerns or contamination, it may elect to cancel the proposed purchase.

9. The property, until possession is delivered to the City, shall remain at the risk and responsibility of the Vendor.

10. The Vendor agrees to enter into an appropriate Purchase/Sale Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services and its own solicitor. It is further acknowledged that the said Purchase/Sale Agreement will be filed as a Caveat against the Vendor's title pending conveyance of the subject property to the City.

11. The Vendor agrees:

(a) that the subject property will not be conveyed, disposed of or encumbered in any manner whatsoever, except subject to this agreement.
(b) that the monies payable in respect of this agreement will only be paid at such time as all the required conveyance documents, consents, discharges or other evidence required are provided by the Vendor.

12. The Vendor agrees to consent on a Real Owner Application Form to add the City of Winnipeg as the Real owner of the referenced property on the Assessment Rolls of the City of Winnipeg.

13. The Vendor agrees to declare whether or not it is a "Registrant" for the purposes of the "Goods and Services Tax" and if so, to provide its G.S.T. Registration Number on the line provided on the signing page of this agreement.

14. The City (Goods and Services Tax Registrant No. R121682967) will self-assess any G.S.T. tax payable by the City on this transaction.

15. This proposal is a recommendation only and is subject to the final approval of City Council.