David M. Sanders, M.A., LL.B.

December 3, 2014

Mayor Brian Bowman
And Members of the Executive Policy Committee
The City of Winnipeg
510 Main Street
Winnipeg MB

Re: Executive Policy Committee – 9:00 a.m. Wednesday, December 3, 2014

Reports:
11. Single Source Engineering Consultant Contract – Watershed and Asset Protection Considerations
12. Winnipeg Police Headquarters Redevelopment Project – Insurance Recovery Report
13. Former Winnipeg Stadium Tax Increment Financing (TIF) By-law

I am appearing as a private citizen to speak in opposition to specific aspects of each of the above listed agenda items.

11. Single Source Engineering Consultant Contract – Watershed and Asset Protection Considerations

Further to my general remarks last week, I wish to object to the request of the civic administration "that the Executive Policy Committee delegate the authority to the Chief Administrative Officer to negotiate a single source engineering consultant contract for technical support to the City as an intervenor in the application of Energy East Pipeline Ltd. to the National Energy Board in an amount not to exceed $800,000.00."

The City Administration suggests that the NEB has a tight hearing schedule, which would justify going to a single source on an emergency basis. In my opinion, this is not an "emergency."

Nine months ago, Energy East Pipeline Ltd. (EEPL) filed a project description for the proposed Energy East Pipeline Project at the National Energy Board (NEB), and the NEB then announced that $2.5 million would be available to help finance intervenors with respect to the proposed Project.

Public information sessions were held, and then on October 13, 2014, EEPL's formal application prepared by Stantec Consulting Ltd. was filed and published at the NEB. Once the NEB is satisfied that the application is complete, interested parties will be given time to apply for intervenor status. Public hearings and then a decision by the NEB will probably take 15 months more.

I agree that the City of Winnipeg should intervene in the NEB hearing, to ensure that the City's interests, especially with respect to the Shoal Lake water supply, are fully protected from any risk of contamination by an oil spill.

But why did the City not issue a competitive Request for Proposal before now? And why does the Winnipeg Public Service wish to dispense with a competitive bid process even now?

In my opinion, the NEB schedule outlined above does not meet the requirements of Section B4.1(j) of the Materials Management Policy, which allows for single source negotiations **"where there is an emergency which adversely affects the functioning of the City and which may not be reasonably met by any other procedure"?**

On page 2 of this Administrative Report, it is stated that:

> 'Council approved the "First Charge on the 2015 Capital Budget for Water and Waste Department Capital Projects" Report at the December 10, 2014 Council Meeting.'

In fact the Standing Policy Committee on Infrastructure Renewal and Public Works on November 25, 2014 recommended a First Charge against the 2015 Capital Budget for Water and Waste Department Capital, including:

> 2. That an expenditure of $1,000,000.00 before the 2015 Capital Budget is adopted be approved, as a first charge against the 2015 Capital Budget in order to procure a contract for the Watershed and Asset Protection Considerations project.

That recommendation is on EPC's agenda this morning, for approval and forwarding to Council for its meeting on December 10th – next week.

In any event, how does the Winnipeg Public Service propose to solicit a single-source engineering consultant for this $800,000 + consulting contract?

From which firm?

Especially for the benefit of the new Councillors, I am enclosing a copy of the first Quarterly Status Report – Public Service response to the Report on the New Fire Paramedic Stations Construction Project, January 29, 2014.

One of the issues which was to be addressed is single source contracting.

a) Why has there been no further quarterly status report on the implementation of the recommendations approved by City Council, during the last 10 months?
b) More particularly, why has Corporate Finance not provided the promised report to Council on single source contracting in Q2 2014?

12. Winnipeg Police Headquarters Redevelopment Project – Insurance Recovery Report

The Winnipeg Police Headquarters Building at 245 Smith Street was to have been handed over to the City on August 25, 2014.

However, the building was damaged by the "rain event" on August 21, 2014.

Now, three months later, the Winnipeg Public Service is asking that on December 10th, Council delegate unlimited authority to the Chief Administrative Officer (or his delegates) to approve contract over-expenditures with Caspian Projects Inc., Adjeleian Allen Rubell Ltd. (AAR), and Integrated Designs Inc., to respond to the costs of repairing the water damage and to upgrade the roof drain leaders.

a) Why has it taken three months to recommend this course of action?
b) Which Standards Council of Canada (SCC) firm has been hired to carry out the testing and assessment of the damaged electrical systems? At what cost?
c) When is the SCC firm expected to submit its report on the electrical systems which need to be repaired or replaced, in order that the work may begin?
d) According to the City's 2014 operating budget, the Insurance Reserve Fund (IRF) contained $4,320,000. Who has authorized the "reservation" of $2 million from the IRF for the proposed work, and how much will be unrecoverable from the insurers and therefore added to the total cost of the Police Headquarters Project?
e) Shouldn't the authorized over-expenditures be limited to the $2 million said to be available?
f) How much are the delay costs, penalties and fines which have already been incurred by the City during the past three months, and how much more such costs may the City expect to have to pay the contractor now?
g) When will the City expect to receive an Interim Occupancy Permit, enabling the Winnipeg Police Service to begin to occupy the building?
h) Has the City pursued a claim with respect to the original engineering design work undertaken by AECOM Inc. at a cost of $5.4 million, which had to be redone by AAR?

13. Former Winnipeg Stadium Tax Increment Financing (TIF) By-law

The Winnipeg Public Service is recommending that City Council enact the "Former Winnipeg Stadium Site TIF By-law" on December 10, 2014, so that taxes to which the Tax Increment Financing agreement applies can be applied to the loan owed by Triple B Stadium Inc. before the end of 2014.

The original Economic Development Initiative for the redevelopment of the existing stadium site (ESS) and the new stadium development at the University of Manitoba (now IGF Field), was approved by City Council on April 28, 2010. The application of *The Community Revitalization Tax Incremental Financing Act* was a possible option.

Then on December 15, 2010, Council amended its decision to seek expressions of private sector interest in acquiring and developing the ESS (1465 Maroons Road), and to use all municipal, business and school taxes generated by the redevelopment to repay a Provincial loan of $75 million (TIF).

On July 3, 2012, SPC Property and Development approved the sale of the ESS to Polo Park Holdings L.P. (Cadillac Fairview/Shindico) for $30.25 million.

Manitoba Regulation 203/2013 was enacted pursuant to *The Community Revitalization Tax Incremental Financing Act* on December 20, 2013, almost a year ago, and was effective for 25 years commencing January 1, 2013. Accordingly, all incremental school taxes on the ESS site, now assessed at 875 St. James Street under two new roll numbers, have been payable on the Provincial loan since January 1, 2013.

The City of Winnipeg was also supposed to pass a TIF By-law for the ESS site, provided that it was consistent with "an Area Master Plan that will accommodate significant growth and change in a sustainable way." So far, the City has done neither.

Now, City Council is being asked to pass a TIF by-law which will enable payment of the incremental municipal and business taxes towards the Provincial loan a year late, starting on January 1, 2014.

Council is also being asked to dispense with the Area Master Plan requirement. The only Secondary Plan covering the ESS site is the Airport Vicinity Protection Area Secondary Plan, which certainly does not constitute "an Area Master Plan that will accommodate significant growth and change in a sustainable way." It deals only with aircraft noise issues.

Finally, the draft TIF by-law submitted for Council approval states that the amount of the 2013 base year realty and business taxes is zero. I am attaching copies of the 2012, 2013, and June 13, 2013 realty tax bills for the site. Once the property was transferred to the developer effective June 13, 2013, the annual municipal taxes were $172,964.74, or $95,722.95 for the 202 days remaining in 2013.

Since the City is allocating all of the education taxes to the Provincial TIF on this site, it appears to be using zero as the pre-designation assessed value, not the $24,183,000 initially on the 2013 roll, or the reduced $18,226,000 on the roll as of June 13, 2013.

Is this really the proper way of determining the base year assessment or taxes for TIF programs? If so, some TIF programs may actually reduce existing taxes as well as appropriate all tax increases on the TIF properties for up to 25 years. This should be clarified before Council approves the proposed TIF By-law.

Thank you.



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