STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT

MOTIONS

Minute No. 285
Moved by Councillor Orlikow,
Seconded by Councillor Browaty,

WHEREAS

(a) Pursuant to its By-law No. 47/2014, The City of Winnipeg ("the City") authorized the expropriation of the lands described therein for the purpose of extending and widening St. Matthews Avenue and widening St. James Street for Polo Park Area Infrastructure Improvements, and executed a Declaration of Expropriation dated May 27, 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 September 29, 2014 appointed an inquiry officer pursuant to section 4(2) of Schedule "A" to *The Expropriation Act,* and an inquiry was conducted on October 1, 2, 3, and November 17, 2014; and

(f) The inquiry officer obtained an Order dated October 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:

1) to increase the amount of land being expropriated from the property located at 1688 St. Matthews Avenue from a partial taking to a full taking;

2) to increase the amount of land being expropriated from the property located at 890 St. James Street from a partial taking to a full taking;

3) with regard to 496 and 500 Madison Avenue:

   a) that a median cut be allowed off of St. Matthews Avenue onto the

property to allow continued access;

b) that traffic signals be installed at the Madison Street and St. Matthews intersection or on Kensington Street if the City would allow reconstruction and access off of St. Matthews Avenue;

c) that the Kensington Street intersection at St. Matthews Avenue be a four-way intersection in the same manner as the Silver Avenue and Kensington Street intersection was developed; and

d) that access to 496 and 500 Madison Avenue be at right angles to Kensington Street off of St. Matthews Avenue.

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 under *The Expropriation Act* the City cannot expropriate land from a Crown Agency unless the Crown Agency gives its prior consent. The Public Service had intended to obtain the consent of Manitoba Hydro to include 1649 St. Matthews Avenue (identified as Parcels F, G and M in the Declaration of Expropriation dated May 27, 2014) in the expropriation; however, it has been unable to finalize an agreement for this purpose at present time due to a Hydro plant in the vicinity that must be resolved first. The Public Service intends to finalize the acquisition of 1649 St. Matthews Avenue separately from the expropriation so as not to postpone confirmation of the entire expropriation proceeding.

AND WHEREAS under *The Expropriation Act* Council of the City may confirm the Declaration with such modification thereof as it considers proper;

AND WHEREAS it is advantageous that the City proceed with the expropriation of the lands described in By-law No. 47/2014 with the following exceptions:

- to delete Manitoba Hydro properties identified as Parcels F, G and M from the lands to be expropriated.

THEREFORE BE IT RESOLVED that the Declaration of Expropriation made May 27, 2014, executed pursuant to By-law No. 47/2014 and expropriating the following lands:

The lands taken for Works and shown as Parcels A, B, C, D, E, F, G, H, J, K, M, N and P on Plan Deposit 522/2014 WLTO, prepared by Donald Neil Bourgeois, of the City of Winnipeg, Manitoba Land Surveyor,

The lands described above are expropriated free of encumbrances, except for Parcel H on (amended) Plan Deposit 522/2014 WLTO which is expropriated subject to Canadian National Railway Company Easement Declaration No. 2587830/1, registered in the

Winnipeg Land Titles Office on April 18, 2001 and Canadian National Railway Company Caveat No. 3267550/1, registered in the Winnipeg Land Titles Office on March 23, 2006.

The lands described above 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 AMENDED to provide that the lands described are as follows:

> **The lands taken for Works and shown as Parcels A, B, C, D, E, H, J, K, N and P on Plan Deposit 522/2014 WLTO, prepared by Donald Neil Bourgeois, of the City of Winnipeg, Manitoba Land Surveyor,**

AND BE AMENDED to replace the original Plan Deposit 522/2014 WLTO with a revised version which:

- deletes Parcels F, G and M from the lands to be expropriated**.**

BE IT FURTHER RESOLVED that the Declaration of Expropriation dated May 27, 2014, as amended herein and thereby replaced by an Amended Declaration of Expropriation dated March 25, 2015, is hereby confirmed.

BE IT FURTHER RESOLVED that Council's reasons for proceeding with the partial expropriation of the property located at 1688 St. Matthews Avenue, rather than a full taking which in the opinion of the Inquiry Officer is fair and reasonably necessary for the achievement of the City's objectives, are as follows:

- There was no evidence (i.e. financial data) provided at the hearing to prove the affected property was no longer commercially viable as a result of the taking.

- The affected owner has the ability to forward their position at the Land Value Appraisal Commission (LVAC) for the purposes of compensation.

- A full taking would increase land acquisition costs and create a liability for the City due to the maintenance of an existing building on the property.

BE IT FURTHER RESOLVED that Council's reasons for proceeding with the partial expropriation of the property located at 890 St. James Street, rather than a full taking which in the opinion of the Inquiry Officer is fair and reasonably necessary for the achievement of the City's objectives, are as follows:

- There was no evidence (i.e. financial data) provided at the hearing to prove the affected property was no longer commercially viable as a result of the taking.

- The affected owner has the ability to forward their position at the Land Value Appraisal Commission (LVAC) for the purposes of compensation.

- A full taking would increase land acquisition costs and create a liability for the City due to the maintenance of an existing building.

BE IT FURTHER RESOLVED that Council's reasons for proceeding with the expropriation of the property located at 496 and 500 Madison Avenue, without implementing the installation of traffic controls and a median cut, which in the opinion of the Inquiry Officer is fair and reasonably necessary for the achievement of the City's objectives, are as follows:

- Creating a median cut would disrupt eastbound traffic on St. Matthews Avenue and increase the risk of rear end collisions, since an eastbound storage lane cannot be accommodated due to the presence of a westbound left turn lane at this location.

- The median cut would also require eastbound traffic on St. Matthews Avenue to navigate through the westbound storage lane which could create collisions; the median cut would not align with Kensington Street, which could generate improper turning movements.

- Installing traffic controls at St. Matthews Avenue and Kensington Street would not meet City guidelines for signal control and would create safety issues, queuing issues and vehicle delay.

- Installing traffic controls at St. Matthews Avenue and Madison Street would not meet City guidelines, would unduly delay vehicle movements and could create safety issues.

- Installing pedestrian traffic control is deemed unnecessary since the St. Matthews Avenue extension will include creating sidewalks within the right-of-way (none existed before) and the site is within close proximity to an existing crossing (Route 90 and St. Matthews Avenue).

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

Carried.