Minutes – Executive Policy Committee – February 11, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 3, 2020

Item No. 7 Tax Sale Process Changes

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 number of years that real property taxes are due and unpaid before the tax sale process is triggered be maintained at three years.

2. That the new Real Estate Policy Framework, to be presented to Council in 2020, include a policy statement that authorizes the Winnipeg Public Service to exercise its right to purchase tax sale properties or hold a public auction.

3. 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 concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On February 3, 2020, 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.

On January 6, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development laid the matter over to its meeting on February 3, 2020.

COUNCIL DECISION:

On June 20, 2019, Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That, as part of the comprehensive City of Winnipeg Real Estate Policy Review, the Winnipeg Public Service be granted an extension of time of 180 days to report back on the following:

    A. Potential changes to the City's current tax sale process policies, including:

        i. Reducing the number of years that the real property taxes in respect of a property must be due and unpaid before the tax sale process is triggered; and

        ii. Offering for sale by public auctions any property that is liable to be sold for unpaid taxes, except for any specific properties for which the City intends to exercise its prior right to purchase.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 3, 2020

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

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

On July 19, 2018, Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That the Public Service be directed to submit a formal request to the Province of Manitoba to amend the City of Winnipeg Charter to amend or repeal section 385 in respect of assignment of a tax sale certificate.

2. That the Public Service be directed to review and report back within 180 days on the following potential changes to the City's current tax sale process policies:

    A. reducing the number of years that the real property taxes in respect of a property must be due and unpaid before the tax sale process is triggered; and

    B. offering for sale by public auctions any property that is liable to be sold for unpaid taxes, except for any specific properties for which the City intends to exercise its prior right to purchase.

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

ADMINISTRATIVE REPORT

Title: Tax Sale Process Changes

Critical Path: 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	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On June 20, 2019, Council directed the Public Service to report back on potential changes to the City's tax sale process. Suggested changes included amending the number of years in which unpaid taxes are due before the tax sale process is triggered, and holding a public auction for tax sale properties.

The Public Service recommends that the tax sale process continue to be triggered after three years of unpaid taxes and recommends a policy change to authorize the Public Service to hold public auctions for tax sale properties.

RECOMMENDATIONS

1. That the number of years that real property taxes are due and unpaid before the tax sale process is triggered be maintained at three years.

2. That the new Real Estate Policy Framework, to be presented to Council in 2020, include a policy statement that authorizes the Public Service to exercise its right to purchase tax sale properties or hold a public auction.

3. 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

On June 20, 2019, Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

"That, as part of the comprehensive City of Winnipeg Real Estate Policy Review, the Winnipeg Public Service be granted an extension of time of 180 days to report back on the following:

A. Potential changes to the City's current tax sale process policies, including:
   i. Reducing the number of years that the real property taxes in respect of a property must be due and unpaid before the tax sale process is triggered; and
   ii. Offering for sale by public auctions any property that is liable to be sold for unpaid taxes, except for any specific properties for which the City intends to exercise its prior right to purchase."

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental, operational, human resources, or other implications of the Report.

Regulations already exist in The City of Winnipeg Charter for the City to exercise its right to purchase tax sale properties or hold a public auction. However, Council must approve a change to the 1972 policy directing the Public Service to exercise the City's prior right to purchase with respect to every tax sale property rather than hold a public auction.

If public auctions are held for tax sale properties, the City is entitled to direct any surplus funds to general revenue unless the Court of Queen's Bench directs the surplus funds to a court applicant in accordance with Section 401 of The City of Winnipeg Charter. Surplus funds are the amount of money paid by the winning bidder in excess of the unpaid taxes on the property.

Authorizing the Public Service to hold a public auction will not eliminate the City's existing prior right to purchase tax sale properties. The Public Service will evaluate when an auction or purchase is applicable for each property entering tax sale.

HISTORY/DISCUSSION

On July 19, 2018, Council directed the Public Service to submit a formal request to the Province of Manitoba to amend or repeal Section 385 of The City of Winnipeg Charter in respect of assignment of a tax sale certificate. Council also directed the Public Service to report back in 180 days regarding potential changes to the tax sale process, including:

- Reducing the number of years that the real property taxes in respect of a property must be due and unpaid before the tax sale process is triggered; and

- Offering for sale by public auctions any property that is liable to be sold for unpaid taxes, except for any specific properties for which the City intends to exercise its prior right to purchase.

Assignment of a Tax Sale Certificate

Under The City of Winnipeg Charter, any person with an interest in or a charge on a property in tax sale can request that the City of Winnipeg assign the tax sale certificate to them. If this interest predates the City's interest, the City is required to assign the certificate and the person could ultimately obtain title to the property. Whatever its original intended purpose may have been, the process of assignment continues to be used by certain individuals to obtain title to properties for amounts which are far less than fair market value, with the original property owner having lost all equity in their property.

On May 17, 2019, the City delivered a letter to the Province of Manitoba requesting an amendment to or repeal of Section 385 of The City of Winnipeg Charter (attached as Schedule A). Eliminating Section 385 would resolve the tax sale assignment issue. As of the date of this report, the City has not received a response to the aforementioned letter. A follow-up letter was sent in November of 2019 to ensure the request was not lost in the lead-up to the 2019 Provincial Election.

Unpaid Taxes

In 1972, Council adopted the policy to allow for three years of unpaid taxes before the tax sale process is triggered (attached as Schedule B). The Public Service recommends that the existing three year policy be maintained.

There are a significant number of owners who pay their tax arrears between the second and third year from which property taxes are due. The three-year window provides ample opportunity for property owners to get out of tax arrears, which in turn results in the City acquiring fewer tax sale properties.

Public Auction

In 1972, Council adopted a policy that directed the Public Service to exercise its prior right to purchase under section 377(1) of The City of Winnipeg Charter for all properties rather than offer properties for sale by a public auction under Section 378(1) (attached as Schedule B). The rationale for this policy is unclear; all other municipalities in Manitoba are required to hold public auctions on tax sale properties under The Municipal Act.

The Public Service recommends a change to the 1972 policy which would enable the City to purchase some tax sale properties and hold a public auction for the rest. Providing two options will allow the Public Service to evaluate the best disposal method for the property based on site conditions, market conditions and City resources.

FINANCIAL IMPACT

Financial Impact Statement Date: December 10, 2019

Project Name:

Tax Sale Process Changes

COMMENTS:

There are no direct financial implications associated with the recommendations contained in this report.

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

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Assessment and Taxation

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Real Estate Administrator
Date: December 11, 2019

Attachments:

Schedule A – Tax Sale Letter to Province

Schedule B – Council Minutes, April 19, 1972