Minutes – Executive Policy Committee – September 17, 2014

REPORTS

Minute No. 538 Increase to Legal Services Staff Complement and Implementation of New Development-Related Fees and Charges

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That the permanent staff establishment for the Legal Services Department be increased by 1.0 Full Time Equivalent (FTE) comprised of 1.0 Solicitor (Winnipeg Association of Public Service Officers – Exempt).

2. That the new fees set out in this Report be approved to defray the legal costs incurred by the City of Winnipeg in the area of land planning and development, and the Legal Services Department be authorized to utilize the revenues from such fees and charges to fund the additional 1.0 Solicitor.

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

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

Deputy Mayor Swandel and Councillor Mayes 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.

ADMINISTRATIVE REPORT

Title: **Increase to Legal Services Staff Complement and Implementation of New Development-Related Fees and Charges**

Critical Path: **EPC - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Boryskavich	K. Boryskavich B. Thorgrimson	M. Ruta	D. Joshi A/CAO

RECOMMENDATIONS

1. That the permanent staff establishment for the Legal Services Department be increased by 1.0 Full Time Equivalent (FTE) comprised of 1.0 Solicitor (Winnipeg Association of Public Service Officers – Exempt).

2. That Council approve the new fees set out in this Report to defray the legal costs incurred by the City in the area of land planning and development, and that Council authorize the revenues from such fees and charges to be utilized by the Legal Services Department to fund the additional 1.0 Solicitor.

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

REASON FOR THE REPORT

Increases to the permanent civic staff establishment and implementation of new fees and charges require Council approval.

IMPLICATIONS OF THE RECOMMENDATIONS

Additional staff resources are required to provide necessary legal services in the area of land planning and development. There is a high demand for legal services in this area. Lack of appropriate legal services causes delays in processing development-related legal agreements and providing legal opinions on land planning and development matters, which in turn results in construction delays and strained relationships between the City and the development community. Currently, Legal Services has only one Solicitor who provides all legal services in the area of land planning and development; approval of the recommendations would increase this to two lawyers and result in reduced service times.

It is proposed that this additional Solicitor position be funded from revenues realized from the additional fees and charges to be implemented effective October 1, 2014 for all applications received following that

date. Table 1 sets out: (i) fees currently collected by the City; (ii) proposed additional fees related to legal services; (iii) estimated average additional legal fees to be collected on an annual basis. With respect to item (iii), the figures are estimates only, as Legal Services cannot predict with certainty the number of any type of agreement that it will be required to draft in a given year, as that is a function of the number and type of development applications applied for and approved.

TABLE 1
DEVELOPMENT-RELATED AGREEMENTS

AGREEMENT	CURRENT ADMIN FEE (2014 FEES AND CHARGES SCHEDULE)	PROPOSED ADDITIONAL LEGAL FEE (AS OF OCTOBER 1, 2014)	ESTIMATED AVERAGE ADDITIONAL LEGAL FEES COLLECTED PER YEAR (based on 2010-2012 data)
Development Agreement	$1,595	$1,000	$30,000 (includes Servicing Agreement fees)
Servicing Agreement	$640	$1,000	(included above)
Subdivision Agreement	$320	$600	$1,200
Zoning Agreement	$320	$600	$31,000
Development and Servicing Agreement Amendment	$685	$600	$9,000
Subdivision Agreement Amendment	$685	$600	$0
Zoning Agreement Amendment	$1,245	$600	$5,400
Easement Agreement (pursuant to subdivision)	$0	$500	$23,500
			TOTAL: $100,100

The total revenues estimated to be generated from these proposed fees are much less than the estimated costs of providing these legal services.

The Planning, Property and Development Department has agreed to collect and remit such fees to Legal Services, as it already has the infrastructure set up to do so.

HISTORY

Human Resources

Currently, Legal Services has only one Solicitor providing all legal services in the area of land planning and development.

Financial

Currently, the City has two methods for recovery of administrative costs in the land development area:

- Development Agreements – pursuant to authority granted under section 16 of the Subdivision Standards By-law, all development agreements provide that "prior to the release of subdivision mylars for registration in the Land Titles Office, the Developer shall pay to the City, to defray the City's administration and related costs associated with the preparation and implementation of this Development Agreement, an administration fee", which administration fee is currently set at $1,200 per acre plus GST

- Other Development-Related Agreements – pursuant to the Planning, Development and Building Fees By-law No. 77/2009, administration fees are currently charged on development agreements and amendments, subdivision agreements and amendments, servicing agreements and amendments, zoning agreements and amendments (for amounts of current fees charged, please see Table 1 above)

However, currently no portion of the fees outlined above is remitted to Legal Services to defray legal costs.

FINANCIAL IMPACT

Financial Impact Statement

Date: July 14, 2014

Project Name:

First Year of Program **2014**

Increase to Legal Services Staff Complement and Implementation of New Development-Related Fees and Charges

	2014	2015	2016	2017	2018
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other -	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 15,107	$ 98,574	$ 100,545	$ 102,556	$ 104,607
Less: Incremental Revenue	25,025	100,100	102,102	104,144	106,227
Net Cost/(Benefit)	$ (9,918)	$ (1,526)	$ (1,557)	$ (1,588)	$ (1,620)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (9,918)	$ (1,526)	$ (1,557)	$ (1,588)	$ (1,620)

Additional Comments:

1. Direct costs represent estimated salaries and benefits of an additional permanent FTEs in the Legal Services Department for a Solicitor (WAPSO Grade III) effective November 1, 2014 (only 0.15 additional FTE in 2014)
2. The additional Solicitor position will be funded from revenues realized from the new development or servicing fees and charges described in this report.
3. Revenues from 2016 onward increase by the rate of inflation, which is assumed to be 2%.

(Original signed by Fernando Dela Cruz)

Fernando Dela Cruz
Acting Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

In preparing this report there was consultation with:

Planning, Property and Development
Corporate Support Services Human Resources Services Division

SUBMITTED BY

Department: Legal Services Department
Division:
Prepared by: Krista Boryskavich
Date: July 14, 2014
File No.