Minute No. 563
Report - Standing Policy Committee on Property and Development - July 13, 2007

Item No. 14 **Lease Agreement - Manitoba Softball Association Inc. - John Blumberg Softball Complex**
File FI-2.2

COUNCIL DECISION:

Council concurred in the recommendations of the Standing Policy Committee on Property and Development and adopted the following:

1. That the terms and conditions for a ten (10) year Lease Agreement between the City and the Manitoba Softball Association Inc. as outlined in the report from the Acting Director of Planning, Property and Development dated June 21, 2007, be approved.

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

Report - Standing Policy Committee on Property and Development - July 13, 2007

DECISION MAKING HISTORY:

Moved by Council Swandel,
That the recommendation of the Standing Policy Committee on Property and Development be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 18, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 13, 2007, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

RE: Proposed Lease Agreement with the Manitoba Softball Association Inc. for the Operation of the John Blumberg Softball Complex Headingley, Manitoba

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning, Property and Development

REPORT DATE: June 21, 2007

RECOMMENDATION:

1. That the proposed terms and conditions for a Ten (10) year Lease Agreement between the City and the Manitoba Softball Association Inc. as referenced herein be approved.

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:

- The John Blumberg Softball Complex was developed in 1989 and is located at 4540 Portage Avenue, adjacent to the John Blumberg Golf Course now situated within the municipal boundaries of Headingley. The Complex originally consisted of a 4 baseball diamonds with a central kiosk to house concessions, observation gallery and washrooms and a parking lot. During 1998/99, three additional baseball diamonds were added to the Complex, in part, to host the 1999 Pan American Games.

- In 1993, the City entered into a Management Agreement with the Manitoba Softball Association Inc. (MSA) for the operation of the complex for a term of Ten (10) years and one –five (5) year renewal option. At the time for renewal, the Administration expressed several concerns with the Agreement including the City's obligation to continue paying for all facility repair expenses over $200.00 and for all major capital repairs, and, with deferred facility maintenance issues at the site. As a result, the renewal option was not exercised.

- Subsequently, a negotiating framework was formulated to accomplish the following: (1) to promote management autonomy and self-sufficiency based on existing annual revenue generating capacity; (2) to transfer the responsibility for facility maintenance costs to the Tenant; (3) to create a mechanism to address deferred facility maintenance on a one-time basis; (4) to settle the requirement to pay for past invoices; and (5) the provision of municipal sewer and water service to the facility.

- Between the period 2003 and early 2007, there was protracted negotiations regarding the issues resulting in a proposed agreement consisting of several components as follows: (1) proposed terms and conditions for a new ten year lease agreement and one, five year option; (2) the Tenant being responsible for all repairs and maintenance to the facility excepting structural repairs; (3) a one-time City Contribution to address deferred maintenance including the repairs (sandblasting and painting) to the observation catwalk, repairs to the concrete building apron and roof repairs to the satellite building; (4) the City making a reimbursement to the MSA for expenses incurred for a total of $26,655.14; and (5) an understanding to review the feasibility of extending municipal sewer and water service to the facility in conjunction with the Municipality of Headingley.

- The feasibility of connecting to the municipal sewer and water service will be the subject of a separate report to be prepared in conjunction with the Golf Course Special Operating Agency.

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):

The proposed agreement promotes the principles of management autonomy and self-sufficiency for an amateur sports organization under the umbrella of Sports Manitoba, and, eliminates an ongoing operational maintenance liability to the Public Works and Community Services Departments.

The repositioning of the City in this Agreement is in alignment with the City's support of similar tenancies involving exclusively operated specialized sports and recreation facilities and therefore achieves greater equity amongst these groups.

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):

Funding is available in the Public Works Department Budget to pay for the deferred maintenance and to reimburse the Manager for previous expenses.

Report

REASON FOR THE REPORT:

Pursuant to City Policy where “Leases of park land over five years in length are to be referred to Council for approval by at least two-thirds majority”, the Planning, Property and Development Department is seeking Council approval of the proposed terms and conditions for the subject Lease Agreement.

HISTORY:

In 1989, the City completed the construction of the John Blumberg Softball Complex located at 4540 Portage Avenue.

At its meeting held on March 29, 1989, Council approved the proposed terms and conditions for a management agreement with the Manitoba Softball Association Inc.

By agreement dated October 1, 1993, the City entered into a ten (10) year management agreement with the Manitoba Softball Association Inc. for the operation of the John Blumberg Softball Complex.

As part of the 1999 Pan American Games, the John Blumberg Softball Complex was expanded to include three additional diamonds.

In 2003, representatives of the Community Services, Public Works and Planning, Property and Development Departments met with representatives of the Manitoba Softball Association Inc. to discuss a new agreement.

Between 2003 and 2007, representatives of the Planning, Property and Development Department and the Manitoba Softball Association Inc. met on various occasions to discuss facility issues and to negotiate a new agreement.

By letter dated May 17, 2007, the Manitoba Softball Association Inc. agreed to the proposed terms and conditions of a lease agreement extended under Departmental letter dated October 20, 2006 to the Association.

DISCUSSION:

1. John Blumberg Softball Complex:

As identified on the attached Misc. Plan 13003, the City-owned softball complex is situated at 4540 Portage Avenue adjacent to the John Blumberg Golf Course. The Complex was originally comprised of four softball diamonds with field lighting and a central kiosk which provided viewing, concession, washrooms and change room amenities for players, spectators and officials. In addition, a gravel parking lot was constructed to provide parking for the facility users.

In 1998/99, three additional softball diamonds were added to provide additional capacity at the complex. Funding for the expansion was provided by the Manitoba Softball Association Inc. and the Pan American Games Society. The Softball Facility was later used as a Venue site in order to host the 1999 Pan American Games in Winnipeg.

2. Facility Operations (1993 to 2007):

During the period between 1993 and 2007, the John Blumberg Softball Facility has been operated by the Manitoba Softball Association Inc. The Facility is primarily used by local softball leagues and players in Winnipeg and surrounding catchment areas. In addition, several national, provincial and local tournaments are scheduled at the facility each season.

In 2005, the Facility was operated on net revenues of approximately $226,000 (Gross Food and beverage $198,661 less $99,325 [cost of food & beverage] = $99,336; plus Advertising, Gate and Interest $127,014 = $226,000) and expenses of $245,859 (e.g. – maintenance, utilities, etc.) resulting in a net loss of ($19,509). As at October 15, 2005, the John Blumberg Softball Complex had Assets of $249,133 and Liabilities of $31,031 resulting in a Net Asset position of $218,102 of which $43,291 is in current assets.

During the negotiations, the Administration expressed the following concerns:

- on gross revenues of $332,135 (Food and Beverage Sales $198,661 plus Advertising, Gate and Interest $127,014) in 2005, the facility was incurring a loss;
- the wage expense appeared too high at $128,617; and
- that no funds were being set aside for deferred maintenance.

As a result, the Manager agreed to review the methods of operation for the food and beverage and facility management arrangements.

3. Facility Maintenance:

Between 1993 and the present, the Manitoba Softball Association Inc. (the Manager), performed all maintenance at the site excepting the annual grading of the parking lot and certain repairs to the Air Conditioner Unit in 2005. Although the Agreement required that the City pay for all repairs over $200.00, the Manager did not submit any invoices for reimbursement prior to the fall of 2003 (the expiry of the initial term of the Agreement).

During the initial meeting to determine the proposed terms and conditions for a new agreement, the Manager submitted a request to be reimbursed for certain expenses, which were later determined to be $26,655.14. In addition, the Manager was requesting that certain repairs needed to be completed including:

- sandblasting and painting of the catwalk ($37,620);
- repair/ Replacement of the walkway apron around the perimeter of the building($20,000);
- repair/replacement of the satellite building roof ($5,540); and,
- repairs to the HVAC system *(subsequently completed by the Public Works Department).*

The Association indicated that it did not have the funding to complete the repairs, due in part, to the fact that it had used the majority of its reserves to pay for the facility expansion in 1999.

In addition, the Manager was seeking funding for certain facility enhancements including wheelchair access and a connection to municipal sewer and water service. The facility currently relies on well water and a holding tank. The Association originally obtained an estimate of $25,000 to complete the connection.

In order to achieve a more equitable agreement, the Administration proposed an agreement wherein the Public Works Department would complete the outstanding facility repairs and pay for the installation of the sewer and water service connection in return for the Manager assuming all future maintenance responsibilities in a new lease agreement. It was understood that the reimbursement of expenses would be taken into account in the City's offer i.e. offsetting the cost of installing the water and sewer connection.

It was subsequently determined that the cost of connecting the Facility to municipal sewer and water would be greater than the original estimate of $25,000. The original estimate did not include design, engineering, project management, permits and fees, GST, PST or a contingency. As well, it did not contemplate a municipal hook up fee estimated at $118,000 by the Municipality of Headingley.

As such, the Department advised the Manitoba Softball Association Inc. that, because the potential project cost of the sewer and water connection greatly exceeded the original estimate, the issue would need to be held in abeyance within the context of the current negotiations and separately reviewed and reported on at a later date. The Association agreed to separate this issue from the negotiations for a new lease agreement. As a result, the Department agreed to a reimbursement of the previous expenses in accordance with the Council-approved Management Agreement.

Departmental Comment:

There is a significant benefit to having a connection to municipal sewer and water service. The cost of regular pump outs is estimated at between $7,000 and $8,000 per annum and there is a substantial odour problem associated with the holding tanks during the high daytime temperature periods of the season.

It should be noted that the Golf Course Special Operating Agency is currently reviewing options for the provision of alternate sewer and water service to the adjacent John Blumberg Golf Course. It is anticipated that a future report will be forthcoming in the form of a jointly funded proposal to connect the golf course and softball complex to municipal sewer and water service using SOA, Public Works and MSA funding to pay for the associated costs within the next 12 – 18 months.

Moreover, this initiative will also likely require a dialogue with the Municipality of Headingley and the Province with respect to the proposed “hook up” fees to the system.

3. Proposed Terms and Conditions for a New Lease Agreement:

The Public Works and Planning, Property and Development Departments are prepared to support a request to enter into a new Lease Agreement with the Manitoba Softball Association Inc. for the management and operation of the John Blumberg Complex in accordance with the following proposed terms and conditions of agreement.

Owner:	City
Tenant:	Manitoba Softball Association Inc.
Purpose:	Amateur Softball
Leased Lands:	See attached Misc. Plan 13003
User Fee:	$1.00 plus G.S.T.
Term:	(10) Ten years commencing October 1, 2003
Cancellation:	Upon default of Covenants
Renewal:	One - (5) Five year renewal upon mutually agreeable terms

Insurance:	Comprehensive General Liability in the amount of $2.0 million, All Risks Property Replacement Coverage, Tenant contents and equipment and Business Disruption Insurance
Realty Taxes:	Tenant (Currently exempt in the Municipality of Headingley)
Maintenance:	Tenant for ongoing day to day maintenance, repairs and replacements excepting structural repairs/ replacements
Tenant Resp:	Programming, scheduling, security, food services, advertising, site improvements, renovations and utility costs.
City's Resp:	Structural repairs to the softball complex building and annual parking lot maintenance
Special Conditions:	To make the Facility available for major sporting events upon thirty (30) days written notice by the Director of Public Works. Tenant to provide annual financial statements to the City within 90 days of fiscal year end.

Financial Impact Statement

Date: June 7, 2007

Project Name: **First Year of Program** **2007**

Proposed Lease Agreement with the Manitoba Softball Association Inc. for the Operation of the John Blumberg Softball Complex

	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	$ 26,655	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	1	1	1	1	1
Net Cost/(Benefit)	$ 26,654	$ (1)	$ (1)	$ (1)	$ (1)
Less: Existing Budget Amounts	26,654	(1)	(1)	(1)	(1)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Direct costs in 2007 represent the reimbursement of expenses incurred by the MSA between 2003 and 2007 for facility repairs over $200. Revenues from 2007 onward represent a nominal annual rental rate of $1. The cost of the outstanding repairs will be charged to the to the Public Works Department's (Parks and Open Space Division) current budget.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Public Works

Legal Services (as to Legal Issues)

Golf Course Services SOA

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	D. Armstrong
PPD File No.	P-13

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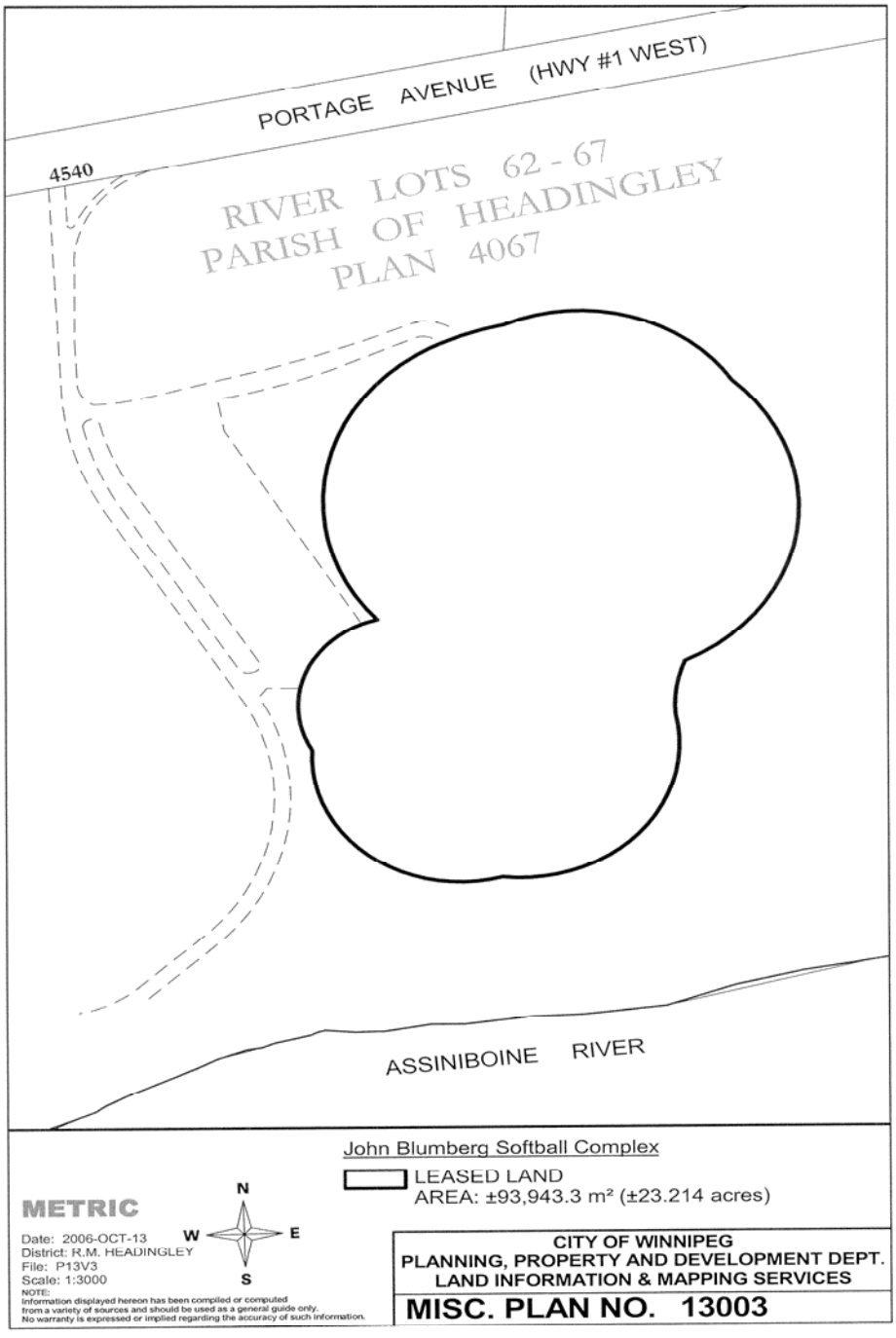
PORTAGE AVENUE (HWY #1 WEST)
4540
RIVER LOTS 62 - 67
PARISH OF HEADINGLEY
PLAN 4067
ASSINIBOINE RIVER
John Blumberg Softball Complex
LEASED LAND
AREA: ±93,943.3 m² (±23.214 acres)
METRIC
Date: 2006-OCT-13
District: R.M. HEADINGLEY
File: P13V3
Scale: 1:3000
NOTE:
Information displayed hereon has been 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.
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13003