Minute No. 647
Report – Executive Policy Committee – October 14, 2015

Item No. 5 **Expropriation Settlement - 6102 N.W.T. Limited at 2427 Waverley Street for the Waverley Street Twinning Project (South Winnipeg – St. Norbert Ward)**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the proposed expropriation settlement to be made with 6102 N.W.T. Limited located at 2427 Waverley Street (identified on Misc. Plan 13485) which was affected by the Waverley Street Twinning Project, be approved at a negotiated price of $409,925.89 (includes G.S.T.) plus statutory interest and all other ancillary costs.

2. That the City enter into a settlement agreement with 6102 N.W.T. Limited to formalize the settlement made in relation to the expropriation of 2427 Waverley Street for the Waverley Street Twinning Project expropriation and clarifying the arrangements between the parties, and that such terms and conditions set forth herein and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City, be approved.

3. That the Proper Officers of the City be authorized to do all things necessary to complete the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 14, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

Further on October 14, 2015, John Zabudney, Manager of Real Estate, Planning, Property and Development Department, submitted aerial photographs (2 pages) with respect to the matter.

ADMINISTRATIVE REPORT

Title: ***Expropriation Settlement of 6102 N.W.T. Limited at 2427 Waverley Street – Waverley Street Twinning Project***

Critical Path: **Executive Policy Committee**
Council

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
J. Zabudney	J. Kiernan	M. Ruta	M. Jack COO

RECOMMENDATIONS

1. That the proposed expropriation settlement to be made with 6102 N.W.T. Limited located at 2427 Waverley Street (identified on attached Misc. Plan 13485) which was affected by the Waverley Street Twinning Project, be approved at a negotiated price of $409,925.89 (includes G.S.T.) plus statutory interest and all other ancillary costs.

2. That the City enter into a settlement agreement with 6102 N.W.T. Limited to formalize the settlement made in relation to the expropriation of 2427 Waverley Street for the Waverley Street Twinning Project expropriation and clarifying the arrangements between the parties and that such terms and conditions set forth herein and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City, be approved.

3. That the Proper Officers of the City be authorized to do all things necessary to complete the intent of the foregoing.

REASON FOR THE REPORT

Council approval is required for expropriation settlements in excess of $250,000 and to enter into settlement agreements.

EXECUTIVE SUMMARY

- The property at 2427 Waverley Street was affected by the Waverley Street Twinning Project expropriation, which resulted in a loss of land to the owner (6102 N.W.T. Limited)

- The City and the expropriated party were able to negotiate a settlement and the negotiated settlement avoids additional cost and liabilities at the Land Value Appraisal Commission.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental or human resource implications associated with this report.

There is adequate funding for the expropriation available in the Capital Budget, Account # 003-181000-180603-18980006EX-PROPERTY.

Total GST payable on the settlement is $19,347.91.

HISTORY

On October 30, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation that, prior to commencing with the development of Phase II of the Waverley West Development Plan, Waverley Street from Bison Drive to John Angus Drive should be twinned and the Developer shall be responsible for front ending this cost.

At its meeting held on July 16, 2008, Council considered and approved the Public Works Department's report authorizing the acquisition of the lands needed for the Waverley Street Twinning Project between Bison Drive and John Angus Drive. Subsequently, on November 14, 2008, the Public Works Department provided the Planning, Property and Development Department (the Department) with sketches identifying the required land interests and requested that negotiations to acquire the said land interests commence immediately.

On November 25, 2009, Council considered and approved a report instructing the Acting City Solicitor/Manager of Legal Services to initiate expropriation proceedings, including preparing the necessary by-laws for submission to Council, to acquire the property interests required by the City for the Waverley Street Twinning Project.

On January 27, 2010, Council approved the Planning, Property and Development Department's report recommending the expropriation of land interests for the Waverley Street Twining Project between Bison Drive & John Angus Drive. The expropriation was confirmed by Council on April 28, 2010.

As a result of the expropriation of 2427 Waverley Street, the City acquired 35,615 square feet of land which was covered with gravel and provided access to a loading dock. After the taking, the loading dock was no longer functional due to accessibility issues, and several trees adjacent to the building would need to be removed in order to access the holding tank and septic tank.

The Public Service has been involved in negotiations with the property owner for several years, in order to compensate the owner for the land value and disturbance damages (loss of gravel, loss of trees and loss of a functioning loading dock). The proposed settlement agreement compensates the owner for the noted damages, in addition to the loss of land. The Public Service relied upon an external appraisal to assist with the negotiations.

The matter was to proceed to the Land Value Appraisal Commission in September 2015 at which point the City would have incurred additional legal and appraisal costs and potential exposure to an award higher than the negotiated settlement.

FINANCIAL IMPACT

Financial Impact Statement

Date: September 21, 2015

Project Name:

First Year of Program 2015

Expropriation Settlement of 6102 N.W.T. Limited at 2427 Waverley Street – Waverley Street Twinning Project

	2015	2016	2017	2018	2019
Capital					
Capital Expenditures Required	$ 495,605	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	495,605	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	15,600	-	-	-	-
Net Cost/(Benefit)	$ (15,600)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(15,600)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures consist of the settlement amount of $409,926 + statutory interest costs of $28,829 + estimated ancillary costs of $41,250 + short-term financing charges and corporate admin fees of $15,600. The latter amount is offset by an equal recovery in the current budget of the Corporate Finance Department. Sufficient capital funding is available in the Public Works capital account 18980006EX.

"Original signed by"
Mike McGinn, CA
Manager of Finance

CONSULTATION

Legal Services as to legal issues

Public Works Department

OURWINNIPEG POLICY ALIGNMENT

Not applicable

SUBMITTED BY

Department Planning, Property & Development
Division Real Estate
Prepared by: Gordon Chappell
Date: September 24, 2015
File No. 8161 V3

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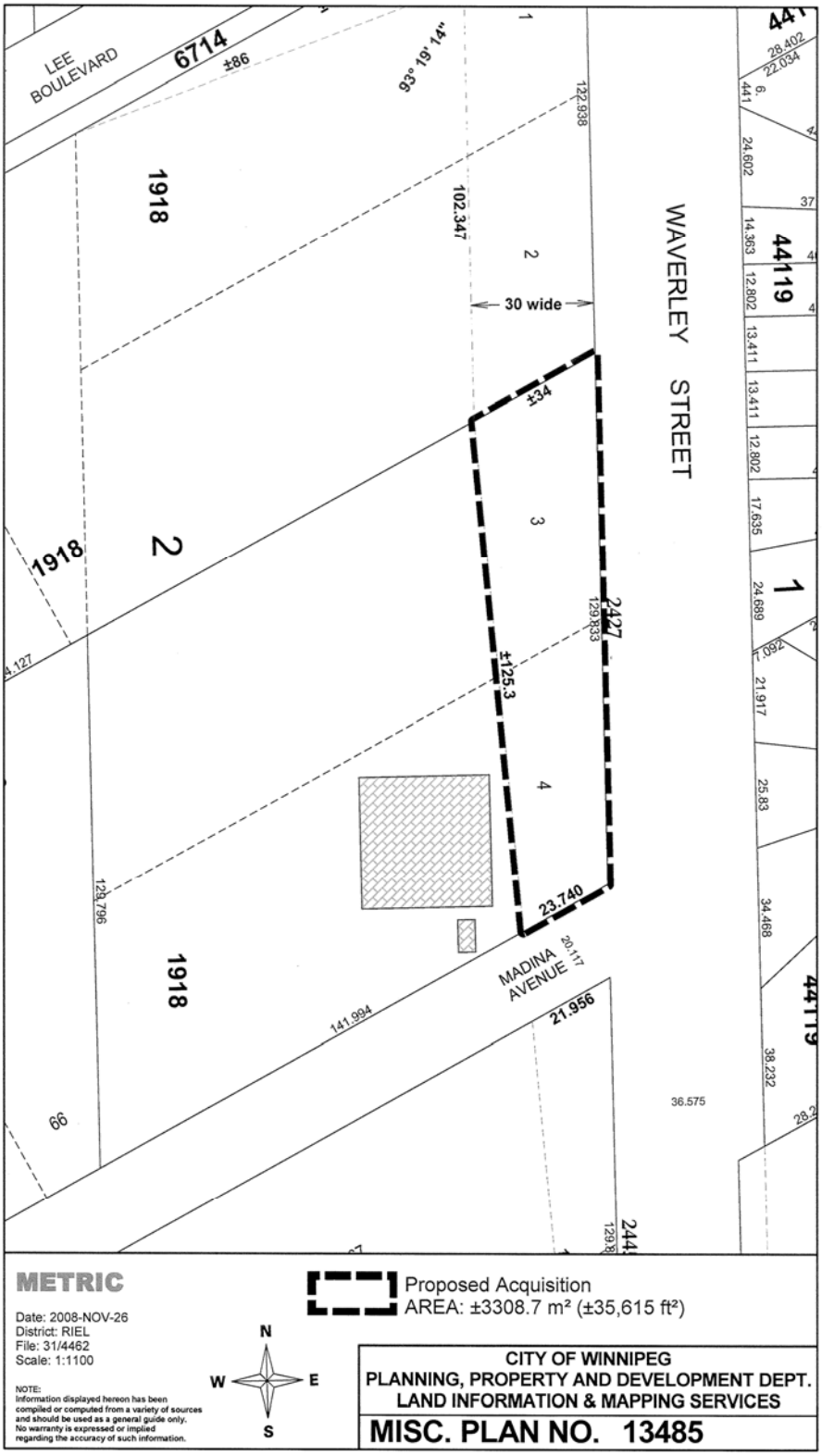
LEE BOULEVARD
6714
±86
93° 19' 14"
122.938
1918
102.347
2
30 wide
WAVERLEY STREET
±34
3
1918
2
2427
129.833
±125.3
4
23.740
129.796
1918
MADINA AVENUE
20.117
141.994
21.956
66
36.575
44119
28.402
22.034
24.602
14.363
12.802
13.411
13.411
12.802
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25.83
34.468
38.232
METRIC
Date: 2008-NOV-26
District: RIEL
File: 31/4462
Scale: 1:1100
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.
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Proposed Acquisition
AREA: ±3308.7 m² (±35,615 ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13485