REPORT OF THE

EXECUTIVE POLICY COMMITTEE

DATED MARCH 13, 1996

On motion of Her Worship Mayor Thompson, the Report of the Executive Policy Committee dated March 13, 1996, was considered.

Her Worship the Mayor and Councillors:

External Inquiry - Assessment Situation
File AB-2

432 - 1. The Executive Policy Committee concurs in the following resolution and submits same to Council for favourable consideration:

WHEREAS the City of Winnipeg is currently faced with an unanticipated $54.5 million shortfall in tax refunds resulting from assessment appeals;

AND WHEREAS Executive Policy Committee is of the opinion that an independent inquiry to provide an in-depth review of the situation and make recommendations to improve the assessment system and corresponding appeal process, is essential;

THEREFORE BE IT RESOLVED that Council authorize an independent inquiry to be undertaken by an individual in accordance with the terms of reference as outlined on Appendix “A”;

AND BE IT ALSO RESOLVED that Executive Policy Committee be empowered to undertake all necessary action to initiate the inquiry, including the appointment of an Inquiry Officer and the establishment of a budget for same;

AND BE IT ALSO RESOLVED that for purposes of conducting the inquiry, the Inquiry Officer be provided with all necessary resources, both financial and human, and that all members of the City Administration be requested to co-operate fully and authorized to disclose and provide information as requested by the Inquiry Officer;

AND BE IT FURTHER RESOLVED that Executive Policy Committee receive the report of the Inquiry Officer within 90 days of appointment and submit same to Council.

Moved by Her Worship Mayor Thompson,
Adoption of the Clause.

In amendment,

Moved by Councillor Lazarenko,
Seconded by Councillor Golden,
WHEREAS, at a special meeting on January 31, 1996, City Council adopted Clause 1 of the Report of the Executive Policy Committee dated January 25, 1996, 1996 Current Tax Supported Estimates and Utilities Portion, including in part:

1) 1996 Current Tax Supported Estimates totalling approximately $680.7M, with no increase in the mill rate for property taxes and a provision of $7.5M for Tax Refunds;

2) a request to the Province to enact legislation allowing the City to reduce annual employee salaries by 2% in 1996 and a further 2% in 1997, for savings of approximately $7M and $14M in each year respectively;

AND WHEREAS, at the meeting on January 31, the required two-thirds majority of Council members present did not support suspension of the Rule 3 of the Procedure By-law to permit first reading of the associated by-law, By-law 6773/96, a By-law of the City of Winnipeg establishing the 1996 Mill Rate (Current Estimates);

Report of the Executive Policy Committee dated March 13, 1996

AND WHEREAS, at the regular meeting of Council on February 21, in reply to questions from Councillor Golden concerning the possibility of an over-budget expenditure requirement of as much as $50M in 1996 for Assessment Appeal Refunds, Mayor Susan Thompson confirmed that the Chief Commissioner had sent her a memorandum concerning a serious situation and that the City Treasurer had established an internal task force to determine the extent of the problem and report to the Audit Committee;

AND WHEREAS, at the meeting of February 21, By-law 6773/96 received second reading only, and not third reading;

AND WHEREAS, on February 27, the Chief Commissioner, the Mayor and the Deputy Mayor announced an immediate unbudgeted requirement of approximately $54.5M for unanticipated Assessment Appeal Refunds as follows (in $ Millions) :

	1990-93	1994	1995	1996	TOTAL
SHORTFALL	$25.1	5.3	7.5	12.1	$50.0
PROVISION FOR UNCERTAINTY					$ 4.5
TOTAL					$54.5

due to the following causes:

1) The Financial Model did not predict the Tax Impact accurately,

2) Insufficient assumptions, knowledge and communication,

3) Insufficient insight due to complexity of calculation;

and the following factors:

FINANCIAL MODEL	
Experience Change	$32.1
Assessment Reductions by the Municipal Board	4.4
NEW FACTORS (Not included in original Model)	
Municipal Board - New Appeals	5.5
Business Tax Appeals	7.2
More Appeals in 1996 than Anticipated	0.8
Provision for Uncertainty	4.5
TOTAL	$54.5

AND WHEREAS, on the same day, the Administration recommended to EPC that the total requirement come from Account Restructuring ($17.5M) and Reserves ($37.0M) and, among other recommendations,

1) an independent review of the Financial Model,

2) EPC consideration of a request to the Province to delay the 1997 Assessment,

3) a review of the relationship between the Finance and Assessment Departments,

4) a report on the long-term financial impact of the failure of the Financial Model to predict the 1996 Tax Impact accurately;

Report of the Executive Policy Committee dated March 13, 1996

AND WHEREAS, on February 27, the Chief Commissioner, the Mayor and the Deputy Mayor announced that, concerning the question of accountability:

1) Mayor Thompson, EPC and Council could not have known of the unbudgeted requirement before February 14, 1996 and

2) the Chief Commissioner is reviewing the role and expectations of the City Assessor, the City Treasurer, the Internal Auditor and the External Auditor in the failure to predict accurately the Tax Refund impact;

AND WHEREAS, on March 1, the Chief Commissioner advised the City Assessor that he and the Executive Policy Committee had lost confidence in his ability to perform as City Assessor and at a meeting with the Chief Commissioner on March 2, the City Assessor accepted an invitation to resign immediately;

AND WHEREAS, as the situation now stands, it is likely that, from 1990 to the end of 1996, the City will have to pay out more than $200M in Assessment Appeal Refunds;

AND WHEREAS the Manitoba Evidence Act, Chapter E150, Part V, subsection 83(1) provides:

> Where the Lieutenant Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter within the jurisdiction of the Legislature and connected with or affecting
> (a) the good government of the province or the conduct of any part of the public business thereof;
> (b) the conduct of any provincial institution or of any institution within the province receiving provincial aid;
> :
> :
> (e) the affairs of any municipality, municipal district, or corporation, existing for any municipal purpose; or
> (f) any matter which, in his opinion, is of sufficient public importance to justify an inquiry;
> he may, if the inquiry is not otherwise regulated, appoint one or more commissioners to make the inquiry and to report thereon.

AND WHEREAS Clause 1 of the Report of the Executive Policy Committee dated March 13, 1996 recommends that an independent inquiry be undertaken by an individual in accordance with the terms of reference as outlined in Appendix “A”;

THEREFORE BE IT RESOLVED that, in view of the seriousness of the oversight as demonstrated by the consequent extraordinary increase in Assessment Appeal Refund payments and in view of the failure of timely and adequate communication, the public concern shown, the amount of public funds involved and the serious consequences to the general affairs of the City of Winnipeg, the clause be amended as follows:

I. Deleting all reference to independent inquiry and inquiry officer, substituting therefor “inquiry under Part V of the Manitoba Evidence Act”;

II. Deleting Appendix “A” to Clause 1 and substituting therefor a new Appendix “A”.

(Appendix “A” referred to in the above motion in on file in the office of the City Clerk)

The Speaker here resumed the Chair.

Report of the Executive Policy Committee dated March 13, 1996

In amendment,

Moved by Councillor Thomas,
Seconded by Councillor Vandal,

THAT the Clause be amended to require that the Inquiry Officer report publicly to Council as a whole;

AND THAT the words "to Executive Policy Committee" be removed in the final resolve;

AND FURTHER THAT Section 3 of Appendix "A" be amended accordingly.

Moved by Councillor Golden,

That Rule 27 of the Procedure By-law be suspended to allow Council to consider more than two amendments to the clause.

Carried.

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

In amendment,

Moved by Councillor Angus,
Seconded by Councillor Steek,

WHEREAS Section 58(10) of The City of Winnipeg Act provides that the City Auditor may conduct examinations on any matter which, under the Act, the City Auditor is required to audit or control, and where Council approves, the Auditor has all the powers as applied to a Commissioner under Part V of the Manitoba Evidence Act, including the power to examine persons under oath;

AND WHEREAS Section 59 of The City of Winnipeg Act, particularly:

subsection (d) "essential records are maintained, and the rules and procedures applied are sufficient to safeguard and control city property"; and

subsection (f) "satisfactory procedures have been established to measure and report to council on the achievement of economy and efficiency"

that allow for the review of procedures and the investigation of the expenditure of monies, etc;

AND WHEREAS where Council approves, the City Auditor may appoint representatives to perform all or part of these duties;

AND WHEREAS to support the work of the Inquiry Officer, it may be desirable for the City Auditor to delegate to the "to be appointed Inquiry Officer", as her representative, with the powers of a Commissioner appointed under Part V of the Manitoba Evidence Act and the powers of examination, the matters included within the terms of reference outlined in Appendix "A";

THEREFORE BE IT RESOLVED that Council approve both the delegation of the powers of a Commissioner appointed under Part V of the Manitoba Evidence Act and the powers of examination to the "to be appointed Inquiry Officer".

In amendment,

Moved by Councillor Golden,
Seconded by Councillor Lazarenko,

THAT the Inquiry Officer referred to, be requested to use best efforts to identify reasons why The City of Winnipeg Assessment Rolls contain, and did contain, the level of inequities that are being found; including:

Report of the Executive Policy Committee dated March 13, 1996

1) why were re-assessments not done on a timely basis (as required by law) every 3 years;

2) why were appeals not heard efficiently in the year they were filed;

3) why did the Assessment Department not use market sales evidence as opposed to reproduction cost approach (modified).

The Speaker called Councillor Lubosch to the Chair in order to participate in the debate.

Moved by Councillor Angus,
That Council go into Committee of the Whole.

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

Yea: Councillors Golden, Thomas and Vandal. 3

Nay: Councillors Clement, Lazarenko, O'Shaughnessy, Phillips, Silva, Steek, Timm-Rudolph, Deputy Mayor Eadie, Her Worship Mayor Thompson, Councillors Angus and Lubosch. 11

and the motion that Council go into Committee of the Whole was declared lost.

The Speaker here resumed the Chair.

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

The amendment proposed by Councillors Angus and Steek was put and declared carried.

The amendment proposed by Councillors Thomas and Vandal was put.

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

Yea: Councillors Golden, Lazarenko, Lubosch, Thomas, Timm-Rudolph and Vandal. 6

Nay: Councillors Prystanski, Clement, O'Shaughnessy, Phillips, Silva, Steek, Deputy Mayor Eadie, Her Worship Mayor Thompson and Councillor Angus. 9

and the amendment proposed by Councillors Thomas and Vandal was declared lost.

The amendment proposed by Councillors Lazarenko and Golden was put.

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

Yea: Councillors Golden, Lazarenko, Lubosch, Thomas, Timm-Rudolph and Vandal. 6

Nay: Councillors Prystanski, Clement, O'Shaughnessy, Phillips, Silva, Steek, Deputy Mayor Eadie, Her Worship Mayor Thompson and Councillor Angus. 9

and the amendment proposed by Councillors Lazarenko and Golden was declared lost.

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

Report of the Executive Policy Committee dated March 13, 1996

The Speaker called for the yeas and nays, which were as follows:-

Yea: Councillors Prystanski, Clement, O'Shaughnessy, Phillips, Silva, Steek, Deputy Mayor Eadie, Her Worship Mayor Thompson and Councillor Angus. 9

Nay: Councillors Golden, Lazarenko, Lubosch, Thomas, Timm-Rudolph and Vandal. 6

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

(See Minute No. 435 for attachment)

Funding Plan to Cover Accrued Liability for Assessment Appeal Refunds
File AB-2

433 - 2. The Executive Policy Committee concurs in the following resolution and submits same to Council for favourable consideration:

WHEREAS the City of Winnipeg is currently faced with an unanticipated $54.5 million shortfall in tax refunds resulting from assessment appeals;

AND WHEREAS the effect on the 1995 financial statements of the estimated cost of these refunds in excess of the provision made is approximately $42.1 million;

AND WHEREAS the effect on the 1996 financial statements of the estimated cost of these refunds in excess of the provision made is estimated to be approximately $12.4 million;

AND WHEREAS the administration has recommended a funding plan to address the above, said funding plan to involve both an accrual method of accounting for revenue in utilities and the application of certain monies from reserve funds;

AND WHEREAS the recommended accrual accounting is a generally accepted accounting method and the preferred method to account for utility revenues over the present cash method and will have the effect of increasing revenue in 1995 by $17.5 million;

AND WHEREAS certain monies have been identified in the Equipment Replacement Reserve, Land Operating Reserve, Insurance Reserve, and Sinking Fund Reserve which are no longer required for the purposes for which they were established, or are greater than the amounts required for the purpose for which the funds were established;

THEREFORE BE IT RESOLVED that the following recommended funding plan be approved:

i. transfer of $17.5 million from the utility operations to the General Revenue Fund to offset refund costs in 1995;
ii. transfer of $20.6 million from the Equipment Replacement Reserve to the General Revenue Fund to offset refund costs in 1995;
iii. transfer of $4.0 million from the Land Operating Reserve to the General Revenue Fund to offset refund costs in 1995;
iv. transfer of $7.9 million from the Land Operating Reserve to the General Revenue Fund to offset estimated refund costs in 1996;
v. transfer of $0.5 million from the Land Operating Reserve to the General Revenue Fund as a contingency to offset estimated refund costs in 1996 as required;
vi. transfer of $2.0 million from the Sinking Fund Reserve to the General Revenue Fund, subject to that amount being approved by the Sinking Fund Trustees pursuant to the provisions of the City of Winnipeg Act (to which Council by this resolution consents) as a contingency to offset estimated refund costs in 1996 as required;
vii. transfer of $2.0 million from the Insurance Reserve to the General Revenue Fund as a contingency to offset estimated refund costs in 1996 as required;

Report of the Executive Policy Committee dated March 13, 1996

AND BE IT FURTHER RESOLVED that the Administration be instructed to report any change in the accrued liability for assessment appeal refunds to the Audit Committee as soon as any reliable new information becomes available;

AND BE IT FURTHER RESOLVED that the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Moved by Her Worship Mayor Thompson,
Adoption of the Clause.

The motion for the adoption of the clause was put.

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

Yea: Councillors Prystanski, Clement, Lazarenko, Lubosch, O'Shaughnessy, Phillips, Silva, Steek, Timm-Rudolph, Deputy Mayor Eadie, Her Worship Mayor Thompson and Councillor Angus. 12

Nay: Councillors Golden, Thomas and Vandal. 3

and the motion for the adoption of the clause was declared carried.

EXECUTIVE POLICY COMMITTEE

MOTIONS

Moved by Councillor Phillips,
Seconded by Councillor O'Shaughnessy,
434 - WHEREAS Council must be kept informed of the state of assessment appeals in a timely fashion;

AND WHEREAS, to do its duty, Council must have timely, accurate and thorough information regarding assessment appeals;

THEREFORE BE IT RESOLVED that the appropriate administrators be directed to re-introduce the practice of providing weekly updates to Council on the status of assessment appeals.

Carried.