Agenda - Council - November 25, 2009

Report - Standing Policy Committee on Property and Development – November 3, 2009

Item No. 9 Expropriation of Land Interests – Waverley Street Twinning Project - Between Bison Drive and John Angus Drive (St. Norbert Ward) eFile GL-4

STANDING COMMITTEE RECOMMENDATION:

On November 18, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Public Service be instructed to continue negotiations with the current owners.

2. Concurrently, in order to meet the construction schedule for 2010, the Acting City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interests in land identified on Schedule "A" (contained in the Public Service report dated October 8, 2009) required by the City for the Waverley Street Twinning Project, between Bison Drive and John Angus Drive.

3. Subject to the approval of Recommendation 2, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of The Expropriation Act.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

Report - Standing Policy Committee on Property and Development - November 3, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2009, 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 November 3, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

ISSUE: **To Obtain Council Approval for the Expropriation of Land Interests – Waverley Street Twinning Project - Between Bison Drive and John Angus Drive**

Critical Path: **Standing Policy Committee on Property and Development**
Executive Policy Committee
Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen	D. Joshi	M Ruta	G Laubenstein

RECOMMENDATIONS

1. That the public service be instructed to continue negotiations with the current owners.

2. Concurrently, in order to meet the construction schedule for 2010, the Acting City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interests in land identified on the attached Schedule "A" required by the City for the Waverley Street Twinning Project, between Bison Drive and John Angus Drive.

3. Subject to the approval of Recommendation 2, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no environmental or human resource implications associated with this report.

Under clause 9(8)(a) of the Expropriation Act, the Director of Planning, Property and Development will request the Province of Manitoba to waive the requirement for an expropriation inquiry.

The Public Works Department has advised that there is adequate funding for the expropriation available under Land Acquisition – Transportation Right of Way 2009 Capital Budget, Account #003-181000-180603-1832000509.

HISTORY

On October 30, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation, that prior to commencing with the development of Phase II of the Waverley West Development Plan, Waverley Street from Bison Drive to John Angus Drive should be twinned and the Developer shall be responsible for front ending this cost.

At its meeting held on July 16, 2008, Council considered and approved the Public Works Department's report authorizing the acquisition of the lands needed for the Waverley Street Twinning Project between Bison Drive and John Angus Drive. Subsequently on November 14, 2008 the Public Works Department provided the Planning, Property and Development Department (the Department) with sketches identifying the required land interests and requested that negotiations to acquire the said land interests commence immediately.

The Developer has advised that Phase II of the Waverley West Development Plan is scheduled to commence in the spring of 2010, and the Developer would like to commence with the twinning of Waverley Street at the earliest possible date.

The Department has commenced negotiations with all nine of the affected land owners. One property is owned by Manitoba Hydro for the development of a sub-station. The City does not have the authority to expropriate these lands and negotiations are ongoing with Manitoba Hydro.

To date, the Department has acquired three of the required properties and continues to make progress in its negotiations with three other property owners.

The Department is concerned, however, that it may not be able to negotiate all the needed land interests in time to ensure the twinning of Waverley Street prior to the scheduled start of Phase II of the Waverley West Development Plan in the spring of 2010. The Department and the Public Works Department concur that negotiations continue throughout any expropriation proceedings.

Under the Expropriation Act, once Council makes a declaration of expropriation, the City must serve notices of intended expropriation on all property owners (including tenants). Each owner has 30 days to object to the expropriation. If any owner objects, the City must notify the Province of Manitoba that due to the objection an inquiry is necessary. The time required to appoint an inquiry officer, hold the inquiry and await the inquiry officer's report may prevent the City from confirming the expropriation and obtaining possession of the properties in a timely way.

Under clause 9(8)(a) of the Expropriation Act, the Lieutenant Governor in Council, deeming it necessary or expedient in the public interest to do so in the circumstances, may direct the

confirming authority to make its order confirming a declaration without an inquiry being conducted.

Given Public Works construction timelines, the Department recommends the City request the Province waive the need for an inquiry for this project.

Particulars of the land interests to be expropriated are shown on attached Schedule “A”.
For the Committee’s information, even after the expropriation commences, the Department will continue to negotiate with the affected property owners in order to obtain settlements.

The Public Works Department has advised that adequate funding for the proposed expropriation will be available under the Land Acquisition – Transportation Right of Way 2009 Capital Budget, Account #003-181000-180603-1832000509.

FINANCIAL IMPACT

Financial Impact Statement **Date:** October 8, 2009

Project Name:

Expropriation of Land Interests – Waverley Street Twinning Project - Between Bison Drive and John Angus Drive

COMMENTS:

The recommendations contained in this report include 1) that the Acting City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interests in land identified on the attached Schedule "A" required by the City for the Waverley Street Twinning Project, between Bison Drive and John Angus Drive and that 2) subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

The financial implications associated with approval of these recommendations will not be known until such time as settlements with affected property owners are reached. At present, it is anticipated that sufficient Council-approved funding is available for these acquisitions in a Public Works capital account.

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

CONSULTATION

In preparing this Report there was consultation with:
Public Works Department

SUBMITTED BY

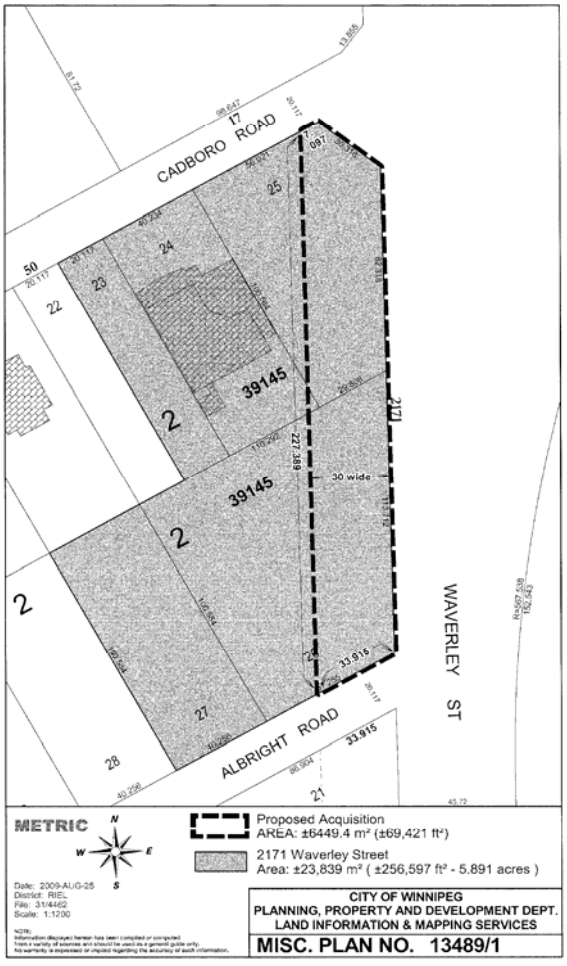
Department	Planning, Property and Development
Division	Real Estate
Prepared by	Michelle Granger, RPA
Date:	October 8, 2009
File No.	4462/31

o:\reports directive\real estate\acquisition\(mg) Expropriation of Land Interest – Widening of Waverley Street

SCHEDULE "A"

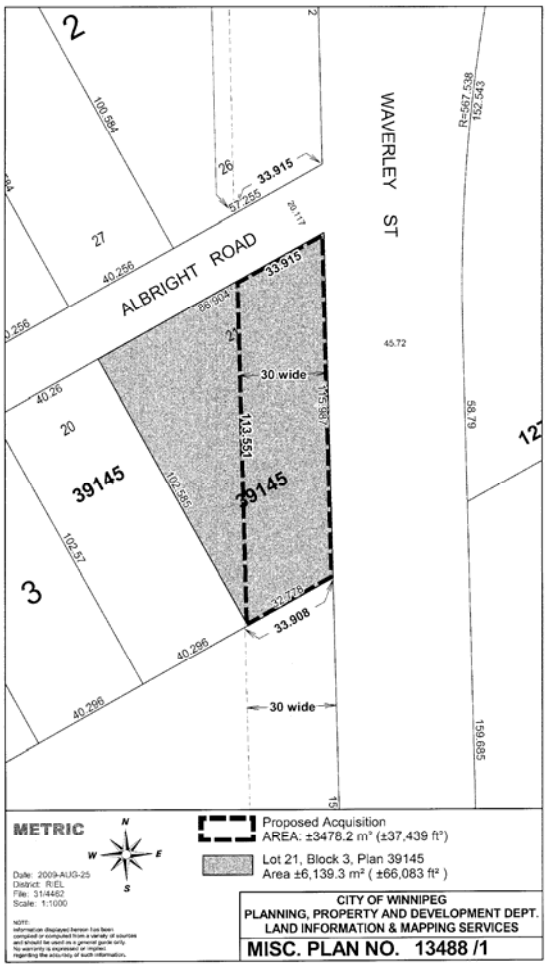
Property #1

Location:	2171 Waverley Street, South West Corner of Cadboro Road and Waverley Street
Legal Description:	Lots 23, 24, 25, 26 & 27, Block 2, Plan 39145
Certificate of Title:	1773502, 1773509, 1773673
Registered Owner:	Waverley Fellowship Baptist Church
Realty Roll No.:	03091110400
Assessment (2010):	$1,553,400
Zoning:	A - Agricultural
Interest Required:	Fee Simple
Size of Parent Parcel:	±23,839 m² (± 5.891 acres)
Size of Taking:	± 6449.4m² (± 69,421 ft.²)
Description:	Improved Property. Church and parking



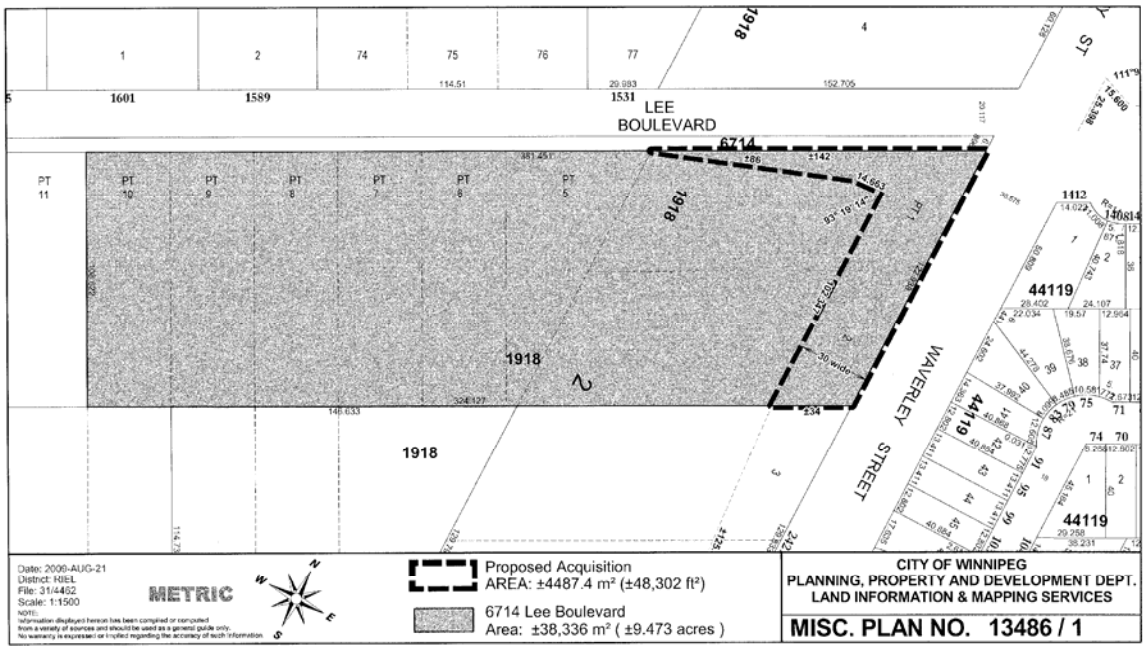
Property #2

Location:	Waverley Street, South West Corner of Albright Road and Waverley Street
Legal Description:	Lots 21, Block 3, Plan 39145
Certificate of Title:	1773713
Registered Owner:	George & Patricia Zachanowich
Realty Roll No.:	03091111700
Assessment (2010):	$1,850
Zoning:	A - Agricultural
Interest Required:	Fee Simple
Size of Parent Parcel:	±6,139.3 m² (±)
Size of Taking:	± 3478.8m² (± 37,446 ft.²)
Description:	Unimproved land. Under crop.



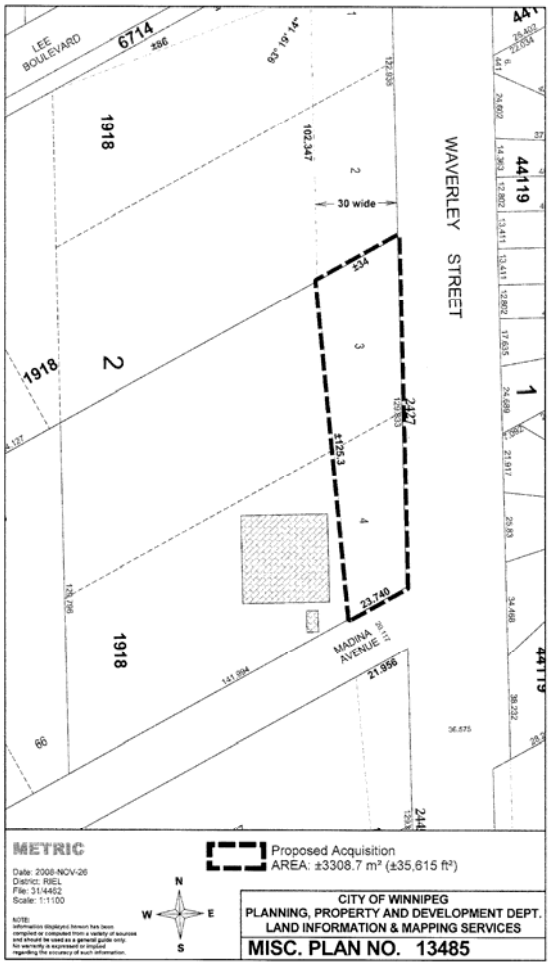
Property #3

Location:	Waverley Street, South West Corner of Lee Boulevard and Waverley Street
Legal Description:	Lots 1 & 2 and lots 5 to 10, Block 2, Plan 1918
Certificate of Title:	2056500
Registered Owner:	Canadian Conference of Mennonite Brethren Church of North America
Realty Roll No.:	03062454000
Assessment (2010):	$143,000
Zoning:	A - Agricultural
Interest Required:	Fee Simple
Size of Parent Parcel:	±38,336 m² (±9.473 acres)
Size of Taking:	± 4487.4m², (± 48,302 ft)
Description:	Unimproved land.



Property #4

Location:	2427 Waverley Street, Corner of Madina Avenue and Waverley Street
Legal Description:	Lots 3 & 4, Block 2, Plan 1918
Certificate of Title:	1217544
Registered Owner:	6102 N.W.T. LIMITED
Realty Roll No.:	03062457000
Assessment (2010):	$585,000
Zoning:	A - Agricultural
Interest Required:	Fee Simple
Size of Parent Parcel:	±16,298 m² (± 4.027 acres)
Size of Taking:	± 3308.7 m² (± 35,615 ft.²)
Description:	Improved site. Building and equipment/supplies stored on site.



Property #5

Location:	2445 Waverley Street, Corner of Madina Avenue and Waverley Street
Legal Description:	Lots 64 to 73, Block 2, Plan 1918
Certificate of Title:	1341505
Registered Owner:	Manitoba Islamic Association Inc.
Realty Roll No.:	03062519000
Assessment (2010):	$3,570,000
Zoning:	A - Agricultural
Interest Required:	Fee Simple
Size of Parent Parcel:	±37,778 m² (± 9.335 acres)
Size of Taking:	± 1936.2 m² (± 20,841 ft.²)
Description:	Improved site. Temple and parking

