Agenda – Council – March 25, 2015

Report – Standing Policy Committee on Property and Development – March 10, 2015

Item No. 21 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)

STANDING COMMITTEE RECOMMENDATION:

On March 18, 2015, 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 expropriation of lands for the Fire Paramedic Facilities Replacement and Relocation Program at 1780 Taylor Avenue, approved at the February 26th, 2014 Council Meeting, be confirmed as outlined in the Declaration of Expropriation submitted on April 30, 2014.

2. That the recommendation proposed by the Inquiry Report not be endorsed.

3. That the Director of Legal Services/City Solicitor be instructed to initiate Manitoba Court of Queen's Bench proceedings, if required, to obtain an order extending the time under The Expropriation Act for Council to confirm the expropriation.

4. That the proper officers of the City be authorized to do all things necessary to implement the foregoing, including the preparation and execution of any necessary documents.

Agenda – Council – March 25, 2015

Report – Standing Policy Committee on Property and Development – March 10, 2015

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 18, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 10, 2015, 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.

Bob Downs and Justin Zarnowski, 3177751 Manitoba Limited, submitted a communication dated March 6, 2015 and a PowerPoint presentation with respect to the Expropriation of Land – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 – Fire Paramedic Facilities Replacement and Relocation Program

David Sanders, submitted a communication dated March 10, 2015 with respect to the Expropriation of Land – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 – Fire Paramedic Facilities Replacement and Relocation Program

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
J. Zabudney	M. Pittet	M. Ruta	M. Jack A/CAO

RECOMMENDATIONS

1. That the expropriation of lands for the Fire Paramedic Facilities Replacement and Relocation Program at 1780 Taylor Avenue, approved at the February 26th, 2014 Council Meeting, be confirmed as outlined in the Declaration of Expropriation submitted on April 30, 2014.

2. That the recommendation proposed by the Inquiry Report not be endorsed.

3. That the Director of Legal Services/City Solicitor be instructed to initiate Manitoba Court of Queen's Bench proceedings, if required, to obtain an order extending the time under The Expropriation Act for Council to confirm the expropriation.

4. That the proper officers of the City be authorized to do all things necessary to implement the foregoing, including the preparation and execution of any necessary documents.

REASON FOR THE REPORT

On February 26th, 2014, Council approved to expropriate a portion of 1780 Taylor Avenue, on which a fire hall had previously been constructed. The location and shape of the expropriated parcel is identified on Misc. Plan 14096/1 (attached).

The expropriated party (3177751 Manitoba Ltd.) objected to the expropriation on the grounds that the small triangular shaped parcel of land to the northeast of the fire hall property should be included in the Declaration of Expropriation

On December 15th and 16th, 2014, an inquiry hearing occurred to determine whether the "*intended expropriation is fair and reasonably necessary for the achievement of the objective of the expropriating authority*" (The Expropriation Act, Schedule A, 6(2)). The inquiry hearing occurred based on the objections from the expropriated party.

On January 30th, 2015, the Inquiry Officer completed the Inquiry Report which included a recommendation to the expropriating authority that changes be made to the expropriation (Inquiry Report attached).

If any of the Inquiry Officer recommendations are endorsed, the Public Service has advised that an extension of time will be required to have the plan of expropriation changed at Winnipeg Land Titles Office.

IMPLICATIONS OF THE RECOMMENDATIONS

Confirming the expropriation will allow the Public Service to maintain the original expropriation plan, allowing the City to take possession of the land which is improved with a fire hall.

HISTORY

On February 26th, 2014, Council approved the administrative report titled "*Expropriation of Land – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 – Fire Paramedic Facilities Replacement and Relocation Program."*

The boundaries contained in the declaration of expropriation provided the minimum amount of land necessary for the City to adequately maintain the fire hall property. Contained within the limits of the expropriation is the fire hall building and related site improvements; in addition to a portion of a private laneway which is located between the fire hall property and the adjacent property (Scoop & Weigh).

The expropriated party (3177751 Manitoba Ltd.) objected to the expropriation on the grounds that the small triangular shaped parcel of land to the northeast of the fire hall property should be included in the Declaration of Expropriation

On October 28th, 2014, Michael Green was appointed as an Inquiry Officer by the Manitoba Minister of Justice.

On November 8th, 2014, a notice of Public Hearing for the inquiry was published in the Winnipeg Free Press.

On November 21, 2014, an Order was endorsed by the Manitoba Court of Queen's Bench granting the City an extension of time under The Expropriation Act to have the expropriation confirmed by March 30, 2015. This extension was necessary due to the length of time it took to conduct the Inquiry.

On December 15th and 16th, 2014, the public inquiry for the expropriation of 1780 Taylor occurred, in order to determine whether or not the intended expropriation was reasonably fair and reasonably necessary for the achievement of the objective of The City.

The findings of the inquiry hearing were published on January 30, 2015 and the Inquiry Officer (as appointed by the Manitoba Minister of Justice) made one recommendation:

- *"That the eastern boundary of the land to be expropriated should be established approximately five feet to the west of the existing property line"* (Inquiry Officer's Report)

The Inquiry Officer recommended moving the eastern property line to the west and did not require the City to expropriate the small triangular shaped parcel. Realigning the eastern boundary would provide the expropriated party with access to approximately a five foot portion of the laneway which lies between the fire hall and the property to the east (Scoop & Weigh). Ownership of the five feet noted above would then remain with the expropriated party, along with the small triangular shaped parcel.

The Public Service does not endorse the recommendation of the Inquiry Officer:

- Endorsing the recommendation creates a potential liability, in which the City is required to service and maintain the Fire Hall by encroaching upon private property (i.e. the five feet retained by the expropriated party).
- The intent of the recommendation can be accommodated through an easement agreement with the adjacent property owners.
- If the expropriation plan is confirmed, the Public Service would consider an easement agreement with the adjacent property owners at their request, which would give the City ownership over the disputed laneway (approximately the most westerly five feet of the laneway) while still providing access to the laneway to the adjacent owners.
- It is uncertain whether the City could secure an easement on the disputed laneway if ownership of the laneway resides with the expropriated party. Furthermore, the cost and terms of an easement with the expropriated property are also uncertain.

The position of the Public Service at the hearing was that the triangular parcel was not necessary for the operation of the fire hall property, and was therefore not included in the expropriation.

FINANCIAL IMPACT

Financial Impact Statement Date: February 11, 2015

Project Name:

Expropriation of Land – Portion of 1780 Taylor Avenue for the Winnipeg Fire Paramedic Station No. 12 – Fire Paramedic Facilities Replacement and Relocation Program

COMMENTS:

While there are no direct financial implications associated with the confirmation of expropriation proceedings, doing so will ensure that the City will acquire the property and incur settlement and ancillary costs. Such costs are not reasonably estimable at this time.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

Legal Services as to legal issues

SUBMITTED BY

Department: Planning, Property & Development
Division: Real Estate
Prepared by: Gordon Chappell
Date: February 12, 2015
File No.: 8813

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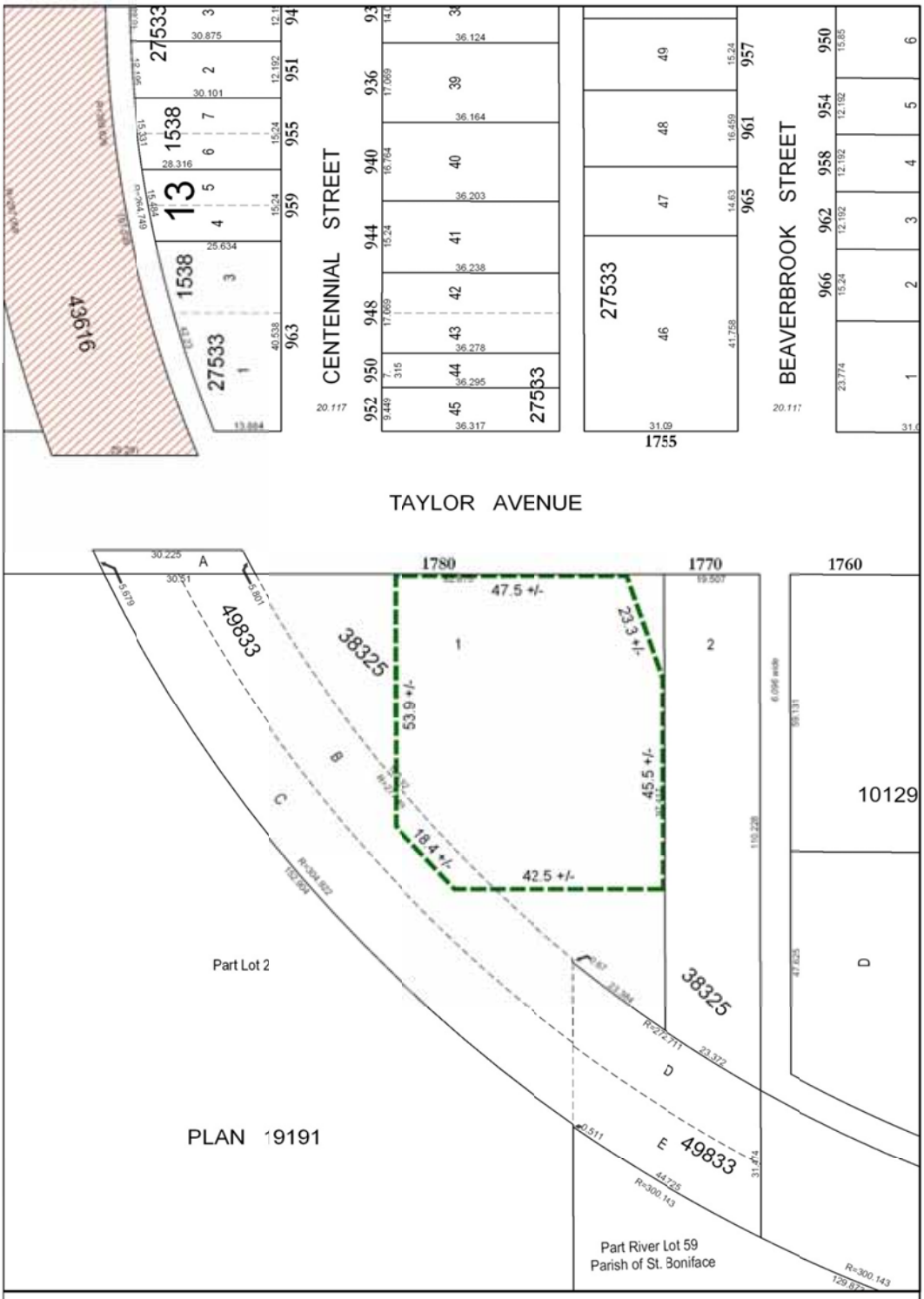

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Proposed Fire Station
Area: ±3,544 m² (±38,148 ft²)

City Owned Property

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

METRIC

NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.

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

MISC. PLAN NO. 14096 / 1