Presentation by the Sierra Club of Canada (Winnipeg Branch)
By Paul Hesse

Hello. I'm speaking today as Conservation Chair of the Sierra Club of Canada (Winnipeg) The Sierra Club Canada is a member-based organization that empowers people to protect, restore and enjoy a healthy and safe planet. Locally, the Sierra Club was instrumental in forming the Winnipeg Rapid Transit Coalition and I've continued to be involved with them because of the coalition. I'm also a lawyer and have an honours degree in economics.

I've been asked to speak in part because I've worked with Private Public Partnershipss in a law firm in Toronto, I have some personal knowledge of the contracts involved in private public partnerships. I'm by no means an expert in the field, but my personal experience does cause me to have a lot of questions and concerns about this proposal.

I had the benefit of listening to Brian Gray's presentation to the Council of Women on Monday night and many of my questions remain. And I was disappointed that Mr. Gray and his fellow staff would not take questions from the audience or panelists, even in written form. This is a major undertaking and the city should be taking the time to answer all of the public's questions. This is after all our city, our water, our right.

Cost-Overruns
I understand that the city is doing this in large part because of cost-overruns and problems with contracts in the past. To quote Mr. Gray, in spite of the city's best efforts, the contracts have not been able to lead to projects delivered on time and on budget.

My first observation is that, this problem may not be resolved with the current proposal. You are proposing replacing simple contracts with more complex and long-lasting contractual arrangements. New sets of problems could will occur. For instance, the strategic partner may become insolvent or otherwise incapable of living up to its contractual obligations and the city will still be on the hook. In the past months, with the credit crisis, we have seen seemingly strong P3 partners get into serious financial difficulty, to the point where partnerships have disolved and the government has been forced to clean up the mess. There are examples in the US, as well as in BC where the financing for a bridge project dried up almost overnight.

Accountability & Transparency
Supposedly this proposal will result in more accountability and transparency. With respect, that will not be the case at all. I have seen similar contracts, and the language of those contracts combined with FIPPA will mean less accountability and transparency. Access to information will be restricted due to privacy and contractual provisions. Also, the Public Utility Board role, especially as limited as it is proposed to be, will not change that fact. It will increase the cost of the project, with its hearings and legal costs, without addressing the concerns of Winnipeggers that these contracts be transparent and public.

Inconsistencies
The Free Press has commented on inconsistencies in the city's communication on this project. And I personally have noticed inconsistencies between Mr. Gray's presentation on Monday and in the 100 page Report to Council. For instance, questions have been raised about whether a private partner would be able to borrow money less expensively from the city. I personally find that unlikely, especially in the current credit environment. Mr. Gray said on Monday that no private borrowing

would be done, if in the final equation, it wasn't cheaper than the city's ability to borrow. But the Report to Council says at page 38 that the "Private Sector partner shall be required to access and provide debt financing in support of specific projects in the capital program..." I find those two statements to be contradictions and very important ones.

Having seen the Design Build Finance Operate Model used on some P3s, I have serious doubts that the private sector can finance the project less expensively than the City of Winnipeg. Generally speaking, major construction or engineering firms do not have a sufficient credit rating. On one hand, the private sector mechanisms commonly used by Canadian P3s in the past have been completely thrown out the window by the credit crunch and on the other hand, the public cost of borrowing has decreased. Why are we requiring private sector financing, rather than simply considering it?

These and other inconsistencies are troubling, especially when the City's representatives refuse to take questions from ordinary citizens.

New Markets

A main purpose of this proposal would seem to be the marketing of city water and sewer services to bedroom communities outside of Winnipeg, such as St. Andrew's etc.

This would generate profits for the utility and strategic partner on one hand, while leading to tax flight and sprawl through increased industrial, commercial and residential development in bedroom communities. So, the private sector benefits from expansion, while the city and not the private-sector partner will suffer the long-term costs.

How will the city reconcile this conflict? These long-term costs will not be borne by the entity making the profits from the new markets. An economist would say this is setting up a market failure. It is virtually guaranteed that when the full social cost is not paid by the person doing the expansion, there will be over-expansion of water and sewer facilities outside of Winnipeg compared to Winnipeg's best interests. How will this problem be addressed? And what estimates have been done to calculate the long-term costs to the city of increased sprawl in the capital region?

Conclusion

Council is being asked to approve this on July 22nd, even before the Request for Pre-Qualification closes on July 24th , before a short-list is drawn up and even before a clear structure is determined and negotiations with the short-listed candidates occurs. This is very troubling ~~troubling~~.

Rushing into a deal that will last for years or decades is a bad idea. I know how complex these contracts are and how long lasting they can be. What I have seen so far from the City gives me little confidence that this project is in our best interests. Neither EPC nor the City should rush this through. Too many unanswered questions remain and too many inconsistencies have already been noted. Slow down and think this through. The consequences will last for decades.