Agenda - Council – May 19, 2010

Report - Standing Policy Committee on Property and Development – May 4, 2010

Item No. 11 Lease Agreement - Portion of the Legion Memorial Sports Field - St. James Rods Football Club Inc. (St. James-Brooklands Ward) eFile FI-2.2

STANDING COMMITTEE RECOMMENDATION:

On May 12, 2010, 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 ten (10) year Lease Agreement commencing July 1, 2007 be amended in favour of the St. James Rods Football Club Inc., by adding additional land for the development of a practice football field as shown on Misc. Plan No. 11010/4 and by permitting the addition of a new electronic football score board, approximately 12' high x 18' long x 6" deep.

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

Pursuant to Section 205(2) of The City of Winnipeg Charter, disposal of land owned or acquired by the City for park or cemetery purposes requires approval by two-thirds of all Members of Council.

Report - Standing Policy Committee on Property and Development – May 4, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 12, 2010, 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 May 4, 2010, 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: **Proposed Lease Agreement in Favour of the St. James Rods Football Club Inc. for the Use of a Portion of the Legion Memorial Sports Field.**
Assiniboia Community
St. James Ward

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

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen	D. Joshi	M. Ruta	P. Sheegl Deputy CAO

RECOMMENDATIONS

1. That the ten (10) year Lease Agreement commencing July 1, 2007 be amended in favour of the St. James Rods Football Club Inc., by adding additional land for the development of a practice football field as shown on Misc. Plan No. 11010/4 and by permitting the addition of a new electronic football score board, approximately 12' high x 18' long x 6" deep.

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

IMPLICATIONS OF THE RECOMMENDATIONS

- In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City properties for which the Director of Planning, Property and Development Department has no authority. In this regard, the Planning, Property and Development Department, Real Estate Division, has negotiated proposed amended terms and conditions of a lease agreement in favour of the St. James Rods Football Club Inc. for the use of City property shown as

"Additional Leased Lands" on Misc. Plan No. 11010/4. This report seeks the Committee's approval of the lease amendment as negotiated.

- The Department has determined that there is no general policy, regulatory, environmental, human resource or significant financial implications to the lease of this land as outlined in the attached Schedule "A".

HISTORY

The Legion Memorial Sports Park is situated north of Silver Avenue and west of Inglewood Street. The site is improved with a Fieldhouse, graveled parking lot, running track and three baseball diamonds.

Since 1991 the St. James Rods Football Club Inc. (hereinafter referred to as SJRFC) have been using a portion of the Legion Memorial Sports Park for amateur football use under annual facility use agreements. On April 25, 2005 Council approved adding this non-profit amateur sport club's occupancy under By-law 89/2005, which exempts from property tax, non-profit occupiers that use or operate a property or a portion of it, for community purposes.

The Standing Policy Committee on Property and Development concurred in the administrative recommendation on September 4, 2007 that a ten (10) year Lease Agreement between the City and the St. James Rods Football Club Inc. be approved.

The Site is under the jurisdiction of the Public Works Department and the use of the facility is booked through the Community Services Department. Facility users currently access washrooms located along the west wall of the Fieldhouse. These washrooms are maintained and operated by the Public Works Department.

The SJRFC has requested the permission to remove two existing baseball diamonds and create a new practice football field. On September 9, 2009 the Parks and Open Spaces Division of Public Works supported the plan to proceed with the new development plans for this facility.

The total funding for this project has been raised by the SJRFC through a number of sources. The Manitoba Community Services Council, on November 19, 2008 approved a $9,000.00 grant and raised an additional $6,000.00 for this project. On December 2, 2009 the Assiniboia Community Committee approved a Community Incentive Grant in the amount of $65,000.00 funded from the St. James-Brooklands Ward, which was not to exceed a maximum of 50% of the total project cost. Western Economic Diversification Canada has provided $63,386 of federal funding for assistance and to support the redevelopment of the game and practice field. SJRFC has also received a grant from the Provincial Community Places Program of $10,000.00. To date the SJRFC has raised a total of $153,386.00 and wishes to proceed with the new development at the Legion Memorial Sports Field.

The SJRFC and the Public Service have agreed to amend the existing Lease Agreement dated, July 1, 2007, to a ten (10) year term with one – five (5) year renewal option for the additional lands as referenced herein. The Public Works Department has agreed to continue providing annual parking lot maintenance and grass cutting for the Leased Lands" and the "Additional Leased Lands" as per the normal cutting cycle.

The SJRFC has requested permission to add a new lime green electronic football score board, approximately 12’ high x 18’ long x 6” deep. On February 22, 2010, Nav Canada sent a letter outlining that they had evaluated the proposal to erect an electronic football score board and have no concerns.

FINANCIAL IMPACT

Financial Impact Statement **Date:** April 1, 2010

Project Name:

Proposed Lease Agreement in Favour of the St. James Rods Football Club Inc. for the Use of a Portion of the Legion Memorial Sports Field

COMMENTS:

The recommendations of this report include the following amendments to a current 10 Year Lease Agreement which commenced July 1, 2007:

1) adding additional land for the development of a practice football field as shown on Misc. Plan No. 11010/4.

2) adding a new electronic football score board, approximately 12' high x 18' long x 6" deep

There are no direct financial implications associated with these recommendations.

Karen Ayotte
Acting Manager of Finance & Administration

CONSULTATION

In preparing this Report there was consultation with:

Public Works, Parks & Open Spaces

Water & Waste, Engineering Division

Internal Services, Legal Services Division

Corporate Finance, Risk Management Division

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate
Prepared by:	Peter Johannsson
Date:	April 1, 2010
File No.	8189

O:\Reports Directive\Real Estate\Leasing\(pj) St. James Rods Football Club Inc..doc

Schedule "A"

On June 15, 2007 the Planning Property and Development Department had prepared the following Terms and Conditions for a Lease Agreement with the St. James Rods Football Club Inc.

Landlord:	City of Winnipeg
Tenant:	St. James Rods Football Club Inc.
Leased Lands:	A portion of Legion Memorial Sports Park and Fieldhouse,
Use:	Amateur Football
Term:	Ten (10) years commencing July 1, 2007
Renewal:	One-Five (5) year option
Area:	See attached Misc. Plan 11010/2
Rent:	Annual rent in the sum of $1.00 plus GST.
Realty Taxes:	To be added to By-law 89/2005
Admin Fee:	$500.00 per annum
Cancellation:	Upon one hundred eighty (180) days written notice by either party.
Insurance:	Tenants to provide Comprehensive General Liability in the amount of $5.0 Million dollars all inclusive including all necessary endorsements, All Risk Property Insurance for all buildings, contents, stock and equipment, as well as, boiler and machinery insurance policy.
Tenant Responsibilities:	To pay all operating costs, to maintain the Leased Lands in a good and operating condition in accordance with Schedules "A" and "B" (to be finalized), no assignment without written consent, no sub-letting without approval of the Landlord, no placement of signage or advertising without approval of Landlord and no leasehold improvements without approval of the Landlord.
Special Conditions:	To ensure that any building expansion provides for washrooms access to the general public during the normal operating hours of the park. To be allowed to install a score board and field lighting in the future subject to the approval of the Landlord.
City Responsibilities:	To provide grass cutting in accordance with the Public Works and Department grass cutting cycle and to maintain the graveled parking lot. To continue operating the public washrooms at the building including maintenance, supplies and opening and closing.

The St. James Rods Football Club Inc. agreed and signed the Terms and Conditions on June 22, 2007. The Lease Agreement with the City of Winnipeg was signed on November 28, 2007, for the use of the area identified as "Proposed Lease: Rods Football Club Inc." on Misc. Plan 11010/3.

Initials

Schedule A
Proposed Terms and Conditions for amending the Lease Agreement between the City and the St. James Rods Football Club Inc.

Landlord:	City of Winnipeg;
Tenant:	St. James Rods Football Club Inc.;
Leased Lands:	A portion of the Legion Memorial Sports Park and Fieldhouse, shown as "Leased Land" and "Additional Leased Area" on the attached Misc. Plan. No. 11010/4;
Use:	Amateur Football, and not to use or permit the Leased Area or any part thereof to be used for any other purpose without the written permission of the Director of Planning, Property and Development (hereinafter referred to as "the Director");
Term:	Ten (10) years commencing July 1, 2007;
Rent:	Annual rent in the sum of $1.00 plus GST;
Realty Taxes:	The St. James Rods Football Club has been added to By-law 89-2005, a By-law of the City of Winnipeg to exempt from property tax occupiers of City-owned facilities;
Admin Fee:	An annual administration fee of $500.00 plus GST;
Cancellation:	This agreement is subject to cancellation by either party, for any reason by giving 180 days written notice by either party;
Insurance:	Commercial General Liability insurance in the amount of at least five million dollars ($5,000,000) inclusive, with The City of Winnipeg added as an additional insured, such liability policy to also contain a cross liability clause, Tenants legal liability and products and completed operations cover; An All Risk property insurance policy, for the full replacement cost insuring all property including the outdoor equipment and/or play structures; All property policies written on behalf of the Tenant shall contain a waiver of any subrogation right which the Tenant's insurers may have against the City and against those for whom the City is, in law, responsible, whether

Initials

any such damage is caused by the act, omission or fault of the City by those for whom the City, is in law, responsible;

All polices shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba;

Loss, if any, shall be payable to The City of Winnipeg, as their interests may appear;

Deductibles shall be borne by the Tenant;

The Tenant shall not cancel, or cause any such policy or policies to lapse without a minimum thirty (30) days prior written notice to the City of Winnipeg;

The Tenant shall provide written notice to the City of Winnipeg of any material changes to their policies within thirty (30) days of the change taking effect;

The Tenant shall file with the City an annual Certificate of Insurance in a form satisfactory to the City Solicitor;

The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of the Lease Agreement and for any subsequent renewals thereof, provided that the City shall give the Tenant reasonable notice and shall request reasonable change.

Tenant Responsibilities:

The Tenant agrees to develop a new football field within the "Leased Area" and as outlined on the attached Misc. Plan No. 11010/4 by December 31, 2010.

The Tenant agrees to pay for all of the development costs related to the removal and development of the new football field.

Tenant agrees not to erect or permit the erection of any buildings or additional structures within the Leased Area, without the prior written approval from the Director.

Tenant will be responsible for its own caretaking, maintenance and snow clearing of the Leased Area.

Lessee will maintain the Leased Area including the feildhouse, in a neat and tidy condition satisfactory to the Director;

Initials

Schedule "A"

To assume all costs and expenses incurred by the City in repairing actual damage to the Leased Area and/or utilities therein, that is caused by or arises out of the Lessee's use and occupancy of the Leased Area;

The Tenant will pay for all costs associated with developing, installing and maintaining, an electronic football score board approximately 12' high x 18' long x 6" deep, costs include hydro, on going repairs, and repairs required as a result of vandalism;

No assignment without written consent, no sub-letting, no placement of signage or advertising and leasehold improvements without prior written approval from the Director;

Tenant to comply with all applicable by-laws, statutes, regulations, etc. pertaining to the use and occupancy of the Leased Area and shall obtain all necessary permits;

The City shall have the right of access to the Leased Area at any time (24 hours a day, seven days a week) by its employees or other persons acting with authorization, with or without equipment to maintain, operate, or repair if necessary;

Tenant shall not file any caveat or other encumbrance against the demised premises;

Tenant shall not release into the environment, or deposit, discharge, place or dispose of, at on, or near the premises and/or adjoining City land, any dangerous goods as that term is defined in The Dangerous Goods Handling and Transportation Act, R.S.M. 1987, c.D12, as amended, replaced or substituted from time to time;

In the event of the Lessee not complying with the terms and conditions contained in the agreement and such default continues for a period of thirty (30) days after notice to remedy such default, the agreement is subject to immediate cancellation by the Director;

Tenant shall enter into a formal agreement with the City embodying the foregoing terms and conditions and such other terms and conditions as the City Solicitor/Manager of Legal Services deems necessary and in form satisfactory to the City Solicitor/Manager of Legal Services;

Initials

Schedule "A"

The proposed terms and conditions are subject to the approval of the Standing Policy Committee on Property and Development and to the City Solicitor's approval as to form and content.

MRS LAURA SHEA, PRESIDENT, ST. JAMES FOOTBALL CLUB INC, hereby acknowledge and agree to enter into a Lease Agreement with the City of Winnipeg for the use of the area identified as "Leased Lands" and "Additional Lease Lands" on Misc. Plan No. 11010/4 attached in accordance with the proposed terms and conditions as outlined herein on this Schedule "A".

Laura Shea — Apr. 13/10

ST. JAMES FOOTBALL CLUB INC. — **Date**

.V:\Peter Johannsson\6189 - Legion Memorial Sports Park\Schedule A Terms (2).doc

Initials


34260
Football Field
Field House
Football Field
SADKVILLE ST
AMHERST ST
RUTLAND ST
SILVER AV
SILVER AVENUE
LEASED LAND
ADDITIONAL LEASED LAND
AREA: +/- 8334.4 m2 (+/-89710.5 ft2)
METRIC
Date: 2010-JAN-12
District: ASBA
File: 8189
Scale: 1:1500
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.
N
W
E
S
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11010 / 4