# REPORT OF THE

# COMMITTEE ON FINANCE AND ADMINISTRATION

# DATED FEBRUARY 27, 1995

***Note: This clause has been referred back by Executive Policy Committee to the Committee on Finance and Administration for reconsideration.***

Her Worship the Mayor and Councillors:

**Proposed Sale of City-owned Property located at the Southeast corner of Main Street and York Avenue**
**File FI-2.4(32) (Vol. 1)**

**863 -** 14. In 1991 the City acquired a number of parcels of land within and in close proximity to the "East Yards" from the Canadian National Railway, one of which was the southeast corner of Main Street and York Avenue as outlined on Misc. Plan No. CC7801/22 (Exhibit "A").

The property, when acquired, was subject to a lease agreement with Imperial Parking Limited, which agreement was assigned to the City by the CNR. The said agreement was for a term of three years, May 1, 1989 to April 30, 1992, at a rental of $12,600.00 per annum (including taxes). The Lessee continues to occupy the land in an overholding position on a month-to-month basis.

The existing parking lot is substandard and must be upgraded to comply with current regulations.

During 1995, the York Avenue Underpass at the CN Mainline and Via Rail Station Yard is expected to be upgraded and York Avenue resurfaced, which will require a portion of Parcel "N" (Exhibit "A").

During 1996, Main Street South of York Avenue will be widened as part of the Main Street and Norwood Bridges Project, which will require all of Parcel "N" as outlined in Exhibit "A".

It was the recommendation of the Technical Advisory Committee on City Properties that the property be continued to be leased to Imperial Parking Limited for a five year term commencing January 1, 1995 to December 31, 1999, at a rental of $10,000.00 per annum plus an amount equivalent to realty taxes.

The Committee on Finance and Administration was advised that the Streets and Transportation Department is of the view that vehicular approaches should not be constructed on Main Street to access this location. Committee was further advised that when the York Avenue Underpass at the CN Mainline and Via Rail Station Yard is increased in the future, the York Avenue approach must be closed, and it may become necessary to access the property through the private parking lot to the South.

However, the Committee on Finance and Administration **does not agree** with the recommendation of the Technical Advisory Committee on City Properties that this property be leased, and is of the view that it should be offered for sale at fair market value.

The Committee on Finance and Administration therefore recommends:

I. That the City-owned property located at the Southeast corner of Main Street and York Avenue be declared surplus to the City's requirements, with the exception of those portions of the property required for the widening of Main Street outlined as Parcel "N" on Misc. Plan No. CC77801/12 (Exhibit "A"), and be offered for sale at fair market value.

II. That the Proper Officers of the City do all things necessary to implement the above recommendation, including the execution of any documents related thereto.

Referred back by the Executive Policy Committee to Committee on Finance and Administration

**REPORT OF THE**

**COMMITTEE ON FINANCE AND ADMINISTRATION**

**DATED MAY 25, 1995**

On motion of Councillor Lazarenko, the Report of the Committee on Finance and Administration, dated May 25, 1995, was considered clause by clause.

Moved by Councillor Lazarenko,
That the Consent Agenda, Clauses 1,2,3 and 4 be adopted.

Carried.

Her Worship the Mayor and Councillors:

**Appointment of Special Constables - Transit Department File GF-2.3 (Vol. 4)**

**864 -** 1. The Committee on Finance and Administration has been advised that the Manager of Operations, Transit Department, has requested that the following employees of the Transit Department, who will be required to perform by-law enforcement duties, be sworn in as Special Constables; namely: Edward Kenneth Fitzgerald, Keith Dana Martin, Barry Ralph Mikolash and Mark Linn Purdy.

The Committee on Finance and Administration recommends that the City Solicitor/Manager of Legal Services be authorized to make the necessary application to the Attorney-General's Department to have the above-named employees from the Transit Department sworn in as Special Constables.

The Committee also recommends that the Proper Officers of the City be authorized to execute the required Forms of Indemnity of whatsoever kind or nature arising out of the acts and conduct of anything done, said or written by the said Special Constables when they function as a Special Constable under the said appointment.

Adopted by consent.

**Recommendations for Amusement Tax Exemption File FL-6 (Vol. 12)**

**865 -** 2. The Committee on Finance and Administration has considered recommendations received from the Winnipeg Arts Advisory Council for exemption to the Amusement Tax By-law.
The Committee on Finance and Administration submits draft by-law and recommends:

I. That the following list of exemptions be added to subsection 7(6) of the Amusement Tax By-law No. 3107/81, namely:

Manitoba Opera:
"Barber of Seville" on November 18, 21, 24, 1995 at the Centennial Concert Hall

Rainbow Stage:
"Oklahoma" July 18 - August 13, 1995 at Kildonan Park.

Manitoba Theatre Centre:
"Romeo and Juliet" September 21 - November 4, 1995; "Our Country's Good" November 15 - December 2, 1995; "Mr. A's Amazing Maze Plays" December 14 - 30, 1995. All performances are at the MTC Warehouse Theatre.

Prairie Theatre Exchange:
"Someone Who'll Watch Over Me" - September 27 - October 14, 1995; "Playboy of the West Indies" - November 15 - December 2, 1995; "Munsch" - December 16 - 31, 1995. All performances are at Prairie Theatre Exchange.

**Report of the Committee on Finance and Administration dated May 25, 1995**

Festival du Voyageur Inc.:
For a play "Le Voyageur" - July 20 - 29, 1995 at Fort Gibralter, Whittier Park, St. Boniface.

II. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

Adopted by consent.

**Proposed Leave and License Agreement - Sidewalk Cafe Adjoining 166 Provencher Boulevard - Roma Cafe**
**File ED(35) (Vol. 1)**

**866 -** 3. An application has been received from 64577 Manitoba Ltd. (Ms. A. DeLuca) to establish a sidewalk cafe encroachment within the Provencher Boulevard right-of-way adjoining the Roma Cafe as shown on Misc. Plan No. RIEL 9431/1. On April 4, 1995, the Committee on Planning and Community Services approved and referred the matter to the Land and Development Services Department to negotiate the terms and conditions of an agreement.

Briefly, the negotiated terms and conditions of the proposed leave and license provide for the following:

| | |
|---|---|
| Location | South side of Provencher Boulevard, between Tache Avenue and Rue Aulneau |
| Area | 23 m² (245 ft²) shown shaded and identified as "Leave and License" on Misc. Plan No. RIEL 9431/1 |
| Term | From May 15 or the date spring clean-up is completed, whichever is the later, to September 30 during each year |
| Hours | 11:00 a.m. to 11:00 p.m. |
| Rental | $280.00 payable in advance of each season, plus an initial administrative fee of $250.00. Rental is subject to annual review by the City but in no event will it be less than that paid in the previous year |
| Insurance | Public Liability Insurance of at least $1,000,000.00 naming the City as additional insured and containing a cross-liability clause |
| Cancellation | Upon 10 days notice by either party; immediate upon default |

In addition, the Applicant has advised that it currently plays background music at a low level outside of its establishment. Council has recently approved similar cafe agreements which included the provision for background music subject to the addition of the following terms:

"Licensee agrees that the sound pressure level resulting from any activity or emanating from the premises shall not exceed 67 (db) (average conversation)."

"That should the Commissioner of Planning and Community Services determine in his sole discretion that the music is causing a disturbance to adjacent properties, the provision of music within the leased area will be discontinued on demand."

The Land and Development Services Department has negotiated the foregoing terms and conditions of leave and license in accordance with the direction of the Committee on Planning and Community Services and the terms negotiated are consistent with agreements of a similar nature.

On May 8, 1995, the Riel Community Committee concurred in the proposal.

**Report of the Committee on Finance and Administration dated May 25, 1995**

The Committee on Finance and Administration recommends:

I. That a Leave and License be granted to Bohemia Investments Co. Ltd., in accordance with the terms and conditions outlined in Schedule "A", and in a form satisfactory to the City Solicitor/Manager of Legal Services.

II. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

Copy of Schedule "A" and Misc. Plan No. RIEL 9431/1 is on file in the office of the City Clerk.

Adopted by consent.

**Proposed Sale of Northeast Corner of Logan Avenue and King Edward Street**
**File FI-2.4(34) (Vol. 2)**

**867 -** 4. On July 18, 1979 Council approved the purchase of property at the Northeast corner of Logan Avenue and King Edward St. shown as Parcel 3 on Misc. Plan No. LSWK 6164 from Gulf Canada for the widening of Route 90.

The Land and Development Services Department is in receipt of an application for an option to purchase the property to build an autobody shop on the site.

The District Planner for the area made the following comments:

> "The subject site is currently zoned "MI" Industrial which under By-Law 6400 permits an autobody/automobile repair facility.
>
> So technically the prospective purchaser could operate on the site. However from a planning perspective, the Department does have reservations relative to using that particular site for an autobody shop. Our experience has shown that inevitably the site becomes cluttered with the outdoor storage of scrap parts and vehicles, etc. It invariably becomes an enforcement problem and in this particular instance, the lot is 1) highly visible and 2) relatively small - making it difficult to screen storage areas. The bottom line is that from our perspective, we would probably prefer to see an alternative use on the site in question."

The Streets and Transportation Department made the following comments in response to the District Planner's comments:

> "The Streets and Transportation Department agrees with the comments of the District Planner, i.e. an auto body shop is a poor choice at this location for this surplus City-owned land. There are other businesses that could locate here that would not present the potential problems the District Planner identified. It is not necessary to retain the land for "image route enhancement." The District Planner is only suggesting that since this is a highly visible location the City endeavour to ensure that the land is developed in an aesthetic manner."

The Streets and Transportation Department has made the following comments with regards to the development of the site:

> "The Streets and Transportation Department recommends that access be at the public lane at the east end of the site. A lane widening private approach up to 3.0m wide would be acceptable. No private approaches will be allowed on King Edward Street.
>
> The site must be graded so that water will not drain over the embankment along King Edward Street or pool on the site, as this could cause slope failure. Vehicles displayed, stored, etc. must be confined to Parcel 3. Any plans for regrading or paving the site must be approved by Mr. G. R. Smith, P. Eng., Bridge Engineer.
>
> While there is merit in selling the subject surplus property, it is desirable that the subject site, following disposition, present an aesthetic appearance to the users of King Edward Street and Logan Avenue".

**Report of the Committee on Finance and Administration dated May 25, 1995**

The purchaser has verbally advised that he has negotiated a deal to acquire the privately owned land north of Gallagher Avenue on the east side of King Edward Street and it would be his intention to fence this northern property which has been an eye-sore and a problem to the City for many years and to store vehicles in the fenced compound. The purchaser has also indicated that there will be no outside storage on parcel 3 and he has agreed to committing to this as a condition of the sale.

The Parks and Recreation Department has advised that it does not require this property for its purposes at this time but does suggest that "consideration should be given to requesting that an appropriate landscape-visual screen of the end "use" is provided by the purchaser in order to enhance the King Edward Street Image Route."

On May 9, 1995, the Lord Selkirk-West Kildonan Community Committee concurred with the use of the site as a body shop providing the purchaser agrees to no outside storage on the subject site as part of the sales agreement.

Since the prior use of the lands was a service station site it is assumed that there could be some environmental contamination within the subject lands. The Land and Development Services Department is agreeable to testing the site at the City's expense and having remedial work done at the City's expense providing the costs of the remedial work are not excessive.

Funding for the testing and remedial work if needed is to come from the Land Operating Reserve Account.

The Land and Development Services Department is supportive of the sale in that it allows the City to dispose of surplus City land in which there has been limited interest.

The Committee on Finance and Administration requested it be noted that there will be no access off Logan Avenue and King Edward Street to the subject property unless predetermined by the Streets and Transportation Department.

The Committee on Finance and Administration recommends:

I. That the City-owned property located at the North East corner of Logan Avenue and King Edward Street be declared surplus to the City's requirements.

II. That an Option to Purchase the subject property shown as Parcel 3 on Misc. Plan No. LSWK 6164, be granted to Mr. Chris Rygiel subject to the following conditions:

(1) that no outside storage of vehicles or material be permitted on the site;
(2) the applicant providing appropriate landscape-visual screening acceptable to the Director of the Parks and Recreation Department;
(3) such other terms and conditions as are deemed necessary by the City Solicitor/Manager of Legal Services to achieve the above intent.

III. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

Copy of Misc. Plan No. LSWK 6164 is on file in the office of the City Clerk.

Adopted by consent.

**Report of the Committee on Finance and Administration dated May 25, 1995**

**Proposed Leave and License Agreement - Sidewalk Cafe Adjoining 137 Osborne Street - Tap & Grill**
**File ED(32) (Vol. 1)**

**868 -** 5. An application has been received from Tap and Grill Ltd. (Mr. B. Lagopoulos) to establish a sidewalk cafe encroachment as shown on Misc. Plan No. CC 9440, within the Osborne Street right-of-way and a portion of City-owned property adjoining its establishment known as Tap & Grill. On February 28, 1995, the Committee on Planning and Community Services approved the matter and referred same to the Land and Development Services Department to negotiate the terms and conditions of agreement.

Previously, at its meeting of November 3, 1994, the Winnipeg Parking Authority requested that the Administration negotiate an agreement with the Tap & Grill restaurant to recover the loss of two parking spaces, and that fees be based on a calculation of lost revenues to the City during the period of the agreement. However, due to information received from the Community Services Department it was determined that the loss of the said parking stalls was a result of the City-initiated Osborne Streetscaping Project.

Negotiations with Mr. Lagopoulos were concluded in accordance with the direction of the Committee on Planning and Community Services. The terms and conditions negotiated including rental were consistent with agreements of a similar nature which are briefly outlined as follows:

| | |
|---|---|
| Location | West side of Osborne Street, north of Stradbrook Avenue, adjoining 137 Osborne Street |
| Area | 63.2 m² (680 ft²) shown shaded and identified as "Leave and License" on Misc. Plan No. CC 9440 |
| Term | From May 15 or the date spring clean-up is completed, whichever is the later, to September 30 during each year |
| Hours | 11:00 a.m. to 2:00 a.m., hours to coincide with the Applicant's business operation |
| Rental | $880.00 payable in advance of each season, plus an initial administrative fee of $250.00. Rental is subject to annual review by the City but in no event will it be less than that paid in the previous year |
| Insurance | Public Liability Insurance of at least $1,000,000.00 naming the City as additional insured and containing a cross-liability clause |
| Cancellation | Upon 10 days notice by either party; immediate upon default |

In addition, the Applicant advised it may wish to play, if approved, background music at a low level within the cafe area. Council has recently approved similar cafe agreements which included the provision for background music subject to the addition of the following terms:

> "Licensee agrees that the sound pressure level resulting from any activity or emanating from the premises shall not exceed 67 (db) (average conversation)."
>
> "That should the Commissioner of Planning and Community Services determine in his sole discretion that the music is causing a disturbance to adjacent properties, the provision of music within the leased area will be discontinued on demand."

In considering the matter the Technical Advisory Committee on City Properties received information from the Civic Buildings Department that an annual amount of $3,600.00 is lost revenue to the City due to the elimination of the two parking stalls on the subject City land. It was determined that the proposed rental rate in accordance with sidewalk cafes was not acceptable in this instance and that the revenue lost to the City during the leave and license period, that is $1,350.00, be recovered, due to the removal of the parking stalls.

The Streets and Transportation Department advised that notwithstanding the Committee on Planning and Community Services' approval, that no fencing would be permitted in front of 137 Osborne Street due to the existing narrow sidewalk, width and therefore there is a concern for pedestrian safety.

**Report of the Committee on Finance and Administration dated May 25, 1995**

Further negotiations with representatives of the Civic Buildings, Streets and Transportation and Community Services Departments has resulted in agreement that the subject portion of the City's land could be reconstructed to regain use of the two parking stalls during the sidewalk cafe off-season. Reconstruction would take place after the 1995 season, costs of which are to be charged to the Osborne Streetscaping Project. For clarification, the two parking stalls would be removed each Spring to facilitate the operation of the sidewalk cafe and would be reinstated each Fall at the conclusion of the cafe season. In doing so, rental of the sidewalk cafe could be calculated on a pro-rata basis which would amount to $1,350.00 per season with the City being able to recoup parking revenue during the sidewalk cafe off-season.

Mr. Lagopoulos has been advised as to the foregoing. Mr. Lagopoulos advised as follows: 1) he rejects a rental of $1,350.00 for the season but is prepared to rent at $880.00 as negotiated; 2) the elimination of the two parking stalls is a result of the implementation by the City of the streetscaping project and as such he believes that the rental owing should be reflective of the City's normal practice in determining the rental payable. To do otherwise would be to penalize him as a result of the City's actions; 3) the proposal to reinstate two parking stalls during the sidewalk cafe off-season is in conflict with the original intent of the streetscaping project to establish a plaza area at this location; 4) the proposal to reinstate two parking stalls during the sidewalk cafe off-season in his view will not function effectively due to the location of the landscaping which is to remain; 5) the proposed sidewalk cafe will create three full time seasonal jobs which will be foregone should the cafe not be implemented; 6) the financial and aesthetic benefits derived by the City as a result of the streetscaping project exceed the revenue lost by the elimination of the two parking stalls; 7) he states that, contrary to the current requirements of the Streets and Transportation Department (that Department has advised that it will not agree to the erection of any fencing in front of the building at 137 Osborne Street) he must insist that this proposed fencing be permitted. The fence would be removed at the end of the seasonal period. Mr. Lagopoulos points out that even with the fence in place the remaining width of sidewalk at this location will exceed sidewalk widths to the north of this location.

On May 9, 1995 the City Centre Committee concurred in the proposal.

The Committee on Finance and Administration is of the view that the sidewalk cafe rental should be established at an amount of $1,350.00 representing the parking revenue lost during the rental period.

The Committee on Finance and Administration recommends:

I. A Leave and License be granted to Tap & Grill Ltd. in accordance with the terms and conditions outlined in Schedule "A", and in a form satisfactory to the City Solicitor/Manager of Legal Services subject to:

   A. the rental in Clause 2(a) being increased to $1,350.00; and
   B. that Clause 11 be clarified to ensure that fencing directly in front of the building at 137 Osborne Street will not be permitted.

II. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

*The Executive Policy Committee recommends that the City, given the circumstances that surround this issue, is willing to forego the control of the two parking stalls in question at the Stradbrook Avenue and Osborne Street surface parking lot, with the understanding that the established rental rate remain at $1,350.00.*

Moved by Councillor Lazarenko,
Adoption of the clause.

Carried.

In amendment,

Moved by Deputy Mayor Fraser,
That the recommendation of the Executive Policy Committee be adopted.

**Report of the Committee on Finance and Administration dated May 25, 1995**

In amendment,

Moved by Councillor Murray,
Seconded by Councillor O'Shaughnessy,

WHEREAS the City charges a standard fee for encroachments onto City-owned land and rights-of-way, and this applies to all situations;

AND WHEREAS the reason for constructing public plazas, widening the rights-of-way, widening the sidewalk on Osborne Street, and eliminating some of the metered parking, was made by the City separate and apart from any request for a leave and license agreement by any business owner. Further, this space would remain part of a larger public plaza and not a parking lot if the land is not rented;

AND WHEREAS the City recently negotiated a Leave and License Agreement with the owner of 137 Osborne Street for an amount of $880.00 plus an administrative fee of $250.00, subject to an annual review process as outlined on Clause 5 of the Report of the Committee on Finance and Administration dated May 25, 1995;

BE IT RESOLVED that the Clause be amended to delete points A & B in Recommendation 1., so that the rental remains at $880.00 plus the administrative fee of $250.00.

Moved by Deputy Mayor Fraser,

That the recommendation of the Executive Policy Committee be amended by deleting the figure $1,350.00 and substituting therefor $880.00.

Carried.

The amendment proposed by the Executive Policy Committee, as amended, was put and declared carried.

The amendment proposed by Councillors Murray and O'Shaughnessy was put and declared carried.

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

Copy of Misc. Plan No. CC 9440 and Schedule "A" are on file in the office of the City Clerk.

## COMMITTEE ON FINANCE AND ADMINISTRATION

## MOTIONS

Moved by Councillor Silva,
Seconded by Councillor Prystanski,

**869 -** WHEREAS the City of Winnipeg has the right to assess and collect annual license fees from Dating and Escort Services, Massage Parlours and other similar businesses;

AND WHEREAS there are approximately 137 such businesses listed in the telephone book;

AND WHEREAS few if any of these businesses pay their annual license fees in any given year;

AND WHEREAS these businesses carry on their business by telephone;

BE IT RESOLVED THAT the Province of Manitoba be requested to amend The City of Winnipeg Act and the Act regulating the Manitoba Telephone System (MTS) to require that in order to receive and to continue to enjoy the privilege of having a telephone number in the Winnipeg Telephone Directory, these businesses must provide proof that their annual license fees are paid up to date, that these fees must be paid for each business listed in the directory, that these fees must be paid in full in arrears, and that the City, in cooperation with MTS, has the right to disconnect the phones of any one of these businesses failing to comply with these regulations.

Automatic Referral to Committee on Finance and Administration in accordance with Rule 16.1 of the Procedure By-law

Moved by Councillor Silva,
Seconded by Councillor Prystanski,

**870 -** WHEREAS the failure to pay annual license fees is an offense under the City of Winnipeg Licensing By-law (OPERATING WITHOUT A LICENSE);

AND WHEREAS The City of Winnipeg Act, Section 147, empowers the City to enforce this By-law in the Court of Queen's Bench;

BE IT RESOLVED THAT the City Solicitor's Office be directed to initiate Court action restraining the use of telephone numbers listed in the Winnipeg Telephone Directory as belonging to Dating and Escort Services and Massage Parlours until such time as the fees due in regards to these businesses are paid in full.

Automatic Referral to Committee on Finance and Administration in accordance with Rule 16.1 of the Procedure By-law

Moved by Councillor Prystanski,
Seconded by Councillor Silva,

**871 -** WHEREAS the property commonly known as 472, 480, 482 and 484 McDermot Avenue has been at the centre of controversy between the residents and businesses in the inner Winnipeg area;

AND WHEREAS the issues surrounding Zoning Application DAZ 252/91 are still outstanding, and is in need of resolution for the inner Winnipeg's neighbourhoods;

AND WHEREAS there is an outstanding property matter before the Committee on Finance and Administration;

AND WHEREAS the need to resolve this issue is of great importance as the houses are in a deteriorating state as they are sitting vacant;

AND WHEREAS several of the issues of the surrounding businesses have changed;

AND WHEREAS the state of these houses has raised problems for homeowners' insurance policies;

**Committee on Finance and Administration - Motions (continued)**

AND WHEREAS the community itself wants a resolution to their position of rebuilding the subject homes;

THEREFORE BE IT RESOLVED that this issue be resolved by the Committee on Finance and Administration in favour of the residents within 60 days and these homes be restored to residential use.

Automatic Referral to Committee on Finance and Administration in accordance with Rule 16.1 of the Procedure By-law

## COMMITTEE ON FINANCE AND ADMINISTRATION

## CONSIDERATION OF BY-LAWS

**872 -** On motion of Councillor Lazarenko, the rule was suspended and the following By-laws were read a first, second and third time, the rule being suspended for the third reading of each by-law, and were passed and ordered to be signed and sealed, namely:

By-law No. 6658/95, a By-law of the City of Winnipeg to amend the Amusement Tax By-law No. 3107/81. File FL-6 (Vol. 12).

By-law No. 6659/95, a By-law of the City of Winnipeg to amend the Amusement Tax By-law No. 3107/81. File FL-6 (Vol. 12)