Minute No. 484
Report – Executive Policy Committee - June 13, 2007

Item No. 8 **Expropriation Settlement – 1237 McCreary Road – Kenaston Underpass Project**
File GL-4

COUNCIL DECISION:

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

1. That the City Solicitor/Manager of Legal Services be authorized to settle due compensation for the expropriation of the lands identified on the attached Misc. Plan No. 12384 as Land required for Road Area: +/- 9.643 Ha. (+/-1.588Ac.) ("the Subject Property") in the amount of $773,138.65 plus legal, appraisal and interest costs, less the advance paid by the City.

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 - June 13, 2007

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 June 13, 2007, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

RE: Expropriation Settlement – 1237 McCreary Road – Kenaston Underpass Project
Assiniboia Community
Charleswood -Tuxedo Ward

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: A/Director of Planning Property and Development

REPORT DATE: June 7, 2007

RECOMMENDATION:

1. That the City Solicitor/Manager of Legal Services be authorized to settle due compensation for the expropriation of the lands identified on the attached Misc. Plan No. 12384 as Land required for Road Area: +/- 9.643 Ha. (+/-1.588Ac.) ("the Subject Property") in the amount of $773,138.65 plus legal, appraisal and interest costs, less the advance paid by the City.

2. 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:

Pursuant to By-law 182/2004, enacted December 15, 2004, the City expropriated the Subject Property for the purpose of the Kenaston Underpass Project.

Negotiations for the due compensation are now complete, and the owner has agreed to a proposed settlement.

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

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(x) No

( ) Yes

Comment(s):

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

(x) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): The account number for the Kenaston Project is 003-181000-180604 – Project #1805000703

Report

REASON FOR THE REPORT:

Settlement of an expropriation claim exceeding $250,000.00 requires Council's approval (in accordance with the City Organization By-law).

HISTORY:

The Planning, Property and Development Department began negotiations for the acquisition of properties required for the Kenaston Underpass Project in October 2004. It soon became apparent that settlements could not be reached in time with all the owners in time for the start of construction in 2005. Therefore, Council instructed the City Solicitor to commence expropriation proceedings.

Council enacted By-Law No. 182/2004, made a Declaration of Expropriation on December 15, 2004, and confirmed the Declaration of Expropriation on April 27, 2005. Legal Services registered the Declaration of Expropriation and Confirming Order at the Winnipeg Land Titles Office on May 19, 2005. Thus, the City of Winnipeg expropriated certain lands, including the Subject Property, considered necessary for the Kenaston Grade Separation. The Public Works Department commenced construction of the grade separation immediately upon possession. The City took possession of the Subject Property on June 27, 2005.

DISCUSSION:

The Subject Property contains an equestrian farm that boards horses, has a show ring, warm-up ring, holding/hitching ring, 3 paddocks, feed and bedding storage, show stable and quarantine area, residential house and a raised landscaped berm along the north side.

At least once a year the equestrian farm hosts an English jumping competition. There is a certain order in which the competition areas have to be arranged in order to make the events flow properly; e.g., paddocks before show ring and after, etc.

The City Administration and the property owner determined that the amount of land the City required would affect the flow of the competition areas and, therefore, the Subject Property would have to be reconfigured to be fully functional.

The property owner submitted documents supporting the claim for compensation, including market value of the land taken, reconfiguration of the equestrian farm, reconstruction of certain buildings, and business loss. After detailed review of the claim, the City Administration offered the sum of $773,138.65, subject to adjustments for legal, appraisal and interest costs and City payment of an advance, in full satisfaction of the claim. The owner's lawyer has advised that the owner is prepared to accept that sum.

The Public Works Department, the Planning, Property and Development Department and the Legal Services Division have determined that the proposed settlement is fair and reasonable and recommends that it would be in the City's best interests to settle the due compensation for this expropriation in the above-referenced amount. The settlement will allow immediate payment of the claim, thus eliminating further interest costs. If the parties were to litigate this matter at the Land Value Appraisal Commission ("LVAC"), the City would be responsible for all parties' costs, including LVAC costs and additional legal and appraisal fees, as well as internal human resource and administrative costs.

Financial Impact Statement

Date: June 5, 2007

Project Name:

EXPROPRIATION SETTLEMENT – 1237 McCREARY ROAD
KENASTON UNDERPASS PROJECT

First Year of Program **2007**

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required	$ 788,601	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	788,601	-	-	-	-
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	$ -	$ 70,974	$ 70,974	$ 70,974	$ 70,974
Less: Incremental Revenue/Recovery	15,463	-	-	-	-
Net Cost/(Benefit)	$ (15,463)	$ 70,974	$ 70,974	$ 70,974	$ 70,974
Less: Existing Budget Amounts	(15,463)	70,974	70,974	70,974	70,974
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures consist of the $773,139 settlement amount and short-term financing costs of $15,463, the latter of which is offset by a recovery by the Corporate Finance Department. Direct costs beginning in 2008 represent debt & finance charges on the 2007 capital expenditure and will be charged to the current budget of the Public Works Department.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Legal Services

External Consultation With:

No consultation was required.

THIS REPORT SUBMITTED BY:

Department	Planning Property and Development
Division	Real Estate Division
Prepared by:	Karen Cann
PPD File No.	7813/12

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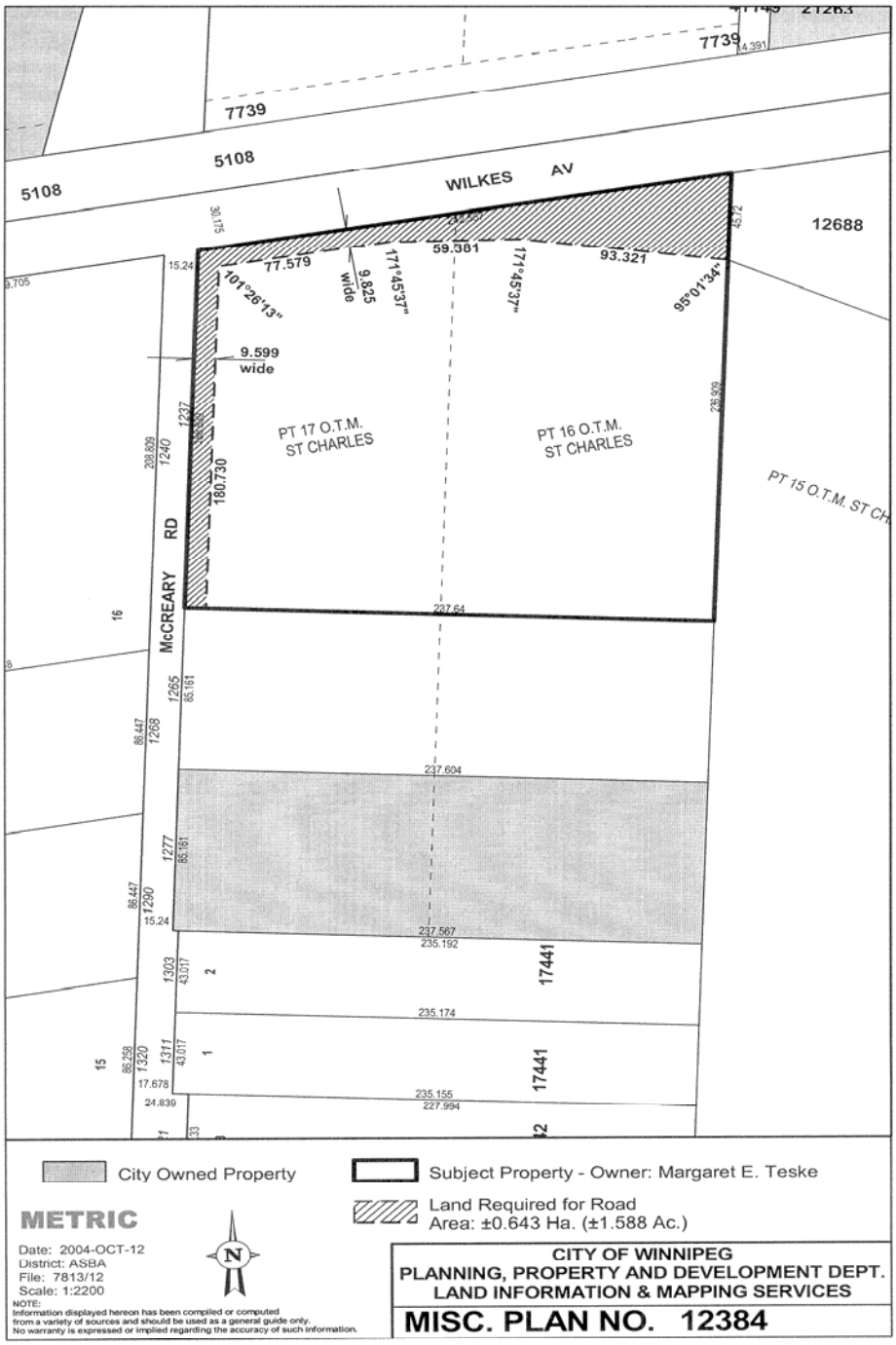
7739
5108
WILKES AV
12688
77.579
59.301
93.321
101°26'13"
9.825 wide
171°45'37"
95°01'34"
9.599 wide
PT 17 O.T.M. ST CHARLES
PT 16 O.T.M. ST CHARLES
PT 15 O.T.M. ST CH
McCREARY RD
180.730
237.64
237.604
237.567
235.192
235.174
235.155
227.994
17441
City Owned Property
Subject Property - Owner: Margaret E. Teske
Land Required for Road
Area: ±0.643 Ha. (±1.588 Ac.)
METRIC
Date: 2004-OCT-12
District: ASBA
File: 7813/12
Scale: 1:2200
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. 12384