Minute No. 471
Report - Standing Policy Committee on Property and Development - July 9, 2004

Item No. 14 **Terms and Conditions - Agreements with the West Kildonan Memorial Community Centre Inc. and St James Minor Hockey Association Incorporated to operate the West Kildonan Memorial Arena and Kinsmen Allard Indoor Arenas**
Files PR-2(31), PR-2(34) and PR-2.1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the terms and conditions for an Agreement with the West Kildonan Memorial Arena Inc (for the operation of the West Kildonan Memorial Arena) be approved in accordance with the terms outlined in the report from the Director of Planning, Property and Development dated July 2, 2004.

2. That the terms and conditions for an Agreement with the St James Minor Hockey Association Incorporated (for the operation of the Kinsmen Allard Indoor Arena) be approved in accordance with the terms outlined in the report from the Director of Planning, Property and Development dated July 2, 2004.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the finalization of terms and execution of all documentation related thereto.

Report - Standing Policy Committee on Property and Development - July 9, 2004

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,
That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 9, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Terms and Conditions for Agreements with the West Kildonan Memorial Community Centre Inc. and St James Minor Hockey Association Incorporated to Operate the West Kildonan Memorial Arena and Kinsmen Allard Indoor Arenas

For submission to: Standing Policy Committee on Property and Development

Original report signed by: Director of Planning, Property and Development

Report date: July 2, 2004

Recommendation(s):

1. That the proposed terms and conditions for an Agreement with the West Kildonan Memorial Arena Inc. be approved in accordance with the terms contained herein.

2. That the proposed terms and conditions for an Agreement with the St James Minor Hockey Association Incorporated be approved in accordance with the terms contained herein.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing including the finalization of terms and execution of all documentation related thereto.

REPORT SUMMARY

Key Issues:

The proposed terms and conditions for new Agreements with the West Kildonan Memorial Arena Inc. and the St James Minor Hockey Association Incorporated include a requirement for the City to provide Comprehensive Liability Insurance and to eliminate the buy down deductible for the Property Insurance. The former Council previously approved Insurance terms for these facilities, which are no longer feasible nor cost effective.

The proposed terms and conditions for new Agreements with the West Kildonan Memorial Arena Inc. and the St James Minor Hockey Association Incorporated do not include a renewal provision because the Administration will complete a comprehensive evaluation of this operating model prior to 2005.

The approval of the proposed terms and conditions for a new contract will permit the Planning, Property and Development to establish and execute Agreements for the operation and occupancy of the West Kildonan Memorial Arena and Kinsmen Allard Indoor Arenas.

Implications of the Recommendation(s):

General implications:

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

Comment(s):
The West Kildonan Memorial Community Centre Inc. and the St James Minor Hockey Association Incorporated wish to continue operating the West Kildonan Memorial Arena and the Kinsmen Allard Arenas.

Policy implications:

X	**No**
	Yes

Comment(s):

Environmental implications:

X	**No**
	Yes

Comment(s):

Human resources implications:

X	**No**
	Yes

Comment(s):

Financial implications:

X	Within approved current and/or capital budget
	Current and/or capital budget adjustment required

Comment(s):

REASON FOR THE REPORT:

Approval by a 2/3 of majority of Council is required to adopt the proposed terms for Agreements with the West Kildonan Memorial Community Centre Inc. to operate the West Kildonan Memorial Arena and the St James Minor Hockey Association Incorporated to operate the Kinsmen Allard Arena.

HISTORY:

At its meeting held on October 23, 1996, Council approved the terms and conditions for an agreement between the St James Minor Hockey Association Incorporated and the City for the

operation of the Kinsmen Allard Arena. The initial term of the agreement expired on August 15, 2000. The Agreement also contained an option to renew for a further period of five years.

The particulars of the subject property and agreement are as follows:

Owner:	City
Manager:	St James Minor Hockey Association Incorporated.
Location:	80 Allard Avenue
Use:	Amateur ice skating programs and activities
Zoning:	PR1
Term:	(5) five years commencing August 16, 1995
Renewal:	One (5) five year renewal
Area:	See attached Plan 27-96
Rent:	No rent
Realty Taxes:	City

Insurance: Manager to provide Comprehensive General Liability in the amount of $5.0 Million dollars; City to provide property insurance and Manager to reimburse the City for the cost of policy to reduce deductible from $250,000.00 to $2,500.00.

Manager's Responsibilities: Operate and mange the facility for ice skating programs, To assess fees and charges in accord with the City's fees and charges policy; maintain lands in a clean and tidy condition; To pay for all costs associated with the lands including utilities, operating costs, maintenance and repairs in accordance with Schedule "C"; Right to provide catering concessions; Right to sell advertising subject to the Director's approval.

Special Conditions: Contingency Fund - Annually contribute $15,000.00 to a contingency fund to pay for capital repairs to the Arena over the life of the Agreement.

Works Committee: – Establish works committee to resolve operating issues.
At its meeting held on July 24, 1997, Council approved the terms and conditions for an agreement between the West Kildonan Memorial Community Centre Inc. and the City for the operation of the West Kildonan Memorial Arena. The initial term of the agreement expired on August 15, 2002. The Agreement also contained an option to renew for a further period of five years.

The particulars of the subject property and agreement are as follows:

Owner:	City
Manager:	West Kildonan Memorial Community Centre Inc.
Location:	346 Perth Avenue
Use:	Amateur ice skating programs and activities
Zoning:	PR1
Term:	(7) seven years commencing August 16, 1995
Renewal:	One (5) five year renewal
Area:	See attached Schedule "B"
Rent:	No rent

Realty Taxes: City
Insurance: Manager to provide Comprehensive General Liability in the amount of $5.0 Million dollars; City to provide property insurance and Manager to reimburse the City for the cost of policy to reduce deductible from $250,000.00 to $2,500.00.

Manager's Responsibilities: Operate and mange the facility for ice skating programs, To assess fees and charges in accord with the City's fees and charges policy; maintain lands in a clean and tidy condition; To pay for all costs associated with the lands including utilities, operating costs, maintenance and repairs in accordance with Schedule "C"; Right to provide catering concessions; Right to sell advertising subject to the Director's approval.

Special Conditions: Ice Plant and Slab - Approval to replace ice plant at Manager's sole cost; however, if major ice slab failure occurs manager not responsible to repair.

Contingency Fund - Annually contribute $15,000.00 to a contingency fund to pay for capital repairs to the Arena over the life of the Agreement.

Works Committee – Establish works committee to resolve operating issues.

The initial term of the agreement expired on August 15, 2002. The Agreement also contained an option to renew for a further period of five years.

During the initial term of the Agreements the City Assessor advised that the Department should no longer use management agreements because the use of these agreements would create a liability for assessment and payment of realty taxes.

Since August 15, 2000, the St James Minor Hockey Association Inc. has been occupying the Arena on an overholding basis. The Department has held this matter in abeyance pending a resolution of the tax issue via an amendment to the Manitoba Municipal Assessment Act. The Department has communicated with the St James Minor Hockey Association Incorporated on this issue.

Since August 15, 2002, the West Kildonan Memorial Community Centre Inc. has also been occupying the Arena on an overholding basis. The Department has held this matter in abeyance pending a resolution of the tax issue via an amendment to the Manitoba Municipal Assessment Act. The Department has regularly communicated with the Community Centre on this issue.

On March 11, 2004, the West Kildonan Memorial Community Centre Inc. advised that it was changing insurance companies as a result of increasing insurance premiums.

In April 2004, the President of the Community Centre contacted the Planning, Property and Development Department and the Risk Management Branch for assistance. On April 15, 2004, the Insurance Branch initiated a review of the Insurance matter at the West Kildonan Memorial Arena

At its meeting held on May 18, 2004, the West Kildonan Memorial Arena Inc. appeared at the Lord Selkirk/ West Kildonan Community Committee to identify their concerns regarding insurance and the requirement for a new agreement.

The West Kildonan Memorial Community Centre Inc. advised the Lord Selkirk/West Kildonan Community Committee that the cost of liability insurance had escalated from $8,488.00 (2003) to $30,514.00 in (2004) and subsequently to $34,514.00, as at June 24, 2004.

At its meeting held on June 8, 2004, the Standing Policy Committee on Property and Development considered the West Kildonan Memorial Community Centre Inc. matter and made the following motion:

"The Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk/West Kildonan Community Committee and directed the Administration to immediately investigate and report back for the June 29, 2004 meeting of the Committee, on the following:

The City of Winnipeg providing liability coverage for the West Kildonan Arena (which expires on June 30, 2004).

The status of the contract renewal with the West Kildonan Memorial Community Centre for the operation of the West Kildonan Arena (which expired on August 16, 2002)."

On June 10, 2004, the Legislative Assembly of Manitoba passed an amendment to the MMAA (Bill Number 50) to address the realty tax problem associated with Community Centre occupancies.

On June 17, 2004, the St James Minor Hockey Associated Incorporated provided a copy of their Insurance Policy to the Planning, Property and Development Department.

DISCUSSION:

1. Proposal to Enter into a New Agreement with the West Kildonan Memorial Arena Inc. for the Operation of the West Kildonan Memorial Arena:

The West Kildonan Memorial Arena Inc. has operated the West Kildonan Arena under agreement with the City since August 16, 1995. Prior to the expiry of the initial term of the agreement on August 15, 2002, the Operator notified the City that it wished to renew the agreement for a further period of five years. Given the realty tax issue, the Department did not proceed with renewing the agreement. Because the Agreement was not renewed prior to the expiry of the initial term of the Agreement, the option to renew does not survive. As such, the West Kildonan Memorial Arena Inc. continued to use the Arena on an overholding basis. In order to regularize this matter, the Planning, Property and Development Department is proposing to enter into a new agreement with certain amendments to the original terms to address the insurance issue for the remaining period of the renewal term previously approved by Council.

Insurance:

Under the original terms of the agreement approved by Council on July 24, 1997, the West Kildonan Memorial Arena Inc. was to obtain a Comprehensive General Liability Policy in the amount of $5.0 million dollars. It is proposed that this requirement be eliminated and that the liability insurance coverage be provided by the City as at June 29, 2004 midnight. This request has already been communicated to the Insurance Branch.

In addition, the original agreement required that the City provide replacement cost property insurance for the West Kildonan Memorial Arena subject to a $250,000.00 deductible and that the City would buy down the deductible from $250,000.00 to $2,500.00 and that the west Kildonan Memorial Arena Inc. would reimburse the City for the cost of the buy down. The Insurance Branch has examined the claims history and the current cost of the buy down and determined that this insurance requirement is not cost effective. As a result, it is recommended that this requirement also be eliminated from the insurance terms of a new agreement.

Renewal Option:

The new agreement will not include an option to renew that was included in the Council approval of July 24, 1997. The Administration will complete a comprehensive review of the Arena Agreement and operational model prior to the expiry of the new proposed agreement.

The particulars of the subject property and proposed terms and conditions of a new agreement are as follows:

Owner:	City
Operator:	West Kildonan Memorial Community Centre Inc.
Location:	346 Perth Avenue
Use:	Amateur ice skating programs and activities
Zoning:	PR1
Term:	(5) five years commencing August 15, 2002
Premises:	See attached Schedule “B”
Rent:	No rent
Realty Taxes:	City

Insurance: City to provide Comprehensive General Liability in the amount of $5.0 Million dollars and City to provide property insurance.

Operator’s Responsibilities: Operate and manage the facility for ice skating programs, To assess fees and charges in accord with the City’s fees and charges policy; maintain lands in a clean and tidy condition; To pay for all costs associated with the lands including utilities, operating costs, maintenance and repairs in accordance with Maintenance Schedule; Right to provide catering concessions; and right to sell advertising subject to the Director’s approval.

Special Conditions: Ice Plant and Slab - Approval to replace ice plant at Manager’s sole cost; however, if major ice slab failure occurs manager not responsible to repair.

Contingency Fund - Annually contribute $15,000.00 to a contingency fund to pay for capital repairs to the Arena over the life of the Agreement.

Works Committee – Establish works committee to resolve operating issues.

2. Proposal to Enter into a New Agreement with the St James Minor Hockey Association Incorporated for the Operation of the Kinsmen Allard Arena:

The St James Minor Hockey Association Incorporated has operated the Kinsmen Allard Arena under agreement with the City since August 15, 1995. Prior to the expiry of the initial term of the agreement on August 14, 2002 , the Operator notified the City that it wished to renew the agreement for a further period of five years. Given the realty tax issue, the Department did not proceed with renewing the agreement. Because the Agreement was not renewed prior to the expiry of the initial term of the Agreement, the option to renew does not survive. As such, the St James Minor Hockey Association Incorporated continued to use the Kinsmen Allard Arena on an overholding basis.

In order to regularize this matter, the Planning, Property and Development Department is proposing to enter into a new agreement with certain amendments to the original terms to address the insurance issue for the remaining period of the renewal term previously approved by Council.

Insurance:

Currently, the St James Minor Hockey Association Incorporated obtains a Comprehensive General Liability Insurance Policy at an annual premium of approximately $20,000.00. The Policy is due as at September 1, 2004 with the same insurer as the West Kildonan Memorial Community Centre Inc. To ensure equity, the Department is seeking Council approval to similarly amend the insurance terms for the contract with the St James Minor Hockey Association Incorporated.

Under the original terms of the agreement approved by Council on October 23, 1996, the St James Minor Hockey Association Incorporated was to obtain a Comprehensive General Liability Policy in the amount of $5.0 million dollars. It is proposed that this requirement be eliminated and that the liability insurance coverage be provided by the City as at September 1, 2004, midnight. This request has already been communicated to the Insurance Branch.

In addition, the original agreement required that the City provide replacement cost property insurance for the Kinsmen Allard Arena subject to a $250,000.00 deductible and that the City would buy down the deductible from $250,000.00 to $2,500.00 and that the St James Minor Hockey Association Incorporated would reimburse the City for the cost of the buy down. The Insurance Branch has examined the claims history and the current cost of the buydown and determined that this insurance requirement is not cost effective. As a result, it is recommended that this requirement also be eliminated from the insurance terms of a new agreement.

Renewal Option:

The new agreement will not include an option to renew that was included in the Council approval of October 23, 1996. The Administration will complete a comprehensive review of the Arena Agreement and operation model prior to the expiry of the new proposed agreement. The particulars of the subject property and proposed terms and conditions of a new agreement are as follows:

Owner:	City
Operator:	St James Minor Hockey Association Incorporated
Location:	80 Allard Avenue
Use:	Amateur ice skating programs and activities
Zoning:	PR1
Term:	(5) five years commencing August 16, 2000
Premises:	See attached Plan 27-96
Rent:	No rent
Realty Taxes:	City

Insurance: City to provide Comprehensive General Liability in the amount of $5.0 Million dollars and City to provide property insurance.

Operator's Responsibilities: Operate and manage the facility for ice skating programs, To assess fees and charges in accord with the City's fees and charges policy; maintain lands in a clean and tidy condition; To pay for all costs associated with the lands including utilities, operating costs, maintenance and repairs in accordance with Maintenance Schedule; Right to provide catering concessions; and right to sell advertising subject to the Director's approval.

Special Conditions: Contingency Fund - Annually contribute $15,000.00 to a contingency fund to pay for capital repairs to the Arena over the life of the Agreement.

Works Committee – Establish works committee to resolve operating issues.

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

Legal Services Division and Risk Management Branch as to contents of the Report.
This report submitted by:

Planning, Property and Development Department
Division: Real Estate
Prepared by: D.Armstrong
PPD File #: 4518 & 5524

Document name: o:\reports directive\real estate\leasing\west kild.doc

Financial Impact Statement

Date: June 30, 2005

Project Name:

Proposed Terms of Agreements with the West Kildonan memorial Community Centre Inc and the St James Minor Hockey Association Incorporated

First Year of Program 2005

	2005	2006	2007	2008	2009
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	13,600	13,600	13,600	-	-
Net Cost/(Benefit)	$ (13,600)	$ (13,600)	$ (13,600)	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (13,600)	$ (13,600)	$ (13,600)	$ -	$ -

Additional Comments:

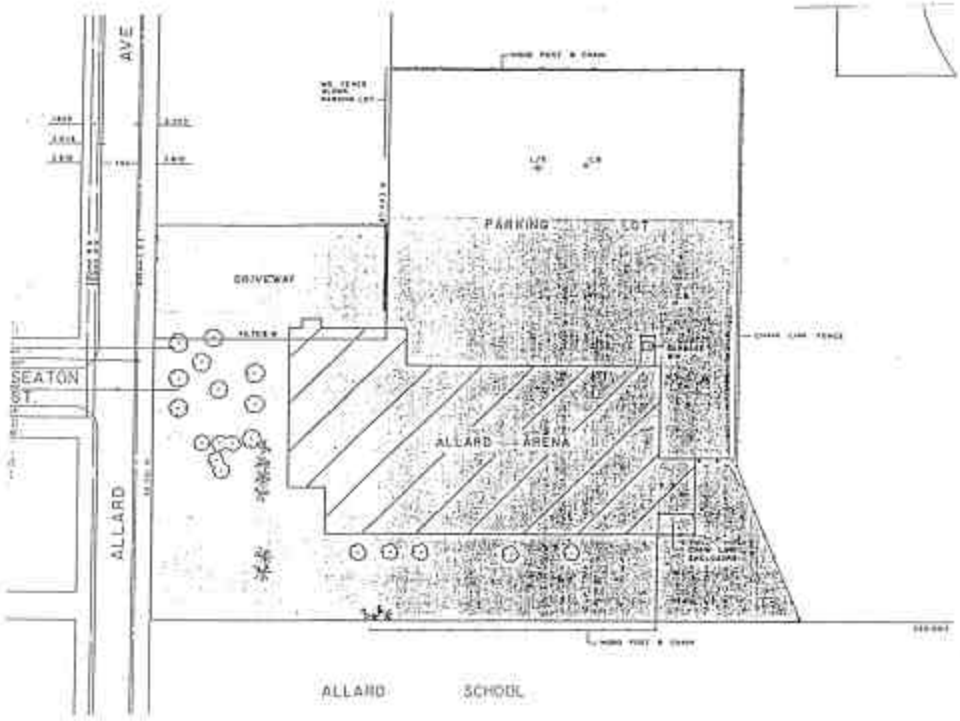
By eliminating the requirement to have the Operators obtain Comprehesnive Liabiity Insuracne, the City wil be facilitating a reduction of approximately $54,000.00 in Operator's expenses beginning in 2004. The City's Insurance Broker has indicated that adding the Facilities to the City's existing Liability Insurance Policy will likely result in any increased cost to the City. The elimination of the buy down policy from both agreements will result in a savings to the City (Insurance Branch) of approximately $13,600.00 beginning in 2005.

"Original signed by"
Mike McGinn, CA
Manager of Finance

TITLE

KINSMEN-ALLARD ARENA

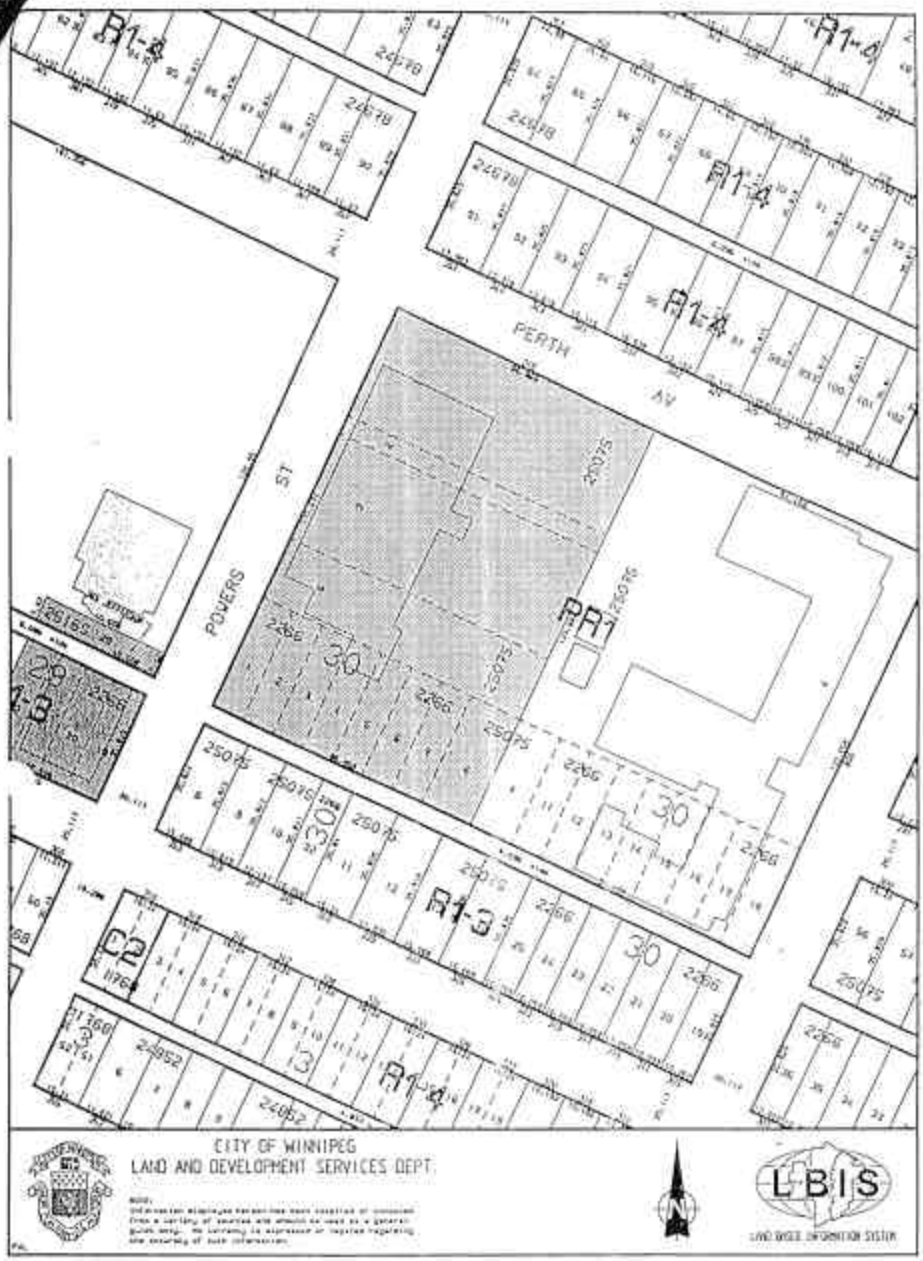
PLAN NO. 27-96



SUBJECT CITY-OWNED PROPERTY

THE CITY OF WINNIPEG
Parks & Recreation Department
Planning & Marketing Division
2799 Roblin Blvd., Winnipeg, MB. R3R 0B8

SCHEDULE "B"


R1-4
R1-4
R1-4
R1-4
PERTH
AV
POWERS
ST
PR1
R1-3
C2
R1-4
CITY OF WINNIPEG
LAND AND DEVELOPMENT SERVICES DEPT.
LBIS
LAND BASED INFORMATION SYSTEM