Agenda – Council – January 26, 2011

Report – Council Secretariat Committee – January 17, 2011

Item No. 1 Councillors' Ability to Run for Office in the Provincial Legislative Assembly

COMMITTEE RECOMMENDATION:

On January 19, 2011, the Executive Policy Committee concurred in the recommendation of the Council Secretariat Committee and submits the following to Council:

1. That City Council ask the Provincial Government of Manitoba, based on fairness and constitutionality under *The Canadian Charter of Rights and Freedom*, to alter Section 47(1)(b) of *The City of Winnipeg Charter* to the following:

   47(1) A member of council forfeits the member's seat on council if the member:
   (b) is elected as a member of the Legislative Assembly

2. That City Council ask the Provincial Government of Manitoba to remove Section 53.2(b) of *The Elections Act*;

3. That City Council, immediately and directly, communicate the content of this motion to the Premier of the Province of Manitoba requesting a response forthwith.

Report – Council Secretariat Committee – January 17, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 19, 2011, the Executive Policy Committee concurred in the recommendation of the Council Secretariat Committee and submitted the matter to Council.

COMMITTEE RECOMMENDATION:

On January 17, 2011, the Council Secretariat Committee passed the following motion, namely:

WHEREAS municipal politicians in Winnipeg and Manitoba have historically been able to run for office in the Provincial Legislative Assembly without resigning their seat on their Municipal Council;

AND WHEREAS Section 3 of *The Canadian Charter of Rights and Freedoms* states;

> *DEMOCRATIC RIGHTS OF CITIZENS.*
>
> *3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein;*

AND WHEREAS on August 9, 2002, the Provincial Government gave Royal Assent to *The City of Winnipeg Charter* in which Section 47(1)(b) states:

> *47(1) A member of council forfeits the member's seat on council if the member:*
> *(b) is nominated to be elected as a member of the Legislative Assembly;*

AND WHEREAS on June 16, 2005, the Provincial Government gave Royal Assent to *The Elections Act* in which Section 53(2)(b) states:

> *53(2) As exceptions to subsection (1), none of the following persons may be nominated:*
> *(b) a member of council of a municipality;*

AND WHEREAS Winnipeg and Manitoba municipal politicians are the only persons in Canada required to resign their seats prior to accepting a nomination to run for office as a Member of the Provincial or Territorial Legislative Assembly;

Report – Council Secretariat Committee – January 17, 2011

DECISION MAKING HISTORY (continued):

COMMITTEE RECOMMENDATION (continued):

AND WHEREAS preliminary research appears to indicate that under the Royal parliamentary system, Winnipeg and Manitoba municipal politicians are the only persons in the British Commonwealth of Nations required to resign their seats prior to accepting a nomination to run for office as a member of a Provincial Assembly or State House;

AND WHEREAS both The City of Winnipeg Charter and The Elections Act, which does not require either Provincial or Municipal politicians to resign upon nomination to run for a seat in the Federal Parliament of Canada, are drafted to respect Section 3 of The Canadian Charter of Rights and Freedoms;

AND WHEREAS because of these regulations that exist in Winnipeg and Manitoba, municipalities in Winnipeg and Manitoba are continually forced to endure the inconvenience and costs associated with by-elections for departed councillors;

THEREFORE BE IT RESOLVED THAT City Council ask the Provincial Government of Manitoba, based on fairness and constitutionality under *The Canadian Charter of Rights and Freedom*, to alter Section 47(1)(b) of *The City of Winnipeg Charter* to the following:

> 47(1) A member of council forfeits the member's seat on council if the member:
> (b) is elected as a member of the Legislative Assembly

AND BE IT FURTHER RESOLVED THAT City Council ask the Provincial Government of Manitoba to remove Section 53.2(b) of *The Elections Act*;

AND BE IT FURTHER RESOLVED THAT City Council, immediately and directly, communicate the content of this motion to the Premier of the Province of Manitoba requesting a response forthwith.