REPORT OF THE

EXECUTIVE POLICY COMMITTEE

DATED OCTOBER 9, 1996

On motion of Her Worship Mayor Thompson, the Report of the Executive Policy Committee, dated October 9, 1996, was considered.

Her Worship The Mayor and Councillors:

Sale of city-owned lands in the Vicinity of St. Matthews Avenue and Empress Street to The Home Depot
File FI-2.4(32) (Vol. 2)

1084 - 1. On October 4, 1996, the Executive Policy Committee requested a report regarding the finalization of the property boundaries of the subject property sale of city-owned land located at the southeast corner of Empress Street and St. Matthews Avenue in the Assiniboia Community.

On July 24, 1996, Council adopted Clause 1 of the Report of the Committee on Finance and Administration dated July 16, 1996, as amended by the Executive Policy Committee. Those recommendations provided in part:

"1. That the city-owned property located at the south-east corner of Empress Street and St. Matthews Avenue as outlined on Exhibit "A" - Misc. Plan No. ASBA 9627/8, be declared surplus to the City's requirements.'

and

4. That the proposal submitted by Home Depot be approved in principle and the administration be instructed to enter into negotiations with Home Depot for the sale of the subject property, taking into consideration the following:

B. That the administration attempt to identify additional surplus land adjacent to Omand's Creek and enter into negotiations with Home Depot paying particular attention to the environmental concerns surrounding Omand's Creek, including land drainage issues, geotechnical considerations, landscaping and possible enhancements and pathways.

D. That Home Depot pay all demolition costs including the demolition of the velodrome if required in the future, and that the City retain salvage rights."

Normally, in accordance with the Policy, the Committee on Finance and Administration would be able to finalize the sale. In this case, however, 3038149 Canada Limited (Home Depot) refused to pay the demolition costs for the velodrome so the matter, in part, was referred back to Council.

On September 26, 1996, Council adopted Clause 1 of the Report of the Committee on Finance and Administration dated September 23, 1996, as amended by the Executive Policy Committee. Those recommendations provided in part:

"1. That the sale of Parcels 1, 2 and 3 as generally shown on Misc. Plan No. ASBA 9627/9 as outlined in Exhibit "B" be approved to 3038149 Canada Limited in accordance with the terms and conditions as stipulated in the Proposed Letter of Understanding and as described in Clause 1 of the Report of the Committee on Finance and Administration dated July 16, 1996 and approved by Council on July 24,1996, subject to:

a) the property definition being approved by the Directors of the Water and Waste and Parks and Recreation Department and by the Waterways Engineer, and that final approval be given by the Executive Policy Committee."

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At its meeting on September 26, 1996, Council approved the sale of city owned property as identified on the miscellaneous plan number ASBA 9627/9 as outlined in Exhibit "B", subject to the property definition being approved by the Directors of the Water and Waste and Parks and Recreation Departments and by the Waterways Engineer and that final approval be given by the Executive Policy Committee.

The Legal Services Division has subsequently determined that the Executive Policy Committee does not have the power or duty to be able to properly give final approval of the boundary pursuant to S.31(1) of The City of Winnipeg Act. This section provides that:

> "No report, order or decision of Executive Policy Committee, except one authorized by by-law, takes effect until it is adopted by Council."

Moreover, the Legal Services Division has been unable to identify any power or duty granted to the Executive Policy Committee under City Organization By-law No. 6550/95 which would permit the Executive Policy Committee to be the final authority to set the boundary for City land being sold.

As such, the Legal Services Division has recommended that the Executive Policy Committee consider the matter and make a recommendation to Council as to the determination of the boundary. In order for Home Depot to proceed with this transaction and because a decision must be made before October 15, 1996, it will be necessary to call a special meeting of Council.

As requested by Council at its meeting on September 26, 1996, the Water and Waste and Parks and Recreation Departments and the Waterways Engineer met to finalize the subject property boundaries in conjunction with representatives of Home Depot.

After considerable review, discussion and negotiation, representatives of Home Depot advised the City Representatives that it required an additional area of approximately 10.5 ft. by 300 ft. along the western boundary line to accommodate the development of a garden centre. This area is situated adjacent to Omand's Creek but is located above the top of the bank and outside of the waterway channel and is identified on Miscellaneous Plan No. ASBA 9627/10 as outlined in Exhibit "C".

Prior to finalizing the property boundaries, the Parks and Recreation Department reviewed the request in conjunction with representatives of the Water and Waste Department and the Waterways Engineer. The review indicated that the area required would be situated above top of bank and that no existing vegetation would be a affected and that water flows would not be impacted.

Notwithstanding the above preliminary review, Home Depot will be required to obtain a Waterway Permit supported by a Hydraulics and Creek Bank Stability Report to construct the subject garden centre and will have to complete stabilization measures to support the centre.

In addition, the request was reviewed by the Provincial Environment Department who subsequently determined that the request, would not involve the placement of structures within the waterway-creek channel and therefore an Environmental Assessment Review and License would not be required.

Being as the property request does not have an adverse impact upon the existing vegetation along the east bank of Omand's Creek and that the aesthetics of the east bank will not be significantly affected given no structures will be located beyond top of bank and that the garden centre is a seasonal compound area without a permanent covered roof and that the water flows within the creek will not be impeded, the Departments are supportive of the subject request.

Inasmuch as the south +/- 60 feet of the additional parcel of land to be sold to Home Depot is deemed to be part of Alexander Park, it will be necessary pursuant to Section 156(2) of The City of Winnipeg Act, the approval of at least two-thirds majority of Council is required for the sale of property designated or acquired for park purposes.

The Executive Policy Committee recommends:

I. That further to the property definition as generally shown on Miscellaneous Plan No. ASBA 9627/9 (Exhibit "B") as approved by Council at its meeting on September 26, 1996, that the additional lands outside the original suggested west property line as shown on Miscellaneous Plan No. ASBA 9627/10 (Exhibit "C") and under the jurisdiction of the Parks and Recreation Department be declared surplus.

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II. That the property definition of Parcel 1 as shown on Miscellaneous Plan No. ASBA 9627/10 (Exhibit “C”) be approved, and that the terms and conditions of the sale be amended accordingly.

III. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing including the execution of all necessary documentation and agreements.

Copy of attachments A and B referred to in the above clause are on file in the office of the City Clerk.

(See Minute No. 1086 for Exhibit C)

Moved by Councillor Steek,
Adoption of the clause.

In amendment,

Moved by Councillor Lazarenko,
Seconded by Councillor Golden,

THAT the sale of the additional 10.5' parcel proceed subject to the appropriate access and aesthetic treatment to the satisfaction of the Director of Parks and Recreation.

In amendment,

Moved by Councillor Murray,
Seconded by Councillor Thomas,

BE IT RESOLVED THAT Council negotiate with Home Depot, as a condition of sale, their funding a pathway along the eastern side of the creek running the length of the property form St. Matthews Avenue to the velodrome site.

The Speaker called the Deputy Speaker, Councillor Prystanski, to the Chair in order to participate in the debate, and after speaking, resumed the Chair.

In amendment to the amendment,

Moved by Councillor Murray,
Seconded by Councillor Thomas,

BE IT RESOLVED that the motion proposed by Councillors Murray and Thomas be amended to delete the words “as a condition of sale” and add after the word “Council” the following words: “direct the administration to”.

The amendment to the amendment was put.

Councillor Clement called for the yeas and nays, which were as follows:-

Yea: Councillors Lubosch, Murray, O’Shaughnessy, Silva, Thomas, Vandal and Angus. 7

Nay: Councillors Prystanski, Clement, Golden, Lazarenko, Phillips, Steek, Timm-Rudolph, Deputy Mayor Eadie and Her Worship Mayor Thompson. 9

and the amendment to the amendment was declared lost.

With the concurrence of the seconder, Councillor Thomas, and with the permission of Council, Councillor Murray withdrew his motion.

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The amendment proposed by Councillors Lazarenko and Golden was put and declared carried.

The motion for the adoption of the clause, as amended, was put and declared carried.

Councillor Thomas asked to be recorded as having voted against the clause, as amended, in accordance with Rule 50.7 of the Procedure By-law.

EXECUTIVE POLICY COMMITTEE

MOTIONS

Moved by Councillor Murray,
Seconded by Councillor Thomas,
1085 - BE IT RESOLVED that up to twenty percent of the total sale price of the City-owned parcels of land at the southeast corner of Empress Street and St. Matthews Avenue be dedicated to the acquisition of additional park land in the City Centre area north of the Assiniboine River.

Automatic Referral to the Committee on Protection, Parks and Culture in accordance with Rule 16.1 of the Procedure By-law