Agenda - Council – July 21, 2010

Report - Standing Policy Committee on Property and Development – July 6, 2010

Item No. 16 Amendment to Development Agreement AG 45/2004 – Headmaster Row Sidewalks (Lawrence Kostynyk)
(North Kildonan Ward)
File DASZ 45/2004

STANDING COMMITTEE RECOMMENDATION:

On July 14, 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 sidewalk clauses of Development Agreement AG 45/2004 be further amended by replacing the words "both sides", in item a) of Clause 8 in Section I of Schedule "C", as amended, with the words "the north side" and adding a new paragraph as follows;

   "The Developer shall, pay to the City in cash, its apportioned share of constructing Portland cement concrete sidewalks to a width of 1.5m and to a thickness of 100mm on the south side of Headmaster Row within the Planned Area, as certified by and to the satisfaction of the Director of Public Works."

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 – July 6, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 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 July 6, 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: **Amendment to Development Agreement AG 45/04 – Headmaster Row Sidewalks (Lawrence Kostynyk) DASZ 45/04, Report to SPCPD**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Solkoski, A/Manager of Development and Inspections	D. Joshi	n/a	Alex Robinson Deputy CAO

RECOMMENDATIONS

It is recommended that the sidewalk clauses of Development Agreement AG 45/04 be further amended as follows;

1. By replacing the words “both sides”, in item a) of Clause 8 in Section I of Schedule “C”, as amended, with the words “the north side” and adding a new paragraph as follows;

   “The Developer shall, pay to the City in cash, its apportioned share of constructing Portland cement concrete sidewalks to a width of 1.5m and to a thickness of 100mm on the south side of Headmaster Row within the Planned Area, as certified by and to the satisfaction of the Director of Public Works.”

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

Development Agreement AG 45/04, as amended requires the Developer to construct sidewalks on both sides of Headmaster Row within the limits of the planned area. If the recommendations

contained in this report are adopted, the agreement will be amended to allow the Developer to pay cash to the City in lieu of constructing sidewalks on the south side of Headmaster Row.

HISTORY

On November 3, 2009 the Standing Policy Committee on Property and Development requested the Winnipeg Public Service to report back on the matter of proposed amendments to Development Agreement AG 45/04 with respect to sidewalk amenities;

The Public Works Department and Ward Councillor have consulted with the Community and Developers regarding completion of sidewalk requirements for this subdivision and the adjoining DASZ 20/04 subdivision to provide for contiguous sidewalk amenities. At this time sidewalks adjoining all existing frontage lots on Headmaster Row will not be constructed by either Developer; rather, it is recommended that the City accept responsibility to undertake any future sidewalk construction affecting these lots, if and when required for this developing community. The Developers apportioned cost savings however, will be collected in fulfillment of the associated Development obligations. The Winnipeg Public Service therefore recommend amendments to Development Agreement AG 45/04 in accordance with Appendix "A", report to the Standing Policy Committee on Property and Development, attached for additional information and background. Appendix "B" provides a sketch of the area for reference.

On October 21, 2009, the Executive Policy Committee referred the matter back to the Standing Policy Committee on Property and Development.

Conversely on October 19, 2009, the East-Kildonan-Transcona Community Committee heard representation in opposition of the proposed amendments and rescinded their September 21, 2009 motion.

On October 8, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the East-Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

On September 21, 2009 the East-Kildonan-Transcona Community Committee made recommendations to the Standing Policy Committee on Property and Development to amend Condition 1 a) of Letter Agreement to facilitate changes to agreement that would have provided for deletion of sidewalk adjacent existing residential lots fronting the south side of Headmaster Row including associated reallocation of the Developers cost savings realized by the deletion of the sidewalk.

On September 27, 2006, Council approved that Development Agreement AG 45/04 be amended by accepting a proportionate cost share payment rather than requiring the Developer to construct a sidewalk on the east side of Gateway Road within the Planned Area.

On May 18, 2005 the Developer, Lawrence Kostynyk entered into Development Agreement AG 45/04 with the City establishing development conditions to serve the planned area for their proposed subdivision.

FINANCIAL IMPACT

Financial Impact Statement Date: June 17, 2010

Project Name:

Amendment to Development Agreement AG 45/04 – Headmaster Row Sidewalks (Lawrence Kostynyk) DASZ 45/04

COMMENTS:

The recommendations contained in this report include that the sidewalk clauses of Development Agreement AG 45/04 be further amended as follows;

1. By replacing the words "both sides", in item a) of Clause 8 in Section I of Schedule "C", as amended, with the words "the north side" and adding a new paragraph as follows;

"The Developer shall, pay to the City in cash, its apportioned share of constructing Portland cement concrete sidewalks to a width of 1.5m and to a thickness of 100mm on the south side of Headmaster Row within the Planned Area, as certified by and to the satisfaction of the Director of Public Works."

Cash payments received in this regard will be credited to the Developer Deposit - Local Improvements account, which the Public Works Department would identify as a funding source for a future capital project involving the construction of the sidewalks in question, should one be undertaken.

"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:	Development and Inspections
Prepared by:	Rob Deighton, Land Development Coordinator
	Kim Raban, Land Development Administrator
Date:	June 18, 2010
File No.	Development Agreement AG 45/04 (DASZ 45/04)

Appendix A – Report to Standing Policy Committee on Property and Development from the Land Development Branch

Appendix B – sketch of subject area.

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APPENDIX "A" – LAND DEVELOPMENT BRANCH - AG 45/04 AMENDMENT REPORT

RE: REQUEST TO AMEND DEVELOPMENT AGREEMENT AG 45/04 – LAWRENCE KOSTYNYK

FOR SUBMISSION TO THE STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT

"original signed by R.Deighton"
R.R. Deighton, P. Eng.
Land Development Coordinator

June 15, 2010

RE: REQUEST TO AMEND DEVELOPMENT AGREEMENT AG 45/04 – LAWRENCE KOSTYNYK

On May 18, 2005 the Developer, Lawrence Kostynyk entered into Development Agreement AG 45/04 with the City establishing development conditions to serve the planned area for their proposed subdivision creating part of Headmaster Row and Desert Park Cove.

Under terms of the original agreement the Developer was required to construct sidewalks along both sides of Headmaster Row within the planned area under DASZ 45/04 and on the east side of Gateway Road between Bonner Avenue and Knowles Avenue. On September 27, 2006, Council approved an amendment to Development Agreement AG 45/04 that resulted in the Developer buying out of his obligation to construct the sidewalk along the east side of Gateway Road. The sidewalk along the north side of the Headmaster Row within the planned area has been built. The Public Works Department has requested that the agreement clause 8 with respect to sidewalks be further amended to alter the terms with respect to sidewalk obligations for the south side of Headmaster Row.

Clause 8, item a) in Section I of Schedule "C" as amended reads;

a) The Developer shall, at no expense to the City, construct a 1.5m in width by 100mm in thickness portland cement concrete sidewalk along both sides of Headmaster Row as determined by and to the satisfaction of the Director of Public Works.

It is therefore recommended that Development Agreement AG 45/04 be further amended as follows;

1. By replacing the words "both sides" in item a) of Clause 8 in Section I of Schedule "C", as amended, with the words "the north side" and adding a new paragraph as follows;

   "The Developer shall, pay to the City in cash, its apportioned share of constructing Portland cement concrete sidewalks to a width of 1.5m and to a thickness of 100mm on the south side of Headmaster Row within the Planned Area, as certified by and to the satisfaction of the Director of Public Works."

THIS REPORT SUBMITTED BY:

Land Development Branch
File No. AG 45/04
June 15, 2010

"original signed by R.Deighton"
R.R. Deighton, P. Eng.,
Land Development Branch

"original signed by R. Hartmann"
R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

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APPENDIX "B" – SKETCH OF SUBJECT AREA

