**Minute No. 52**
**Report - Standing Policy Committee on Property and Development - October 28, 2008**

**Item No. 6** **Encroachment Agreement - Transcona Business Improvement Zone - Northeast Corner of Plessis and Dugald Roads (Transcona Ward) eFile ED(33)**

COUNCIL DECISION:

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

1. A. That an Encroachment Agreement in favour of the Transcona Business Improvement Zone for the maintenance and digitalization of the existing reader board, shown as 'Encroachment Area' on Misc. Plan No. 13423, be approved in accordance with the terms and conditions outlined in Schedule "A" to the report from the Director of Planning, Property and Development dated September 29, 2008, with the following amendment:

   i. Delete the annual rental rate of $135.00 per annum.

   B. That the Encroachment Agreement also provide for such other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

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 - October 28, 2008**

DECISION MAKING HISTORY:

Moved by Councillor Fielding,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 12, 2008, 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 October 28, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, with the following amendment, namely:

- Delete recommendation 1. in its entirety and replace with the following:

1. A. That an Encroachment Agreement in favour of the Transcona Business Improvement Zone for the maintenance and digitalization of the existing reader board, shown as 'Encroachment Area' on Misc. Plan No. 13423, be approved in accordance with the terms and conditions outlined in Schedule "A" to the report from the Director of Planning, Property and Development dated September 29, 2008, with the following amendment:

   i. Delete the annual rental rate of $135.00 per annum.

   B. That the Encroachment Agreement also provide for such other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests,

and submitted the matter to the Executive Policy Committee and Council.

**RE: Proposed Encroachment Agreement in Favour of the Transcona Business Improvement Zone for the Maintenance and Digitalization of the Existing Reader Board Located at the Northeast Corner of Plessis and Dugald Roads**
**East Kildonan Transcona Committee**
**Transcona Ward**

**FOR SUBMISSION TO:** Standing Policy Committee on Property and Development

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

**REPORT DATE:** September 29, 2008

**RECOMMENDATION:**

1. That Council approve an Encroachment Agreement in favour of Transcona Business Improvement Zone for the maintenance and digitalization of the existing reader board, shown as 'Encroachment Area' on Misc. Plan No. 13423 attached, in accordance with the terms and conditions outlined on the attached Schedule 'A'; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

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 Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Transcona Business Improvement Zone for the maintenance and digitalization of the existing reader board located at the northeast corner of Plessis and Dugald Roads.

- This report seeks approval of the Encroachment Agreement as negotiated.

**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):

## Report

### REASON FOR THE REPORT:

Council has the authority to permit or license the use of a public Right-of-Way.

The Planning, Property and Development Department has negotiated the terms and conditions of an Encroachment Agreement in favour of Transcona Business Improvement Zone to maintain and digitalize the existing reader board located at the northeast corner of Plessis and Dugald Roads.

This report seeks Council's approval of the proposed Encroachment Agreement.

### HISTORY:

Transcona Business Improvement Zone submitted an encroachment application to the City's Zoning and Permits Branch for the maintenance and digitalization of the existing reader board located at the northeast corner of Plessis and Dugald Roads.

The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the maintenance and digitalization of an existing reader board.

### DISCUSSION:

Pursuant to Section 4(1)(d) of the City's Encroachment By-law No. 692/74, the Planning, Property and Development Department has concluded its negotiations of an Encroachment Agreement with Transcona Business Improvement Zone. Both parties concur that the proposed terms and conditions, which are consistent with other such Encroachment Agreements for similar uses, are fair and reasonable.

Briefly, the terms and conditions of the Encroachment Agreement agreed to by Transcona Business Improvement Zone are as follows:

| | |
|---|---|
| Use: | Maintenance and digitalization of the existing reader board |
| Area: | Shown and identified as 'Encroachment Area' on Misc. Plan No. 13423, attached |
| Term: | Annual Continuing, commencing November 1, 2008 |
| Rental: | $135.00 per annum, plus GST, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-law No. 692/74 and amendments thereto, plus a one-time administrative fee of $250.00 plus GST. In the event that the By-law is amended changing the fees charged for encroachments the rental paid under |

this agreement shall be adjusted accordingly.

Insurance: Insurance requirements are waived for general operation of the reader board as The City of Winnipeg fully insures operations of Business Improvement Zones. However, should major repairs be required at any time, Transcona Biz will ensure that any contractor or sub-contractor hired to perform the work shall provide and maintain suitable insurance coverage; this coverage will depend on the extent and scope of the repairs

Cancellation: Ninety (90) days written notice

Conditions: That the approval of this application by the Designated Officer-Encroachments is only valid for a period of six (6) months from the date of said approval unless the applicant enters into an Encroachment Agreement with the City of Winnipeg within the stated time frame, or alternatively obtains an extension of time from the Designated Officer-Encroachments;

That if there are any existing Hydro/Gas or MTS facilities which require removal and/or relocation of this application, the costs will be at the expense of the developer and/or customer;

That the Electronic Message Sign shall not display any graphics which imitate or resemble any traffic control device;

That the Electronic Message Sign shall be equipped with automatic dimming features based on ambient light sensing;

That all applicable permits be obtained prior to any further development.

## Financial Impact Statement

**Date:** September 24, 2008

**Project Name:**

**First Year of Program** **2008**

Proposed Encroachment Agreement in Favour of Transcona Business Improvement Zone

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| **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 | $ - | $ - | $ - | $ - | $ - |
| Less: Incremental Revenue/Recovery | 273 | 135 | 135 | 135 | 135 |
| Net Cost/(Benefit) | $ (273) | $ (135) | $ (135) | $ (135) | $ (135) |
| Less: Existing Budget Amounts | (273) | (135) | (135) | (135) | (135) |
| Net Budget Adjustment Required | $ - | $ - | $ - | $ - | $ - |

**Additional Comments:** The Encroachment Agreement, as negotiated, would result in $135 revenue per annum + a one-time administrative fee of $250 in 2008. The 2008 rental amount has been prorated to reflect the Nov. 1, 2008 commencement date.

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

**IN PREPARING THIS REPORT THERE WAS:**

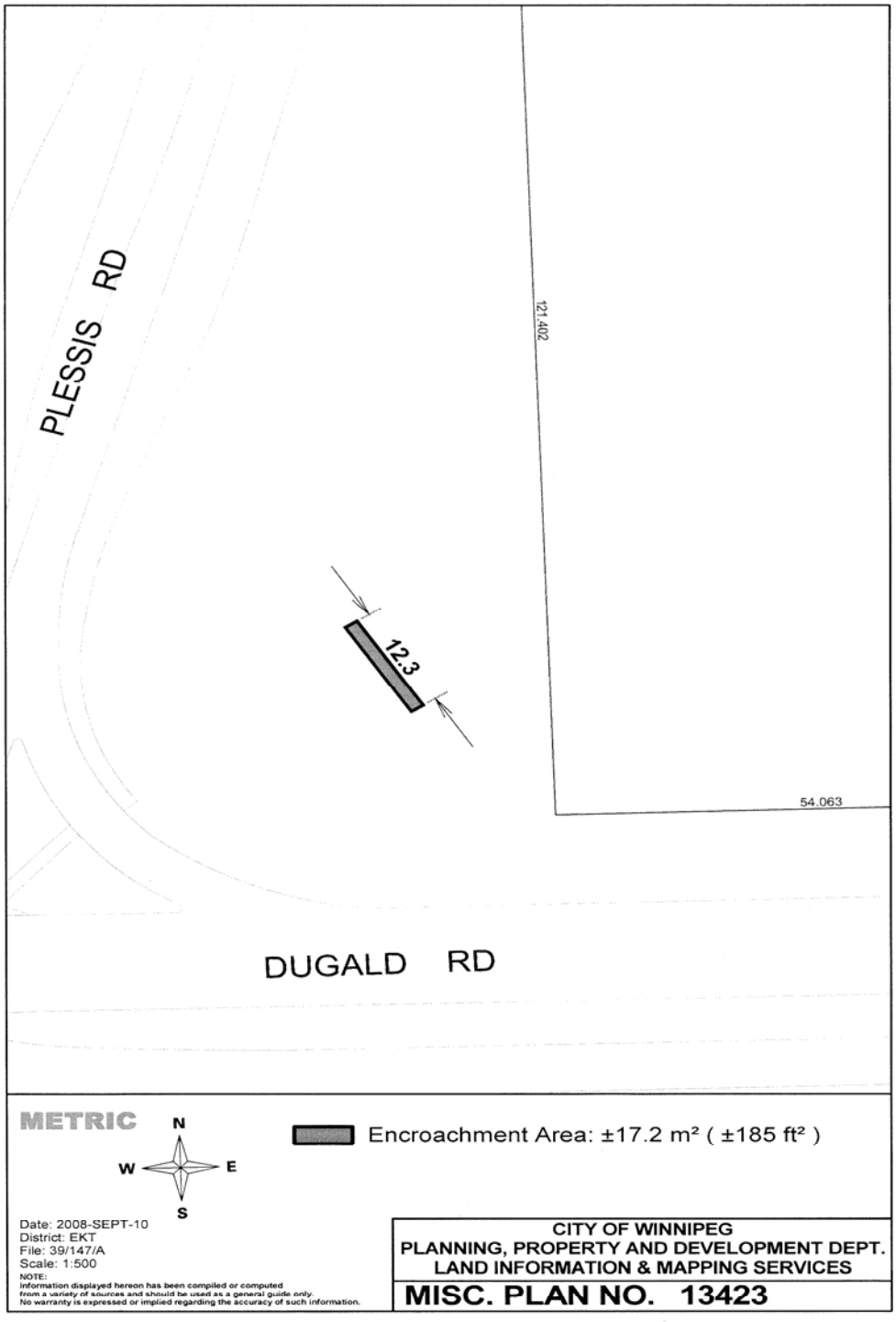
**Internal Consultation With and Concurrence By:**
Corporate Finance Department
Internal Services – Legal Services Department
Public Works

**External Consultation With:**
N/A

**THIS REPORT SUBMITTED BY:**

Department Planning, Property and Development
Division Real Estate Division
Prepared by: Maxine Clayton
PPD File No. 39/147/A

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PLESSIS RD
121.402
12.3
54.063
DUGALD RD
METRIC
N
W
E
S
Encroachment Area: ±17.2 m² ( ±185 ft² )
Date: 2008-SEPT-10
District: EKT
File: 39/147/A
Scale: 1:500
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. 13423

**SCHEDULE A**

**PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO PERMIT THE DEVELOPMENT AND TO MAINTAIN AND DIGITALIZE THE EXISTING READER BOARD ENCROACHING ON THE RIGHT-OF-WAY – TRANSCONA BUSINESS IMPROVEMENT ZONE**

| | |
|---|---|
| Use: | Maintenance and Digitalization of the Existing Reader Board located at the northeast corner of Plessis and Dugald Roads |
| Area: | Shown and identified as 'Encroachment Area' on Misc. Plan No.13423 attached |
| Term: | Annual Continuing, commencing November 1st, 2008 |
| Rental: | $135.00 per annum, plus GST, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-Law No. 692/74 and amendments thereto, in event that the By-law is amended changing the fees charged for encroachments the rental paid under this agreement shall be adjusted accordingly, plus an initial administrative fee of $250.00 plus GST |
| Insurance: | Insurance requirements are waived for general operation of the reader board as The City of Winnipeg fully insures operations of Business Improvement Zones. However, should major repairs be required at any time, Transcona Biz will ensure than any contractor or sub-contractor hired to perform the work shall provide and maintain suitable insurance coverage; this coverage will depend on the extent and scope of the repairs |
| Cancellation: | Ninety (90) days written notice |
| Conditions: | That the approval of this application by the Designated Officer-Encroachments is only valid for a period of six (6) months from the date of said approval unless the applicant enters into an Encroachment Agreement with the City of Winnipeg within the stated time frame, or alternatively obtain an extension of time from the Designated Officer-Encroachments;<br><br>That if there are any existing Hydro/Gas or MTS facilities which require removal and/or relocation as a result of this application, the costs will be at the expense of the developer and/or customer;<br><br>That the Electronic Message Sign shall not display any graphics which imitate or resemble any traffic control device; |

That the Electronic Message Sign shall be equipped with automatic dimming features based on ambient light sensing;

That all applicable permits be obtained prior to any further development.

**TRANSCONA BUSINESS IMPROVEMENT ZONE HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS**

BLT
BRENT L. THOMAS
PRESIDENT

Sept 12/08
DATE

Please provide the following tenant contact information:

Contact Person:

Daytime: Diane Trudeau Phone No.: 222-8566

After Hours: (same) Phone No.: 669-5018

E-mail Address: transbiz@shawbiz.ca
dianetrudering@hotmail.com