Agenda - Council - January 24, 2007

Report – Executive Policy Committee – January 17, 2007

Item No. 1 Winnipeg Central Mosque Inc., 715 Ellice Avenue – Grant in Lieu of Taxes
File FG-2

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2007, the Executive Policy Committee submitted the following to Council:

1. That a grant to the Winnipeg Central Mosque Inc. for 2004 property taxes in the amount of $13,311.76 be approved, to be reduced by the amount of taxes currently outstanding on the properties in question of $3,400.20, for a net amount of $9,911.56.

2. 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 – January 17, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2007, the Executive Policy Committee recommended that a grant to the Winnipeg Central Mosque Inc. for 2004 property taxes in the amount of $13,311.76 be approved, to be reduced by the amount of taxes currently outstanding on the properties in question of $3,400.20, for a net amount of $9,911.56, and submitted the matter to Council.

On November 15, 2006, the Executive Policy Committee referred the matter to the Administration for report back in 30 days.

COUNCIL DECISION:

On September 26, 2006, Council ruled automatic referral of the following motion to the Executive Policy Committee:

Moved by Councillor Smith,
Seconded by Councillor Lazarenko,

WHEREAS the Winnipeg Central Mosque acquired the property at 715 Ellice Avenue in April, 2004;

AND WHEREAS the property is exempt from taxation as a place of worship as at April 30, 2004 pursuant to clause 22(1)(i) of *The Municipal Assessment Act*;

AND WHEREAS the Winnipeg Central Mosque mistakenly paid $15,944.12 in taxes for the year 2004;

AND WHEREAS The City of Winnipeg Charter allows the tax collector to correct the tax roll only for the current year and the prior year;

AND WHEREAS this injustice can only be corrected by Council;

THEREFORE BE IT RESOLVED THAT the City of Winnipeg give a grant of $15,944.12 to the Winnipeg Central Mosque.

RE: GRANT IN LIEU OF TAXES
WINNIPEG CENTRAL MOSQUE INC., 715 ELLICE AVENUE

FOR SUBMISSION TO: **EXECUTIVE POLICY COMMITTEE**

ORIGINAL REPORT SIGNED BY: **ACTING CHIEF FINANCIAL OFFICER**

REPORT DATE: **JANUARY 5, 2007**

RECOMMENDATION:

1. That the request for a Grant representing the amount of the 2004 property taxes paid by the Winnipeg Central Mosque Inc., be denied.

2. That should City Council decide to approve a Grant for 2004 property taxes, the amount of the Grant would be $13,311.76 which takes into consideration the date the Winnipeg Central Mosque Inc. assumed ownership of the properties in question (i.e., April 30, 2004).

3. That should City Council decide to approve a Grant for 2004 property taxes, the amount of the Grant be reduced by $3,400.20 which represents the amount of taxes currently outstanding on the properties in question.

4. That should City Council decide to approve a Grant for 2004 taxes, the matter be referred to the 2007 Operating Budget process.

5. 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:

- City Council's existing policy does not allow for Grants in lieu of property taxes.

- Winnipeg Central Mosque Inc. is a religious organization that has owned and used the building located at 715 Ellice and 2 adjacent surface parking lots as a place of worship since April 30, 2004. The ownership and use of these properties qualifies them for tax exemption pursuant to *The Municipal Assessment Act*.

- Prior to being owned by Winnipeg Central Mosque Inc, the building located at 715 Ellice had been used both as a store and a restaurant. The City was not made aware that the use of the property had changed from a restaurant to a place of worship when Winnipeg Central Mosque Inc. purchased the property effective April 30, 2004.

- Exemptions for properties owned by religious organizations and used as a place of worship are initiated by the property owner by advising the City Assessor of these circumstances. In the case of the Winnipeg Central Mosque Inc., such advice was not received until the properties were subject to the 2006 Tax Sale process.

- *The City of Winnipeg Charter* provided authority for the City administration to retroactively exempt the Winnipeg Central Mosque Inc. on its properties, pursuant to *The Municipal Assessment Act,* effective January 1, 2005. The legislation prohibits a corresponding tax adjustment for 2004.

- Winnipeg Central Mosque Inc. paid the 2004 taxes on its properties to avoid the 2006 Tax Sale process and has requested a Grant to recover those costs.

Implications of the Recommendation(s):

General Implications

( ) None

( ) 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): Providing a Grant for the payment of property taxes is contrary to existing Council policy and would set a precedent which may result in other organizations making requests for similar consideration.

Policy Implications

( ) No

(X) Yes

Comment(s): In 1972, Council adopted a policy of not providing Grants for the payment of property taxes.

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

( ) Within approved current and/or capital budget

(X) Current and/or capital budget adjustment required

Comment(s): Should Council approve a Grant, the amount of the Grant would be $13,311.76 less $3,400.20 representing the amount currently owing to the City in outstanding taxes. A funding source for the Grant would also have to be identified.

Report

REASON FOR THE REPORT:

At the September 27, 2006 Council meeting, Councillor Harvey Smith introduced a motion which requested that the City of Winnipeg give a Grant of $15,944.12 to the Winnipeg Central Mosque Inc.

Council ruled for the motion to be automatically referred to the Executive Policy Committee. The Executive Policy Committee subsequently referred the matter to Administration for a report.

HISTORY:

Winnipeg Central Mosque Inc. (the "property owner") is a religious organization that has owned and used the property at 715 Ellice and 2 adjacent surface parking lots (the "Mosque properties") as a place of worship since April 30, 2004.

Prior to being owned by Winnipeg Central Mosque Inc., the building located at 715 Ellice had been used both as a store and a restaurant.

At the time of the initial purchase/ownership of the Mosque properties, the property owner did not request an exemption from the City of Winnipeg nor did it appeal the tax liability of the Mosque properties to the Board of Revision.

The property taxes on the Mosque properties remained unpaid for 2004, 2005 and 2006. The Mosque was advised of their outstanding property tax amounts commencing in July 2004 and continuing in the years 2005 and 2006. Due to the non-payment of the outstanding balances, the properties became liable for the 2006 Tax Sale.

The communication surrounding the Tax Sale process prompted the property owner to pursue exemptions available under *The Municipal Assessment Act*. The Property Assessment Department concluded that the Mosque properties qualified for an exemption. The corresponding tax adjustments were made for the years 2005 and 2006. However, *The City of Winnipeg Charter* prevented a tax adjustment for the period of April 30 to December 31, 2004.

To avoid the Mosque properties from being listed and sold in the 2006 Tax Sale, the property owner paid the property taxes owing for 2004 on the Mosque properties and requested a Grant to recover this cost.

DISCUSSION:

Although the motion introduced by Councillor Smith only addressed the property located at 715 Ellice, there are actually three properties that are considered as part of this issue.

The property owner uses the following three properties for religious worship:

Address/Roll Number	Use
715 Ellice	Mosque
13040344000	Surface Parking
13040345000	Surface Parking

The motion introduced by Councillor Smith requested that the City of Winnipeg provide a Grant of $15,944.12 to the property owner. However, this amount represents the outstanding taxes on the property located at 715 Ellice only, as at June 2006. The requested Grant amount does not include penalties for the months of July, August and September 2006 for 715 Ellice nor does it include the taxes for the surface parking lots.

Tax Payments:

In September 2006, the taxes for all three properties had not been paid since 2004. At that time, the total outstanding amount was $71,680.36 which represented the combined 2004, 2005 and 2006 property taxes and accrued penalties for all three properties. The three years of tax arrears made these properties liable for the 2006 Tax Sale.

In order to remove the three properties from the 2006 Tax Sale process, the property owner paid $21,821.07 which represented the total outstanding taxes and penalties for the year oldest in arrears (2004). This payment was made in September 2006.

The following table shows the difference between the 2004 taxes and penalties actually paid by the property owner versus the amount of the taxes and penalties that might have otherwise been eligible for exemption in 2004 based on the date the property owner assumed ownership of the properties in question (all values are as at September 2006):

Address/Roll Number	Full-Year 2004 Taxes & Penalties Paid by Owner	2004 Taxes eligible for exemption based on April 30 Ownership Date
715 Ellice (Mosque)	$16,557.10	$10,481.72
13040344000 (Parking)	$ 510.63	$ 283.02
13040345000 (Parking)	$ 4,753.34	$ 2,547.02
Total	**$21,821.07**	**$13,311.76**

Although the property owner assumed ownership of the property on April 30, 2004, the property owner was responsible for full-year (January to December 2004) taxes and penalties. In general, during the sale transaction of property, the vendor will remit to the purchaser an amount of taxes representing the period of time the vendor owned the property in the year. It is assumed, in this case, that the necessary adjustments for taxes were made between the vendor and purchaser at the time of the sale/purchase and that the current property owner was responsible for payment of all taxes as levied in 2004.

The $13,311.76 is the amount of taxes that would have been eligible for exemption between April 30 and December 31, 2004. Therefore, this is the amount that would be under consideration with respect to the request for a Grant.

Exemption Process:

There is a process established for the purpose of determining liability to taxation or eligibility for an exemption from taxation. The process places the onus on the property owner to either complete an application requesting an exemption or by filing an appeal with the Board of Revision where issues relating to assessment, liability to taxation, classification of the property, or refusal by the assessor to amend the assessment roll can be heard.

The property owner did not complete the application nor did it appeal the 2004, 2005, 2006 or 2007 assessments. It should be noted that the property owner acknowledged its failure in completing the necessary applications in a timely manner. Notwithstanding this, the Property Assessment Department worked with the property owner and the necessary paperwork supporting the exemption was completed. The property received an exemption from taxation as a place of worship retroactive to January 1, 2005 pursuant to clause 22(1)(i) of *The Municipal Assessment Act*.

The City of Winnipeg Charter provides the basis, and the time periods, within which the tax collector can correct the tax roll. Pursuant to subsection 340(1) of the Charter, the tax collector can only correct the tax roll for the current and preceding year. In this particular case, as a result of the exemption status, the property taxes owing for 2006 and 2005 were adjusted (reversed) and now only reflect the amounts of the Sewer, Water and Street Renewal levy (and applicable penalties) in those years. However, the taxes for 2004 cannot be adjusted as the Charter prevents the tax collector from making an adjustment beyond the two year period.

There is no administrative mechanism or flexibility available for refunding the 2004 taxes paid by the property owner. The only remedies available are those that exist under the Charter which allows Council to either provide a Grant (section 219 of the Charter) for the amount of the 2004 taxes or to cancel those taxes all together (section 347 of the Charter).

Considerations:

The issue of providing financial support (e.g., Grants in lieu of property taxes) has been in existence since the formation of Unicity. Since 1972, City Council has addressed this issue on a number of occasions and has developed policy which continues to be applied today.

On May 17, 1972, Council adopted a policy that eliminated all Grants in lieu of taxes commencing with the year 1973. In addition, all Grants in lieu of taxes were not extended in the year 1972 to any association that did not enjoy this privilege in the year 1971.

It should be noted that on February 21, 2001, the Executive Policy Committee passed the following motion:

***"WHEREAS** on May 17, 1972, Council adopted a recommendation of the Committee on Finance that "it be the policy of the City that no Grants in lieu of taxes be made in future, commencing with the year 1973…."*

***AND WHEREAS** the City continues to receive various requests for Grants for the purpose of making tax payments.*

***THEREFORE BE IT RESOLVED** that the Administration be directed to reply to any requests for Grants to pay taxes, citing the applicable Council decision, and advising that such Grants are contrary to Council policy."*

Administration continues to deny requests for Grants in lieu of taxes on the basis of the above noted direction from the Executive Policy Committee. Council's current policies regarding the provision of tax relief are clear. Only under exceptional circumstances does Council consider and Grant relief for property taxes.

If Council does approve a Grant for the 2004 taxes, it should be noted that pursuant to section 470 of *The City of Winnipeg Charter*, no payments (disbursements) are to be made to, or in favour of, any person who is indebted to the City. Therefore, if a Grant were to be provided, any amount owing to the City would first have to be paid or would be deducted from the amount of the Grant.

Conclusion:

Exemptions for properties owned by religious organizations and used as a place of worship are normally initiated by the property owner by advising the City Assessor of these circumstances. The property owner failed to complete the necessary applications to receive the exemptions in a timely manner.

The City of Winnipeg Charter does provide authority for the City administration to retroactively exempt the Winnipeg Central Mosque Inc. on its properties. However, the retroactivity is only effective to January 1, 2005. The legislation prohibits tax adjustments for 2004.

Only under exceptional circumstances does Council consider and grant relief for property taxes. However, should Council decide to approve a Grant for the 2004 taxes, the amount of the Grant should also take into consideration any amount owing to the City.

In this regard, as at January 1, 2007, there was $3,400.20 in outstanding taxes on the Mosque properties. These amounts are for the 2005 and 2006 Sewer, Water and Street Renewal levy which continue to be charged annually and accrue penalties at a rate of 1.25% per month. Therefore, the potential Grant amount of $13,311.76 would need to be reduced by the amount of taxes ($3,400.20) currently outstanding on the Mosque properties.

Financial Impact Statement

Date: January 5, 2007

Project Name: Grant In Lieu of Taxes

First Year of Program 2007

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required					
Less: Existing Budgeted Costs					
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus					
Other - Enter Description Here					
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 13,312				
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ 13,312	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts					
Net Budget Adjustment Required	$ 13,312	$ -	$ -	$ -	$ -

Additional Comments: Should Council approve a Grant, the amount of the Grant would be $13,311.76 less an amount owing to the City in outstanding taxes. This outstanding amount is currently $3,400.20 and represents the 2005 and 2006 Sewer, Water and Street Renewal levy which continue to be charged annually and accrue penalties at a rate of 1.25% per month. A funding source for the Grant would also have to be identified.

original signed by Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

External Consultation With:

THIS REPORT SUBMITTED BY:

Department: Corporate Finance
Division: Taxation and Revenue
Prepared by: Mel Chambers, A/Manager of Taxation and Revenue
File No.