Agenda - Executive Policy Committee – May 18, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

Item No. 1 Declaration of Surplus Land / Sale – Portion of - Blanchard Avenue between the Assiniboine River and West Gate (Fort Rouge-East Fort Garry Ward) File DAC 21/99

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2011, the Standing Policy Committee on Property and Development submitted the following to Council:

1. That Parcel "B" and the jut out of Parcel "C", identified in Plan 2 of the Winnipeg Public Service report, be declared surplus to the City's needs.

2. That Parcel "B" and the jut out of Parcel "C" be sold to the owner(s) of 112 West Gate at fair market value and consolidated with parcel "C", subject to a conservation agreement for the protection of the existing trees on Parcel "B" being entered into.

3. That the three foot wide parcel of land bisecting the West Gate Collegiate lands and Parcel "A" be exchanged for equivalent lands located within Parcel "B" and / or the jut out of Parcel "C".

4. That the net proceeds of the sale of Parcel "B" and the jut out of Parcel "C" be allocated to the Armstrong's Point Association, unencumbered.

5. That Parcel "A" become a park, and zoned as such, with the designation of a Natural Forested site, and that the forest be preserved, undisturbed in perpetuity.

6. That the Winnipeg Public Service be directed to bring forward a re-naturalization plan for the balance of parcel "A" that is not in the Natural Forested state, in order to recreate the same Riverbank Natural Forested Area, in cooperation with the Armstrong's Point Association and the owner(s) of 112 West Gate.

7. 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.

Agenda - Executive Policy Committee – May 18, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2011, the Standing Policy Committee on Property and Development submitted the following the Executive Policy Committee and Council:

1. That Parcel "B" and the jut out of Parcel "C", identified in Plan 2 of the Winnipeg Public Service report, be declared surplus to the City's needs.

2. That Parcel "B" and the jut out of Parcel "C" be sold to the owner(s) of 112 West Gate at fair market value and consolidated with parcel "C", subject to a conservation agreement for the protection of the existing trees on Parcel "B" being entered into.

3. That the three foot wide parcel of land bisecting the West Gate Collegiate lands and Parcel "A" be exchanged for equivalent lands located within Parcel "B" and / or the jut out of Parcel "C".

4. That the net proceeds of the sale of Parcel "B" and the jut out of Parcel "C" be allocated to the Armstrong's Point Association, unencumbered.

5. That Parcel "A" become a park, and zoned as such, with the designation of a Natural Forested site, and that the forest be preserved, undisturbed in perpetuity.

6. That the Winnipeg Public Service be directed to bring forward a re-naturalization plan for the balance of parcel "A" that is not in the Natural Forested state, in order to recreate the same Riverbank Natural Forested Area, in cooperation with the Armstrong's Point Association and the owner(s) of 112 West Gate.

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

Further on May 10, 2011, the Standing Policy Committee on Property and Development received submissions from the following:

- Rob Stewart submitted a Presentation dated May 10, 2011
- Keith Ferbers and Dan MacLean submitted the following documentation:
  - Presentation dated February 8, 2011
  - Proposal of Dan and Michelle MacLean 112 West Gate Owner dated May 10, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY: (continued)

STANDING COMMITTEE RECOMMENDATION: (continued)

- Christine Common and Dr. Richard Westwood submitted a communication titled Tree Inventory Report
- Thomas McLeod submitted a communication dated September 28, 2010 and Presentation
- Douglas H. Arrell submitted a communication dated May 8, 2011
- Sheri Blake submitted a communication dated May 8, 2011
- Randy Butterfield submitted a communication dated May 9, 2011
- Regina Cates submitted a communication dated May 9, 2011
- John Clark submitted a communication dated May 9, 2011
- Lauren Clasen submitted a communication dated May 8, 2011
- Christine Common submitted a communication dated May 9, 2011
- Therese Costes submitted a communication dated May 9, 2011
- Timothy K. Cowan submitted a communication dated May 9, 2011
- Sarah Jane Cundell submitted a communication dated May 8, 2011
- Bret, Karen and Brittany Dobbin submitted a communication dated May 6, 2011
- Martha Epstein submitted a communication dated May 7, 2011
- Pete Firlotte submitted a communication dated May 9, 2011
- Kalan Gardiner submitted a communication dated May 9, 2011
- Nancy Gilbert submitted a communication dated May 7, 2011
- Larry and Susanne Greer submitted a communication dated May 8, 2011
- Saul Henteleff submitted a communication dated May 8, 2011
- Ray Hignell submitted a communication dated May 7, 2011
- Darlene Irwin and Kelly van Camp submitted a communication dated May 6, 2011
- April Kassum submitted a communication dated May 8, 2011
- Dr. D. Kassum submitted a communication dated May 8, 2011
- Jo'Anne Kelly submitted a communication dated May 9, 2011
- Jillian Taylor-Mancusi submitted a communication dated May 9, 2011
- Bob Martin submitted a communication dated May 8, 2011
- Thomas McLeod submitted a communication dated May 8, 2011
- E. McLeod submitted a communication dated May 8, 2011
- Christine Mesa submitted a communication dated May 7, 2011
- Lesley Mowat submitted a communication dated May 9, 2011
- Charlotte Penner submitted a communication dated May 8, 2011
- Paul Pierlot submitted a communication dated May 6, 2011
- Evan Pritchard submitted a communication dated May 9, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY: (continued)

STANDING COMMITTEE RECOMMENDATION: (continued)

- Ross Redman submitted a communication dated May 8, 2011
- Frank and Anita Rowan submitted a communication dated May 7, 2011
- Wayne, Lynn and Bill Ryzniczuk submitted a communication dated May 5, 2011
- John R.M. Smith submitted a communication dated May 7, 2011
- Sandra Thacker submitted a communication dated May 7, 2011
- Peter Thomson submitted a communication dated May 7, 2011
- Sandra Thusberg submitted a communication dated May 9, 2011
- Marvin and Barbara Tiller submitted a communication dated May 6, 2011
- Rhonda Konantz submitted a communication dated May 9, 2011
- Debbie Wall submitted a communication dated May 5, 2011
- Stephen Whitmore submitted a communication dated May 9, 2011
- Nataliya Shkira and Steve Yung submitted a communication dated May 10, 2011
- Dawn Zifarelli submitted a communication dated May 9, 2011

On April 5, 2011, the Standing Policy Committee on Property and Development further laid over the matter to its meeting on May 10, 2011.

On February 8, 2011, the Standing Policy Committee on Property and Development requested that the Winnipeg Public Service to consult with area stakeholders and report back within 60 days, with options to resolve the matter.

Further on February 8, 2011, the Standing Policy Committee on Property and Development received submissions from the following:

- Rocky Kravetsky submitted a communication dated February 7, 2011
- Keith Ferbers, Aikins MacAulay and Thorvaldson and Dan MacLean. Submitted presentation dated February 8, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION:

On January 11, 2011, the City Centre Community Committee passed the following motion, namely:

WHEREAS the purpose of the proposal to close the street ends and dedicate them as public park is not to deny the owners of the lands adjacent to Blanchard Avenue the use of the street for access to their properties, but to establish that the lands are intended for the use of all of the area residents;

AND WHEREAS the neighbourhood residents wish to continue to use the portion of Blanchard Avenue west of West Gate as a means of access to the Assiniboine River. City Council has an established policy of retaining street ends adjacent to rivers for this purpose;

THEREFORE BE IT RESOLVED that the following Standing Committee motion dated November 23, 1999, be rescinded in it's entirety:

> "That the Director of Property and Development Services be instructed to enter into negotiations with the adjoining property owners to determine the disposition of the closed portions of Blanchard Avenue to the mutual satisfaction of the property owners and the area residents."

and replaced by the following:

> "That the Real Estate Division, Planning, Property and Development Department, be instructed to have discussions with the adjoining property owners and determine the disposition of the closed portion of Blanchard Avenue.",

and forwarded the matter to the Standing Policy Committee on Property and Development.

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY: (continued)

COUNCIL DECISION:

On December 15, 1999, Council adopted the following:

I. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance wit Schedule "A", Misc. Plan No. 10696.

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

STANDING COMMITTEE RECOMMENDATION:

On November 23, 1999 the Standing Policy Committee on Property and Development instructed the Director of Property and Development Services to enter into negotiations with the adjoining property owners to determine the disposition of the closed portions of Blanchard Avenue to the mutual satisfaction of the property owners and the area residents, and that following satisfactory completion of the foregoing negotiations, the necessary rezoning application be initiated to designate the street ends to be closed as parks and open space.

ADMINISTRATIVE REPORT

Title: **Amendment to Closing - Blanchard Avenue between the Assiniboine River and East Gate (Fort Rouge-East Fort Garry Ward) File DAC 21/99**

Critical Path: Standing Policy Committee on Property and Development / Executive Policy Committee / Council

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Kiernan	D. Joshi	N/A	P. Sheegl, Deputy CAO

RECOMMENDATIONS

1. That the Public Service close Blanchard Ave West street end as a ROW and that the lands be redeveloped as Community Green Space and considered for the protection under the City of Winnipeg's ESNL policy.

2. That an encroachment agreement be entered into to confirm and ensure vehicle access to 112 West Gate via the Green Space.

3. That the Public Service be directed to negotiate and conclude a land exchange in 6 months which results in no net loss of public lands and protects existing vegetation.

REASON FOR THE REPORT

On February 8, 2011, the Standing Policy Committee on Property and Development requested that the Winnipeg Public Service be requested to consult with area stakeholders and report back
within 60 days, with options to resolve the matter.

On April 5, 2011 the Standing Policy Committee on Property and Development further laid over the matter to its meeting on May 10, 2011.

IMPLICATIONS OF THE RECOMMENDATIONS

- The only current means to resolve and conclude the matter is for the City of Winnipeg to make a decision that is fair and reasonable for both parties.
- The issue has pitted neighbours against neighbours and caused ill will in the community.
- Currently neither party can have their position completely resolved to their satisfaction.
- That the Public Service negotiate a settlement to ensure that there is no net loss of community green space and that there is protection of the mature tree and vegetated areas.

HISTORY

On February 8, 2011 two submissions were made with respect to the City Centre Community Committee recommendation: Rocky Kravetsky submitted a communication dated February 7, 2011; and Keith Ferbers, Aikins MacAulay and Thorvaldson and Dan MacLean submitted a presentation dated February 8, 2011.

On January 11, 2011, the City Centre Community Committee recommended to the Standing Policy Committee on Property and Development that the following Standing Committee motion dated November 23, 1999, be rescinded in it's entirety:

"That the Director of Property and Development Services be instructed to enter into negotiations with the adjoining property owners to determine the disposition of the closed portions of Blanchard Avenue to the mutual satisfaction of the property owners and the area residents."

and replaced by the following:

"That the Real Estate Division, Planning, Property and Development Department, be instructed to have discussions with the adjoining property owners and determine the disposition of the closed portion of Blanchard Avenue."

The lands are not suitable for active park space but have a potential function for ecological education and interpretive opportunities. The site as an existing remnant reflects part of the ecosystem that existed before the full housing build and development on Armstrong Point and fosters ecological connectivity along the city's waterway.

If the lands remain public lands they could be protected if under park designation and if deemed eligible through the City of Winnipeg's Ecologically Sensitive Natural Lands Policy (approved by Council February 21, 2007). If not retained as public lands then a conservation easement should be enacted to safe guard the mature tree canopy and existing natural areas. The site should have the invasive species removed and areas replanted with complementary native plant species.

Any disposal of lands (including a land transfer) of property being used as park space requires confirmation by a 2/3 vote by Council.

Several alternative options were reviewed related to the properties:

A – Council Direction of 1999 (Plan 1)

The recommendation reflects the original will of the area residents and intent of Council and would protect a key remaining section of original river bottom forest. –showing the encroachment in the hatched tone. This plan represents the will of Council as per 1999 and reflects the implementation of the closing of East Blanchard.

B - Armstrong Point Association's Position (Plan 2)

1. That the property owner @ 112 West Gate should be treated in a fair and transparent manner reflecting the Council direction of March 1999 and consistent in the manner of the closing of East Blanchard.
2. That an encroachment agreement should confirm vehicle access to 112 West Gate via the current ROW from West Gate.
3. That lands must not be sold to privatize what the community feels is public space; and that the existing mature vegetation and trees should be protected.
4. That the City of Winnipeg should treat the adjacent residents at Blanchard West in a manner consistent in approach with the closure and property owners who were affected adjacent to the east Blanchard ROW.
5. That a public green space with a private lane through the property be created and review for protection under the City of Winnipeg's ESNL Policy.
6. That they would endorse the exchange of the equivalent area of lands (3' strip on the north of the ROW to allow the homeowner an extended private area immediately adjacent to their home.
7. That the width of the drive be limited to allow single lane access without parking.

C - Resident @ 112 West Gate's Position (Plan 3 **)**

1. That the property (ROW) has functioned as part of the 112 West Gate property for a nearly a century and that they would like to have this to be formally confirmed.
2. That the owners would purchase the full ROW (or at a minimum a 33 ft wide strip) on the west end of Blanchard Ave., directly adjacent to their property to provide exclusive access and use to the existing driveway and green space.
3. That if the entire ROW can not be purchased then at a minimum the owner would like to acquire a 33 ft wide strip on the west end of Blanchard Ave and:
    - That if Passive Park is to be created that it should only include the remaining vegetated area to the 3ft control strip and High School athletic field and the vegetation protected.
    - That access to the park space be provided via a walking trail north of current graveled driveway, with the homeowners to construct a fence along their north property line.
4. The proposed land acquisition would resolve the issue in perpetuity; with the property owner exchanging the 3' wide strip that they own on the north side of the ROW as a credit towards the acquisition.
5. That they would enter into a conservation easement for the trees on the lands which they acquire to ensure their preservation as well as any parts of the natural area.
6. That all funds realized from the sale of lands should be reinvested into improvements to the Armstrong Point community green space.

D - Alternative Resolution (Not shown)

1. That the control strip (3' wide strip @ on the north property line of the ROW) be exchanged for equivalent lands adjacent to the residence at 112 West Gate.
2. That the remaining 33' of the ROW be sold to the owner of 112 West Gate with two provisions:
    a. That all trees on the lands sold and the existing property at 112 Westgate and on the ROW be governed by a conservation easement to protect all mature trees over 6' in caliper.
    b. That the Public Service pursue and conclude a successful land exchange with the school to the north of the ROW to ensure that there is no net loss of green space in the community
3. That the City of Winnipeg and School enter into a joint use agreement related to the community green space to allow both residential and school use.
4. That all funds realized from the sale of lands (Item 2) should be reinvested into improvements to the Armstrong Point community green space.

Note: *Regarding above item D. 2.b - The property owner north of the ROW (Westgate School – 86 West Gate) has requested assurance that an approximately 5,000ft2 addition to the existing school would need to be successfully considered and approved before agreeing to any land transfer for public use. The additional square footage would allow the school to more effectively function at their current site without impacting existing green space.*

The Public Service had previously endorsed a 9,000ft2 expansion of the facility which was rejected however on Condition Use and Variance by both the Board of Adjustment June, 2008 and the Appeals Committee in July, 2008.

FINANCIAL IMPACT

Financial Impact Statement Date: April 26, 2011

Project Name:

Amendment to Closing - Blanchard Avenue between the Assiniboine River and East Gate (Fort Rouge-East Fort Garry Ward) File DAC 21/99

COMMENTS:

The recommendations contained in this report are that the Public Service be directed to close Blanchard Ave West street end as a ROW and that the lands be redeveloped as Community Green Space and considered for the protection under the City of Winnipeg's ESNL policy, that an encroachment agreement be entered into to confirm and ensure vehicle access to 112 West Gate via the Green Space and that the Public Service be directed to negotiate a land exchange with the owner of 112 West Gate which results in no net loss of public lands. (Plan 2 – Attachment)

There are no financial implications associated with these recommendations.

"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 Park Riverbanks and Community Initiatives
Prepared by: John Kiernan
Date: May 5, 2011
File No.

O:\Reports Directive\Planning and Land Use\Parks, Waterways and Community Initiatives\John Kiernan\2011\Blanchard Street End April 26, 2011.doc

Plan 1



Blanchard West Parcel Plan 1.p...

Plan 2



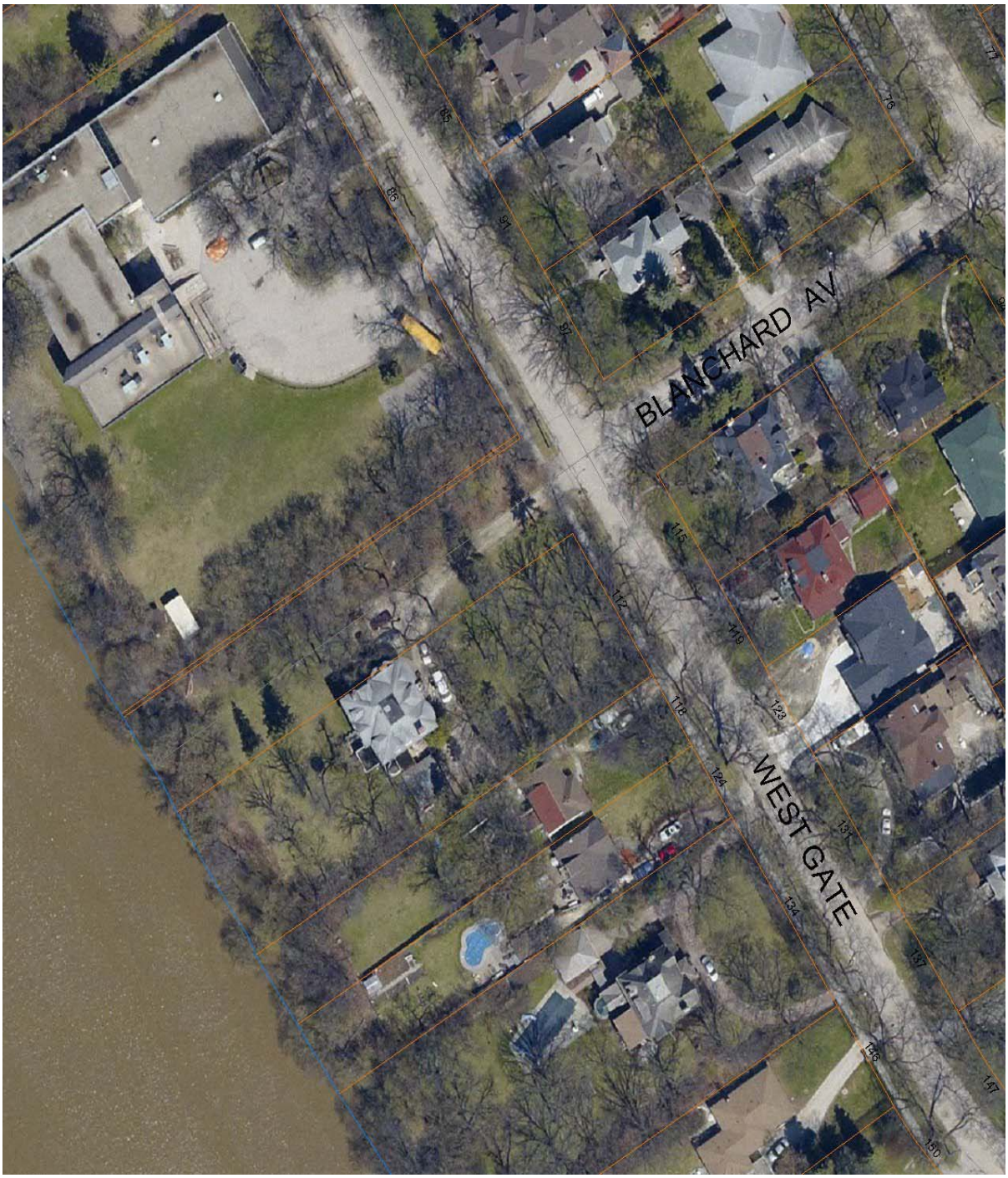
Blanchard West Parcel Plan 2.p...

Plan 3



Blanchard West Parcel Plan 3.p...

Appendix A



APPENDIX B

Decision Making and Project History

Decision Making

STANDING COMMITTEE RECOMMENDATION:
On November 23, 1999 the Standing Policy Committee on Property and Development passed the
following motion:

That the Director of Property and Development Services be instructed to enter into negotiations with the adjoining property owners to determine the disposition of the closed portions of Blanchard Avenue to the mutual satisfaction of the property owners and the area residents.

And

That following satisfactory completion of the foregoing negotiations, the necessary rezoning application be initiated to designate the street ends to be closed as parks and open space

COUNCIL:
On December 15, 1999, Council adopted the following:

I. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing ni accordance wit Schedule "A", Misc. Plan No. 10696.
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COMMUNITY COMMITTEE RECOMMENDATION:
On January 11, 2011, the City Centre Community Committee passed the following motion, namely:

WHEREAS the purpose of the proposal to close the street ends and dedicate them as public park
is not to deny the owners of the lands adjacent to Blanchard Avenue the use of the street for access to their properties, but to establish that the lands are intended for the use of all of the area
residents;

AND WHEREAS the neighbourhood residents wish to continue to use the portion of Blanchard Avenue west of West Gate as a means of access to the Assiniboine River. City Council has an established policy of retaining street ends adjacent to rivers for this purpose;

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"That the Real Estate Division, Planning, Property and Development Department, be instructed to have discussions with the adjoining property owners and determine the disposition of the closed portion of Blanchard Avenue.", and forwarded the matter to the Standing Policy Committee on Property and Development.

STANDING COMMITTEE RECOMMENDATION:
On February 8, 2011, the Standing Policy Committee on Property and Development requested that the Winnipeg Public Service be requested to consult with area stakeholders and report back
within 60 days, with options to resolve the matter.

STANDING COMMITTEE RECOMMENDATION:
On April 5, 2011The Standing Policy Committee on Property and Development further laid over the matter to its meeting on May 10, 2011.

Project History

1986 - March, the City Centre Fort Rouge Committee recommended that the City of Winnipeg declare the Blanchard St street end east of East Gate as a park.

1999 – December, Council directed that the open unimproved right-of-way at the east and west ends of Blanchard Ave. be developed into a neighbourhood park and stated: ***"The purpose .... to close the street ends and dedicate them as public park is not to deny the owners of the lands adjacent to Blanchard Ave the use of the street for access to their properties, but to establish that the lands are intended for the use of all of the area residents."***

2002 - February, APA and the Public Service began ongoing discussions with several successive owners of 112 West Gate to attempt to conclude the park / access issue.

2004 - 2009 - Public Service worked with the Armstrong Point Residents Association (APA) to reach a conclusion and resolve both of the Blanchard street end issues.

2005 – Fall the Public Service successfully concluded the Blanchard East riverbank and private owner access agreement. Community Greenspace was subsequently developed.

2009 – 2010
January, 2009, the City of Winnipeg was contacted by lawyer of previous owner, wanting to conclude the 2002 Easement agreement related to pending sale. Sale to current owner occurred without this being resolved.

March, 2009, a meeting was held with the current owners of 112 West Gate to commence the negotiation of an encroachment agreement over the Blanchard ROW.

May – August, 2009 site surveys, alternative access plans and options were developed and presented to the property owners of 112 West Gate. The Public Service was advised that none of the options were acceptable and that they wished to have access remain through the ROW and reflect historical practice.

August, 2009 Legal Services communicated to the Property owner that they were undertaking unapproved works on the ROW (e.g. widening / improving driveway access to their property)

September, 2009 the property owners were asked to provide a plan that they considered workable for consideration and several communications took place between Legal Services and the Property Owner's Council took place.

September 2009 to March 2010, individual discussions took place with the affected parties.

January, 2010 three options were prepared for discussion with both sides in the dispute

March 23, 2010 property owners responded to the February 10, 2010 presentation with a proposal

May 31 - June 10, 2010 – Reviewed file and the MacLean's position with Dan MacLean and confirmed the APA position with their representative. APA declined to meet if there was to be a discussion of a land sale.

April, 2011 an appraisal of the lands was prepared by the Planning Property and Development's Real Estate division with the value of the land in today's dollars being excess of $ 300,000+ as a buildable site.

APPENDIX C

Site Photographs – Current Reality – dashed line shows approximate location of property line.

Pictures from Armstrong Point Association – Previous Conditions



Adobe Acrobat Document



Adobe Acrobat Document



Adobe Acrobat Document

May 5, 2011

TO:

John Kiernan, Manager for Park Planning and Development
Jenny Gerbasi, City Councillor
Carlos Gameiro, City Clerk
Jeff Browaty, Council Member
Paula Havixbeck, Council Member
Russ Wyatt, Council Member

RE:

Blanchard West's Street End/West Blanchard Park
Meeting of May 10, 2011 at 9:00 a.m.

From: Wayne, Lynn and Bill Ryzniczuk

We are residents at the above-noted address. We are writing to provide you with our position on this matter and express our opposition to this public land being sold to a private individual.

Just by way of background, we have lived here since 2003 but were residents of the surrounding area (i.e. Wolseley) for 20 years before moving into this neighbourhood. We have a long term commitment to this area and we purchased this home with a reasonable expectation that this unique neighbourhood with its green spaces would be preserved.

We live directly across from the land in question and enjoy the unique habitat in terms of trees, vegetation and bird life that it supports. This is a very special spot in downtown Winnipeg that must be preserved and cherished, especially in this day and age of environmental concerns. This is a rare piece of land in the central area of the city that would be lost forever if placed in private hands.

We have observed that, not only do the residents enjoy this habitat, but many visitors and walk-through traffic have found it a refreshing and beautiful piece of undisturbed space. This is such a unique and valuable area of land. We consider ourselves very fortunate to have this in our community and do not want to lose it.

Our household is opposed to this property being sold to private individuals. This is just too rare and important a piece of land and we all have an obligation to preserve it. We ask you to consider our comments and not permit the sale of this public land to a private entity.

We thank you for taking the time to read this letter.

Yours truly,
Wayne, Lynn and Bill Ryzniczuk

From: Debbie Wall
Sent: Thursday, May 05, 2011 7:24 PM
To: Kiernan, John; Gerbasi, Jenny; Gameiro, Carlos; Browaty, Jeff; phavixbec@winnipeg.ca; Pagtakhan, Mike; Wyatt, Russ
Subject: West Blanchard Park

To whom it may concern,

I frequently walk through the Gates area and I would am joining the Armstrong's Point Association in asking that the west street end of Blanchard be maintained as a public park for all to enjoy.

Sincerely,

Debbie Wall