CONSIDERATION OF REPORT OF THE

COMMITTEE ON FINANCE AND ADMINISTRATION

The Executive Policy Committee has had before it the Report of the Committee on Finance and Administration, dated September 10th, 1991, has concurred in the recommendations contained therein, except as noted below, and submits same to Council for approval and adoption.

On motion of Councillor Selinger, the Report of the Committee on Finance and Administration, dated September 10th, 1991, was considered clause by clause.

West Committee Room,
Council Building, Winnipeg.
September 10th, 1991.

His Worship the Mayor and Councillors:

Your Committee on Finance and Administration submits the following Report and recommends:

Acquisition of Lot 3, Block 3, Plan 1997 - Part 69
Clayton Drive, in the St. Boniface-St. Vital Community.
File FI-2(25)

1275 - 1. Your Committee on Finance and Administration has considered the attached Item 1 of Report No. 1A of the Technical Advisory Committee on City Properties, dated August 27th, 1991 (File No. 7415/6), relative to the proposed acquisition of Lot 3, Block 3, Plan 1997, Part 69 Clayton Drive, in the St. Boniface-St. Vital Community.

Your Committee on Finance and Administration has been advised that the Board of Commissioners on June 20th, 1991, concurred in a report dated June 7th, 1991, from the General Manager of the Parks and Recreation Department, which report recommended acquisition of the above-referenced property. The Board of Commissioners instructed the Director of Land Surveys and Real Estate to enter into negotiations to acquire the property, shown as subject property on Misc. Plan No. SBSV 7872/2, for the purposes of neighbourhood open space and riverbank, linear parkway in accordance with the Seine River Park Study.

On August 6th, 1991, the owner agreed to sell the subject property to the City at a price of $17,000.00 and in accordance with the terms and conditions proposed, as listed on attached Schedule "A", which are considered by the Land Surveys and Real Estate Department to be reasonable.

Funding for the proposed acquisition is committed in a Budget Bureau Certificate dated June 25th, 1991 against the Land Acquisition of Riverbank Property Account.

Your Committee on Finance and Administration recommends:-

1) That Council approve the purchase of Lot 3, Block 3, Plan 1997 at a price of $17,000.00 and in accordance with the terms and conditions as outlined in Schedule "A".

2) That the Proper Officers of the City do all things necessary to implement the above recommendation including the execution of any documents related thereto.

Moved by Councillor Selinger,
Adoption of the clause.

Carried.

(Note: See Minute No. 1282 for attachments.)

Report of the Committee on Finance and Administration, dated September 10th, 1991.

Leave and License for Use of North-South
Lane on the east side of Kildonan Drive and
North of Essar, - East Kildonan-Transcona Community.
File FI-2.2(23)

1276 - 2. Your Committee on Finance and Administration has considered the attached Item 2 of Report No. 1 of the Technical Advisory Committee on City Properties, dated August 27th, 1991 (File No. 5577), relative to a Leave and License for use of North-South Lane on the east side of Kildonan Drive and North of Essar, in the East Kildonan-Transcona Community as shown on Misc. Plan No. EK 7730.

The referenced lane is legally but not physically open. A gravel extension of the East-West Lane North of Essar Avenue has been used across Edgewood Estates Condominium Land to connect the Lane to Kildonan Drive.

A plan approval has been granted to Edgewood Estates for the addition of housing units with proviso that the land required for the extension of the East-West lane to Kildonan Drive will be transferred to the City. The District Works and Operations Department is agreeable to the closing of the North-South portion of Lane and Sale to the adjoining neighbours, when the land required for extension to Kildonan Drive is transferred to the City.

The East Kildonan-Transcona Community Committee, at its meeting of June 11, 1991, recommended that the adjoining property owner, Mr. and Mrs. Janzen, continue to occupy the land with the portion required by Mr. and Mrs. Bruce under a Leave and License Agreement temporarily, while negotiations for the purchase of the property are ongoing.

Mr. and Mrs. Bruce at 1397 Kildonan Drive have planned a garage in the back yard and would require access to the currently open lane.

Mrs. Hales at 1393 Kildonan Drive has no interest in the lane land.

Mr. and Mrs. Janzen at 39 Essar Avenue have been using the City land and wish to lease/purchase any of the lane not required by the Bruce family for rear yard access.

The parties involved have agreed to a split of the land as shown on Sketch Plan No. EKT 7730/1.

The terms and conditions of a leave and licence would be as outlined in Exhibit "A" in a form satisfactory to the City Solicitor.

Your Committee on Finance and Administration recommends:-

1) That Council grant Leave and Licence to the applicants in accordance with Exhibit "A".

2) That the Proper Officers of the City be authorized to do all things necessary to implement the above recommendation including the execution of any documents related thereto.

Moved by Councillor Selinger,
Adoption of the clause.

Carried.

(Note: See Minute No. 1283 for attachments.)

Report of the Committee on Finance and Administration, dated September 10th, 1991.

Amendment to the Offer to Purchase - Lots 1/7, Block 19, Plan 1504 - North/West Corner Regent Avenue and Madeline Street – Marwest Construction Ltd. for the Kinsmen Club of Transcona - East Kildonan-Transcona Community. File FI-2.4(23)

1277 - 3. REFERRED BY EXECUTIVE POLICY COMMITTEE TO THE EAST KILDONAN-TRANSCONA COMMUNITY COMMITTEE.

Summary of Acquisitions, Leases and Sales of Property - January 1st, 1991 to June 30th, 1991. File FI-2.5

1278 - 4. Council on July 18th, 1979, adopted Clause 1 of the Report of the (then) Committee on Finance, dated June 26th, 1979, which sets out the policy for the sale, acquisition, rental, leasing and management of properties for the City.

The policy requires the Committee on Finance and Administration to report all acquisitions, leases and sales of property to Council for information purposes.

Your Committee on Finance and Administration submits for the information of Council, the attached summary of acquisitions, leases and sales of property approved by the Committee during the period January 1st, 1991 to June 30th, 1991.

Moved by Councillor Selinger,
Adoption of the clause.

Carried.

Sale of City Land North of Regent Avenue between Peguis Street and proposed Costco Development Project to Costco Wholesale Corporation - East Kildonan-Transcona Community. File FI-2.4(23)

1279 - 5. Your Committee on Finance and Administration has considered report dated September 5th, 1991, (File No. 6049/3-5) relative to the proposed sale of City land north of Regent Avenue lying between the proposed new Peguis Street and the proposed Costco Development Project to Costco Wholesale Corporation, in the East Kildonan-Transcona Community, as shown on Miscellaneous Plan No. EKT 5571/8.

The Committee on Planning and Community Services, at its meeting held on July 31st, 1991, approved a Conditional Use application under DCU 113/91 of the proposed Costco Wholesale Corporation Project. As one of the conditions of the approval the Committee required Larfran Investments Ltd. and 73336 Manitoba Inc. and Leslie Chester or Costco Wholesale Corporation, the beneficial owner, to dedicate to the City for street purposes the property identified as "Lands to be Dedicated by Leslie Chester" and "Lands to be Dedicated by Larfran Investments Ltd. and 73336 Manitoba Inc.".

The Developer initially advised the City that it was prepared to dedicate the necessary lands for right-of-way purposes but expected in exchange that the City will convey to the Developer, free of all costs, all of the surplus land left over from the Peguis Street Widening Project as shown on drawing No. EKT 5571/8 to Costco Wholesale Corporation.

This Developer has now advised the City that it is aware that pursuant to Development Agreement DAZ 273/79 the developers of the adjacent Kildonan Place Shopping Centre to the west are required to transfer to the City the necessary lands to extend and widen Pequis Street or to pay on demand to the City its costs of assembling these

lands. As a result the Developer of the Costco facility has suggested that the City buy from it the lands required to be dedicated under the terms of its development approval.

Report of the Committee on Finance and Administration, dated September 10th, 1991.

The Law Department has advised that:

"The indemnity to the City from a third party is not a circumstance relevant to the suggestion that the City pay for right-of-way normally required to be dedicated.

The City has no contractual right to make a demand upon that third party unless the City incurs necessary costs which it is responsible to pay for its own account."

There is therefore, no basis for purchase of these lands from Costco. The full text of the Law Department's opinion is outlined in Exhibit I.

The City expropriated for the Regent Avenue Widening Project certain lands from the Larfran and Chester properties and has not yet reached a settlement with these owners. The Land Surveys and Real Estate Department was in the process of recommending that the surplus land left over from the Peguis Street Widening Project as referenced herein be reserved for subsequent use and settlement of these expropriations.

In a letter dated September 4th, 1991, the Developer, Costco Wholesale Corporation, confirmed its acquisition and receipt of title to the Leslie Chester and Larfran Investments Ltd. and 73336 Manitoba Inc. properties. As Costco, pursuant to this transfer, did not acquire any right to receive compensation arising out of the Regent Avenue expropriation, the Land Surveys and Real Estate Department has negotiated the sale of the subject surplus land to this Developer.

Ensuing negotiations with the Developer's representatives have produced Costco's agreement to acquire the subject property on the terms and conditions as recommended by the City, as set out below:-

1. The Purchaser to compensate the City in the amount of Eight Thousand Eight Hundred and Fifty Dollars ($8,850.00) plus the applicable Goods and Services Tax;

2. That the said property be conveyed to the Purchaser free and clear of any and all registered liens and encumbrances;

3. The possession and adjustment date in respect of the land to be conveyed to the Vendor shall be the date of registration of the proposed Plan of Subdivision at the Winnipeg Land Titles Office or the date of final approval of City Council, whichever is the later;

4. That the said City property be conveyed to the Purchaser subject to consolidation with the Purchaser's adjacent title;

5. The City agrees to consent on a Real Owner Application Form, to add the Purchaser as Real Owner of the subject property on the assessment rolls of the City;

6. The Purchaser agrees to declare their Registrant Number for the purposes of the Goods and Services Tax;

7. This proposal is a recommendation only and is subject to final approval of City Council.

The agreement now reached with Costco Wholesale Corporation is in accordance with the rate per square foot as paid by the Developer in their acquisition of the total Larfran Investments Inc. 73336 Manitoba Inc. property, i.e. $4.75 per square foot for the 173.0 m2 (1,862.16 sq. ft.)

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The Land Surveys and Real Estate Department is of the opinion that it would be in the best interests of the City to settle this matter on the basis of the proposal as specified herein.

Your Committee on Finance and Administration recommends:-

1. That Council declare as surplus the land shown as "City property to be transferred to Costco Wholesale Corporation" on drawing No. EKT 5571/8;

2. That Council approve the sale of the subject property to Costco at a price of $8,850.00 and in accordance with the terms and conditions as specified herein.

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

Moved by Councillor Selinger,
Adoption of the clause.

Pursuant to the Municipal Council Conflict of Interest Act, Councillor Mitchelson advised Council that he would refrain from entering the discussion and from voting on the clause due to a potential conflict in view of the fact that the purchaser is a customer of his employer, and left the chamber.

The motion for adoption of the clause was put and declared carried.

Councillor Mitchelson here returned to the Chamber.

(Note: See Minute No. 1284 for attachments.)

Amendment to License By-law No. 4007/85 – Increase in Transient Traders' Licenses. File EL

1280 - 6. Council on May 29th, 1991, referred back to your Committee on Finance and Administration Clause 5 of its Report dated May 14th, 1991, which reads as follows:-

"5. Out-of-town vendors are subject to licensing under the City's License By-law No. 4007/85 as 'Transient Traders'. This is identified in Section 11, Subsection 73 of the By-law which states in part:

> 11(73) 'transient trader' means any person, whether occupying permanent or other premises elsewhere in the City or not, who offers goods for sale in premises in the City or inn or from any railway freight car, automobile or other vehicle, or in any other place in the City where the carrying on of such business is for a temporary period only and whose trade is not specifically referred to in this By-law.

(Complete definition and fee charged are outlined on Exhibit I)

In addition to the requirements of The City of Winnipeg License By-law, many transient traders fall within the licensing and bonding requirements imposed upon direct sellers by the Province of Manitoba under The Consumer Protection Act. (Under recent legislative amendments, the requirements of The Consumer Protection Act specifically apply in most cases where sales are made in or from a hotel, motel or other temporary or short-term establishment).

Municipalities are not permitted under their licensing powers to enact regulations which are intended to prohibit or discourage the carrying out of a trade. Similarly, the City cannot administratively discourage the issuance of licenses; if the requirements of the current License By-law have been met, the License Branch cannot deny or discourage the issuance of a transient traders license to an applicant.

The City of Winnipeg Act does allow the City to charge a reduced license fee of persons who are assessed

for business tax in respect of business premises within the City as compared to persons who are not assessed for business tax. However, for such a differential license fee to be valid, the fee reduction for local businesses should bear some reasonable correlation to the taxes and other payments made by such businesses to the City which are not paid by transient operators and should not simply be a punitive measure imposed against non-local businesses.

A number of Canadian cities have been surveyed to obtain additional information on the licensing of out-of-town vendors. The results of that survey are outlined in Exhibit II. It should be noted that the City of Winnipeg does not have the power to classify transient traders according to the type of business premises occupied and impose varying corresponding license fees in the manner that has been adopted by Regina and Saskatoon.

Your Committee on Finance and Administration has been advised that its Ad Hoc Committee on Licensing has expressed the opinion that out-of-town vendors should be restricted or discouraged as they do not contribute to the economy of the City and has considered a further report from the License Branch providing more information, including the number of licenses issued with particular reference to the type of articles sold. (Exhibit III)

Your Committee on Finance and Administration recommends that Section 5(5) and Item 87, Schedule 'A' of the License By-law No. 4007/85 be amended to include a time-limited issuance of Transient Traders' License, i.e. 90 days from date of issuance of license and to incorporate an increase in Transient Traders' Licenses, as follows:-

In Town Vendors	$350.00
Out-of-Town Vendors	500.00
Each Additional Location for In-Town and Out-of-Town Vendors	50.00
Transfer fee of licenses exceeding $100.00	25.00

Your Committee also recommends that the Proper Officers of the City be authorized to do all things necessary to implement the above mentioned recommendations."

For the information of Council, the License Branch supports a reduced license fee for additional locations but suggests that the fee charged should be substantially higher to reflect administrative costs . A fee of $150.00 is suggested (same fee presently charged for a one day license) for In-Town vendors and $250.00 for Out-of-Town vendors.

Your Committee on Finance and Administration has reconsidered this matter and recommends:-

1) That Section 5(5) and Schedule "A" (Item 87) of the License By- law No. 4007/85 be amended to establish the following transient traders' license fees:

	In-Town Vendors	Out-of-Town Vendors
Transient Trader License Fee valid for 90 days from date of issue	$350.00	$500.00
- Each Additional Location	150.00	250.00
- One Day only License	150.00	250.00
- Transfer Fee of License	25.00	25.00

2) That the City Solicitor be requested to prepare the necessary by-law for Council's approval and adoption.

Report of the Committee on Finance and Administration, dated September 10th, 1991.

Moved by Councillor Selinger,
Adoption of the clause.

Moved by Councillor Kaufmann,
That the clause be referred back.

Carried.

Sale of City-owned Bird's Hill Gravel Pit. Files FI-2.4.5 and FI-2.4(23)

1281 - 7. The Committee on Finance and Administration, at its meeting held on April 2nd, 1991, considered report dated March 21st, 1991, from the Commissioner of Finance and Administration, together with representation from Mr. M. Swistun, representing the Silver Springs and Wildlife Heritage Park Project, and Mr. S. Russell of McGowan Design Group Inc. with respect to their proposal to purchase a portion of the City-owned gravel pit property to develop a heritage park.

Committee also heard representation from Messrs. M. Hildebrand and D. Grant, Eagle Ridge Properties Inc., seeking to purchase the referenced property to consolidate its adjoining holding with the City-owned land for the development of a golf course.

On April 2nd, Committee approved the sale of Bird's Hill Gravel Pit to Silver Springs Fish and Wildlife Heritage Park Inc. and concurred in the recommendations contained in the aforementioned report, namely:-

1. That the subject property be declared surplus to the City's requirements.

2. Authorize negotiations for its sale as follows:

(a) 1.948 acres to the Province of Manitoba for the future development of a weigh scale on PTH 59; and, and

(b) 29.874 acres to Silver Springs Fish and Wildlife Heritage Park in accordance with the terms and conditions set out therein.

Subject to:

(1) (a) land being sold at fair market value;

(b) land reverting back to the City, if at some future time, the land is to be disposed of for use other than a wildlife park; and,

(c) no residual gravel being quarried for revenue.

Negotiations to date have not resulted in a settlement in accordance with the above terms.

On July 25th, 1991, the Chairman of the Committee on Finance and Administration referred a communication, dated July 9th, 1991, from the Silver Springs Fish and Wildlife Heritage Park Inc. to the Commissioner of Finance and Administration for consideration and report.

Negotiations were undertaken by the Land Surveys and Real Estate Department with Silver Springs Fish and Wildlife Heritage Park Inc. representatives. Throughout the entire process, Silver Springs has suggested that mining of the gravel was necessary to achieve the desired depth of a pond to be located on the City lands and to provide the Corporation with sufficient working capital to undertake the rehabilitation/conversion of the pit into a wildlife park.

In letter dated June 17th, 1991, Silver Springs submitted an offer to purchase the 29.874 acre subject

Report of the Committee on Finance and Administration, dated September 10th, 1991.

property, the basis of which continues to provide the City with either a royalty on the sale of gravel, which could result in $15,000.00 over a period of years, or an outright purchase at $11,000.00, "while accepting a reversionary caveat on the land if it is to be disposed of for any use other than the park. As well as the condition gravel residual to the rehabilitation plans of the park not be quarried from the site".

Inasmuch as site rehabilitation includes the excavation of a pond containing something in the order of 300,000 tonnes of gravel, Silver Springs continues to hold the position that gravel is required to be mined and sold off- site.

Further clarification of the Silver Springs position regarding their plans to re-excavate the pond and provide the City with a royalty for gravel removed, is contained in their letter dated July 9th, 1991.

The Operations Department has, throughout these negotiations, been informed of the Silver Springs position. They have, in addition, discussed the potential sale of the Bird's Hill Gravel Pit with representatives of Silver Springs on numerous occasions. However, their position, as outlined in a memorandum, dated June 20th, 1991, from the Manager of Equipment and Material Services Branch, continues to be "....that no commercial mining take place....".

The options available in dealing with this matter are as follows:

(1) That the Committee on Finance and Administration confirm its decision of April 2nd, 1991, and that the 29.874 acres of the Bird's Hill Gravel Pit be sold to the Silver Springs Fish and Wildlife Heritage Park Inc. subject to:

(a) land being sold at fair market value;

(b) land reverting back to the City, if at some future time, the land is to be disposed of for use other than a wildlife park; and,

(c) no residual gravel being quarried for revenue.

(2) Committee rescind its decision of April 2nd, 1991, and that the 29.874 acres of the Bird's Hill Gravel Pit be sold to the Silver Springs Fish and Wildlife Heritage Park Inc.

subject to conditions (a) and (b) as outlined above, but allowing Silver Springs Fish and Wildlife Heritage Park Inc. to re-excavate the pond and to provide the City with a royalty for gravel removed and sold over a period of years.

(3) Committee rescind its decision of April 2nd, 1991, and that the 29.874 acres of the Bird's Hill Gravel Pit be sold outright to the Silver Springs Fish and Wildlife Heritage Park Inc. for $11,000.00 subject to:

(a) land reverting back to the City if at some future time the land is to be disposed of for use other than a wildlife park; and,

(b) no residual gravel being quarried for revenue.

(4) Committee rescind its decision of April 2nd, 1991, and that the 29.874 acres of the Bird's Hill Gravel Pit be sold as a commercial operation and be offered for sale by way of tender. In view of the Operations Department's position that the subject property be sold on the condition that no commercial mining take place, this matter would have to be referred to the Committee on Works and Operations for its consideration.

Your Committee on Finance and Administration therefore recommends:

1. That Council declare the subject property surplus to the City's requirements;

2. That 29.874 acres of the Bird's Hill Gravel Pit be sold to the Silver Springs Fish and Wildlife Heritage Park Inc., at fair market value in consideration of the royalty of the materials on the land;

Report of the Committee on Finance and Administration, dated September 10th, 1991.

3. That 1.948 acres of the subject property be sold to the Province of Manitoba for the future development of a weigh scale in PTH 59;

4. That Silver Springs Fish and Wildlife Heritage Park Inc., a non-profit corporation, be allowed to excavate the pits to the degree required for a wildlife park as per plans approved by the Parks and Recreation Department;

5. That any material removed from the site be allowed to be sold at reasonable market values as agreed to by the administration;

6. That the methodology of audits be to the satisfaction of the Commissioner of Works and Operations; and that the audit process for the monies be to the satisfaction of the Commissioner of Finance;

7. That all net monies realized from sale of material be reinvested into the wildlife park;

8. That all profits realized from the operation of the Wildlife Park be reinvested back into the Park.

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

Your Executive Policy Committee recommends that recommendation 1. be amended by adding the following phrase at the end thereof:-

", for the purpose of sale as a wildlife heritage park and in the event the sale of the property does not occur that the land revert back to the City of Winnipeg."

Moved by Councillor Selinger,
Adoption of the clause.

In amendment,

Moved by Mayor Norrie,
That the recommendation of the Executive Policy Committee be adopted.

In amendment,

Moved by Councillor Timm-Rudolph,
Seconded by Councillor Selinger,
That the amendment proposed by the Executive Policy Committee at the end of Clause 7 of the Report of the Committee on Finance and Administration, dated September 10th, 1991, be amended by deleting same and replacing it with the following:

"and that the sale of land be conditional and caveated on the basis of the land being used for the sole purpose of a Wildlife Heritage Park only and should the use change or in the event that the sale of the property does not occur for that use that the land revert back to the City of Winnipeg."

Carried.

The recommendation of the Executive Policy Committee, as amended, was put and declared carried.

The motion for the adoption of the clause, as amended, was put and declared carried.

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1282 - SEE OFFICIAL SET OF MINUTES FOR ATTACHMENT.

1283 - SEE OFFICIAL SET OF MINUTES FOR ATTACHMENT.

1284 - SEE OFFICIAL SET OF MINUTES FOR ATTACHMENT.