Minute No. 496
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 9, 2022

Item No. 16 Amendment to the Real Estate Policy Framework

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 the Real Estate Policy Framework be amended as follows:

   A. The Declaration as Surplus and Sale of Property Policy, attached as Schedule A.

   B. The Leasing and Licensing of Property Policy, attached as Schedule B.

   C. The Acquisition of Property Policy, attached as Schedule C.

2. That, subject to the approval of Recommendation 1, Council enact amendments to Voting Requirements By-law No. 63/2021 (draft attached as Schedule D) to clarify that the 2/3 requirement for disposing of parks and cemetery properties applies to leases in excess of five years and leases of five years or less without a cancellation clause and further that a 2/3 majority of Council is required for these properties to be declared surplus.

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

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DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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 May 18, 2022 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 9, 2022, 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: Amendment to the Real Estate Policy Framework

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

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Chappell (Acting)	M. McGinn (Acting)	N/A	M. Jack

EXECUTIVE SUMMARY

On September 29, 2021, Council adopted the Real Estate Policy Framework (the "Framework"). Since that time, the Public Service has identified a number of minor revisions to the Framework to improve consistency and/or readability.

The most significant change proposed to the Framework is the requirement of two-thirds approval from all members of Council to declare surplus any land which is used for park or cemetery purposes. The Framework currently requires a simple majority to declare park or cemetery land surplus to the City's needs (i.e. signaling the intention to sell), whereas The City of Winnipeg Charter requires that a sale of park or cemetery land requires two-thirds approval from all members of Council. Two-thirds approval for the surplus declaration and sale approval will provide greater confidence to the market when selling park or cemetery land. In addition, Voting Requirements By-law is recommended to be amended to reflect that long-standing City position that a disposition which requires a two-thirds majority includes leases in excess of five years and leases of five years or less without a cancellation clause.

A draft proposed amendment to Voting Requirements By-law No. 63/2021 has been attached to this report, in addition to the proposed Framework amendments.

RECOMMENDATIONS

1. That the Real Estate Policy Framework be amended as follows:

    A. The Declaration as Surplus and Sale of Property Policy, attached as Schedule A.
    B. The Leasing and Licensing of Property Policy, attached as Schedule B.
    C. The Acquisition of Property Policy, attached as Schedule C.

2. That, subject to the approval of Recommendation 1, Council enact amendments to Voting Requirements By-law No. 63/2021 (draft attached as Schedule D) to clarify that the 2/3 requirement for disposing of parks and cemetery properties applies to leases in excess of five years and leases of five years or less without a cancellation clause and further that a 2/3 majority of Council is required for these properties to be declared surplus.

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

REASON FOR THE REPORT

Council approval is required to amend Council policies and to enact by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

Requiring that two-thirds of all members of Council approve the surplus declaration of park or cemetery land will provide greater confidence to the market when selling or otherwise disposing of park or cemetery land.

Many of the remaining recommended Framework changes are clerical in nature (adding or deleting words for clarity), but some functional improvements were included as well. The requirement to market tax sale properties to affordable housing providers now excludes condominium and unbuildable land and will be relocated to a more appropriate section of the Framework. The changes proposed in this report will ensure that the Director of Planning, Property and Development and the Chief Administrative Officer have the authority to refer matters to the Designated Committee and negotiate ancillary agreements (as was the case previously). Ward Councillor notification requirements included in the Declaration as Surplus and Sale of Property policy will be replicated in the Leasing and Licensing of Property policy for consistency.

HISTORY/DISCUSSION

On September 29, 2021, Council adopted the Real Estate Policy Framework (the “Framework”). The Framework organizes the City’s real estate policies and delegations into four separate sections for sales, acquisitions, leases and use of sale proceeds. Between the date the Framework was submitted for review and its subsequent adoption, the Public Service has identified a number of amendments.

The “Declaration as Surplus and Sale of Property” Policy requires a simple Council majority to declare land surplus that is used for park or cemetery purposes; this does not align with Section 205(2) of the City of Winnipeg Charter which states “… no land owned by the city and used for park or cemetery purposes on the day this Act came into force or acquired after that date by the city for park or cemetery purposes may be disposed of without approval by a vote of 2/3 of all members of council.”

Land declared surplus to the City's needs is intended to be sold. It is problematic to have differing thresholds for the intention to sell and the sale approval, as the surplus declaration is a signal to purchasers that City property will be sold.

The Public Service identified two possible solutions to address this inconsistency:

1. Request, through the Provincial Government, an amendment to Section 205(2) of the City of Winnipeg Charter to provide that no land owned by the city and used for park or cemetery purposes on the day this Act came into force or acquired after that date by the city for park or cemetery purposes may be declared surplus or disposed of without approval by a vote of 2/3 of all members of council; or

2. Amend the Framework and the Voting Requirements By-law to require that two-thirds of all members of Council approve the declaration of surplus for City land that is used for park or cemetery purposes.

Amending the Framework and the By-law does not require Provincial Government involvement to effect the change. An amendment to Voting Requirements By-law 63/2021 would be necessary to ensure that Council could not waive the two-thirds approval requirement by a simple majority.

Amending the Charter is a lengthy process which requires approval from the Provincial Government but ensures that the two-thirds requirement cannot be waived by Council.

In consideration of both options, the Public Service recommends that an amendment to the Framework and the By-law is the best course of action.

Additional clerical revisions to the Framework have also been proposed to improve the readability of the policies or ensure policy consistency as a result of amendments at the time of approval. The revised Framework policies are included as Schedules A, B and C.

If the Framework and By-law are amended as proposed, 2/3 approval from all members of Council will be required for the surplus declaration and sale of park or cemetery land, or the leasing of park or cemetery land in excess of five years (or less than five years without a cancellation clause). The proposed amendment to Voting Requirements By-law 63/2021 is attached as Schedule D.

Further refinements to the Execution of Documents Bylaw No. 78/2015 flowing from the Framework will be recommended to Council through a separate administrative report at a later date.

FINANCIAL IMPACT

Financial Impact Statement Date: March 21, 2022

Project Name:

Amendment to the Real Estate Policy Framework

COMMENTS:

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

Mike McGinn Mar. 21, 2022
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

City Clerks
Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

Our Winnipeg provides the following policy direction on City Real Estate:

01-3 Prosperity

Direction 1:
Provide efficient and focused civic administration and governance.

- Continuously pursue innovative, streamlined service delivery and decision-making processes.

Direction 3: Maintain strong intergovernmental cooperation.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The Framework allows for direct sales, leases or licences if the purchaser/tenant addresses specific goals within the Climate Action Plan.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

The information and recommendations presented in this report align with and advance the Winnipeg Poverty Reduction Strategy (2021 – 2031) as follows:

They align with the following Goals and Objectives:

Poverty Reduction Strategy – Goal 2

"The City actively plans for and partners in affordable housing."

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Real Estate Administrator
Date: March 31, 2022
File No:

Attachments:

Schedule A – Declaration as Surplus and Sale of Property policy

Schedule B – Leasing and Licensing of Property policy

Schedule C – Acquisition of Property policy

Schedule D – Voting Requirement By-law 63/2021 Amendment