Minute No. 639
Report – Executive Policy Committee – October 21, 2013

Item No. 1 Report to Winnipeg City Council - New Fire Paramedic Stations Construction Project

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee, as amended, and adopted the following for immediate implementation:

1. The City needs to examine the basis under which they allow single source contracting. We believe that Council needs to consider at what threshold single source negotiation decisions are brought to their attention. Council also should consider the contract award delegation limits as it relates to single source contracts.

2. Currently City procurement policies allow for proponents to propose substitutes for City RFP specifications during the procurement process. We concur that proponents should be encouraged to offer suggestions or substitutes to be considered by the City. We however, suggest that the City change its current approach of not informing other proponents during the bidding process, of the City's acceptance of a substitute. A truly open and transparent process requires such.

3. Shindico was provided information not available to other proponents in respect to both RFP's. Prior to issuance of a RFP, MM should obtain the details of all discussions that have taken place with proponents from the user departments in order to develop a strategy to inform all proponents of information that may not be known and not disclosed in the RFP. Such action is required to ensure all proponents are bidding from a level playing field.

4. The competitive nature of the original RFP was considerably limited by the City's desire to try and identify properties to be used for construction of new stations. We recommend that the City, via the Planning, Property and Development Department, conduct a detailed assessment of City owned properties potentially available and/or conduct land only acquisitions in advance of similar future RFP's. The use of design/build or build only RFP's rather than ones that include the provision of land will create a more competitive environment that should help ensure good value to the City.

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COUNCIL DECISION (continued):

5. Project management of real estate construction projects and the lead in all real estate transactions should reside with the Planning, Property and Development Department. If capacity constraints exist, a plan to address such needs should be developed.

6. We are concerned that certain policies such as the establishment of a Major Capital Steering Committee and delegations established by Council, including the authority to enter into contracts above $10 million can be by passed if a project is split into a number of smaller contracts. Council should make a clear statement to the Public Service in respect to their expectations in this regard.

7. Clear policies must be established which document expected disclosure to Council, when transactions have not occurred in a manner that is established by City Policies. For example, disclosure to Council should be required when the following situations occur: the commencement of construction in advance of contract award, splitting of contracts due to lack of approved funding, real estate transactions not having been led by the Planning, Property and Development Department, and Legal agreements not having been approved by Legal Services.

8. The Planning, Property and Development Department needs to develop, for Council approval, a policy regarding land exchange transactions that will speak to the timing and basis under which land valuations are to be done and the means under which any value gaps determined are to be dealt with.

9. Legal Services should establish clear policies regarding:
    - Land acquisition agreements;
    - Construction contracts related to land acquisition; and
    - Authorities to be sought for LOI or similar documents

10. We do not believe that Legal Services acted in a manner to sufficiently protect the interests of the City. Additionally we believe at least part of this was caused by the reporting structure at the City. The Legal Services “gatekeeper” function would be enhanced if the Director of Legal Services / City Solicitor reported to City Council rather than the City Administration, via the Chief Administrative Officer. This is the structure in place for at least one major city in Canada.

11. Prior to issuing building permits on City projects, the Planning, Property and Development Department should be required to obtain from MM signed statements that appropriately awarded contracts are in place and from Legal Services that all ownership rights in the subject property are unconditionally held by the City.

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COUNCIL DECISION (continued):

12. We recommend that City policies regarding real estate transactions, including the declaration of surplus properties, be clarified as to identify at what stage of a proposed transaction Council Approval is to be sought.

13. Corporate Finance should determine a standardized protocol for the challenging of capital budget submissions and project reporting.

14. Corporate Finance should develop a means under which non cash transactions, such as a land exchange, are captured so that the true costs of projects can be reported against the approved capital budget.

15. That the report be revisited by Ernst and Young (Auditor) all members of Council be interviewed and the results incorporated into the report.

16. That regular, quarterly reporting be provided to Council about the implementation of the recommendations including regular Council Seminars over the next year.

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

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,
That the recommendation of the Executive Policy Committee be adopted.

In amendment,
Moved by Councillor Havixbeck,
Seconded by Councillor Pagtakhan,

WHEREAS, that the report is incomplete in that elected officials who may have information pertinent to the report were not included;

AND WHEREAS that the report recommendations affect at least four departments throughout the City of Winnipeg

THEREFORE BE IT RESOLVED that the following recommendation No. 15 be added:

> "15. That the report be revisited by Ernst and Young (Auditor) all members of Council be interviewed and the results incorporated into the report."

FURTHER BE IT RESOLVED that the following recommendation No. 16 be added:

> "16. That regular, quarterly reporting be provided to Council about the implementation of the recommendations including regular Council Seminars over the next year."

At the request of Councillor Mayes, the Speaker advised that each recommendation in the motion would be considered separately.

Recommendation No. 15 of the amendment moved by Councillor Havixbeck, Seconded by Councillor Pagtakhan, was put.

The Speaker called for the yeas and nays for Recommendation No. 15, which were as follows:

Yea: Councillors Fielding, Gerbasi, Havixbeck, Orlikow, Pagtakhan, Sharma, Smith, Steen, Vandal and Wyatt. 10

Nay: His Worship Mayor Katz, Councillors Browaty, Eadie, Mayes, Swandel and Nordman. 6

and Recommendation No. 15 of the amendment moved by Councillors Havixbeck and Pagtakhan was declared carried.

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DECISION MAKING HISTORY (continued):

Recommendation No. 16 of the amendment moved by Councillor Havixbeck, Seconded by Councillor Pagtakhan, was put.

The Speaker called for the yeas and nays for Recommendation No. 16, which were as follows:

Yea: His Worship Mayor Katz, Councillors Browaty, Eadie, Fielding, Gerbasi, Havixbeck, Mayes, Orlikow, Pagtakhan, Sharma, Smith, Steen, Swandel, Vandal, Wyatt and Nordman. 16

Nay: 0

and Recommendation No. 16 of the amendment moved by Councillors Havixbeck and Pagtakhan was declared carried

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

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 2013, the Executive Policy Committee concurred in the recommendations outlined in the Fire Paramedic Stations Construction Project Review dated October 2013 for immediate implementation and submitted the matter to Council.

Further on October 21, 2013, the Executive Policy Committee received a communication dated October 21, 2013 from David M. Sanders with respect to the Report to City Council – New Fire Paramedic Stations Construction Report.