Agenda – Council – July 18, 2019

Report – Executive Policy Committee – July 9, 2019

Item No. 9 Authorization for Provincial Auditor General to access City records – Vimy Arena and the Old Stadium Site

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That the Provincial Auditor General be authorized to access City records (with the exception of those subject to solicitor-client privilege) regarding the process followed by the City in declaring the Vimy Arena as surplus and its subsequent transfer to the Province of Manitoba, and the analysis and sale of the old stadium site and the creation of a Tax Increment Financing Zone.

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

Report – Executive Policy Committee – July 9, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Authorization for Provincial Auditor General to access City records – Vimy Arena and the Old Stadium Site

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Jack	M. Jack	n/a	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The Auditor General of the Province of Manitoba has requested access to City records so as to investigate:

- the process followed by the City in declaring the Vimy Arena as surplus and its subsequent transfer to the Province of Manitoba; and
- the analysis and sale of the old stadium site and the creation of a Tax Increment Financing Zone (TIF).

The Public Service's position is that the Auditor General has no authority to investigate these transactions but nevertheless is recommending that Council approve granting him access to these records (other than those that are subject to solicitor-client privilege) in the interests of transparency and maintaining good relations with the Province.

RECOMMENDATIONS

1. That Council authorize the Provincial Auditor General to access City records (with the exception of those subject to solicitor-client privilege) regarding the process followed by the City in declaring the Vimy Arena as surplus and its subsequent transfer to the Province of Manitoba, and the analysis and sale of the old stadium site and the creation of a Tax Increment Financing Zone.

2. 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

Council approval is required to allow the Provincial Auditor General to access City records which he is not legally entitled to access in order to investigate matters which do not fall within his jurisdiction.

IMPLICATIONS OF THE RECOMMENDATIONS

Approval of the recommendations of this report will allow the Provincial Auditor General to access records of the City's Public Service (other than those protected by solicitor-client privilege) in order to investigate the process followed by the City in declaring the Vimy Arena as surplus and its subsequent transfer to the Province of Manitoba, and the analysis and sale of the old stadium site and the creation of a Tax Increment Financing Zone.

HISTORY/DISCUSSION

The Auditor General of the Province of Manitoba, Norm Ricard, has requested access to City records to investigate:

- the process followed by the City in declaring the Vimy Arena as surplus and its subsequent transfer to the Province of Manitoba; and
- the analysis and sale of the old stadium site and the creation of a Tax Increment Financing Zone (TIF).

The Auditor General takes the position that, because the City is the recipient of Provincial funds, he is entitled to investigate City activities such as these by section 15 of *The Auditor General Act*. That provision reads as follows:

> ***Audit of recipient of public money***
> *15(1) The Auditor General may conduct an examination and audit in respect of public money received by a recipient of public money, including the matters listed in subsection 14(1), and may require the recipient to prepare and give to the Auditor General the financial statements setting out the details of the disposition of the public money received.*

However, the position of the Public Service is that section 15 allows the Auditor General to conduct investigations "in respect of public money" (ie. Provincial funds) but this does not give the Auditor General jurisdiction to investigate City activities that don't involve Provincial funding. Since neither the sale of Vimy Arena to the Province nor the sale of the old stadium site and the creation of a TIF involve Provincial funds, an investigation of either of them is not within the Auditor General's jurisdiction.

That said, this report recommends that the City should allow the Auditor General access to the City's records on this occasion in the interests of transparency to the public and maintaining good relations with the Province. If this recommendation were approved, records that are subject to solicitor-client privilege would be exempt since allowing the Auditor General access to them would result in the loss of privilege over those records.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 26, 2019

Project Name:

Authorization for Provincial Auditor General to access City records – Vimy Arena and the Old Stadium Site

COMMENTS:

There is no financial impact to the recommendations of this report.

original signed by

Tanis Yanchishyn
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

SUBMITTED BY

Department: Chief Administrative Office
Division: n/a
Prepared by: M. Jack, Chief Corporate Services Officer
Date: June 26, 2019