Minutes – Executive Policy Committee – June 21, 2006

REPORTS

Minute No. 446 Delegation of Authority to Alter and Approve Standard Agreement Forms for the Use of Public Facilities, Athletic Fields, Parks, Equipment and Garden Plots
File GC-11

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the administrative recommendation and recommends to Council:

1. That the Chief Administrative Officer be delegated the authority to alter and approve Standard Agreement forms for the use of public facilities, athletic fields, parks, equipment and garden plots owned by the City of Winnipeg for 'short-term use', defined as having a maximum duration of one year less a day.

2. That the amendments to the Execution of Documents By-law No. 7367/99, as outlined in Appendix A, be approved.

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

DECISION MAKING HISTORY:

Moved by Councillor O'Shaughnessy,
That the administrative recommendation be concurred in and forwarded to the Council.

Carried

RE: **Delegation of Authority to Alter and Approve Standard Agreement Forms for the Use of Public Facilities, Athletic Fields, Parks, Equipment and Garden Plots**

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Clive Wightman, Acting Director
Community Services Department

REPORT DATE: May 26, 2006

RECOMMENDATION:

1. That Council delegate to the Chief Administrative Officer, the authority to alter and approve Standard Agreement forms for the use of public facilities, athletic fields, parks, equipment and garden plots owned by the City of Winnipeg for 'short-term use', defined as having a maximum duration of one year less a day;

2. That Council adopt the proposed amendment to the *Execution of Documents By-law No. 7367/99* as outlined in Appendix A;

3. That the proper officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- The recommendations of this Administrative report meet the intent of 'Recommendation One' contained within the '**Final Report of the Mayor's Red Tape Commission'**. That is, the recommendations within this report, if approved, would improve the City's customer service to citizens and would reduce the burden of red tape required and streamline the approval process in order to facilitate specific Standard Use Agreements for the use of public facilities, athletic fields, parks, equipment, and garden plots.

- The current delegation of authority to execute short-term Standard Agreements is conditional upon the agreements being in a form prescribed by Council. There are currently two standard agreement forms that exist for this purpose. Community Services; Public Works; and Planning, Property and Development currently have the authority to issue Standard Agreements for the use of public facilities, athletic fields, parks, equipment, and garden plots. The Departments do not currently have the authority to alter the Standard Agreement forms, in order to meet specific needs and

risk mitigation/ liability requirements for the City. Some examples of these short-term use agreements are as follows:

- A community group renting a library room; a sport organization renting a pool facility or soccer field; a community group renting a designated park space for a special event; a casual use group renting recreation equipment, etc.

- Due to intended use, the nature of user groups, and changing market conditions, it is recommended that the terms and conditions associated with these use agreements need to be further customized beyond the two standard agreement forms which currently exist.
    - Terms and conditions may vary significantly as determined by by-law and permit provisions. For example, recent changes in the *Fire Prevention By-law* have affected insurance requirements for fireworks displays at designated park spaces.
    - Terms and conditions may vary as a result of risk and applicable insurance terms, including exclusions or endorsements available in the insurance market place.
        - Flexibility to customize agreement forms eliminates the need for groups to conform to unrealistic terms and conditions or for the City to accept risks in excess of our risk tolerance level.

- This recommended delegation of authority would eliminate the need to go to Council for approval each and every time a short-term use agreement form is customized.

- To maintain accountability, concurrence from the City of Winnipeg Legal Services and Risk Management Branches would continue to be obtained for all content changes to any short-term Standard Agreement form as defined in this report.

Implications of the Recommendation(s):

General Implications

( ) None

(x) For the organization overall and/or for other departments

(x) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): Different Standard Agreement forms are needed for different purposes. Customizing Standard Agreement terms (i.e.,

insurance provisions) will better meet the needs of customers and improve customer service.

Policy Implications

( ) No

(x) Yes

Comment(s): An amendment to By-law No. 7367/99 is required to delegate authority to alter or approve a Standard Agreement form.

Regulatory Implications

( ) None

(x) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): Implementation of the recommendations in this report would streamline administrative processes and enhance customer service.

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): There are no financial implications associated with the adoption of this report.

Report

REASON FOR THE REPORT:

A resolution of Council is required in order to delegate the authority to alter and approve Standard Agreement forms for the use of public facilities, athletic fields, parks, equipment and garden plots to the Chief Administrative Officer.

An amendment to the *Execution of Documents By-law No. 7367/99* is required to delegate authority to execute a Standard Agreement.

HISTORY:

The *Execution of Documents By-law No. 7367/99* allows for the execution of Standard Agreements for the use of public facilities, athletic fields and parks, equipment (bandmobiles/bleachers/mobile skate parks) and garden plots owned by the City of Winnipeg in a form prescribed by Council. Departments do not have authority to alter Standard Agreement forms. The authority currently resides with Council.

DISCUSSION:

Current Authority

Current delegation of authority to execute short-term Standard Agreements is conditional upon the agreements being in a form prescribed by Council. Departments (i.e., Community Services; Public Works; and Planning, Property, and Development) do not have the authority to alter Standard Agreement forms.

Short-Term Use Agreements

Standard Agreements for the use of public facilities, athletic fields, parks, equipment, and garden plots are short-term agreements with a maximum duration of one year less a day. Facilities include room, hall, office space, equipment storage, pool, ice, and other miscellaneous facility rentals. Equipment includes benches, bleachers, vehicles, trailers, bandmobiles, mobile skate parks, barbecues, audio visual, recreation equipment, and other miscellaneous equipment.

A few examples of the types of users that enter into these short term agreements with the City include the following:

- a community group renting a library room
- a sport organization renting a pool facility

- a group of casual users or a sport organization renting an arena facility for hockey, figure skating, etc.
- a community group renting designated park space for leisure enjoyment
- a family renting designated park space for wedding pictures
- an organization renting a soccer complex
- a casual use group renting a soccer field

The administrative terms and conditions associated with these agreements typically deal with insurance, indemnification, rights, responsibilities, statutes, cancellation, fees, default, damages, state of repair, etc.

The Community Services Department booking office executes over 4100 short-term Standard Agreements each year, which includes the administration of Standard Agreements for the Parks and Open Spaces Division of the Public Works Department.

The Planning, Property, & Development Department also administers a few short-term Standard Agreements and uses the same facility use Standard Agreement form as the Community Services Department. These agreements are short-term facility use Standard Agreements only and do not include long-term lease or management agreements.

<u>Reasons for Requesting Delegated Authority to Alter and Approve Short-Term Standard Agreement Forms</u>

Currently, two Standard Agreement forms are used. Due to intended use, the nature of user groups, and changing market conditions, several Standard Agreement forms are needed and the terms and conditions associated with these use agreements need to be customized.

For example, insurance and other requirements associated with pool facility rentals differ from those associated with fireworks displays at a City park. Likewise, terms and conditions associated with room rentals at civic libraries intended for educational and community purposes differ from the terms and conditions associated with private social functions where alcohol is served. A final example would be to compare the requirements between an organized sports body enveloped under Sport Manitoba versus a casual sports user group which fails to fall under any governing body.

- Requirements for these agreements vary and are determined by by-law and permit provisions. For example, recent changes to the *Fire Prevention By-law* have affected insurance requirements for fireworks displays at designated park spaces.

- Terms and conditions may vary as a result of risk and applicable insurance terms, including exclusions or endorsements available in the insurance market place.

- Flexibility to administratively customize agreement forms eliminates the need for groups to conform to unrealistic terms and conditions or for the City to accept risks in excess of our risk tolerance level.

This recommended delegation of authority to the CAO would eliminate the need to go to Council for approval each and every time a short-term use agreement form is customized.

The recommendations of this Administrative report meet the intent of 'Recommendation One' contained within the 'Final Report of the Mayor's Red Tape Commission'. That is, the recommendations within this report, if approved, would improve the City's customer service to citizens and would reduce the burden of red tape required and streamline the approval process in order to facilitate customer specific Standard Use Agreements for the use of public facilities, athletic fields, parks, equipment, and garden plots.

Accountability Measures

Concurrence from the City of Winnipeg Legal Services and Risk Management Branches would continue to be obtained for all content changes to any short-term Standard Agreement form as defined in this report.

Current Definition of Equipment

According to *By-law No. 7367/99,* equipment has been specifically defined as 'bandmobiles/bleachers/mobile skate parks'. Therefore, if other types of equipment are rented, Council approval is currently required. As a result, the current definition of equipment (i.e., bandmobiles/bleachers/mobile skate parks) in the *Execution of Documents By-law No. 7367/99* should be broadened in order to give the Director of Community Services Department, the Director of Public Works, or the Director of Planning Property and Development or their designate the authority to enter into Standard Agreements for other types of equipment.

Proposed Changes to the *Execution of Documents By-law No. 7367/99*

It is proposed that the authority to approve short-term Standard Agreements for the use of public facilities, athletic fields, parks, equipment and garden plots owned by the City of Winnipeg be delegated by Council to the Chief Administrative Officer and that the current definition of equipment in *By-law No. 7367/99* be broadened. In order to facilitate these changes, minor amendments need to be made to the City's *Execution of Documents By-law No. 7367/99* as shown in bold on the draft amending By-law attached as Appendix "A".

Financial Impact Statement **Date:** May 26, 2006

Project Name:

Delegation of Authority to Alter and Approve Standard Agreement Forms for the Use of Public Facilities, Athletic Fields, Parks, Equipment, and Garden Plots

COMMENTS:

There is no financial impact associated with the delegation of authority to alter and approve standard agreement forms for the use of public facilities, athletic fields, parks, equipment, and garden plots.

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

- Legal Services Branch
- Risk Management Branch
- Public Works Department
- Planning, Property, and Development Department

External Consultation With:

THIS REPORT SUBMITTED BY:

Department: Community Services
Division: Strategic and Information Systems Services
Prepared by: Kathy Knudsen and Peter de Graaf
File No.

Appendix A

THE CITY OF WINNIPEG

BY-LAW NO. /2006

A By-law of The City of Winnipeg to amend The Execution of Documents By-law No. 7367/99.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

The Execution of Documents By-law No. 7367/99 is hereby amended by deleting Sub-clause (a) of Clause 5.1 thereof and substituting therefore the following as Sub-clause (a):

(a) Standard Agreements, for the short-term use of facilities, athletic fields, parks, equipment, and garden plots owned by The City of Winnipeg, having a maximum duration of one year less a day, conditional on the agreements being in a form prescribed by Council or the Chief Administrative Officer."

DONE AND PASSED in Council assembled this day of , 2006.

_____
Mayor

_____
City Clerk

Approved:

_____
Chief Administrative Officer

Certified as to form:

_____
for City Solicitor/Manager of Legal Services