STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT

MOTIONS

Minute No. 284
Moved by Councillor Orlikow,
Seconded by Councillor Browaty,

WHEREAS

(a) Pursuant to its By-law No. 22/2014, The City of Winnipeg ("the City") authorized the expropriation of the lands described therein for the purpose of acquiring the land occupied by the Winnipeg Fire Paramedic Station No. 12 at 1780 Taylor Avenue, in the City of Winnipeg, in Manitoba and executed a Declaration of Expropriation dated April 30, 2014;

(b) Notice of the intended expropriation was served by the City upon all owners of the lands intended to be expropriated, and was published in a newspaper having general circulation in the locality in which the said lands are situate, pursuant to section 1 of Schedule "A" to *The Expropriation Act*;

(c) Notices of objection to the intended expropriation were served upon the City by some of the said owners, pursuant to section 3 of Schedule "A" to *The Expropriation Act;*

(d) The City requested the Minister of Justice to appoint an inquiry officer;

(e) The Minister of Justice on October 28, 2014 appointed an inquiry officer pursuant to section 4(2) of Schedule "A" to *The Expropriation Act,* and an inquiry was conducted on December 15 and 16, 2014; and

(f) The inquiry officer obtained an Order dated November 21, 2014 from The Honorable Mister Justice Clearwater of the Manitoba Court of Queen's Bench that the time for the Confirming Authority to make an order with respect to the Declaration of Expropriation is extended to March 30, 2015.

AND WHEREAS the inquiry officer submitted his report to the City on January 30, 2015, wherein he stated that in his opinion the intended expropriation is fair and reasonably necessary for the achievement of the objectives of the City, subject to the following recommendations:

- that the eastern boundary of the land to be expropriated should be established approximately five feet to the west of the existing property line. The five foot strip should extend southerly from the triangle piece (i.e. from parcel B). The existing easement rights should remain in place and should not be expropriated.

AND WHEREAS *The Expropriation Act* provides that Council of the City shall consider the

report of the inquiry officer, and where Council makes an order confirming the intended expropriation which is not in accordance with the opinion of the inquiry officer, Council shall state its reasons for making the order.

AND WHEREAS it is advantageous that the City proceed with the expropriation of the lands described in By-law No. 22/2014, without any changes.

THEREFORE BE IT RESOLVED that the Declaration of Expropriation dated April 30, 2014, made pursuant to By-law No. 22/2014 and expropriating the following lands:

> **The lands taken for Works and shown as Parcel A on Plan Deposit 397/2014 WLTO, prepared by Kelly Wayne Mantik, of the City of Winnipeg, Manitoba Land Surveyor,**

is hereby confirmed.

The lands described above are expropriated subject only to the following existing interest:

- Caveat (Instrument No. 2478832/1) registered by 3177751 Manitoba Ltd. on April 13, 2000.

The aforesaid lands except:

a) mines, minerals and named substances which are excepted from or not included in the Certificate of Title of the registered owner of the surface under The Real Property Act or are not owned by the owner of the surface under The Registry Act; and

b) reservations in favour of the Crown as excepted from the Title of the owner of the surface, or to which Title is subject by implication under the provisions of The Real Property Act.

BE IT FURTHER RESOLVED that Council's reasons for proceeding with the expropriation of the property located at 1780 Taylor Avenue as described in By-law No. 22/2014, rather than:

- that the eastern boundary of the land to be expropriated should be established approximately five feet to the west of the existing property line. The five foot strip should extend southerly from the triangle piece (i.e. from parcel B). The existing easement rights should remain in place and should not be expropriated;

which in the opinion of the Inquiry Officer is fair and reasonably necessary for the achievement of the City's objectives, are as follows:

- 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.
- Therefore, it is in the City's best interests to make and confirm the Amended Declaration of Expropriation.

Carried