Minutes – Executive Policy Committee – July 12, 2017

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 4, 2017

Item No. 13 Expropriation of Lands – Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Director of Legal Services / City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire certain land interests identified on Misc. Plan 14762/1, and required by the City for the Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project.

2. That the proper officers of the City be authorized to do all things necessary to implement the intent if the foregoing described within, including demolition of any improvements, execution of any necessary documents and preparation of any necessary by-laws.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 4, 2017

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 4, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Expropriation of Lands – Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Lucyk	J. Kiernan	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

The owner of the property and developer (the "Developer") on the south side of Taylor Avenue, west of Harrow Street, applied for a subdivision and rezoning that was approved by Council in 2013 – DASZ 4/2013. Council subsequently approved the by-law associated with the subdivision and rezoning in 2014. However, the by-law does not come into force until the Plan of Subdivision is registered at the Winnipeg Land Titles Office.

The Developer has been unable to register the Plan of Subdivision since the by-law was passed. As a result, the Developer has requested several time extensions for the by-law which have been approved by Council.

The delay associated with the registration of the Plan of Subdivision has affected a major capital project – the Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project. One of the conditions imposed by Council for DASZ 4/2013 was for the Developer to grant an easement for a future land drainage sewer identified on Misc. Plan 14762/1.

The Public Service is recommending to Council, that the interest required in the subject land for the land drainage sewer easement be expropriated to ensure no further delays for the transfer of the property interest. The expropriation should not cause any delays to the Project, since the Developer has granted the City a Consent to Enter to Construct Agreement.

RECOMMENDATIONS

1. That the Director of Legal Services / City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire certain land interests identified on Misc. Plan 14762/1, and required by the City for the Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project.

2. That the proper officers of the City be authorized to do all things necessary to implement the intent if the foregoing described within, including demolition of any improvements, execution of any necessary documents and preparation of any necessary by-laws.

REASON FOR THE REPORT

According to the "Policy for the Sale, Acquisition, Rental, Leasing and Management of Properties", Council approval is required to approve all land acquisition programs and pass expropriation by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

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

Due to the expropriation, the City will be responsible to compensate the Developer for the market value of the land interest taken, and other costs in accordance with The Expropriation Act. Offers of Compensation are provided to expropriated owners once the expropriation is confirmed by Council.

The expropriation will enable the City to obtain the necessary interest in the subject land and not cause the Project to be subject to further delays pending the transfer of the property interest.

HISTORY/DISCUSSION

On May 29, 2013 Council approved a subdivision and rezoning for land located on the south side of Taylor Avenue between Wilton Street and 1260 Taylor under File DASZ 4/2013. As a condition of approval, the Developer was required to enter into a servicing agreement with the City containing all the conditions outlined in Schedule B, the Report from the Administrative Coordinating Group. Condition C.1 of Schedule B stated:

"The Developer shall, at no expense to the City, grant an easement for the future land drainage trunk sewer that will cross the Planned Area as determined by and to the satisfaction of the Director of Water and Waste."

On April 30, 2014, Council approved the by-law associated with DASZ 4/2013 (By-law 52/2014). However, By-law 52/2014 does not come into force until the Plan of Subdivision is registered at the Winnipeg Land Titles Office. Council approval provided one year for enactment of the by-law, otherwise the by-law would expire unless a time extension was approved. The Public Service released the mylars and related documents, in trust, to the Developer in December 2014 on the condition that the Developer register the mylars/documents at the Winnipeg Land Titles Office. The Developer failed to fulfill these trust conditions.

Due to complications associated with the registration of the Plan of Subdivision at the Winnipeg Land Titles Office, the Developer requested a time extension. Developers requesting time extensions are relatively common, and as such, the Public Service recommended (and Council

approved) a time extension to complete the registrations associated with DASZ 4/2013 until September 30, 2016.

The Developer was unable to meet the September 30, 2016 deadline and requested a further extension until December 31, 2016 which was approved by Council.

On March 22, 2017, Council approved a third extension of time until April 30, 2017.

To date, the Developer has not met the conditions for registration at the Winnipeg Land Titles Office and will require another extension (4th extension) in order to register the Plan of Subdivision.

The failure to register the necessary documents to enact By-law 52/2014 has affected a major capital project – the Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project. The easement noted on Misc. Plan 14762/1 is required for the Project and should have been granted to the City through the registration of the Plan of Subdivision. The easement is necessary for the construction of a land drainage sewer.

Due to the delay in registering the Plan of Subdivision and the imminent construction in the easement area, the Public Service is recommending expropriation. Expropriation of the easement will ensure the City obtains the necessary interest in the land which will contain City infrastructure.

It is not expected that the expropriation will cause any time delays to the Project. In April 2017, the Developer granted a Consent to Enter to Construct Agreement to the City, which allows for construction of Project works in advance of City ownership.

The market value of the expropriated property is based on the date that the Declaration of Expropriation is approved by Council and the by-law is passed (the expropriation by-law is concurrent with this report).

It is noted that the easement identified on Misc. Plan 14762/1 does not extend over Sparling Avenue or the lane to the south as these roadways are open right-of-ways. The City has the authority to place infrastructure within the open right-of-ways. However, Council approved the closure of a portion of Sparling Avenue and the lane to the south on May 29, 2013 (DAC 4/ 2013) in association with DASZ 4/2013. The subject closing was required for and incorporated into the Plan of Subdivision prepared under DASZ 4/2013. The Public Service agreed to sell the land included in DAC 4/2013 to the Developer, but the sale is contingent upon the Developer registering the Plan of Closing in series with the Plan of Subdivision. The Plan of Closing was released by the City to the Developer in trust, as described earlier in this report. An easement over Sparling Avenue or the lane to the south is not required as long as the right-of-way is open, or alternatively, can be secured upon the registration of the Plan of Closing.

FINANCIAL IMPACT

Financial Impact Statement

Date: April 27, 2017

Project Name:

Expropriation of Lands – Cockburn-Calrossie Combined Sewer Area – Drainage Upgrade Project

COMMENTS:

There are no direct financial implications associated with a declaration of expropriation.

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

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

Water and Waste Department

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg enables the intensification of land-uses through the development application process only when a full range of municipal services is provided. A full range of municipal services includes piped water, piped wastewater, an urban standard roadway, and piped land drainage. Cockburn-Calrossie Combined Sewer Area - Drainage Upgrade Project is a part of the piped land drainage system for this area.

SUBMITTED BY

Department: Planning, Property and Development Department
Division: Real Estate
Prepared by: Gord Chappell, Senior Negotiator
Date: April 27, 2017
File No: 32/4096/A V6

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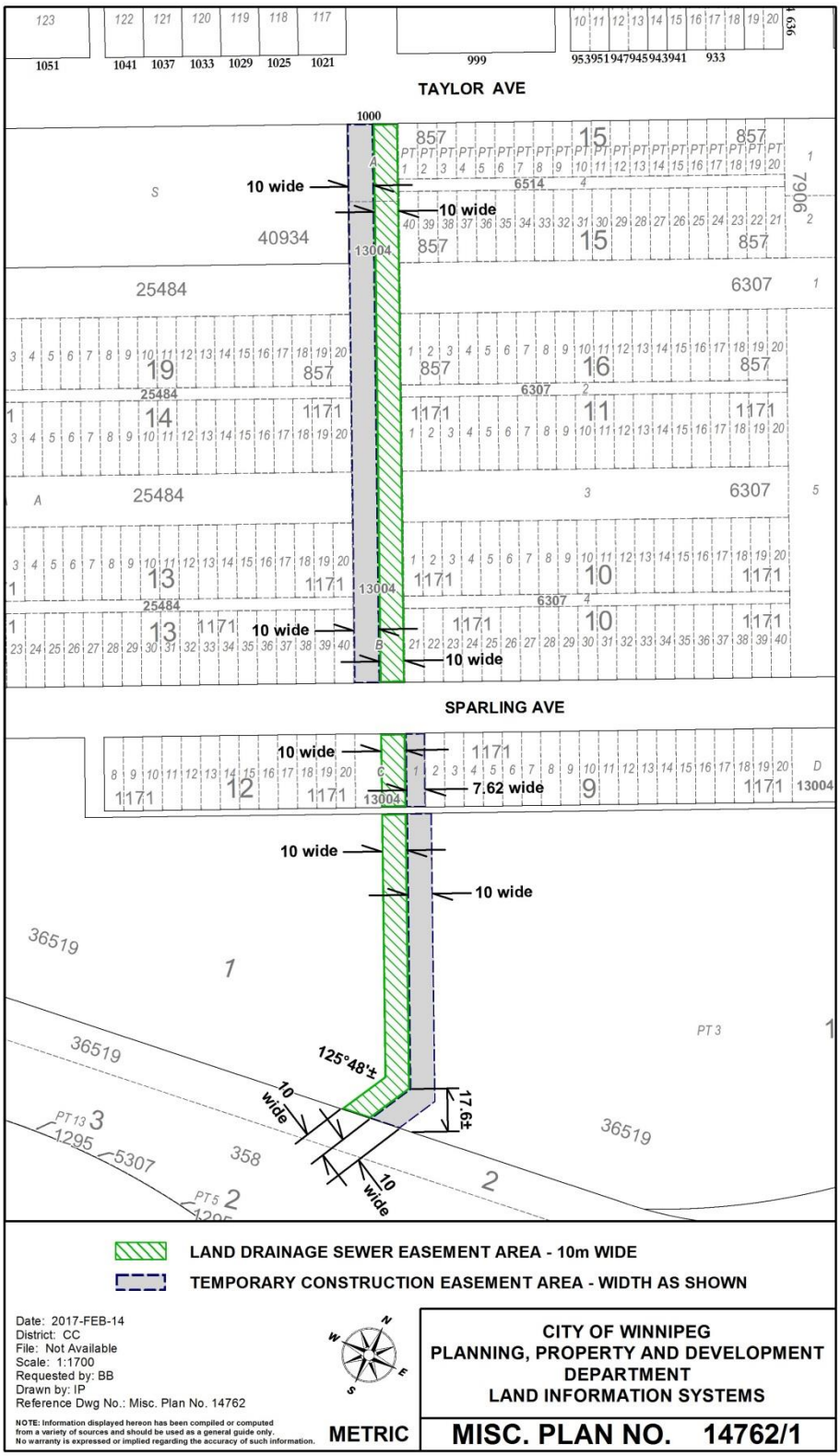
Attachments:

Appendix A – Misc. Plan 14762/1

Appendix A


TAYLOR AVE
SPARLING AVE
10 wide
7.62 wide
125°48'±
17.6±
LAND DRAINAGE SEWER EASEMENT AREA - 10m WIDE
TEMPORARY CONSTRUCTION EASEMENT AREA - WIDTH AS SHOWN
Date: 2017-FEB-14
District: CC
File: Not Available
Scale: 1:1700
Requested by: BB
Drawn by: IP
Reference Dwg No.: Misc. Plan No. 14762
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.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SYSTEMS
MISC. PLAN NO. 14762/1