Minute No. 136
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 7, 2019

Item No. 16 **Opening and Closing – Boyd Avenue and the Public Lane at Sheppard Street: Proposed Closing and Rededication (Point Douglas Ward) File DAOC 1/2018**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That, subject to Recommendation 4, the proposed street and lane closings as shown on Misc. Plan No. 15335/2 be approved and that the land be declared surplus to the City's needs.

2. That the proposed street and lane rededications as shown on Misc. Plan No. 15335/2 be approved.

3. That Lots 6 and 7, Block 12, Plan 1164 WLTO identified as "City Owned Property" on Misc. Plan No. 15335/2 be declared surplus to the City's needs.

4. That the Director of Legal Services and City Solicitor be instructed to prepare and bring directly to Council for enactment a by-law to facilitate the street and lane closings in accordance with Misc. Plan No. 15335/2 (attached as Appendix "B"), subject to:

    A. the approval of the conveyance of the land by Council or its delegated authority, and

    B. the applicant/purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the applicant/purchaser fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

5. That in the event the subject closing is not proceeded with expeditiously and the by-law:

    A. is not enacted within two (2) years following the date the subject report is approved by Council, and

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STANDING COMMITTEE RECOMMENDATION (continued):

B. is not registered in the Winnipeg Land Titles Office within one (1) year following the date it is enacted by Council,

the matter shall be deemed to be concluded and shall not be proceeded with, unless an extension of time is applied for prior to the expiry of the two (2) year period referred to in clause (a) above and Council approves the extension.

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

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DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 22, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 7, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 19, 2018, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

PUBLIC HEARING SUMMARY

File:	DAOC 1/2018
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Eadie, Chairperson Councillor Santos Councillor Sharma
Public Hearing:	November 19, 2018 Council Building, 510 Main Street
Applicant:	Bigfreight Systems Inc.
Premises Affected:	Boyd Avenue and the Public Lane at Sheppard Street
Exhibits Filed:	1. Report from the Real Property Officer dated October 16, 2018 2. Inspection Report

REPRESENTATIONS:

In Support:

Jeremy Messner

In Opposition:

Nil

For Information:

Nil

For the City:

R. Hayer, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAOC 1/2018

ADMINISTRATIVE REPORT

Title: Boyd Avenue and the Public Lane at Sheppard Street: Proposed Closing and Rededication – File DAOC 1/2018

Critical Path: Lord Selkirk - West Kildonan Community Committee – Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	N/A	N/A

EXECUTIVE SUMMARY

This report requests approval for the closing of Boyd Avenue and the Public Lane west of Sheppard Street and the rededication of portions of these rights of way as Sheppard Street.

Bigfreight Systems Inc. (the "Applicant") wishes to purchase the proposed closing areas as an addition to their existing property holding at No. 10 Hutchings Street. The Applicant has also commenced negotiations with the Real Estate Branch for the acquisition of City-owned property adjoining the closing areas, as shown on the attached copy of Misc. Plan No. 15335/2.

The rededications as shown on Misc. Plan No. 15335/2 will provide for a consistent and uniform naming of Sheppard Street at this location.

Before the street and lane may be sold, they must be legally closed and declared surplus to the City's needs.

RECOMMENDATIONS

1. That, subject to Recommendation 4, the proposed street and lane closings as shown on Misc. Plan No. 15335/2 be approved and that the land be declared surplus to the City's needs.

2. That the proposed street and lane rededications as shown on Misc. Plan No. 15335/2 be approved.

3. That Lots 6 and 7, Block 12, Plan 1164 WLTO identified as “City Owned Property” on Misc. Plan No. 15335/2 be declared surplus to the City’s needs.

4. That the Director of Legal Services and City Solicitor be instructed to prepare and bring directly to Council for enactment a by-law to facilitate the street and lane closings in accordance with Misc. Plan No. 15335/2 (attached as Appendix “B”), subject to:

   A. the approval of the conveyance of the land by Council or its delegated authority, and

   B. the applicant/purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the applicant/purchaser fulfill the administrative conditions of approval outlined in Appendix “A” of this report.

5. That in the event the subject closing is not proceeded with expeditiously and the by-law:

   A. is not enacted within two (2) years following the date the subject report is approved by Council, and

   B. is not registered in the Winnipeg Land Titles Office within one (1) year following the date it is enacted by Council,

   the matter shall be deemed to be concluded and shall not be proceeded with, unless an extension of time is applied for prior to the expiry of the two (2) year period referred to in clause (a) above and Council approves the extension.

6. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

All street and lane closings must be considered by the Community Committee.

As per Section 3.1(i) of the City Organization By-law, only Council can declare City-owned property as surplus.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental, human resource or general implications associated with the recommendations.

All costs associated with the street and lane closings are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

The Planning, Property and Development Department has received a request from Bigfreight Systems Inc. (the "Applicant") to close and purchase Boyd Avenue and the Public Lane identified on the attached copy of Misc. Plan No. 15335/2. In conjunction with the subject application, the Applicant has commenced negotiations with the Real Estate Branch for the acquisition of City owned property contiguous to the closing areas as shown on the Misc. Plan.

The street and lane, once closed, and the City property, are to form an addition to the applicant's warehousing operation located at No. 10 Hutchings Street. The Applicant has indicated that the acquisition of this land will allow for a more effective utilization of their current property holding, specifically accommodating improved truck and trailer maneuverability as well as increased trailer parking space.

Boyd Avenue and the Public Lane were opened by Plan No. 1164, registered in the Winnipeg Land Titles Office in November of 1906. City of Winnipeg By-law 18705, passed in July of 1962, closed portions of streets and lanes opened by this plan west of Sheppard Street in order to consolidate the former rights of way with then owned surrounding City property for the creation of an industrial site. The City was also the owner of part of the land lying between the closing areas, being Lot 7, Block 12, Plan 1164 WLTO, which was acquired through tax sale. Negotiations with the property owner for the acquisition of the adjoining Lot 6 were unsuccessful. In order to maintain frontage on a public street with rear yard access, the subject closing areas were excluded from By-law 18705 and remained legally open public rights of way. The City eventually acquired Lot 6 through tax sale in September of 1992. Both lots have been vacant for several years.

The closing areas comprise part of the adjoining grassed boulevard, exist in a legal context only, and serve no public transportation purpose.

Sheppard Street was also opened by Plan No. 1164 WLTO. At that time, the street's southern limit terminated at the northern limit of Boyd Avenue. City of Winnipeg By-law 18705 widened and extended Sheppard Street southerly within several underlying Lots in Block 12, Plan 1164 WLTO. The rededication of the projections of Boyd Avenue and the Public Lane will provide for a consistent naming of Sheppard Street at this location.

CONSULTATION

This Report has been prepared in consultation with:

Internal Consultation:

Legal Services (as to legal issues)
Corporate Finance
Public Works
Water and Waste
Transit

External Consultation:

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, Crown Utilities and Rogers Communications.

Imperial Oil, Fiber, Norscan and Telus did not respond to the request for comment on this application.

OURWINNIPEG POLICY ALIGNMENT

Section 235 of *The City of Winnipeg Charter* states that *"…public works, undertakings and development in the city must be consistent with Plan Winnipeg or any secondary plan."*

The subject closings do not contravene *OurWinnipeg* or the *Complete Communities Direction Strategy* and generally align with their overall vision and key directions.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Bohdan Buyachok, Real Property Officer
Date: October 16, 1018
File No: DAOC 1/2018

Attachments:

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Miscellaneous Plan and Aerial View

APPENDIX "A"

Administrative Approval

The proposal has been considered by all affected City departments and public utilities. There are no administrative objections to the street and lane closings.

Administrative Comments

Geomatics Branch

Approval of this application is subject to the following conditions:

- The applicant/purchaser is required to submit a development application for a plan of subdivision (DAS, DASZ or DASSF as necessary) to facilitate the consolidation of the adjoining City property and the closed rights of way being acquired, with the adjacent property, into a single Lot.
- The opening/closing plan mylars, opening/closing by-law, land transfer and any associated documents will be released along with the plan of subdivision mylars and subsequently registered in series with and prior to the associated plan of subdivision.
- The applicant is responsible for all costs associated with the preparation of the necessary opening/closing and subdivision plans and any associated documents and registration of same at The Property Registry to facilitate legal closing of the rights of way and land conveyances.

Land Development Branch

Approval of the closing is subject to its consolidation with the adjoining property under a subdivision application.

Water and Waste Department

For information purposes only, the Water and Waste Department notes the presence of a private 200mm combined water service entering the applicant's property through the proposed lane closing area.

Easements

Manitoba Hydro has identified services within the closing areas and will require easements for these existing facilities. No permanent structures will be allowed within the easement areas.

Any removal or relocation of existing facilities as a result of the proposed street and lane closings will be at the expense of the applicant.

Transfer of Jurisdiction Over Public Rights-of-Way

The street and lane must be legally closed before they may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership of the property in the City's name. The City is not entitled to dispose of the land until this has been done.

APPENDIX "B"

Aerial View of Subject Closings



Miscellaneous Plan

