Agenda - Council – December 15, 2010

COMMUNICATIONS

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to establish a process for taking title to vacant and derelict buildings pursuant to Part 5, Division 4 of The City of Winnipeg Charter, which by-law may receive third reading.
(By-law No. 89/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to amend the Winnipeg Zoning By-law No. 200/2006 to adopt the Downtown Transcona Planned Development Overlay 1, which by-law may receive second and third readings.
File DAZ 206/2010 (By-law No. 118/2010)

From the Director of Legal Services and City Solicitor,

Submitting draft by-law to amend Schedule A of the neighbourhood Liveability By-law to take into account the renaming of the Charleswood Parkway, which by-law may receive all three readings.

Advising that this amendment is necessary because of Council's decision to rename the Charleswood Bridge and Parkway south of the north bank of the Assiniboine River "The William R. Clement Parkway" and to rename the portion of the Charleswood Parkway north of the north bank of the Assiniboine River "Moray Street". Although the Streets By-law and the Traffic By-law were amended at the time to reflect this change, Schedule A of the Neighbourhood Liveability By-law was not. This amendment will correct that oversight.
(By-law No. 119/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to amend Winnipeg Zoning By-law No. 200/2006 to rezone land located on Sterling Lyon Parkway, west of Kenaston Boulevard in the Assiniboia Community, which by-law may receive all three readings. File DAZ 212/2010 (By-law No. 120/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on July 21, 2010, draft by-law to approve a plan of subdivision and amend Winnipeg Zoning By-law No. 200/2006 to rezone land located at 2165 Henderson Highway in the East Kildonan-Transcona Community,which by-law may receive all three readings. File DASZ 5/2010 (By-law No. 121/2010)

Communications (continued):

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to amend Winnipeg Zoning By-law No. 200/2006 to rezone land located on the north side of Pandora Avenue West, between Day Street and Winona Street in the East Kildonan-Transcona Community, which by-law may receive all three readings.
File DAZ 211/2010 (By-law No. 122/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on July 21, 2010, draft by-law to approve a plan of subdivision and amend Winnipeg Zoning By-law No. 200/2006 to rezone lands on the south side of Dugald Road, west of Plessis Road in Riel Community, which by-law may receive all three readings. File DASZ 7/2010 (By-law No. 123/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on January 27, 2010, draft by-law to amend Winnipeg Zoning By-law No. 200/2006 to rezone land located at 701 St. Anne's Road in the Riel Community which by-law may receive all three readings.
File DAZ 216/2009 (By-law No. 124/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on December 16, 2009, draft by-law to approve a plan of subdivision and amend Winnipeg Zoning By-law No. 200/2006 to rezone the former railway right-of-way land north of Corydon Avenue, south of Kingsway Avenue between Lockwood Street and Centennial Street, in the City Centre Community, which by-law may receive all three readings. File DASZ 14/2009 (By-law No. 125/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on January 27, 2010, draft by-law to amend Zoning By-law No. 200/2006 to rezone lands located on the west side of St. Mary's Road at Redview Drive in the Riel Community, which by-law may receive all three readings.
File DAZ 217/2009 (By-law No. 126/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on May 31, 1989, draft by to approve a plan of subdivision and amend Winnipeg Zoning By-law No. 200/2006 to rezone lands located north of Pandora Avenue, between Ravenhurst Street and Redonda Street in the East Kildonan-Transcona Community and to repeal By-Law No. 98/2010, which by-law may receive all three readings. File DASZ 42/1987 (Phase 10) (By-law No. 127/2010)

Communications (continued):

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to amend Winnipeg Zoning By-law No. 200/2006 to rezone lands located at 2501 Ferrier Street in the Lord Selkirk – West Kildonan Community, which by-law may receive all three readings.
File DAZ 202/2010 (By-law No. 128/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to amend Zoning By-law No. 200/2006 to rezone lands located at 11 Evergreen Place in the City Centre Community, which by-law may receive all three readings.
File DAZ 210/2010 (By-law No. 129/2010)

From the Director of Legal Services and City Solicitor,

Submitting as instructed by Council on September 22, 2010, draft by-law to open Silver Avenue at St. James Street, which by-law may receive all three readings.
File DAO 2/2010 (By-law No. 131/2010)

From the Director of Legal Services and City Solicitor,

Submitting draft by-law to amend the Fees and Charges By-law No. 196/2006, which by may receive all three readings. (By-law No. 132/2010)

Advising that although the proposed amendments are relatively extensive, it is the view of Legal Services that in each case they result in by-law provisions that better reflect the intent and purpose of the Report that are either technical in nature or which was approved by Council on December 17, 2008.

Advising that these are the changes that would be brought about by the proposed amending By-law:

- The proposed amending By-law would replace the term "Fees and Charges Manual" with the term "Fees and Charges Schedule". The report approved by Council in 2008 included the recommendation that Council "Create a Fees and Charges Schedule which contains fees and charges imposed by the City".

- The reference to section 5 in the current definition of "Fees and Charges Schedule" is incorrect. The amending By-law will change this to read "section 6".

Communications (continued):

- The proposed amendments to subsection 3(1) would clarify that the inflationary increase imposed by the Chief Financial Officer pursuant to the By-law is valid despite the fact that the amount of a fee is set out in a by-law or resolution. So, for example, if a fee in a by-law appears as $10.00, an inflationary increase authorized by the Fees and Charges By-law could result in the actual and correct fee being $10.20. In other words, the fact that a fee exists in a by-law does not necessarily mean that it is the correct amount. In addition, proposed changes to s. 3(1) would clarify that the power given to the CFO to raise fees by the rate of inflation supersede any inflationary mechanism set out in another by-law. Therefore, the formula set out in the Fees and Charges By-law would override any other inflationary formula as well as any other authority given in another by-law to impose inflationary increases.

Further advising that this what Legal Services believes was intended by the recommendation approved by Council in 2008 to "Permit the Chief Financial Officer to increase annually all fees charged by the City by up to the rate of inflation defined to be the consumer price index for Winnipeg." Or, as re-stated later in the Report: "The proposed By-law would delegate authority to the CFO to increase fees and charges by up to the rate of inflation for all City fees and charges, thus ensuring city-wide consistency".

- The proposed inclusion of subsection 3(1.1) fleshes out the term "annually" in the recommendation: "Permit the Chief Financial Officer to increase annually all fees charged by the City by up to the rate of inflation defined to be the consumer price index for Winnipeg." The purpose of this change is to make clear that, where Council establishes a fee in September, the CFO is not authorized to increase it by the rate of inflation on January 1. A fee must be in place for at least 12 months before the inflationary increase is applicable.

- The proposed amendment to subsection 3(3) is intended to clarify the effect of an amendment to the Report that was made at the Standing Committee on Finance and eventually adopted by Council. The amendment to the Report resulted in the insertion of the underlined words in the following recommendation: "Where a fee has not been increased by a year or more as outlined under Recommendation 1. A., permit the Chief Financial Officer to increase the fee by an amount equal or less than the cumulative rate of inflation, compounded annually, where the total increase is $.05 or less since the last increase, to a maximum of four years". The goal of this insertion appears to be not to preclude regular annual inflationary increases for fees that had not been increased for several years but rather to limit the amount of the cumulative increase for the previous four year period to $.05. However, as it currently stands, subsection 3(3) of the By-law

Communications (continued):

limits all inflationary increases for these long-unchanged fees to a maximum of $.05, even when the normal annual inflationary increase would permit a larger increase. The proposed amendment would correct that effect.

- The proposed amendment to subsection 7(1) expands on the change proposed in subsection 3(1). Just as s. 3(1) makes clear that the inflationary increases imposed by the CFO under the Fees and Charges By-law applies even if the original fee amount is contained in a by-law or resolution, so the proposed change to s. 7(1) would make clear that the fee that appears in the Fees and Charges Schedule applies even if another amount appears in a by-law, resolution or some other document. The only exception is if the fee that is shown in the Fees and Charges Schedule can be shown to be in error or imposed without authority. This is intended to better reflect the recommendation approved by Council in December 2008: "Provide that the fees and charges of the Fees and Charges Schedule will be presumed to be accurate and legally authorized, and will supersede fees set out in a By-law, resolution or other City document."

From the Director of Legal Services and City Solicitor,
Submitting as instructed by Council on July 18, 2007, draft by-law to close part of Forest Cove Drive, which by-law may receive all three readings.
File DAC 13/2007 (By-law No. 134/2010)