**Agenda - Council - June 23, 2004**

**Report - Standing Policy Committee on Property and Development - June 8, 2004**

**Item No. 13 Closing - parts of the north half of Foley Avenue, Gibbs Street north of Foley Avenue, and part of the public lane north of Foley Avenue File DAC 4/2004 [c/r DASZ 5/2004]**

STANDING COMMITTEE RECOMMENDATION:

On June 16, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That the proposed street and lane closings as outlined on Misc. Plan No. 12200 be approved and the land declared surplus to the City's needs.

2. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closings in accordance with Misc. Plan No. 12200.

3. 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 - June 8, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 8, 2004, the Standing Policy Committee on Property and 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 April 20, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

**PUBLIC HEARING SUMMARY**

| | |
|---|---|
| File: | DAC 4/2004 [c/r DASZ 5/2004] |
| Before: | Lord Selkirk-West Kildonan Community Committee<br>Councillor Pagtakhan, Chairperson<br>Councillor Lazarenko<br>Councillor O'Shaughnessy |
| Public Hearing: | April 20, 2004<br>Council Chamber, Council Building<br>510 Main Street |
| Applicant: | Novamet Development Corporation (Lyne Jones) |
| Premises Affected: | Parts of the north half of Foley Avenue, Gibbs Street north of Foley Avenue, and part of the public lane north of Foley Avenue |
| Exhibits Filed: | 1. Report from the Real Property Officer dated March 26, 2004<br>*2.* Inspection Report |

REPRESENTATIONS:

In Support:

Eric Vogan, Novamet Development Corporation

In Opposition:

Nil

For the City:

John Wintrup, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 4/2004

Re: DAC 4/2004 – PROPOSED CLOSING OF PARTS OF THE NORTH HALF OF FOLEY AVENUE, GIBBS STREET NORTH OF FOLEY AVENUE, AND PART OF THE PUBLIC LANE NORTH OF FOLEY AVENUE

**For submission to:** The Lord Selkirk-West Kildonan Community Committee

**Report date:** March 26, 2004

**Recommendations:**

1. That the proposed street and lane closings as shown on Misc. Plan No. 12200 be approved and that the land be declared surplus to the City's needs.
2. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closings in accordance with Misc. Plan No. 12200.
3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**REPORT SUMMARY**

**Key Issues:**

These rights of way, together with the adjacent City-owned lands, constitute part of a settlement for damages claimed by the Novamet Development Corporation. The conveyance of these lands was approved by Council in April of 2002.
Novamet has recently made an application to subdivide and rezone the adjacent land (DASZ 5/2004) and requires the streets and lane for incorporation into the subdivision.

Implications of the Recommendation(s):

General implications:

- [X] None
- [ ] For the organization overall and/or for other departments
- [ ] **For the community and/or organizations external to the City of Winnipeg**
- [ ] **Involves a multi-year contract**

**Comment(s):**

Policy implications:

- [X] **No**
- [ ] **Yes**

**Comment(s):**

Environmental implications:

[X] **No**
[ ] **Yes**
**Comment(s):**

Human resources implications:

[X] **No**
[ ] **Yes**
**Comment(s):**

Financial implications:

[ ] Within approved current and/or capital budget
[ ] Current and/or capital budget adjustment required
**Comment(s):**
All costs associated with this proposal will be borne by the Applicant. There are no financial implications for the City of Winnipeg.

**REASON FOR THE REPORT:**

The closing of public rights of way requires the consideration of the Community Committee.

**HISTORY:**

The subject streets and lane were created in 1907. Foley Avenue and Gibbs Street exist as gravel/dirt roads. The lane has never been constructed. There is no apparent public use of these rights of way.

In April of 2002, Council approved the transfer of portions of the streets and lane identified as "Proposed Closings" on the attached Misc. Plan No. 12200 to the Novamet Development Corporation. These rights of way, together with the adjacent City-owned lands, constitute part of a settlement for damages claimed by Novamet regarding the City's refusal to allow a development to proceed in the Charleswood area in the 1980's.

This application is being submitted in conjunction with DASZ 5/2004, an application by the Novamet Development Corporation to subdivide and rezone the adjacent land. The streets and lane are to be incorporated into the subdivision.

**DISCUSSION:**

Administrative Approval

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

Easements

The Water and Waste Department has identified the existence of a wastewater sewer line within the portion of Foley Avenue to be closed. There is a question as to whether or not the sewer line is still active. Water and Waste advises that the future disposition of the sewer line can be determined by Novamet through the approval process for DASZ 5/2004 and the subsequent underground structure construction drawing approval process. If the disposition of the sewer line has not been addressed prior to the transfer of the land to Novamet, an easement will be required.

Manitoba Hydro and Centra Gas have also identified requirements for easements to maintain their existing plants in the area.

**Transfer of Jurisdiction Over Public Rights-of-Way**

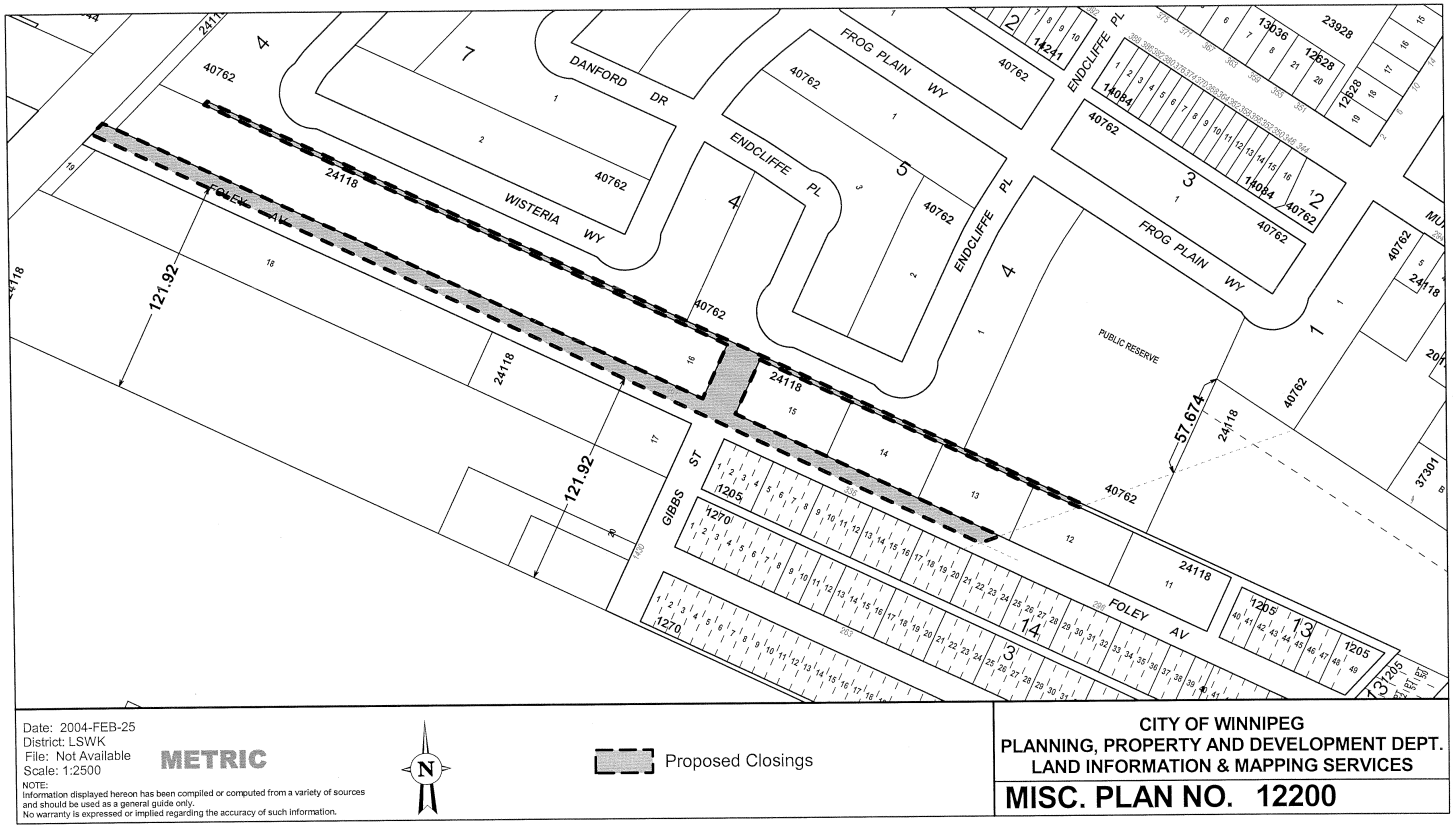
The streets and lane must be legally closed before they may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership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

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Planning, Property and Development Department – Community Planner, Geomatics and Zoning & Permits Branches
Corporate Finance Department – Local Improvements
Public Works Department – Transportation Division, Traffic Signals
Water and Waste Department – Engineering Division
Centra Gas, Manitoba Hydro, MTS Communications, Shaw Cable

This report submitted by:

Planning, Property and Development Department
Division: Development and Inspections
Prepared by: Glenn Halldorson, Real Property Officer
PPD File #:DAC 4/2004
Document name:V:\word\DAOC\dac4_04RPT.doc




Date: 2004-FEB-25
District: LSWK
File: Not Available
Scale: 1:2500

**METRIC**

NOTE:
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No warranty is expressed or implied regarding the accuracy of such information.

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Proposed Closings

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES

**MISC. PLAN NO. 12200**