Agenda – Council – May 29, 2013

Report – Standing Policy Committee on Property and Development – May 7, 2013

Item No. 16 Expropriation of Land Interests for the Plessis Road Twinning and Grade Separation at CN Rail

STANDING COMMITTEE RECOMMENDATION:

On May 15, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and submitted the following to Council:

1. That the Director of Legal Services be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the land identified on the attached Schedule "A" and as described on the attached Schedule "B" required by the City for works required for the Plessis Road Twinning and Grade Separation at CN Rail.

2. That the Winnipeg Public Service continues its negotiation of the City's purchase of the lands required from the affected owners.

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

Report – Standing Policy Committee on Property and Development – May 7, 2013

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 15, 2013, 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 May 7, 2013, 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: **Expropriation of Land Interests for the Plessis Road Twinning and Grade Separation at CN Rail**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Zabudney	B. Thorgrimson	N/A	D. Joshi

RECOMMENDATIONS

1. That the Director of Legal Services be instructed to initiate expropriation proceedings, including the necessary by-law for the submission to Council, to acquire the land identified on the attached Schedule “A” and as described on the attached Schedule “B” required by the City for works required for the Plessis Road Twinning and Grade Separation at CN Rail.

2. That the Winnipeg Public Service continues its negotiation of the City’s purchase of the lands required from the affected owners.

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

REASON FOR THE REPORT

- The Public Works Department has identified the land shown on the attached Schedule “A” and as described on the attached Schedule “B” being a requirement for the works required for Plessis Road Twinning and Grade Separation at CN Rail.

- Authorization to expropriate for the purpose of road and works as necessary is required to ensure that the City has a legal interest in the lands shown on the attached Schedule “A” and to ensure the City has possession of all property interests for construction in 2013.

IMPLICATIONS OF THE RECOMMENDATIONS

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

- The Public Works Department has advised that there is adequate funding for the expropriation available in the 2012 Capital Budget, Account #003-181000-180604-1803000112-PROPERTY

- There are no direct financial implications associated with this recommendation.

HISTORY

- At its December 13, 2011 meeting, Council approved the Public Works Department 2012 Capital Budget and the 2013 to 2017 Five-Year Forecast, which included the Plessis Road Twinning and Grade Separation at CN Rail.

- In June 2012, the Public Works Department met and provided the Planning, Property and Development Department with a conceptual design and identified approximately 28 property interests required for the Plessis Road Twinning and Grade Separation at CN Rail. Construction was identified as commencing in March 2013.

- In November 2012, the Public Works Department advised the property requirements were drastically reduced to 12. It was anticipated that the preliminary design drawing would be complete by February 2013.

- In December 2012, the Planning, Property and Development Department began preliminary negotiations with 10 of the12 affected property owners.

- Negotiations are ongoing; however, no settlements have been reached with any of the 12 property owners. The Department is of the opinion it will not be able to negotiate all of the needed land in time to accommodate the construction timeline.

- As the timing of this Project is critical due to the funding agreement with the Federal Government, the Planning, Property and Development Department and Public Works Department concur that expropriation is the best course of action to acquire the needed land interests in time for construction.

- The 3 residential property owners (Holding #21 (Miloica), #22 (Mastervick) and #25 (MacMillan)) have been presented with purchase proposals. It is anticipated that negotiated settlements will be reached with Holdings #22 and #25.

- The partial takings of Holdings #8 and #24 are required to accommodate the relocation of the rail line during construction. Although a negotiated settlement is anticipated with the 2 property owners, they have been included in the expropriation to ensure that the City has possession in time for construction. Once construction is completed, the partial takings will be no longer be required by the City. The negotiated settlement will include a clause that will allow the City to return the expropriated properties to the respective owners.

- The 7 properties to be fully or partially expropriated are shown on attached Schedule “A” and described on the attached Schedule “B”.

- The remaining 5 partial property requirements cannot be expropriated due to:

    - 1 owned by the Federal Government
    - 1 owned by the Canadian National Railway
    - 2 properties are City-owned land
    - 1 the City has a reversionary right

FINANCIAL IMPACT

Financial Impact Statement **Date:** **April 10, 2013**

Project Name:

Expropriation of Land Interests for the Plessis Road Twinning and Grade Separation at CN Rail

COMMENTS:

There are no direct financial implications associated with this report as the recommendations are to initiate expropriation proceedings and for the City to continue negotiating acquisition of required properties.

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

CONSULTATION

In preparing this report there was consultation with:

Public Works Department
Legal Services Department

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Karen Cann
Date:	April 11, 2013
File No.	9006

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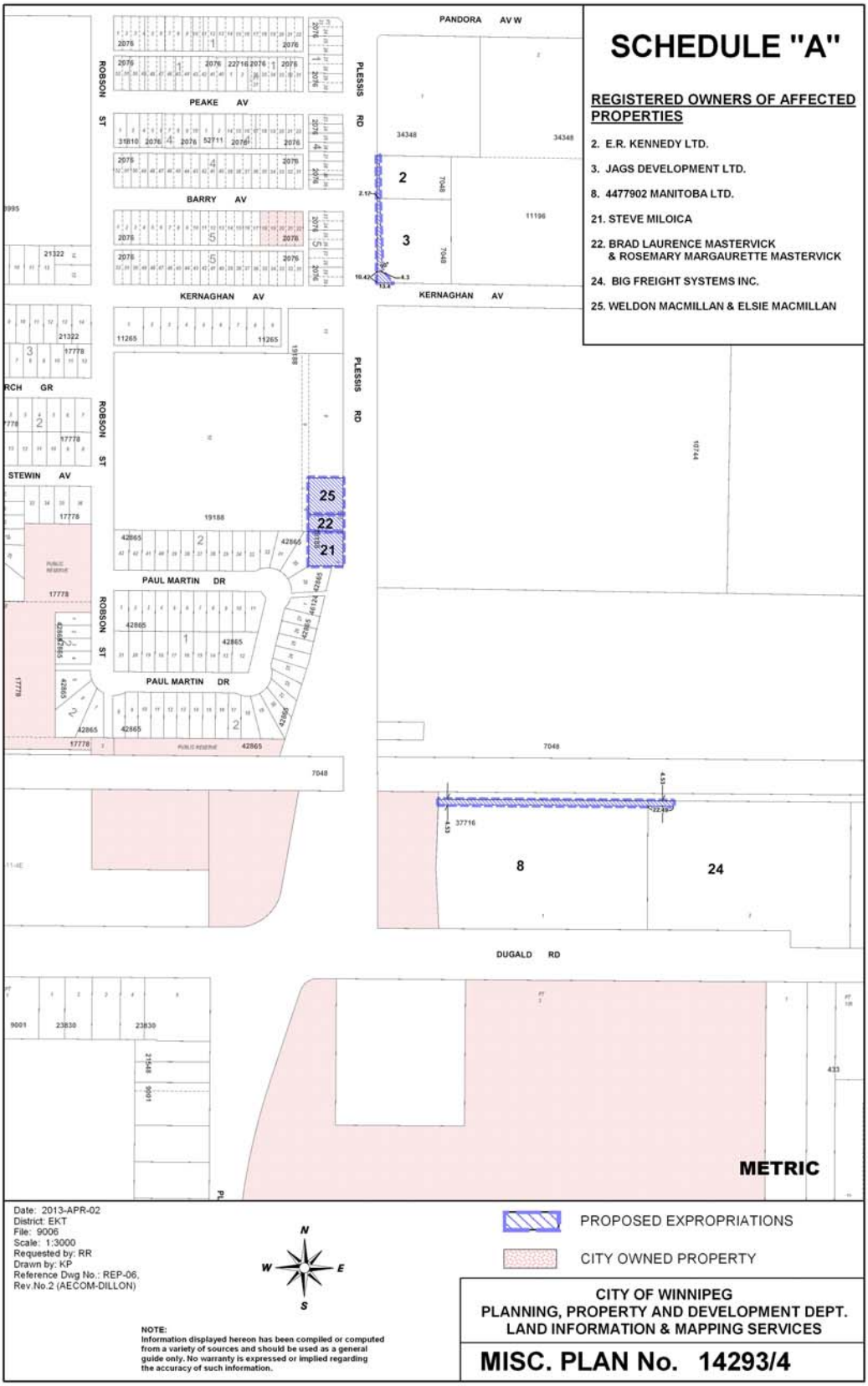
SCHEDULE "A"
REGISTERED OWNERS OF AFFECTED PROPERTIES
2. E.R. KENNEDY LTD.
3. JAGS DEVELOPMENT LTD.
8. 4477902 MANITOBA LTD.
21. STEVE MILOICA
22. BRAD LAURENCE MASTERVICK & ROSEMARY MARGAURETTE MASTERVICK
24. BIG FREIGHT SYSTEMS INC.
25. WELDON MACMILLAN & ELSIE MACMILLAN
PANDORA AV W
PEAKE AV
BARRY AV
KERNAGHAN AV
STEWIN AV
PAUL MARTIN DR
DUGALD RD
ROBSON ST
PLESSIS RD
METRIC
PROPOSED EXPROPRIATIONS
CITY OWNED PROPERTY
Date: 2013-APR-02
District: EKT
File: 9006
Scale: 1:3000
Requested by: RR
Drawn by: KP
Reference Dwg No.: REP-06, Rev.No.2 (AECOM-DILLON)
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN No. 14293/4

SCHEDULE "B"

Holding #2

Location:	1249 Plessis Road
Legal Description:	Plan 7048
Certificate of Title:	2299174
Registered Owner:	E.R. Kennedy Ltd.
Realty Roll No.:	09009926000
Assessment (2012):	$589,000 (land and building)
Zoning:	M2 – Manufacturing General
Interest Required:	Fee Simple
Size of Taking:	86.2m2 (927 ft2) approx. 3.5% of parent parcel
Description:	Frontage of parent parcel with parking and sign

Holding #3

Location:	1225 Plessis Road
Legal Description:	Plan 7048
Certificate of Title:	1705981
Registered Owner:	Jags Development Ltd.
Realty Roll No.:	09009926400
Assessment (2012):	$1,359,000 (2012 land and building)
Zoning:	M2 – Manufacturing General
Interest Required:	Fee Simple
Size of Taking:	309.5 m2 (3,331 ft2) approx. 6.4% of parent parcel
Description:	Frontage of parent parcel with parking and fence

Holding #8

Location:	2125 Dugald Road
Legal Description:	Lot 1, Plan 37716
Certificate of Title:	1957833
Registered Owner:	4477902 Manitoba Ltd.
Realty Roll No.:	09010262500
Assessment (2012):	$1,611,000 (land and buildings)
Zoning:	M3 – Manufacturing - Heavy
Interest Required:	Fee Simple
Size of Taking:	841.079 m2 (9,053 ft2) approx. 4% of parent parcel
Description:	Rearage of parent parcel with asphalt and fencing

Holding #21

Location:	1164 Plessis Road
Legal Description:	Lot 4, Plan 19188
Certificate of Title:	2046162
Registered Owner:	Steve Miloica
Realty Roll No.:	09007043000
Assessment (2012):	$275,000 (land and building)
Zoning:	R1M - Residential
Interest Required:	Fee Simple
Size of Taking:	929 m2 (10,000 ft2) Full Parcel
Description:	Single Family Bungalow

Holding #22

Location:	1168 Plessis Road
Legal Description:	Lot 5, Plan 19188
Certificate of Title:	2125900
Registered Owner:	Brad & Rosemary Mastervick
Realty Roll No.:	09007044000
Assessment (2012):	$183,000 (land and building)
Zoning:	R1M - Residential
Interest Required:	Fee Simple
Size of Taking:	464.5 m2 (5000 ft2) Full Parcel
Description:	Single Family Bungalow

Holding #24

Location:	2129 Dugald Road
Legal Description:	Lot 2, Plan 37716
Certificate of Title:	1967297
Registered Owner:	Big Freight Systems Inc.
Realty Roll No.:	09010262600
Assessment (2012):	$561,000 (land)
Zoning:	M3 – Manufacturing - Heavy
Interest Required:	Fee Simple
Size of Taking:	101.88m2 (1,097 ft2) approx. 0.5% of the parent parcel
Description:	Rearage of a parent parcel with a fence

Holding #25

Location:	1172 Plessis Road
Legal Description:	Lot 7, Plan 19188
Certificate of Title:	C66696
Registered Owner:	Weldon & Elsie MacMillan
Realty Roll No.:	09007046000
Assessment (2012):	$127,000 (land and building)
Zoning:	R1M – Residential
Interest Required:	Fee Simple
Size of Taking:	980.1 m2 (10,550 ft2) Full Parcel
Description:	Single Family 1½ storey