Minute No. 295
Report – Executive Policy Committee – February 1, 2006

Item No. 4 **Closing - part of public lane west of Burnell Street, south of St. Matthews Avenue**
File DAC 17/2001

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the proposed lane closing as shown on Misc. Plan No. 11243/3 be approved and that the land be declared surplus to the City's needs.

2. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Misc. Plan No. 11243/3.

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

Report – Executive Policy Committee – February 1, 2006

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,
That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 1, 2006, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On October 2, 2001, the City Centre Community Committee approved the proposed lane closing and recommended to the Standing Policy Committee on Property and Development:

I. That the City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Schedule "A", Misc. Plan No. 11243.

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

Re: DAC 17/2001 – PROPOSED CLOSING OF PART OF THE PUBLIC LANE WEST OF BURNELL STREET, SOUTH OF ST. MATTHEWS AVENUE

For submission to: Executive Policy Committee

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

Report date: January 19, 2006

Recommendation(s):

1. That the proposed lane closing as shown on Misc. Plan No. 11243/3 be approved and that the land be declared surplus to the City's needs.

2. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Misc. Plan No. 11243/3.

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

REPORT SUMMARY

Key Issues:

- The Winnipeg School Division No. 1 has applied to close and purchase the public lane that runs between the Greenway School site and the playground to the south. The School Division wishes to use the lane as a private driveway for school buses.
- The City Centre Community Committee has approved the lane closing and the Standing Policy Committee on Property and Development has approved the terms of the sale of the lane.

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):

-

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):

- All costs associated with this proposal will be paid by the School Division.

REASON FOR THE REPORT:

The closing of public rights-of-way requires a by-law under Section 139 of The City of Winnipeg Charter.

HISTORY:

In July of 2001, the Planning, Property and Development Department received a request from the Winnipeg School Division No. 1 to acquire the portion of the public lane identified as "Subject City Property – Proposed Lane Closing" on the attached Misc. Plan No. 11243/3. The School Division intends to use the lane as a private driveway for school buses. The School Division has constructed a playground area in the property south of the lane, and feels that possession of the lane and control over traffic within it will make it safer for children to pass to and from the playground area.

A public hearing of the application was held at the City Centre Community Committee meeting of October 2, 2001. There was no opposition to the closing and the Committee approved the application.

The Real Estate Division of the Planning, Property and Development Department subsequently entered into negotiations with the School Division for the terms of the sale of the lane. On May 3, 2005, the Standing Policy Committee on Property and Development approved the sale of the land.

All documents have been prepared to affect the sale, and it is now appropriate to enact a by-law closing the lane.

Administrative Approval

The proposal was circulated to all interested City Departments and public utilities. There are no administrative objections to this lane closing. The following comments were received.

The Transportation Division of the Public Works Department advised that private approach approval will be required for the School Division to maintain the existing lane turnout on Burnell Street as access to the school bus loop, otherwise the School Division will be required to enter into a Servicing Agreement to carry out the restoration of the curb, boulevard and sidewalk at the existing lane turnout as determined by and to the satisfaction of the Director of Public Works.

The Community Services (Community Development and Recreations Services Division) and Planning, Property and Development (Planning and Land Use Division) Departments support the request to purchase this portion of the lane. They have advised that:

1. The City of Winnipeg has been an active participant in the planning of the expanded playground area. When the property to the south of Greenway School and in close proximity to the Orioles Community Centre became available in 1999, the Community Services Department saw a rare opportunity to increase open space in the St Matthews neighbourhood by 20% and encouraged the School Division to pursue funding for the purchase through the Public Schools Finance Board.

2. When the School Division received approval from the Public Schools Finance Board to negotiate the purchase, subject to development funding being found from another source, the City of Winnipeg was successful in acquiring WDA funding in the amount of $100,000, which was allocated to athletic field development of the Greenway School site.

3. The playground that has been built on the School Division lands south of the lane was jointly funded by the School Parent Council and the City's Community Incentive Grant Program ($60,000). The playground extension of the Greenway School grounds is entirely fenced, and contains community mini-soccer fields and a play structure for use by students and area children.

The Geomatics Branch of the Planning, Property and Development Department advised that title to the closed lane is to be consolidated with title to the adjoining School Division lands.

Zoning

The lane, once closed, will assume the zoning of the adjoining properties. The portion of the School Division property which lies to the north of the lane is zoned "R2" and the portion of the School Division property which lies to the south of the lane is zoned "C2". As a condition of the sale of the lane, the School Division has agreed to make an application to rezone the south half of the lane and the "C2" property to "R2" and to apply for a conditional use permit to allow a public school use.

Easements

Centra Gas will require an easement for the maintenance of its plant in the lane.

DISCUSSION:

The lane must be legally closed before it may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right-of-way status from the land and vests the ownership of the property in the City's name. The City is not entitled to dispose of the land until this has been done.

This report is submitted in accordance with the provisions of By-Law 7325/98, a by-law to amend procedures to allow certain street opening and closing applications to be submitted to the Executive Policy Committee for report to Council without the requirement to be reviewed by a Standing Policy Committee.

The following criteria must be met before the authority given in the by-law may be exercised:

1. The proposed closing must have been addressed at a public meeting and received approval from the Committee before which the public meeting took place.
2. The Director of Public Works must have approved the proposed closing and sale.
3. The proposed closing must have been submitted to all affected City Departments and public utilities with no objections having been received.
4. Any conditions regarding engineering aspects (i.e. relocation of facilities) must have been mutually agreed to.

5. The terms and conditions of any easement agreements created by the proposed closing and sale must have been addressed.
6. The proposed closing must have been approved by the affected property owner(s).
7. The terms and conditions of any agreements concerning the proposed closing and sale must have been approved by the Director of the department that requested the closing and either the Standing Policy Committee on Fiscal Issues, the Standing Policy Committee on Property and Development, or the Director of the Planning, Property and Development Department, as is appropriate.

All of these criteria have been met.

Financial Impact Statement

Date: January 16, 2006

COMMENTS:

All costs associated with this proposal will be borne by the School Division. There are no financial implications for the City of Winnipeg.

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

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

Community Services Department – Community Development and Recreation Services Division

Corporate Finance Department – Local Improvements

Public Works Department – Transportation Division

Water and Waste Department – Engineering Division

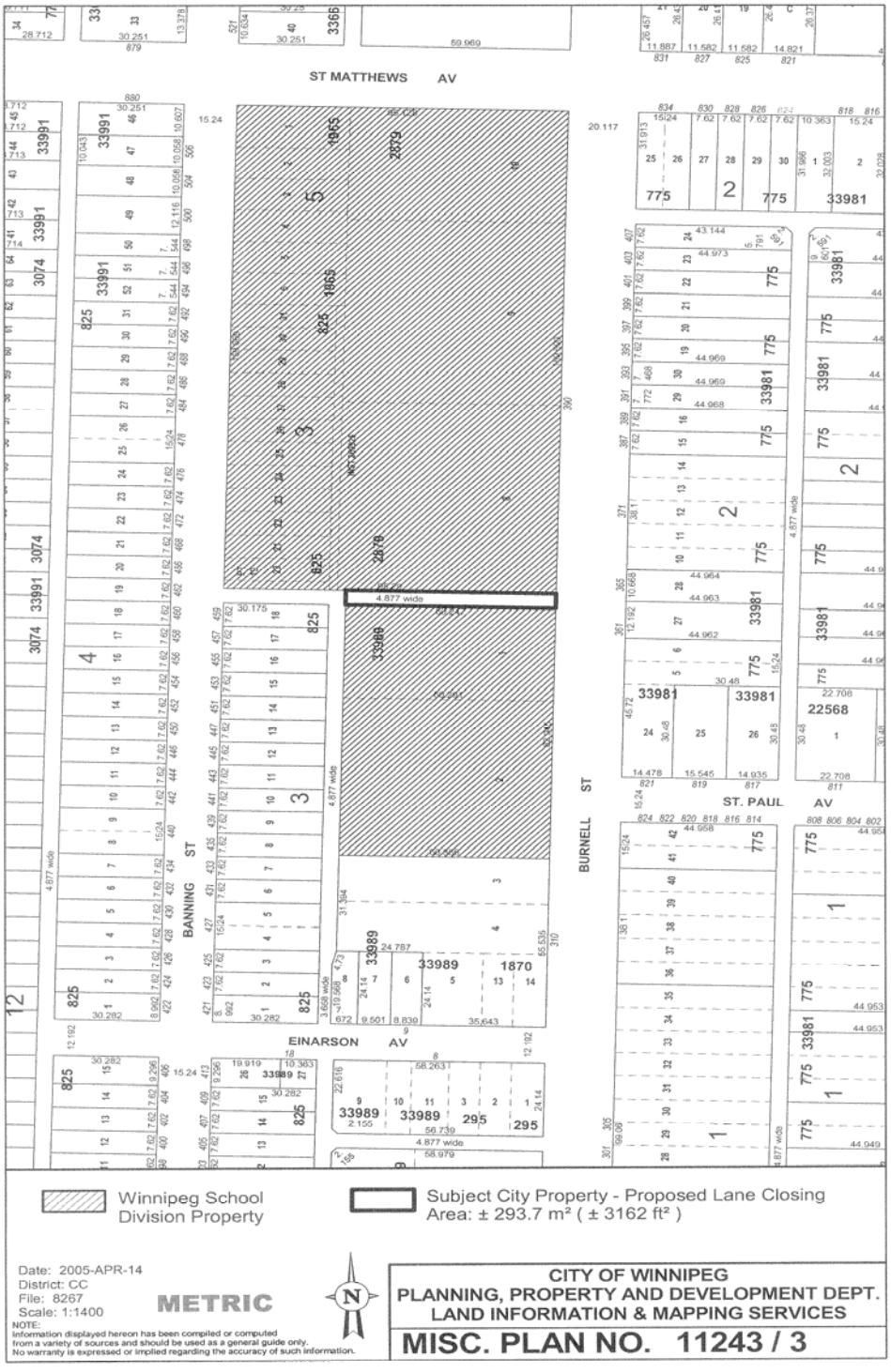
Centra Gas, Manitoba Hydro

MTS and Shaw Cable did not respond to the request for easement requirements. It is assumed that they have none.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Development and Inspections
Prepared by: Glenn Halldorson, Real Property Officer
PPD File #:8267

Document name: o:\reports directive\development and inspections\geomatics\dac17_01.doc


ST MATTHEWS AV
BANNING ST
BURNELL ST
ST. PAUL AV
EINARSON AV
Winnipeg School Division Property
Subject City Property - Proposed Lane Closing
Area: ± 293.7 m² (± 3162 ft²)
Date: 2005-APR-14
District: CC
File: 8267
Scale: 1:1400
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. 11243 / 3