Agenda – Council – April 27, 2011

Report – Executive Policy Committee – April 20, 2011

Item No. 9 Ownership of Assiniboine Park Zoo International Polar Bear Conservation Centre Buildings by the Government of Manitoba (Charleswood-Tuxedo Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2011, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That ownership by the Government of Manitoba of building envelopes and supporting infrastructure of facilities housing the Assiniboine Park Zoo's proposed International Polar Bear Conservation Centre be approved.

2. That the Lease Agreement contemplated between the City of Winnipeg and the Assiniboine Park Conservancy Inc. be approved, allowing a sub-lease of property by Assiniboine Park Conservancy Inc. to the Government of Manitoba for the exclusive use of lands upon which the Assiniboine Park Zoo International Polar Bear Conservation Centre buildings will be situated.

3. That the lease agreement between the City of Winnipeg and the Province of Manitoba be required to include a provision for adequate capital (second line) maintenance to the International Polar Bear Conservation Centre, over the term of the Agreement, and any subsequent renewals between the City of Winnipeg and the Province of Manitoba, and that such capital maintenance is expended in a manner agreeable to both the City of Winnipeg and Assiniboine Park Conservancy Inc., and that such agreement is not to be unreasonably withheld.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing; and that the Chief Administrative Officer be delegated the authority to finalize terms and conditions of agreements contemplated herein.

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 – Executive Policy Committee – April 20, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2011, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **Ownership of the Assiniboine Park Zoo International Polar Bear Conservation Centre Buildings by the Government of Manitoba**

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
F. Caldwell	C. Wightman	N/A	M Ruta A/CFO

RECOMMENDATIONS

1. That Council approves ownership by the Government of Manitoba of building envelopes and supporting infrastructure of facilities housing the Assiniboine Park Zoo's proposed International Polar Bear Conservation Centre.

2. That Council approves that the Lease Agreement contemplated between the City of Winnipeg and the Assiniboine Park Conservancy, Inc. allow a sub-lease of property by Assiniboine Park Conservancy to the Government of Manitoba for the exclusive use of lands upon which the Assiniboine Park Zoo International Polar Bear Conservation Centre buildings will be situated.

3. That Council require that the lease agreement between the City of Winnipeg and the Province of Manitoba include a provision for adequate capital (second line) maintenance to the International Polar Bear Conservation Centre, over the term of the Agreement, and any subsequent renewals between the City of Winnipeg and the Province of Manitoba, and that such capital maintenance is expended in a manner agreeable to both the City of Winnipeg and Assiniboine Park Conservancy, and that such agreement is not to be unreasonably withheld.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing; and that the Chief Administrative Officer be delegated the authority to finalize terms and conditions of agreements contemplated in this report.

REASON FOR THE REPORT

At its meeting of July 21, 2010, Council approved general terms and conditions for Agreement between the City of Winnipeg and the Assiniboine Park Conservancy, Inc. One of those terms was continuing ownership by the City of Winnipeg of all built and natural infrastructure in the Park. A condition of the Government of Manitoba contributing up to $31 Million for the construction of new polar bear facilities in the Assiniboine Park Zoo is that Manitoba owns those facilities. Council authorization is required to allow alternate ownership of facilities in Assiniboine Park.

Council approval is required to authorize the Assiniboine Park Conservancy, Inc. to sub-lease property on the terms specified within this report.

IMPLICATIONS OF THE RECOMMENDATIONS

General Implications:

Adoption of the recommendations proposed in this report will result in changes to the Lease Agreement (presently being constructed) that were not contemplated at the time Council approved (July 2010) the general terms and conditions for agreement between the City of Winnipeg and the Assiniboine Park Conservancy, Inc. (APC).

Disposal of park lands by way of lease will require a vote of 2/3 of Council.

These changes will allow ownership by the Government of Manitoba of Assiniboine Park buildings and associated infrastructure housing the proposed International Polar Bear Conservation Centre. Additionally, APC will be authorized to sub-lease to the Government of Manitoba, the Assiniboine Park lands upon which the International Polar Bear Conservation Centre buildings will be situated.

The Government of Manitoba will contribute up to $31 Million for the construction of an Arctic exhibit at the Assiniboine Park Zoo including animal holding and life support buildings and mechanical systems for a polar bear and seal exhibit, a public viewing building, an open air exhibit dominated by a salt water pool, an exhibit connection between holding and public buildings, and an education and research building, collectively, the International Polar Bear Conservation Centre (IPBCC).

The relationships and commitments between the City of Winnipeg, the Government of Manitoba and the Assiniboine Park Conservancy upon which these arrangements will be based are summed up in a tri-partite Acknowledgment Agreement which the City of Winnipeg would be signatory to and which recognizes that:

- The City of Winnipeg is the owner of Assiniboine Park;
- The City is entering into a 50-year lease of lands to APC, with renewal options for two twenty-five year extensions;
- APC will sublease to Manitoba for the same 50-year and renewal options, a portion of the Assiniboine Park Zoo to be used for polar bear rescue, research, exhibition, education and conservation;
- Manitoba will own the base buildings and infrastructure housing the polar bear functions;
- Manitoba will be responsible to make at its expense, all Life Cycle Upgrades and Life Safety Improvements to the base building and infrastructure;
- In the event that Manitoba makes Life Cycle Upgrades or Life Safety Improvements which extend the useful life of the base building and infrastructure, the term of the sublease shall be automatically extended for a period equivalent to the number of years by which the useful life has been extended;
- APC and Manitoba will enter into Construction and Operations Agreements regarding funding and development, operation and management of the International Polar Bear Conservation Centre;
- If one or both of the sublease and the Assiniboine Park Lease is terminated prior to expiration (50 years, consistent with terms between the City and APC), the City shall enter into a new lease with Manitoba for the balance of the term on substantially the same terms as set out in the Sublease between APC and Manitoba;
- Upon expiration of the sublease, including following any extension, Manitoba shall retain ownership and shall enter into negotiation with the City of Winnipeg pursuant to which:

    a) The City shall enter into a new lease with Manitoba for the lands on substantially the same terms as set out in the Sublease, and the IPBCC shall be operated by:
        (i) the City, and the City shall enter into a new agreement with Manitoba on substantially the same terms as set out in the Operations Agreement; or
        (ii) a third party operator selected by the City, and the third party operator shall enter into a new agreement with Manitoba on substantially the same terms as set out in the Operations Agreement; or
    b) The City shall purchase the Base Building and Infrastructure from Manitoba for the nominal net book value of $1.00 or such other amount as agreed by the City and Manitoba

- In the event that negotiations to achieve conditions in a) or b) above do not result in an agreement between Manitoba and the City, the City may require that Manitoba return the site to bare land, at Manitoba's expense;
- APC and the City agree to provide Manitoba, invitees and Assiniboine Park Zoo patrons with road access to and from the property;
- For the purpose of building inspections for the IPBCC, the City of Winnipeg will be the authority.

Financial Implications:

There are no costs to the City of Winnipeg associated with Manitoba ownership of the base building and infrastructure of the IPBCC or with a sub-lease of property by APC.

HISTORY

In December 2009, the Government of Manitoba announced a $31 Million contribution to the Assiniboine Park Conservancy for the construction of a polar bear conservation center and a world-class polar bear exhibit to be created at the Assiniboine Park Zoo. Manitoba subsequently confirmed that a condition of funding is that Manitoba will own the structures it is providing funding for.

Under Agreement with Assiniboine Park Conservancy, Manitoba will insure against loss and will be responsible for Life Cycle Upgrades and Life Safety Improvements to the base building and infrastructure. Life Cycle Upgrades refers to work required to upgrade the base building to current building codes; implement improvements to incorporate sustainable design developments, extend the life of the facilities to the end of the term or any extension or renewal. Life Safety Improvements refers to work required to upgrade the facilities to current workplace health and safety standards, to replace obsolete equipment which could result in unsafe conditions, and to affect repairs which may be necessary and which are attributable to defects caused by act or default other than that of APC. A measure / mechanism to define facility level of care and to prompt required upgrades will be detailed in the Manitoba / APC Operating Agreement.

If Life Cycle Upgrades or Life Safety Improvements extend the useful life of the base building and infrastructure beyond the sublease term, then the term of the sublease shall be extended for a period equivalent to the number of years by which the useful life has been extended. The number of years by which the useful life has been extended will be determined by Manitoba, acting reasonably.

The International Polar Bear Conservation Centre is projected to cost $45 Million. The Assiniboine Park Conservancy shall obtain funds from other sources to develop the overall IPBCC Exhibit. In keeping with terms between the City and APC, the City of Winnipeg will own all assets other than the Manitoba owned buildings, including zoo animals, interpretive materials, furnishings and equipment within and adjacent to the IPBCC.

APC will be entitled to operate the IPBCC in the manner that it determines appropriate in its sole discretion and will be responsible for all operating costs, staffing, programming, insuring and maintaining all aspects of the IPBCC other than those owned by Manitoba.

Through a Ground Sublease, APC will lease exclusively to Manitoba, the property upon which the IPBCC buildings are situated. The duration of the sublease will be the same as lease terms between the City and APC, namely fifty years, with two, twenty-five year renewal options.

In the event that the sublease between APC and Manitoba is terminated prior to its expiry, Manitoba will be entitled to negotiate and enter into a new lease with the City of Winnipeg, on

substantially the same terms as set out in its sublease with APC. The City of Winnipeg could take over as operator of the IPBCC or could designate a further third party to operate and manage the Centre, on substantially the same terms as set out in an Operations Agreement between APC and Manitoba.

Upon expiration of the sublease, Manitoba will continue to own the facilities and would negotiate with the City to either continue on with the City (or a City designated body) operating the IPBCC, or the City would purchase the facilities for the nominal net book value of $1.00 or such other amount as agreed by Manitoba and the City. If agreement on neither term is reached, the City could require Manitoba to return the site to bare lands at Manitoba's expense.

As part of the agreement between APC and Manitoba, the province will support an application to Manitoba by APC for exemption from the provincial portion of the assessment for property tax relating to Assiniboine Park, assuring that the IPBCC remains exempt from assessment of property tax. (Assiniboine Park Conservancy is presently exempt from assessment of property tax on Assiniboine Park property under City of Winnipeg By-Law 89/2005.)

FINANCIAL IMPACT

Financial Impact Statement

Date: April 13, 2011

Project Name:

First Year of Program **2011**

Ownership of the Assiniboine Park Zoo International Polar Bear Conservation Centre Buildings by the Government of Manitoba

	2011	2012	2013	2014	2015
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: There are no costs to the City of Winnipeg associated with Manitoba ownership of the base building and infrastructure of the International Polar Bear Conservation Centre (IPBCC) or with a sub-lease of property by Assiniboine Park Conservancy (APC).

original signed by

Cindy Fernandes, B. Comm (Hons), CMA
Department Controller

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department
Assiniboine Park Conservancy, Inc.
Province of Manitoba Civil Service

SUBMITTED BY

Department: Community Services
Division: Office of the Director
Prepared by: Frank Caldwell
Date: April 13, 2011
File No.