Agenda – Council – June 22, 2011

Report - Standing Policy Committee on Property and Development – June 7, 2011

Item No. 16 Expropriation of Land for the Chief Peguis Trail Extension Project (Transcona Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 15, 2011, 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 Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interest in land identified on Schedule "A" required by the City for the Chief Peguis Trail Extension Project.

2. That subject to the approval of Recommendation No. 1, the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of The Expropriation Act.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

Report - Standing Policy Committee on Property and Development – June 7, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 15, 2011, 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 June 7, 2011, 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

Title: **To seek Council Approval for the Expropriation of Land Interest – Chief Peguis Trail – Henderson Highway to Lagimodiere Boulevard**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	M. Geer, Acting CFO	P. Sheegl, CAO

RECOMMENDATIONS

1. That the Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interest in land identified on the attached Schedule "A" required by the City for the Chief Peguis Trail Extension Project.

2. Subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

3. That the proper officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

REASON FOR THE REPORT

The interest in land identified on attached Schedule "A" is required for the Chief Peguis Trail Extension Project. Council's authorization to expropriate the subject property is required.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no environmental or human resource implications associated with this report.

Under clause 9(8)(a) of the Expropriation Act, the Director of Planning, Property and Development will request the Province of Manitoba to waive the requirement for an expropriation inquiry.

The Public Works Department has advised that there is adequate funding for the expropriation available under Land Acquisition – Transportation Right of Way 2009 Capital Budget, Account #003-181000-180604-1801000107.

HISTORY

On December 18, 2007, Council approved funding in the 2008 Capital Budget and the 2009 to 2013 Five Year Forecast related to the Chief Peguis Trail Extension – Henderson Highway to Lagimodiere Boulevard Project (CPTEP) for procurement, administration, internal contract work and property acquisition (up front costs) in 2008 and 2009.

On November 19, 2008, Council authorized the Winnipeg Public Service to proceed with the Chief Peguis Trail Extension Project and the Director of Planning, Property and Development received authorization to negotiate the acquisition of land required for the Chief Peguis Trail Project.

Six (6) properties were identified as being partially required for the Completion of the Chief Peguis Trail – Henderson Highway to Lagimodiere Boulevard including certain intersection improvements located outside of Chief Peguis Trail.

The Department has been in negotiations with all six of the affected land owners. One property is owned by The Canadian Pacific Railway Company. Negotiations have been completed with The Canadian Pacific Railway Company to acquire the desired land. The City, however, has to wait until the required land has been properly processed for dismantling and expects to be able to acquire these lands in 2012.

To date the Department has completed acquisition of four (4) of the needed land interests.

After numerous rounds of negotiations with the remaining one (1) property owner, further discussions have been halted. The owner has insisted on selling his entire property to the City at a price which far exceeds the value of the land and the City only requires a small portion of the property.

In consideration of the aforementioned, the Department is certain it will not be able to negotiate the needed land interest at this time. The Department and the Public Works Department concur that expropriation is the best course of action to acquire the needed land interest.

Under the Expropriation Act, once Council makes a declaration of expropriation, the City must serve notices of intended expropriation on all property owners (including tenants). Each owner has 30 days to object to the expropriation. If any owner objects, the City must notify the Province of Manitoba that due to the objection an inquiry is necessary. The time required to appoint an inquiry officer, hold the inquiry and await the inquiry officer's report may prevent the City from confirming the expropriation and obtaining possession of the properties in a timely way.

Under clause 9(8)(a) of the Expropriation Act, the Lieutenant Governor in Council, deeming it necessary or expedient in the public interest to do so in the circumstances, may direct the confirming authority to make its order confirming a declaration without an inquiry being conducted.

Given that the Chief Peguis Trail Extension Project is to be completed by November of this year, the Department recommends the City request the Province waive the need for an inquiry for this project. Upon acquisition of the subject property, the intersection improvements at Grassie Boulevard will be completed in the spring of 2012.

Particulars of the land interest to be expropriated are shown on attached Schedule “A”.

FINANCIAL IMPACT

Financial Impact Statement **Date:** May 18, 2011

Project Name:

Council Approval for the Expropriation of Land Interest – Chief Peguis Trail – Henderson Highway to Lagimodiere Boulevard

COMMENTS:

The recommendations contained in this report include that the Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the interest in land identified on the attached Schedule "A" required by the City for the Chief Peguis Trail Extension Project, that subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

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The acquisition of any properties referenced in this report for which the price payable is $100,000 or less plus ancillary costs will be authorized by the Chief Administrative Officer in accordance with section 26(17) of the City Organization By-law. Any properties for which the price payable exceeds $100,000 will the the subject of future reports.

There are no direct financial implications associated with the recommendations contained in this report.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

Pubic Works Department

Legal Services

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by	Michelle Granger, RPA
Date:	May 19, 2011
File No.	8888

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SCHEDULE "A"

Property #1

Location:	307 Grassie Boulevard
Legal Description:	Pt. Lots 64A & 65, O.T.M. Kildonan
Certificate of Title:	1705536
Registered Owner:	Robert Dennis Miles
Realty Roll No.:	04004551500
Assessment (2008)	$174,000 (land and building)
Zoning:	R1-L Residential
Interest Required:	Fee Simple
Size of Parent Parcel:	±26,900 sq. ft.
Size of Taking:	± 1312 sq. ft.
Description:	Improved Single Family Property

