Minutes – Executive Policy Committee – February 19, 2014

Minute No. 189
Report – Standing Policy Committee on Property and Development – February 18, 2014

Item No. 18 **Expropriation of Land – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 - Fire Paramedic Facilities Replacement and Relocation Program (River Heights – Fort Garry Ward)**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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/City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary By-law for submission to Council, to acquire the land interests owned by 3177751 Manitoba Limited shown outlined on Misc. Plan No. 14096/1 (1780 Taylor Avenue), attached, with the final boundaries of the subject property required for the Winnipeg Fire Paramedic Station No. 12 to be determined by a plan prepared by a Manitoba Land Surveyor for registration in the Winnipeg Land Titles Office.

2. 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 net proceeds of disposition of 409 Mulvey Avenue East, 200 Berry Street and 1710 Grosvenor Avenue be transferred from the Land Operating Reserve Fund to the Winnipeg Fire Paramedic Service 2013 Facilities Replacement and Relocation Capital Program budget (capital account # 2111011913), said proceeds to fund due compensation, settlement, interest and other ancillary costs related to the expropriation of 1780 Taylor Avenue.

4. 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.

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DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

Deputy Mayor Swandel asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

STANDING COMMITTEE RECOMMENDATION:

On February 18, 2014, 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 – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 - Fire Paramedic Facilities Replacement and Relocation Program**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
John Zabudney	Barry Thorgrimson	M. Ruta, CFO	D. Joshi, A-CAO

RECOMMENDATIONS

1. That the Director of Legal Services/City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary By-law for submission to Council, to acquire the land interests owned by 3177751 Manitoba Limited shown outlined on Misc. Plan No. 14096/1 (1780 Taylor Avenue), attached, with the final boundaries of the subject property required for the Winnipeg Fire Paramedic Station No. 12 to be determined by a plan prepared by a Manitoba Land Surveyor for registration in the Winnipeg Land Titles Office.
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 net proceeds of disposition of 409 Mulvey Avenue East, 200 Berry Street and 1710 Grosvenor Avenue be transferred from the Land Operating Reserve Fund to the Winnipeg Fire Paramedic Service 2013 Facilities Replacement and Relocation Capital Program budget (capital account # 2111011913), said proceeds to fund due compensation, settlement, interest and other ancillary costs related to the expropriation of 1780 Taylor Avenue.
4. 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 Planning, Property and Development Department has not been able to conclude negotiations with 3177751 Manitoba Limited to acquire the land shown outlined on Misc. Plan No. 14096/1, to facilitate the Winnipeg Fire Paramedic Station No. 12.

Council's authorization to expropriate is required immediately to ensure that the City has a legal interest in the property.

IMPLICATIONS OF THE RECOMMENDATIONS

- There was considerable value to the WFPS as a result of locating on the Taylor Avenue property. It is expected that this location will generate operating savings from improved service over the life of the facility and will reduce overall response times to the area.
- There are no regulatory or human resources implications associated with this report.

HISTORY

Background Information

At its meeting held on February 8, 2010, the Standing Policy Committee on Protection and Community Services considered and received as information a report from the Public Service regarding the intent to relocate three existing stations and build a new facility in the southeast quadrant of the City as phase one of a two phase building replacement process. This report indicated that both Station 11, located at 200 Berry Street, and Station 12, located at 1710 Grosvenor Avenue, would become surplus to the operational needs of the Department.

At its meeting held on July 21, 2010, Council considered a report in regard to a "Loan Agreement - Canada Mortgage and Housing Corporation Municipal Infrastructure Lending Program – Fire and Paramedic Stations" and concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and adopted the following:

> *"1. That approval be provided to borrow $9,678,000 and enter into a 15 year loan principal and interest repayment agreement with the Canada Mortgage and Housing Corporation (CMHC) Municipal Infrastructure Lending Program and that the loan proceeds be directed to fund the Facilities Replacement and Relocation Program project, subject to CMHC extending the period by which the City accepts the provided commitment letter.*
>
> *2. That the borrowing by-law for the project (Appendix A in the Public Service report dated June 30, 2010) be enacted.*
>
> *3. That subject to Canada Mortgage and Housing Corporation advancing loan proceeds under the Municipal Infrastructure Lending Program for the Fire Paramedic Station projects detailed in the Public Service report dated June 30, 2010:*
>
> > *A. That proceeds from the disposition of the properties to be vacated be applied against the capital cost of the project.*

B. That the 2010 Capital Budget be amended by $10,018,500.

C. That funds in the yearly amount of approximately $870,450 from the tax supported operating budget be dedicated to loan repayment commencing in 2011.

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

For clarity, the properties referred to in Recommendation 3.A. were for both 1710 Grosvenor Avenue and 200 Berry Street.

Pursuant to the Council approved "Fire Paramedic Facilities Replacement and Relocation Program", the Taylor Avenue property was selected to accommodate one of the new facilities. The site fell within the required response location boundaries and was deemed suitable in both size and location for the new station.

A public consultation and information meeting was held at Sir John Franklin Community Centre on September 6, 2011.

As time was of the essence in meeting the CMHC timelines of March 31, 2012 and winter was imminent, the property owner issued a letter to the City in November 2011 authorizing construction on the Taylor Avenue site. On February 2, 2012, the Public Service entered into a letter of intent, subject to Council approval, for a proposed Unconditional Land Exchange of the Grosvenor Avenue, Berry Street and Mulvey Avenue for Taylor Avenue property owned by 3177751 Manitoba Limited.

The Winnipeg Public Service filed a caveat against the property owned by 3177751 Manitoba Ltd. pending Council's deliberation on the proposed land exchange.

It is important to note at this time that under the terms of the CMHC Infrastructure Loan, that this project carried the requirement of substantial completion by March 31, 2012 or the City could potentially lose part or all of the CMHC funding ($9.7M).

At that time the Public Service was supportive of the Unconditional Land Exchange with 3177751 Manitoba Limited for the following critical reasons:

- The WFPS advised that the site falls specifically within the geographic area specified in the RFP document as to meeting its response requirements in the foreseeable future.
- The location is required as part of overall planning for the protection and emergency medical response to the commercial developments currently being constructed along Sterling Lyon Parkway, as well as filling response deficiencies for the residential and multi family dwellings in this immediate vicinity.
- It is well positioned to service future proposed development of the South Charleswood area.
- The removal of the station from its former area, located in a locked in residential area, and its placement on a major thoroughfare capable of accessing other major routes to enhance response times and provide better access to major routes for EMS response and hospital access is a certain benefit to the City.

- As the Kapyong Barracks Federal properties are still under review in land claims, the Public Service is uncertain into what this large tract of land will be developed and as such must be prepared for future development in this area. This station location is critical to this potential re-development.

The proposed Unconditional Land Exchange was not concluded and at its meeting held on November 6, 2012, the Standing Policy Committee on Property and Development directed the Public Service to negotiate with the owner the purchase of 1780 Taylor Avenue, as follows:

"1. That the subject land be defined as vacant C2 land.
2. That each party hire their own independent real estate appraiser to conduct an appraisal based on the market value of the subject land.
3. That the parties agree, subject to Council approval, that the City will purchase the subject land at the mid-point of the valuations if the final valuations are within 10% of the highest appraised value and shall be binding to both parties.
4. That in the event that the difference of value is greater than 10% of the higher value, both parties agree to hire a 3rd independent out of province real estate appraiser, agreed to by both parties, to conduct an audit of the two appraisals in order to determine a final binding value, subject to Council approval."

Current Circumstance

Independent appraisals were conducted by both parties with an effective date of September 2012.

(City)		$1,054,000.00
(3177751 Manitoba Limited):	$1,232,220.00	
Loss in value of the remaining lands:	$844,220.00	
Total:		$2,076,440.00

In reviewing the valuation conducted by the 3177751 Manitoba Limited, the Appraiser placed a value of $1,232,220.00 on the fire hall site. The Appraiser also took into consideration that the subdivision of the lands to create the fire hall site has had a negative impact on the remaining lands in the amount of $844,220.00. The Proponent is of the opinion that the residual lands have less frontage, a portion of the original parcel is now rearage to the fire hall with limited commercial exposure and there are access issues. The Appraiser applied an adjustment to the balance of the lands resulting in the estimated loss of value. The position taken is that although the City will not own the balance of the lands, the subdivision to create the fire hall site has diminished the value of the balance of the lands, and thus, the Proponent is insisting compensation. The Public Service does not agree with the position taken by the Proponent.

The valuations conducted are not within 10% of the higher value of each other. The Proponent, 3177751 Manitoba Limited has indicated that it will not agree to hire a 3rd appraisal in order to determine a final binding value.

Negotiations with the Proponent 3177751 Manitoba Limited to acquire the subject property have come to a stalemate, therefore, the Public Service is recommending that expropriation proceedings be initiated and that the Province be requested to waive the expropriation inquiry.

FINANCIAL IMPACT

Financial Impact Statement **Date:** January 16, 2014

Project Name:

Expropriation of Lands - 1780 Taylor Avenue

COMMENTS:

There are no direct financial implications associated with this report as the recommendations are to initiate expropriation proceedings.

"Original signed by"

Mike McGinn, CA

Manager of Finance

CONSULTATION

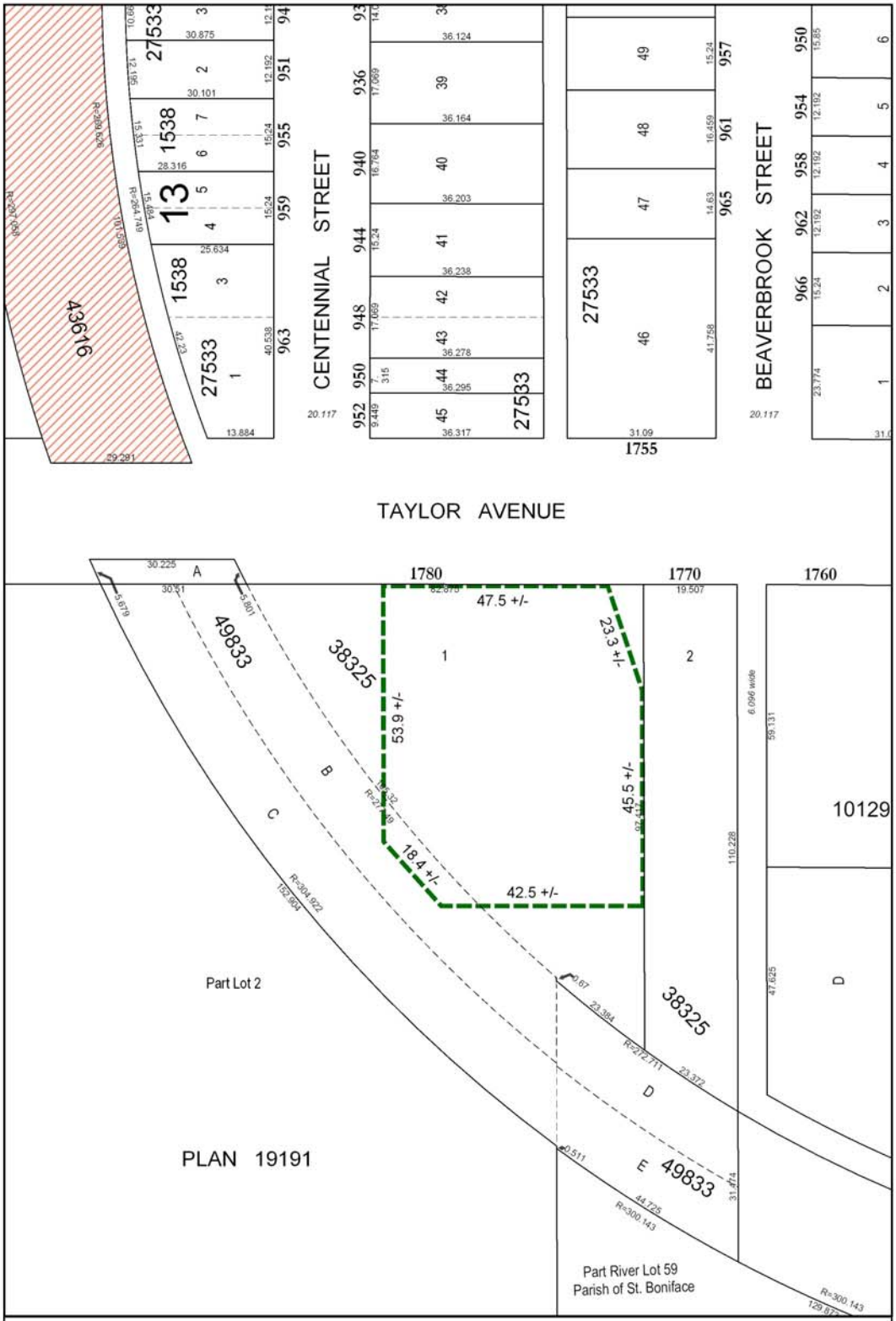
In preparing this report there was consultation with:

Legal Services Department

SUBMITTED BY

Department	Planning, Property & Development
Division	Real Estate
Prepared by:	John S. Zabudney
Date:	January 16, 2014
File No.	8813

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Date: 2014-JAN-8
District: CC
File: 8813
Scale: 1:1000

METRIC

NOTE:

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES