Agenda – Council – May 29, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 21, 2020

Item No. 5 Review of the Independent Fairness Commissioner Mandate

STANDING COMMITTEE RECOMMENDATION:

On May 22, 2020, 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 mandate for the Independent Fairness Commissioner (IFC) role, for compliance review of all real estate transactions and management services prior to presentation to Standing Policy Committee (SPC) and/or Council, be limited to the review of sales, acquisitions, land exchanges and leases.

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

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 21, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 22, 2020, 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 May 21, 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.

ADMINISTRATIVE REPORT

Title: **Review of the Independent Fairness Commissioner Mandate**

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

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
B. Mansky	B. Mansky		

EXECUTIVE SUMMARY

The objective of the Independent Fairness Commissioner is to ensure that real estate transactions and management services adhere to the policies and procedures of the City of Winnipeg. The report recommends limiting the types of real estate transactions and management services audited by the IFC.

RECOMMENDATIONS

1. That the mandate for the Independent Fairness Commissioner (IFC) role, for compliance review of all real estate transactions and management services prior to presentation to Standing Policy Committee (SPC) and/or Council, be limited to the review of sales, acquisitions, land exchanges and leases .

REASON FOR THE REPORT

The Audit Departmental was requested to submit a 2020-2023 Operating Budget that reflected a 1.2% budget rate decrease based on 2019 expenditures (0% over 2019 plus Legal Services allocation). The department identified opportunities within the IFC role to achieve efficiencies while maintain reporting to SPC and Council on the more complex real estate/management services transaction types.

Council approval is required to approve the mandate/model for the IFC and the financial resources required for the operation of the Independent Fairness Commissioner.

IMPLICATIONS OF THE RECOMMENDATIONS

Approval of the recommendation will support the Audit Department achieving the 2020-2023 Operating Budget targets. The budget reduction target is $44,000 for 2020 increasing to $120,000 in 2023.

HISTORY/DISCUSSION

At a special meeting of Council on July 9, 2014, Council concurred with recommendation 19(a) that the City create an Independent Fairness Commissioner (IFC), with the power to review all real estate transactions and management services before they are presented to the SPC and/or Council. The IFC position would report directly to Council, via the City Auditor.

The City Auditor evaluated different service delivery models for the IFC role and recommended engaging an external firm to fulfill the IFC mandate. In June 2017, the City Auditor engaged Deloitte LLP to provide services as part of the IFC role. The first six months of the contract was devoted to developing a Compliance Framework, which is used as the basis for the performance of compliance audits, and creating a report template to ensure consistency in presentation of audit findings to Committee members. Since January 2018, Deloitte has been reviewing specific real estate transactions and submitting the associated IFC compliance reports to the SPC PDHDD. In 2018 the IFC completed 37 real estate transaction compliance reports and in 2019 the IFC completed 29 real estate transaction compliance reports. .

As part of the City's effort to develop a four-year balanced budget, the Audit Departmental was requested to submit a 2020-2023 Operating Budget that reflected a 1.2% budget rate decrease based on 2019 expenditures (0% over 2019 plus Legal Services allocation). The City Auditor identified opportunities within the IFC role to achieve efficiencies while maintain reporting to Committee and Council on the more complex real estate transaction types.

The initial IFC mandate requested the IFC review <u>all</u> real estate transactions and management services. This has resulted in the IFC completing compliance audits on transaction types that are low risk to the City. Examples of these transaction types include easements, encroachments and license agreements.

It is proposed that the IFC mandate be revised to focus on a limited number of transaction types which would include: sales, acquisitions, land exchanges and leases.

<u>Sale Transactions:</u>

- Sale of City-owned property with a transaction price of $500,000+
- Sale at a transaction price less than 95% of the appraised value
- Sale of property not through a public offering (with the exception of the sale of small lots, pedestrian walkways, closed lanes and similar parcels of land to an adjacent property owner)
- Sale at a transaction price of $1.00 or at a non-market rate
- Sale to a non-profit organization at less than market value
- Sale of any City-owned property designated/zoned or under the jurisdiction as park land that require approval by a 2/3 vote of Council

<u>Acquisition Transactions:</u>

- Acquisition of property with a transaction price of $100,000+ for property identified under a Council approved project
- Acquisition of property that is not part of a Council approved program or project, or where the project has not yet been adopted by Council
- Acquisition by way of property donation to the City

Land Exchange Transactions

- All Land exchanges

Lease Transactions:

- Lease where the City is the Lessee and the term is more than 10 years with a gross value of $1,000,000+
- Lease where the City is the Lessor and the gross value of the lease is $500,000+
- Lease where the City is the Lessor where the lease is not based on current market value or is based on a term of 5+ years

Other aspects of the IFC role including the ongoing refinement of the Compliance Framework and reporting template, the timing of the compliance audit and the reporting relationship under the City Auditor will remain unchanged. The IFC will not review the transaction types covered under the existing delegated authority,

FINANCIAL IMPACT

Financial Impact Statement **Date:** March 27, 2020

Project Name:
Review of the Independent Fairness Commissioner Mandate

COMMENTS:

The financial impact of the proposed changes is dependent on the number of transactions initiated during the year under each of the revised criteria for review by the Independent Fairness Commissioner and is not determinable in advance.

The proposed changes are expected to enable the Audit Department to achieve the reduced budget allocated to this role through the 2020 budget process. The budget in 2020 has been reduced from $267,200 to $223,200, further reducing to $147,200 by 2023.

electronically signed by T. Yanchishyn
Tanis Yanchishyn, CPA, CA
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with: Planning, Property & Development Department

OURWINNIPEG POLICY ALIGNMENT

01 – 3 Prosperity – Direction 1

Provide Efficient and Focused Civic Administration and Governance

This report supports the demonstration of accountability through reporting and to continuously pursue innovative, streamlined service delivery and decision-making process.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The City of Winnipeg Audit Department provides assurance on the efficiency, effectiveness and economy of City programs and activities, thus enabling an organizational operating environment that promotes support of the vision and targets of the Winnipeg Climate Action Plan."

SUBMITTED BY

Department: Audit Department
Prepared by: B. Mansky
Date: March 24, 2020

ATTACHMENTS: none