Agenda - Executive Policy Committee - April 21, 2008

REPORTS

Item No. 5 Contribution in Lieu of Land Dedication Reserve
File EP-2

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That Council adopt the policy related to the Cash-in-Lieu of Land Dedication Reserve Fund, as outlined in the attached Appendix A.

2. That Council rescind its decisions of September 19, 1990, March 24, 1993, September 22, 1993 and December 14, 1994 respecting Cash-in-Lieu of Land Dedication Reserve Fund policy and procedure.

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

RE: Cash-in-Lieu of Land Dedication Reserve Fund

FOR SUBMISSION TO: Executive Policy Committee

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

REPORT DATE: April 18, 2008

RECOMMENDATION:

1. That Council adopt the policy related to the Cash-in-Lieu of Land Dedication Reserve Fund, as outlined in the attached Appendix A.
2. That Council rescind its decisions of September 19, 1990, March 24, 1993, September 22, 1993 and December 14, 1994 respecting Cash-in-Lieu of Land Dedication Reserve Fund policy and procedure.
3. 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 current policy framework that governs the Cash-in-Lieu of Land Dedication Reserve Fund (LDRF) lacks clarity and consistency.
- Over the years, Council has adopted various policies that govern the LDRF and a consolidation of those policies is desirable.
- References to both governing legislation and administrative structures are outdated.
- Presently, there is no requirement that requests for funding from the LDRF be referred to the Fund Manager (i.e. the Director of Planning, Property and Development) in order for a report from the Public Service to be submitted to Community Committee before final consideration of the request.
- Legal Services Division advises that pursuant to Section 259(1) of the City of Winnipeg Charter, Council is precluded from waiving dedication fees for specific types of developers by way of policy.
- Approval of LDR funds through Community Committee, Executive Policy Committee and Council can take several months, creating delays and hardships for community groups looking to improve recreation facilities. Delegation of authority to the Community Committees to approve expenditures of funds which comply with Council policy is recommended in order to speed up the approval process and reduce “red tape”.

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 requirement for a report from the Fund Manager to Community Committee prior to final consideration of any project may contribute to a more lengthy process for community groups applying for LDRF funding. However, removing the requirement for Council approval for those expenditures meeting LDRF policy should result in a shorter approval process for the majority of applications.

Policy Implications

( ) No

(X) Yes

Comment(s):

The recommended consolidation of the two existing Council Policies that govern the Cash-in-Lieu of Land Dedication Reserve Fund will improve the clarity and consistency of LDRF policy.

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):

The requirement for a report from the Fund Manager to Community Committee prior to final consideration of any project could have some impact on PP&D and City Clerks staff involved in the application and approval process for LDRF funding.

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

Council sets policy and establishes criteria for the administration and management of reserve funds.

HISTORY:

On January 10, 1973, Council approved and adopted a policy that required developers to pay Cash-in-Lieu of open space dedication and that said cash *"be deposited in a fund for the purchase of land for recreation, parks and community use within the district."* Authority to require developers to pay Cash-in-Lieu of land dedication flowed from the former City of Winnipeg Act and has carried forward in the City of Winnipeg Charter, which states in part:

Section 259(1): Council may by by-law make the approval of a proposed plan of subdivision subject to any of the following conditions:

(a) That at least 10% of the land be conveyed to the city for purposes of the city other than streets, without consideration or for nominal consideration;

(b) That instead of setting the condition under clause (a), money be paid to the city for the purchase of land for purposes of the city other than streets;

Section 262(1): Land conveyed to the city under a development agreement or pursuant to a condition imposed under this Part may be disposed of by the city if council determines that it is not required for purposes of the city.

Section 262(2): Any money received by the city:

(a) from the disposition of land under subsection (1); or

(b) instead of a conveyance of land under a development agreement or pursuant to a condition imposed under this Part;

must be deposited in a reserve fund and used to purchase land for purposes of the city other than streets, or, with the approval of council, used in whole or in part for a city purpose other than the purchase of land.

On January 17, 1979, Council amended the policy to permit cash payments received from the sale of surplus Parks and Recreation lands, not covered by Clause 627(1) of the City of Winnipeg Act (now 262(1) of the City of Winnipeg Charter), to also be deposited in this fund to the credit of each community.

Council, to address potential inequity in land dedication funds flowing to each Community, on September 19, 1990 adopted the following policy to cause money deposited into the Reserve to be divided among each of the City's five (5) Community Committee areas, based on the following formula:

1. *Effective January 1st, 1991, 75% of every dollar collected for the Land Dedication Reserve Fund is to be allocated by the Community Committee to Parks and Recreation projects in that community.*
2. *The remaining 25 % of every dollar collected is to be redistributed on an equal basis back to all the communities.*

   (Note: (1) and (2) above to be phased in over a three-year period).
3. *Until such time as the City of Winnipeg Act is amended, Council has incorporated a procedure whereby each Community Committee shall recommend its projects to be funded from the respective Community Land Dedication Reserve, to the Executive Policy Committee, and the Executive Policy Committee shall forward the relative recommendation, by by-law, to Council for approval."*

The following criteria were adopted by Council on March 24, 1993, to govern the expenditure of funds from the Land Dedication Reserve:

1. *Funds may be utilized for:*
   a) *the acquisition of land for parks or recreation facilities;*
   b) *the development of properties for parks and recreational purposes including such ancillary equipment and structures as may be necessary to that development;*
   c) *the construction or renovation of recreation facilities on parks and recreation properties.*
2. *The expenditures of Reserve funds will be limited by the following exclusions for use. Specifically, funds will* ***not*** *be utilized for:*
   a) *Salaries related to the regular operation of the City's services;*
   b) *Operating materials and supplies;*
   c) *Regular maintenance of parks and recreation facilities or equipment;*
   d) *Acquisition of equipment not directly related to the development or renovation of parks properties;*
   e) *Property management costs including utilities, taxes, and other related costs.*
3. *The use of funds will result in the creation or continuation of a physical legacy of parks and recreation facilities for the City of Winnipeg.*
4. *The expenditures of funds will be contingent upon the existence of the resources necessary for the ongoing operation, maintenance and support of any parks or recreation facilities which are developed or renovated through the use of the Land Dedication Reserve.*

On September 22, 1993, Council established a policy to waive the 10% Cash-in-Lieu of land dedication fee for all non-profit senior citizen homes.

On December 14, 1994, Council amended the equalization formula by approving the following:

That the Assiniboia Community's portion of all funds from the 10% dedication in lieu of the requirements for land for open space, park and recreational use, for the Wilkes South area, be dedicated towards Marj Edey Park.

In December 1998, the Planning, Property and Development Department assumed administrative and accounting responsibilities related to this Reserve, as a result of the dissolution of the former Parks and Recreation Department.

At its meeting of July 17, 2002 Council adopted the recommendations of an Audit Department report entitled "Audit of the Land Dedication Reserve Fund.

The report's recommendations included, among others, the following:

> *That the Fund Manager request Council approval for a review of the policies governing the LDRF to*
>
> - *Consolidate the two policies into one. The policy should be updated to reflect the changes in the administration of the Fund and relevant changes to the City of Winnipeg Act. As well, consideration should be given to determining whether the current spending restrictions on the use of the LDR funds are too restrictive.*
>
> - *Clarify the process for approval of the funding of projects. The process should include the requirement that all requests for funding from the LDRF be referred to the Director of the Planning, Property and Development Department (the Fund Manager) for an administrative report to be submitted before final consideration of the project. The report should provide the Community Committee with comments from the Fund Manager regarding the conformance of the proposed project expenditures with the policy, or the need for certain criteria to be waived.*

DISCUSSION:

Policies

The Public Service concurs in the audit recommendation calling for the consolidation of existing policies, to include updated references to both the relevant legislation and administrative structures. The attached Appendix A, entitled "Contributions in Lieu of Land Dedication Reserve Fund Policy", if adopted by Council, would replace the current policies as the mechanism by which the LDRF is governed.

The policy adopted by Council on March 24, 1993 contains criteria outlining the types of expenditures both for which funds from the LDRF may be used and may not be used.

Council does, of course, retain the right to waive these criteria should it see fit to do so. Council has over the years exercised its right to waive criteria for projects that do not meet one or more of the criteria. Repeated waiving of criteria may be an indication that certain criterion are no longer reflective of Council's intent and that the criteria should be reviewed and perhaps amended to better align with Council's intent for the use of LDRF funds.

The Public Service reviewed dispositions from all five Community Committees for the period April 2005 to March 2007. Of 337 dispositions recommending approval of expenditures of LDRF funds, only 29 involved the waiving of criteria, which represents just 8.6% of the total dispositions involving expenditure of LDRF monies. This appears to be an indication that the criteria contained within the current policy and included in the attached Appendix A, by and large, continues to meet the intent of Council.

Legal Services Division advises that pursuant to Section 259(1) of the City of Winnipeg Charter, Council is precluded from waiving dedication fees for specific types of developers by way of policy. (If Council wishes to waive dedication fees for specific types of developments, it would be necessary for the Development Agreement Parameters to be amended.)

Development of Marj Edey Park has been completed and it is therefore recommended that the Assiniboia Community's portion of all funds from the 10% dedication in lieu of the requirements for land for open space, park and recreational use, for the Wilkes South area, be dedicated towards future open space, walkways and trails requirements in Wilkes South.

Current Process

Access to funds from the LDRF is initiated in a number of different ways. Most commonly, a proponent (community group or individual) brings forward a proposal to one of the Councillors on Community Committee for consideration. Subject to Councillor endorsement, the proposal is brought forward to Community Committee. In other instances, a proposal may be brought forward by one of the Councillors sitting on Community Committee or, with the support of a Councillor; a proposal may be brought forward by the Public Service.

If the proposed expenditure does not involve the purchase of real property, a Community Committee recommendation for approval, including the waiving of criteria if applicable, can be forwarded directly to Executive Policy Committee (EPC) and then to Council for approval. Should the purchase of real property be involved, an administrative report must first go to Standing Policy Committee on Property and Development (SPC on P&D) to approve the acquisition of property. Should SPC on P&D concur with the recommendation, the report goes to EPC and if approved on to Council. If SPC on P&D does not concur with the recommendation, it can either reject the proposal or instruct the Public Service to renegotiate the purchase and report back. Council approval is required prior to the implementation of any recommendation.

Recommended Process

One of the recommendations of the Audit report is to require that all requests for funding from the LDRF be referred to the Director of the Planning, Property and Development Department (the Fund Manager) for an administrative report to be submitted before final consideration of the project. The report should provide the Community Committee with comments from the Fund Manager regarding the conformance of the proposed project expenditures with the policy, or the need for certain criteria to be waived.

The Public Service concurs with this recommendation and suggests that the required report take the form of a one page Application Evaluation (see Appendix B), similar to that of the Community Incentive Grant Program (CIGP). The current CIGP Application Evaluation is submitted directly to the applicable Community Committee Clerk for inclusion on the next Community Committee agenda. This approach will meet the intent of the audit recommendation with the least administrative encumbrances (red tape) thus minimizing delays for groups looking to improve parks or recreation assets.

In order to support this endeavor, it is further recommended that a brief LDRF application form be developed to further clarify the application process and provide fund administrators with relevant contact and project information (see Appendix C).

A final recommendation is that Council delegates to Community Committee the authority to approve expenditures of funds from the Cash-in-Lieu of Land Dedication Reserve Fund, other than for the purchase of land, provided any such expenditure are in accordance with the criteria outlined in the consolidated Land Dedication Reserve Fund policy. This would allow Community Committee to be the approval body for expenditures that meet Land Dedication Reserve Policy, which is consistent with the current approach to Community Incentive Grant Program funds, whereby only those proposals that do not meet Council policy are required to go to Council for approval. This will significantly streamline the approval process for groups looking to improve City assets.

Legal Services Division advises that Council may delegate this authority to the Community Committees pursuant to Section 65 of The City of Winnipeg Charter, which reads *"Subject to subsection 53(1) (restriction on delegation), council may delegate a power, duty or function of council to a committee of council."*

Financial Impact Statement Date: April 18, 2008

Project Name:

CASH IN LIEU OF LAND DEDICATION RESERVE FUND

COMMENTS:

The recommendations contained in this report are:

1. That Council adopt the policy related to the Cash-in-Lieu of Land Dedication Reserve Fund, as outlined in the attached Appendix A.
2. That Council rescind its decisions of September 19, 1990, March 24, 1993, September 22, 1993 and December 14, 1994 respecting Cash-in-Lieu of Land Dedication Reserve Fund policy and procedure.
3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

There are no financial implications associated with these recommendations.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
City Clerks
Legal Services

External Consultation With:
none

THIS REPORT SUBMITTED BY:

Department: Planning, Property & Development
Division: Planning & Land Use/ Financial Services
Prepared by: Ken McKim/Mike McGinn
PPD File No. n/a

APPENDIX A

CONTRIBUTIONS IN LIEU OF LAND DEDICATION RESERVE FUND POLICY

PART 1 - Cash Payments Received

1. *Effective January 1st, 1991, 75% of every dollar collected for the Land Dedication Reserve is to be allocated by the Community Committee to Parks and Recreation projects in that community.*
2. *The remaining 25 % of every dollar collected is to be redistributed on an equal basis back to all the communities.*
3. *Effective January 1, 2008, the Assiniboia Community's portion of all funds from the 10% dedication in lieu of the requirements for land for open space, park and recreational use, for the Wilkes South area, be dedicated towards future open space, walkways and trails requirements in Wilkes South.*

PART 2 - Expenditure of Funds

1. *Funds may be utilized for:*
   - d) *the acquisition of land for parks or recreation facilities;*
   - e) *the development of properties for parks and recreational purposes including such ancillary equipment and structures as may be necessary to that development;*
   - f) *the construction or renovation of recreation facilities on parks and recreation properties.*
2. *The expenditures of Reserve funds will be limited by the following exclusions for use. Specifically, funds will* ***not*** *be utilized for:*
   - f) *Salaries related to the regular operation of the City's services;*
   - g) *Operating materials and supplies;*
   - h) *Regular maintenance of parks and recreation facilities or equipment;*
   - i) *Acquisition of equipment not directly related to the development or renovation of parks properties;*
   - j) *Property management costs including utilities, taxes, and other related costs.*
3. *The use of funds will result in the creation or continuation of a physical legacy of parks and recreation facilities for the citizens of the City of Winnipeg.*

4. *The expenditures of funds will be contingent upon the existence of the resources necessary for the ongoing operation, maintenance and support of any parks or recreation facilities which are developed or renovated through the use of the Land Dedication Reserve.*

PART 3 - Approval Process

1. *That all requests for funding from the LDRF be referred to the Director of the Planning, Property and Development Department (the Fund Manager) for an evaluation report to be submitted before final consideration of the project. The report should provide the Community Committee with comments from the Fund Manager regarding the conformance of the proposed project expenditures with the policy.*
2. *That Council delegates to Community Committees the authority to approve expenditures of funds from their respective allocations of the Cash-in-Lieu of Land Dedication Reserve, other than for the purchase of land, provided any such expenditures are in accordance with the criteria outlined in PART 2 of this policy.*
3. *That Council retains the authority to approve expenditures of funds from the Cash-in-Lieu of Land Dedication Reserve for the purchase of land and any expenditures that are not in accordance with the criteria outlined in Part 2 of this policy.*

APPENDIX B

APPENDIX 'B'

LAND DEDICATION RESERVE FUND
PROJECT EVALUATION REPORT

Applicant/ Organization: Any Group Inc.
Project Name: Community Park Playground Redevelopment Project
Project Description: Development of a new community playground and related site improvements.

Community Committee Riel

Ward St. Vital

Requested LDR Funding: $50,000.00

Project Contact: Jane Doe, President
450 Main Street,
Winnipeg, MB, R3T 0T6
Ph. 222-2222 e-mail: jdoe@anygroup.ca

City Project Manager/Contact: John Doe, Landscape Architect ph. 986-1234

Project Meets Council Adopted Criteria	Yes	No
1. Funds may be utilized for:		
a) the acquisition of land for parks or recreation facilities;	X	
b) the development of properties for parks and recreational purposes including such ancillary equipment and structures as may be necessary to that development;	X	
c) the construction or renovation of recreation facilities on parks and recreation properties.	X	
2. The expenditures of Reserve funds will be limited by the following exclusions for use. Specifically, funds will not be utilized for:		
a) Salaries related to the regular operation of the City's services;	X	
b) Operating materials and supplies;	X	
c) Regular maintenance of parks and recreation facilities or equipment;	X	
d) Acquisition of equipment not directly related to the development or renovation of parks properties;	X	
e) Property management costs including utilities, taxes, and other related costs.	X	
3. The use of funds will result in the creation or continuation of a physical legacy of parks and recreation facilities for the City of Winnipeg.	X	
4. The expenditures of funds will be contingent upon the existence of the resources necessary for the ongoing operation, maintenance and support of any parks or recreation facilities which are developed or renovated through the use of the Land Dedication Reserve.	X	

Recommended conditions of approval:

- Approval of final plans and specifications for the project by the City of Winnipeg

Criteria Exceptions: describe exceptions to criteria, where applicable

_____

_____

_____

_____

Prepared by: Planning and Land Use Division
Planning, Property and Development Department

Date: June 17, 2008

APPENDIX C

Winnipeg

APPENDIX 'C'
LAND DEDICATION RESERVE FUND
APPLICATION

Select Community Committee Area:

☐ City Centre ☐ Assiniboia ☐ Riel

☐ East Kildonan- Transcona ☐ Lord Selkirk- West Kildonan

Applicant Information:

1. Name of Organization: _____

2. Mailing Address: _____

   Postal Code: _____ Phone: _____

   Fax No.: _____ E-mail: _____

3. Name of designated representatives to be contacted about this application:

   Name: _____ Phone (Res.): _____

   Position: _____ Phone (Bus.): _____

   Name: _____ Phone (Res.): _____

   Position: _____ Phone (Bus.): _____

4. How long has the organization been in operation? _____

Project Information:

5. Name of Project: _____

6. Location of Project: _____

   Preferred Start Date: _____ Anticipated Completion Date: _____

7. Estimated Project Cost: $_____

8. **Land Dedication Reserve Fund Requested Amount $**_____

LIST OTHER SOURCES OF FUNDING	AMOUNT	CONFIRMED	
Source #1 _____	$_____	YES ☐	NO ☐
Source #2 _____	$_____	YES ☐	NO ☐
Source #3 _____	$_____	YES ☐	NO ☐
Source #4 _____	$_____	YES ☐	NO ☐

Total Project Funding $_____

Submit completed application to:	**Planning and Land Use Division** **c/o Debbie Werboweski (ph. 986- 4737)** **Planning, Property and Development Department** **15-30 Fort Street, Winnipeg, MB R3C 4X5**