Agenda – Council – January 27, 2016

STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT,

HERITAGE AND DOWNTOWN DEVELOPMENT

MOTIONS

Moved by Councillor ,
Seconded by Councillor ,

WHEREAS

(a) Pursuant to its By-law No. 11/2015, The City of Winnipeg ("the City") authorized the expropriation of the lands described therein for the purpose of the Cockburn-Calrossie Combined Sewer Area - Drainage Upgrade Project, in the City of Winnipeg, in Manitoba and executed a Declaration of Expropriation dated February 25, 2015;

(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 22, 2015 appointed an inquiry officer pursuant to section 4(2) of Schedule "A" to *The Expropriation Act*, and an inquiry was conducted on September 24, 25 and October 2, 2015;

(f) The inquiry officer obtained an Order dated July 17, 2015 from The Honorable Justice McCawley 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 November 26, 2015; and

(g) The inquiry officer obtained a further Order dated November 12, 2015 from The Honorable Justice Dewar 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 February 29, 2016.

AND WHEREAS the inquiry officer submitted his report to the City on November 23, 2015, wherein he stated that in his opinion the intended expropriation is not fair and reasonably necessary for the achievement of the objectives of the City.

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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. 11/2015, without any changes.

THEREFORE BE IT RESOLVED that the Declaration of Expropriation dated February 25, 2015, made pursuant to By-law No. 11/2015 and expropriating the following lands:

> **The lands taken for Works and shown as Parcel A on Plan Deposit 0053/2015 WLTO, prepared by Donald Neil Bourgeois, of the City of Winnipeg, Manitoba Land Surveyor,**

is hereby confirmed.

The lands described above are expropriated free of encumbrances.

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 described in By-law No. 11/2015 are as follows:

- ***Determined to be the most advantageous to The City of Winnipeg*** - After an extensive technical review of various options of Storm Retention Basin (SRB) locations, size, outfall piping size and combination of the above; the Department determined that the construction of single 6.7 hectare pond on the Parker Lands with a 1200mm outfall piping to the Red River was the most efficient and with the least amount of construction risk and disruption to the public during construction phases. The development of this SRB requires the expropriation of 8.3 ha of land.

- ***Provides earlier relief to the residents of Cockburn West and Southeast Jessie*** – The combined sewers in these neighbourhoods have a low level of service with respect to basement flooding during severe rain events.

- ***Achieves complete separation of Cockburn West and Southeast Jessie sewer districts*** –The planned LDS system including the 6.7 ha SRB provides sufficient capacity to completely separate the Cockburn West and Southeast Jessie Combined Sewer systems. Total separation of these sewer districts satisfies both of the goals of the project, Basement Flood Relief (BFR) and Combined Sewer Overflow (CSO) abatement. Earlier evaluations considered "no pond" options,

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- however the size of the downstream piping associated with these options to achieve total separation was deemed not practical from the perspective of the degree of required utility relocations and the construction costs of the very large diameter pipe (3,000 –3,600mm). The largest pipe considered practical within the City R.O.W. was a 2,550 mm pipe. Given this maximum pipe size, further analysis indicated that relief would be reduced to 70 % separation. This level of separation would improve the level of service for BFR but would not achieve total separation. Furthermore, the elimination of combined sewer overflows would not be achieved with this level of separation.

- ***Reduced Construction Risk*** – Implementation of the current design (SRB with 1,200 mm outlet to the river) will result in a project with a lower construction risk. Over 70 SRB's exist within City of Winnipeg. Construction of SRB's is commonplace in Manitoba and familiar to local contractors. Furthermore, the 1,200 mm outlet pipes can be installed using conventional construction equipment commonly used in Winnipeg. Alternatively high risk and large potential cost overruns could be anticipated with the construction of large diameter pipes associated with a design that does not consider an SRB. There is limited construction experience and there are inherent risks associated with the use of Tunnel Boring Machines (TBM's) required for the construction of the large diameter pipes. As well, there are limited vendors with demonstrated expertise in North America to construct these large diameter pipes.

- ***Provides required Naturalized Land required under the Environmental Act License for Southwest Transitway (Stage 2) Project (SWRT)*** – The Environmental Review and Assessment report prepared for Manitoba Water Stewardship and Conservation lists the construction of the naturalized SRB in the Parker Lands as a mitigation measure for the loss of wet meadow and cattail stand areas. Since the SRB provides these mitigation measures, the City will need to find an alternate method of achieving these mitigation measures if it is not constructed

- **Accommodates development timelines of the Parker Lands -** The Parker Lands fall within the Cockburn West Sewer District. The lands are undeveloped and not serviced by sewers. No existing sewers in the vicinity of the Parker Lands (south of the rail lines) can accept runoff flows from the development of the Parker Lands. Any development on these lands would require an outlet to the river (that currently does not exist). This includes the private development and may include public development (SWRT). The proposed land drainage scheme permits development of the Parker Lands once completed.

  Accommodates earlier development Taylor Lands - The Taylor Lands located north of the CN lines cannot be fully developed without a connection to the river to accept the allowable runoff flows. The City permitted the initial development of the Walmart Building on the Taylor Lands with the use of temporary dry pond to restrict the rate of runoff to the existing Cockburn combined sewer district. The approval is temporary with the understanding that the allowable flows from the Taylor lands are to be connected to the future LDS connection to the river once constructed.

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- ***Additional CSO Benefits*** – In addition to the total separation benefits, the construction of a naturalized SRB, as planned, provide the following additional benefits with respect to the City's Combined Sewer Abatement Program:
    - SRB settle out suspended solids that would be released into the Red River
    - The Naturalized plant life provide biological uptake of some nutrients
    - The ultraviolet impacts of the sun on the SRB can result in the decomposition of some bacteria.

  These added CSO benefits are not achieved without the construction of a SRB.

- ***Provides additional storage under flood conditions*** – The SRB provides additional storage for rain event when the Red River is experiencing elevated river levels.

- ***Provides an aesthetically pleasing enhancement public facility*** – The construction of the SRB will be landscaped to enhance the area in the lands it will be constructed. There are opportunities for pathways and pleasing landscaping enhancements.

The Public Service also advised of the additional risks of not moving forward with the current design - assuming that a future design will go forward that does not consider expropriated lands for the construction of a SRB as follows:

- ***Impacts the proposed cost and schedule for the P3 Project (SWRT & Pembina Underpass Project)*** – The current LDS Design (SRB and downstream piping) receive development flows from the Pembina Underpass, the SWRT Underpasses below the CN Letellier rail lines, and the portion of the SWRT corridor within the Parker Lands. Decisions on how to deal with these flows may impact the planned construction costs and schedule of the P3 Project.

- ***Additional Parker Lands owned by 6165347 Manitoba Inc. (o/a GEM Equities) will need to be expropriated for the SWRT project*** – The existing Manitoba Hydro lattice transmission towers located on the Parker Lands are being modified to tubular towers to allow for sufficient space to build the SWRT Corridor. The tubular towers have a shorter span length and require approximately 1.3 acres of land north of the proposed SRB (and south of the CN Rail line) for a new set of tubular towers to be installed. This land is currently being expropriated under the Cockburn Project. If an alternate design is explored that does not require expropriation of the lands for the SRB, then this portion of the land will need to be expropriated for the SWRT project. This additional expropriation process would impact the schedule of the SWRT project.

- ***Additional Parker Lands owned by 6165347 Manitoba Inc. (o/a GEM Equities) will need to be expropriated for the construction of underground Trunk Sewers –*** Should the requested expropriation not go forward, there will still be a requirement for Parker Lands to accommodate the construction of large Diameter Sewers as there is no other practical option for the routing of a single trunk sewer to another location.

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- ***The City will need to acquire a Consent to Enter and Construct Agreement to complete work for the SWRT Project*** – The Hydro Transmission tower relocations associated with the SWRT project involve the relocation of two transmission towers located on portion of the Parker Lands owned by 6165347 Manitoba Inc. (o/a Gem Equities). This land was being expropriated under the Cockburn Project. The City would require a Consent to Enter and Construct Agreement to undertake this portion of the relocations, which could impact the schedule of the SWRT project. The property owner may not agree to provide its Consent to Enter to Construct thereby jeopardizing the project.

- ***Development restrictions will remain on one quarter of Parker Lands*** – Approximately 25% of the land being expropriated as part of the Cockburn project involves a historic Hydro Utility corridor that restricts above grade development. The corridor currently includes three Transmission towers and Manitoba Hydro anticipates requiring 3 additional towers to satisfy its future needs in providing power to Manitobans. Construction of an SRB below the grade in the vicinity of the transmission towers is acceptable (and already approved by Manitoba Hydro). Development of residential and commercial development above grade in these locations is understood to not be permitted.

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