CONSIDERATION OF REPORT OF THE
COMMITTEE ON PROTECTION, PARKS AND CULTURE

The Executive Policy Committee has had before it the Report of the Committee on Protection, Parks and Culture, dated October 7th, 1991, has concurred in the recommendations contained therein and submits same to Council for approval and adoption.

On motion of Councillor Douglas, the Report of the Committee on Protection, Parks and Culture, dated October 7th, 1991, was considered clause by clause.

Conference Room No. 3,
Council Building, Winnipeg.
October 7th, 1991

His Worship the Mayor and Councillors:

Your Committee on Protection, Parks and Culture submits the following Report and recommends:

Renewal of Funding Agreement - Winnipeg Boys and Girls Clubs, Inc.
File PR 2.8

1364 1. On October 3rd, 1984, Council authorized the City of Winnipeg to enter into a one year agreement with the Winnipeg Boys and Girls Clubs Inc. for the period of January 1st, 1984 to December 31st, 1984. Subsequent to the termination of that agreement, the Winnipeg Boys and Girls Clubs Inc. requested an extension of monthly payments into 1985 pending a review by the City of the status of its annual grant allocations.

In early 1985 the Winnipeg Boys and Girls Clubs Inc. requested an increase in the amount of their annual grant from the City. On February 6th, 1985, the Acting Commissioner of Environment appointed the University of Manitoba Faculty of Physical Education and Recreation Studies to conduct an evaluation of the recreation programs offered by the Boys and Girls Clubs Inc.

On February 13th, 1985, Council authorized the appropriate City officials to process five (5) payments each in the amount of $3,000.00 to the Winnipeg Boys and Girls Clubs Inc., covering the period January to May inclusive, and instructed the City of Winnipeg not to enter into a new agreement with the Winnipeg Boys and Girls Clubs Inc., until such time as the Parks and Recreation Department's evaluation of the recreational component of that organization was complete.

On June 24th, 1985, the Committee on Recreation, Culture and Social Services adopted proposals contained in a report prepared by the University of Manitoba, entitled "Winnipeg Boys and Girls Club Recreation Program Evaluation." These proposals read as follows:

1. That the City of Winnipeg continue to provide an annual grant in the amount of $36,000.00 to the Winnipeg Boys and Girls Clubs Inc., to assist with core centre recreation programs for children and youth "at risk" in the community.

2. That the City of Winnipeg renew the agreement with the Winnipeg Boys and Girls Clubs Inc., for the use of facilities at Freight House, Lizzie Playground, Aberdeen and Lord Selkirk Parks to provide recreation programs to "youth at risk" and that it be extended over a three year period and that the issue of exclusive space be negotiated in the contract.

3. That the Winnipeg Boys and Girls Clubs Inc., be required to account for the annual grant and use of facilities on an annual basis to ensure that these services provided by the City are used to provide recreation programs for "youth at risk" in the core area of the City.

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4. That the Winnipeg Boys and Girls Clubs Inc., be required to hire staff with training and expertise in recreation program development to ensure the provision of quality recreation experiences.

5. That the City of Winnipeg and the Winnipeg Boys and Girls Clubs Inc., with other youth serving agencies, continue ongoing communication and coordination of services to avoid potential conflicts, duplication and over lap in services and to ensure a high quality recreation experience for core area children and youth.

6. That appropriate officers of the Parks and Recreation Department meet with representatives of the Winnipeg Boys and Girls Clubs Inc., and develop a new agreement for the three year period January lst, 1985 to December 31st, 1987, which incorporates the above recommendations, for submission to the Committee on Recreation, Culture and Social Services.

On February 5th, 1986, Council authorized the City to enter into a three year agreement with the Winnipeg Boys and Girls Clubs Inc., whereby the City provided funding in the amount of $51,000.00 in each of the years 1985 and 1986. The funding for 1987 was to be determined after the Club's annual presentation to Standing Committee.

The subsequent funding allocation for 1987 was set by the Standing Committee at $53,550.00. Recognizing that the existing agreement with the Club was set to expire December 31st, 1987, the Committee on Protection, Parks and Culture also recommended that the administration enter into discussions with the Winnipeg Boys and Girls Clubs Inc., to explore the possibility of negotiating a longer term agreement for the future.

On December 2nd, 1987, Council adopted the Committee on Protection, Parks and Culture's recommendation that the City of Winnipeg enter into a three year agreement with the Winnipeg Boys and Girls Clubs Inc., for the period January 1st, 1988 to December 31st, 1990. The City agreed to provide funding in the amount of $58,500.00 in the first year of the agreement with an annual increase in the subsequent years equivalent to the percentage rate increase received by the Parks and Recreation Department, Winnipeg Association of Public Service Officers staff in the particular year.

The existing agreement between the City and Boys and Girls Clubs Inc., expired on December 31st, 1990. On March 15th, 1991, City Council approved a grant to the Winnipeg Boys and Girls Clubs Inc., to provide recreation programs for 1991.

The proposed agreement has been developed in consideration of the recommendations of the Committee on Protection, Parks and Culture, the Parks and Recreation Department, and the Winnipeg Boys and Girls Clubs Inc.

The modifications to the existing agreement are as follows:

1. Clause (2) of the agreement has been amended to reflect the change in funding for 1991 based on the criteria outlined in the clause.

2. Clause (3) of the agreement has been amended to the years the agreement is in effect. Presentations outlining the Boys and Girls Club service will be made in the year 1992.

3. Clause (6) of the agreement has been amended to put the onus on the Parks and Recreation Department to meet the Boys and Girls Club staff once a month to coordinate recreation programs. Previously, neither party had this responsibility.

4. Clause (9) of the agreement has been amended from a three year agreement term to a one year term. This coincides with City Council's approval on March 15th, 1991, of the grant for a one year term.

5. Number (5) of Schedule A has been amended to provide consistency with the language used throughout the agreement. "Core area" has been amended to "City Centre/Fort Rouge and Lord Selkirk/West Kildonan communities."

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In all other respects this renewal agreement retains the provisions of the previous agreement.

On October 7th, 1991 your Committee on Protection, Parks and Culture heard Mr. M. Owen and Mr. G. Timlick in delegation in support of the renewal of the agreement. In accordance with the existing provision for the Club to report to your Committee on Protection, Parks and Culture outlining the objectives achieved by its recreation programs and accounting for monies received during the year, the delegation submitted a written presentation (Appendix "B").

Your Committee on Protection, Parks and Culture recommends:

1. That the City of Winnipeg enter into a one year agreement with the Winnipeg Boys and Girls Clubs Inc., for the period January 1st, 1991 to December 31st, 1991.

2. That the draft agreement, identified as Appendix "A" and incorporating the amendments outlined above, be approved.

3. That the proper officers of the City do all things necessary to implement the foregoing.

Moved by Councillor Douglas,
Adoption of the clause.

Carried.

(Note: See Minute No. 1367 for attachment.)

Southdale Community Centre - Capital Program Change Request.

File PR 2

1365 2. Your Committee on Protection, Parks and Culture has considered a request for a capital program change in order to relocate a hockey rink and lights, expand the parking lot, carry out repairs to the athletic field and provide all necessary fencing and landscaping to complete the Southdale Community Centre project.

On October 16th, 1990, Councillor Reese appeared before the Committee on Finance and Administration and requested a transfer of surplus funds from the Dakota Community Centre project to the Southdale Community Centre project. These funds were required in addition to funding of $111,000.00 included in the draft 1991 Capital Estimates at the time. (The funding had been reduced from $150,000.00 in order to meet budget guidelines.)

The Committee on Finance and Administration approved the request subject to:

1. any public hearing for the parking lot if legally necessary;

2. approval of the Committee on Protection, Parks and Culture of this project as a priority item.

On November 5th, 1990, the Committee on Protection, Parks and Culture considered the motion of the Committee on Finance and Administration and referred the matter to the administration for consideration in conjunction with the review of Capital Estimates. The Capital Estimates were later approved without any increase as a result of Council's efforts to restrain the Capital Budget.

On March 19th, 1991, the St. Boniface St. Vital Community Committee reiterated its previous recommendation that the unused balance of the Dakota Community Centre capital budget be transferred to the Southdale parking lot and related site upgrading project, and be combined with the funds in the amount of $111,000.00 approved in the 1991 Capital Budget so that the project may proceed.

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Your Committee on Protection, Parks and Culture recommends:

1. That surplus funds in the amount of $20,980.00 be authorized for transfer from the Dakota Community Centre Capital Program to the Southdale Community Centre parking lot expansion project.

2. That the proper officers of the City do all things necessary to implement the foregoing.

Moved by Councillor Douglas,
Adoption of the clause.

Carried.

Councillor Clement asked to be recorded as having voted against the clause in accordance with Section 50.7 of the Procedure By law.

School Crossing Guard at Hampstead School - Files ST-4.1 and FE(1992)

1366 3. On September 9th, 1991, your Committee on Protection, Parks and Culture submitted the following report which was not adopted by Council at its meeting of September 25th, 1991:

"12. On December 9th, 1970 the City of East Kildonan applied to the Railroad Transport Commission for authorization to construct a pedestrian crossing across the Canadian Pacific Railways Mainline (2 sets of tracks) near the Hampstead School. As a result of this request, the Railroad Transport Commission issued order No. R 10342 which was amended with order No. R 12565 on September 14th, 1971. These orders stipulated the following conditions must be adhered to if this crossing was established:

1) The City was to erect a chain link fence and provide a watchman at the pedestrian crossing in the morning, at noon and in the afternoon at times when children were going to or from school.

2) The cost of the construction of the crossing was paid by the City of East Kildonan and all maintenance of the crossing since it was constructed has been paid for by the Railway.

3) Full height chain link fence gates were also to be installed on each approach to the crossing. The gates were to be kept locked when the watchman was not present.

4) The cost of the Watchman was to be paid by the City of East Kildonan.

This pedestrian crossing across the Canadian Pacific Railway Mainline has been manned by the same crossing guard since it was opened. On amalgamation of the City of Winnipeg the responsibilities of the maintenance of the gates and fence as well as the City's portion of the salary for the crossing guard, approximately $5,000.00 a year, became the responsibility of the City of Winnipeg. The River East School Division No. 9 also pays $5,000.00 a year to ensure the Crossing Guard is on duty from 8:00 a.m. to 5:00 p.m., Monday to Friday.

This cost item was considered when the Police Department reviewed the 1991 budget. A decision was made to advise the River East School Division No. 9 effective January 1st, 1992 the Police Department would remove their portion of payment of the crossing guard's salary from the budget and the school division would be required to assume this cost.

On May 13th, 1991 the Committee on Protection, Parks and Culture heard Councillor Timm Rudolph in delegation regarding the proposed elimination of the costs of the Hampstead School Crossing Guard from the Winnipeg Police Budget. The Winnipeg Police Department was requested to investigate and after further enquires, now recommends that the City continue to fund their portion of the cost of maintaining the Hampstead School Crossing Guard as not to do so would create a hardship on the River East School Division No. 9. This crossing is used twice a day by approximately 226 children or 73% of Hampstead School as well as a number of students from Morse Place Junior High.

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If the City of Winnipeg were to cease funding their portion of this position, the City would have to request to have the crossing closed and the gates locked, thereby cancelling the orders now in existence. This would classify this pedestrian crossing as a private crossing. The School Division would then have to apply to the Railway to strike a new order concerning the crossing and would have to agree to accept liability at the crossing.

Should the City of Winnipeg continue to fund this position, the City would still be the responsible Road Authority and the crossing would continue to be classified as a public crossing which leaves the liability question to be determined by the facts of the incident.

On occasion Police have been requested to replace this crossing guard when he was absent. However, arrangements must be made by River East School Division No. 9 to have a replacement when the Crossing Guard is absent from duty. Police resources should not be utilized for this position.

Alternative changes to this crossing were considered but found to be less adequate than the present arrangement. These alternatives were:

(a) A warning signal consisting of a modified bell and flashing lights but without the arms. This would cost $40,000.00 to install with an upkeep charge to the City of $2,000.00 to $4,000.00 a year by the Railway. This would not be effective or safe as this is a two track crossing and on occasion trains are proceeding in different directions. This warning signal is more appropriate for single track crossings.

(b) An overhead crossing would cost $500,000.00 however this would be hazardous, especially in the winter due to snow build up and the possibility of slipping. A crossing such as this would require special ramps for wheelchair access.

The Winnipeg Police Department continues to endorse the use of a watchman as the best means of providing safety for the children using this crossing.

Your Committee on Protection, Parks and Culture is of the opinion that it is in the best interest of the community to continue the City's portion of the cost of maintaining the Hampstead School Crossing Guard and therefore recommends:

1. That the City of Winnipeg continue to provide their portion of the cost of maintaining the Hampstead School Crossing Guard subject to the following conditions:

    (a) That River East School Division No. 9 provide backup personnel in the event the full time crossing guard is unable to report for duty.

    (b) That River East School Division No. 9 provide replacements in the event the full time crossing guard terminates.

2. That the Proper Officers of the City do all things necessary to implement the foregoing."

On October 7th, 1991, your Committee on Protection, Parks and Culture further considered this matter and heard representation from Councillor Timm Rudolph, Superintendent G. Ash, the Hampstead School Liaison Officer and several students in support of the continuation of the Hampstead School Crossing Guard. The delegation filed a petition requesting that the City continue to fund its portion of the crossing guard position.

Your Committee on Protection, Parks and Culture re affirmed its previous recommendations and resubmits its report and recommends:

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1. That the City of Winnipeg continue to provide their portion of the cost of maintaining the Hampstead School Crossing Guard subject to the following conditions:

   (A) That River East School Division No. 9 provide backup personnel in the event the full time crossing guard is unable to report for duty.

   (B) That River East School Division No. 9 provide replacements in the event the full time crossing guard terminates.

   2. That the Proper Officers of the City do all things necessary to implement the foregoing.

Moved by Councillor Douglas,
Adoption of the clause.

Carried.

1367 - Appendix “A” referred to in Clause 1 of the Committee on Protection, Parks and Culture, dated October 7th, 1991

(NOTE: SEE PAGES 1969 TO 1974 FOR OFFICIAL SET OF MINUTES FOR ATTACHMENT)

COMMITTEE ON PROTECTION, PARKS AND CULTURE
MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Moved by Councillor Reese,
Seconded by Councillor Timmers,
1368 - WHEREAS the A.J.I. Report (Volume 2, pages 65 and 66) states that "The Crown Attorney must not allow charges to be laid which are not properly supported by the facts or the law";

AND WHEREAS the A.J.I. Report further states that "The Crown Attorney should advise the laying of charges only when the following question can be answered in the affirmative: Could a judge or a jury properly instructed and acting reasonably, convict the accused or the accused, based on admissible evidence as presented by the police to the Crown Attorney? Where doubt exists that a conviction would result, it is the responsibility of the Crown Attorney to advise the police to continue their investigation. If the evidence reveals that a conviction might result on a different charge from that suggested by the police, it is the responsibility of the Crown Attorney to advise the police of that fact. If certain evidence is necessary for a conviction, the Crown Attorney should advise the police of the deficiencies in their case and offer any advice which might seem appropriate." (writer's emphasis);

AND WHEREAS Crown Attorney Finlayson negligently failed to act in accordance with the A.J.I. report's definition of the responsibilities and duties of the Crown and in particular failed to advise the police of the deficiencies in their case and demand that they continue their investigation prior to charges being laid;

AND WHEREAS Crown Attorney Finlayson in the absence of sufficient information, nevertheless gave the following advice "...if those are all of the facts that we have, and there was no explanation as to the lawyer's behaviour, then the charge would be one of sexual assault that I would authorize." (Pg. 39 Hughes' Report);

AND WHEREAS the Minister of Justice is responsible for the quality and level of justice delivered in the Province of Manitoba;

BE IT RESOLVED That City Council advise the Minister of Justice that the Hughes' Report has too narrowly defined the role of Crown Attorney Finlayson in regard to his advice to Inspectors Bell and Dawson and failed to examine Finlayson's conduct by not taking into account the Crown's full responsibilities and duties of the Office of the Crown Attorney;

AND BE IT FURTHER RESOLVED that the Minister of Justice share with the City the responsibility for the charges being laid, as well as the legal costs incurred by Mr. Pollock beyond the costs of the Inquiry;

AND BE IT FURTHER RESOLVED that City Council accept the Hughes' Report's conclusions in regard to the roles of the Chief of Police, the Officers Kushneryk, Toyne, Bell, Dawson and Johnston, Chief Commissioner, Commissioner Reynolds and Mayor Norrie and City representatives as well as its recommendations.

Moved by Councillor Lorenc,
That the motion be referred to Executive Policy Committee.

The motion to refer was put.

Councillor Thomas called for the yeas and nays, which were as follows:

Yea: - Councillors Wade, Clement, Demare, Diamant, Douglas, Fleisher, Fraser, Gilroy, Golden, Kaufmann, Lazarenko, Lorenc, Mitchelson, Murray, Timm Rudolph, Young, Yuen and Eadie. 18

Nay: - Councillors Boychuk, Duguid, Hyman, Mendelson, Reese, Selinger, Thomas and Timmers. 8

and the motion to refer was declared carried.