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

January 21, 2015

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, January 21, 2015

EPC Reports:
2. Status Report on the Recommendations contained in the New Fire Paramedic Station Construction Project, Winnipeg Police Service Headquarters Construction Project, Real Estate Management Review
5. Revisions to the Materials Management Policy
8. Asset Management Policy
9. Amendment to Council Decision – "Approval of Funding Participation - Winnipeg Convention Centre Expansion Project"

Standing Policy Committee on Infrastructure Renewal and Public Works – January 16, 2015
1. Capital Integration Project – Increase of Delegated Award Authority for Manitoba Hydro Early Works

Addendum – Audit Committee:
1. New Fire Paramedic Construction Station Project Status Report as of December 31, 2014
2. Winnipeg Police Service Headquarters Construction Project Audit Status Report as of December 31, 2014
3. Real Estate Management Review Status Report as of December 31, 2014

When the EPC Agenda was first posted online, I asked to appear as a private citizen to speak to the first five items listed above. The Addendum Reports for the Audit Committee were not posted until Tuesday, January 20, but they do relate to EPC Report Item #2.

I regret to advise that I will be unable to present in person on Wednesday morning, but I ask that this submission be read into the record of the EPC meeting.

Hopefully it will be posted online in full, and not censored as has happened several times recently in the case of my formal requests for access to critical information regarding the justification of the proposed "Capital Integration Project," aka Southwest Transitway/Pembina Highway Underpass.

2. Status Report on the Recommendations contained in the New Fire Paramedic Station Construction Project, Winnipeg Police Service Headquarters Construction Project, Real Estate Management Review

Until yesterday afternoon, no status report had been posted online. The lack of any administrative response during the past year should be completely unacceptable. It should be noted that the primary responsibility for implementing and reporting on the recommended changes approved by Council lay with the "Winnipeg Public Service," led by the CAO, COO and CFO.

At the Mayor's urgent request, the City Auditor has now assembled so-called audit recommendation status reports from unnamed administrative sources, whose work he has not audited.

> **1. New Fire Paramedic Construction Station Project Status Report as of December 31, 2014**
>
> **2. Winnipeg Police Service Headquarters Construction Project Audit Status Report as of December 31, 2014**
>
> **3. Real Estate Management Review Status Report as of December 31, 2014**

Even if true, these status reports reveal that precious little concrete action and procedural change has been implemented so far. Given the seriousness of the problems, one must conclude that the senior administration of the City has neither the will nor the ability to restore the City's capacity to conduct such business properly any time soon.

5. Revisions to the Materials Management Policy

As far as I can tell, the revisions are just housecleaning, and the only significant revision is the reduction in the CAO's authority to approve sole-source contracts, from $5 million to $1 million as a result of Recommendation 1 contained in the New Fire Paramedic Stations Construction Project Audit. Since Council continues to make exceptions to this new policy, it is rather meaningless.

8. Asset Management Policy

The effect of this "policy" document is simply to state that the City should adopt an asset management framework for making decisions about our civic assets. When will the City actually apply the principles of good asset management?

9. Amendment to Council Decision – "Approval of Funding Participation - Winnipeg Convention Centre Expansion Project"

Looks like another "perfect storm" to me…..

"While the terms of the construction contract have been negotiated, **it has not as yet been executed** by the parties." This was supposed to be another Guaranteed Maximum Price Contract.

"MSW subsequently withdrew from the **non-binding** Memorandum of Understanding."

"The WCCC has reached a conditional settlement agreement with SODCL whereby the WCCC would release SODCL from its obligation to construct the hotel development and **eliminate the $16 million holdback requirement, in exchange for payment of liquidated damages by SODCL in the amount of $3.75 million** to be paid on or prior to the payment of the last statutory holdback by WCCC under the construction project (approximately April / May 2016).

"**This settlement is conditional on Council amending its July 11, 2012 decision** to remove the requirement for the proponent to service annual debt payments on the $16 million loan until such time as the incremental tax grant commences and on the City amending its funding agreement with the WCCC to eliminate the $16 million holdback requirement."

"The settlement agreement also provides that upon satisfactory resolution of the foregoing matters, the WCCC and SODCL will execute the construction contract within seven days."

If I understand this correctly, when the music finally stops the City will probably own the former Carlton Hotel site, at a net cost of $2,850,000 and may be called upon to service an additional $16 million in Convention Centre debt until such time as the site at 220 Carlton is developed and starts producing increased tax revenue. Or more, if the Convention Centre can't meet its revenue targets without a new hotel nearby.

Based on recent news media reports, it appears the players may have made some questionable moves in their efforts to save the original scheme.

I think it would be a mistake for City Council to just accept these recommendations now, before hearing the full story.

1. Capital Integration Project – Increase of Delegated Award Authority for Manitoba Hydro Early Works (Southwest Transitway/Pembina Highway Underpass)

I strongly recommend that this Committee recommend to Council that all authority to proceed with this project, approved by the former Council on June 25, 2014, be **suspended** until such time as the new Council can review and publish the details of the scheme, its costs and benefits, and the specific arrangements for financing it.

a) This scheme was approved by a vote of just 9-6 by the old Council in June.

The eight re-elected Councillors voted as follows:

5 In Favour: Eadie, Gerbasi, Mayes, Pagtakhan, Sharma
3 Opposed: Browaty, Orlikow, Wyatt

b) Recently Mayor Bowman admitted that the Government of Canada has not formally responded to the city's request to participate in the project, and provide $140 million towards the cost. Since P3 Canada Fund Round Six project screening decisions were to have been announced in the fall of 2014, it is obvious that Winnipeg didn't make the cut.

c) While the Province of Manitoba has indicated it would be prepared to contribute $225 million, I believe it should not contribute a dime until the City complies with the public consultation requirements of the *Public-Private Partnerships Transparency and Accountability Act.* So far it has failed to do so.

d) No construction may be commenced until the Director of the Environmental Approvals Branch receives and approves a report and recommendations for conservation of "Species at Risk" in late spring of 2015. And the decision granting a conditional Environmental Act Licence No. 3121 has been appealed to the Minister of Conservation and Water Stewardship in any event.

e) As has been pointed out recently, City Council failed to decide in June how to pay the $19.7 million required annually for 30 years to finance the City's proposed share of the project costs. That $600 million detail was left for the new Council to decide during the upcoming "very difficult" 2015 budget process.

f) There remain these and many other extremely serious problems with the project, described in my January 1, 2015 request that Mayor Bowman arrange for the immediate release of critical documents regarding the highly doubtful justification for this scheme.

I must say that I am very disappointed that so far I have received no substantive response from the Mayor with respect to these requests for access to critically important documents, which have been refused by the Winnipeg Transit Department on “discretionary grounds.” The Ombudsman is still considering my formal appeals for access to that information.

In the meantime, the civic administration is pressing ahead, making commitments for the expenditure of millions of dollars on this project, and refusing to provide a financial status report on the project until a year from now.

I really think the new Council should take the time to review this whole matter before the administration is allowed to commit any more millions of dollars to this boondoggle.

Thank you.

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