Minute No. 459
Report - Executive Policy Committee - June 16, 2004

Item No. 3 **CNR Transcona Yards Midway Walkway**
File EP-1.2

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the issue of connecting Transcona and South Transcona be addressed within the context of the proposed Secondary Planning Process for the Transcona Yards Industrial Neighbourhood.

2. 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 Deputy Mayor Eadie,
That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2004, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

On May 5, 2004, the Executive Policy Committee laid over consideration of the April 21, 2004 Council Motion and requested the Administration to contact the Canadian National Railway (CNR) in an effort to resolve the issue of reopening the Midway for public access.

COUNCIL:

On April 21, 2004, Council ruled automatic referral of the following motion to the Executive Policy Committee:

Moved by Councillor Wyatt,
Seconded by Councillor Smith,

WHEREAS the Midway Walkway through the CNR Transcona Yards has been used by the community of Transcona for over 90 years as an access point between North Transcona and South Transcona;

AND WHEREAS the Midway has been crucial for the community of South Transcona to access services such as shopping, schools, work, transit, church, community clubs, the swimming pool, the library, and parks;

AND WHEREAS the Midway is a ‘lifeline’ for the community of South Transcona as the CN Transcona Yards spans over 2 miles and has no other north/south access points to cross;

AND WHEREAS the right to walk the CN Midway is protected under The Prescription Act, which became part of Manitoba Statutes when the Province joined confederation in 1870, and is referred to as ‘easement by prescription’ and that these rights can only be taken away by a court of law;

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DECISION MAKING HISTORY: (continued)

AND WHEREAS the City of Winnipeg is responsible for the planning, maintenance and design of walkways and transportation access for neighbourhoods, and that the unilateral decision by the CNR to close the CN Midway runs contrary to the provisions of The Prescription Act;

THEREFORE BE IT RESOLVED that Council ask the Administration to immediately contact the CNR and request that they reopen the Midway for public access, and failing a positive outcome of this; request, the Administration initiate legal proceedings against the CNR to preserve and defend the rights of all Winnipeg citizens to use the CN Midway as guaranteed under The Prescription Act.

Re: CNR Transcona Yards Midway Walkway (File EP-1.2)

For submission to: Executive Policy Committee

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

Report date: June 10, 2004

Recommendation(s):

1) That the issue of connecting Transcona and South Transcona be addressed within the context of the proposed Secondary Planning Process for the Transcona Yards Industrial Neighbourhood.

REPORT SUMMARY

Key Issues:

- Area residents indicate that they have informally used the Transcona Yard Midway as a pedestrian connection between Transcona and South Transcona for some time.
- The Canadian National Railway Company (CN) restricted public access onto the Transcona Yards and the Midway during a company labour dispute in February and March of 2004. Following resolution of the labour dispute, CN permanently restricted public access to the Midway at the end of March.
- The current alignment, condition and informal designation of the Midway does not provide for a safe public pedestrian route.
- Standing Policy Committee on Property and Development is recommending that a collaborative and consultative planning process be initiated to create an Area Redevelopment (Secondary) Plan for the Transcona Yards Industrial Neighbourhood.
- A Secondary Planning process allows for public input and consideration of matters related to neighbourhood pedestrian connectivity.

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):

- Including this issue in the Secondary Planning process will provide opportunity for dialogue between the Community and CN.

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):

- There are no financial impacts associated with the recommendations in this report.

REASON FOR THE REPORT:
On April 21, 2004, Council ruled automatic referral of the following motion to the Executive Policy committee:

That Council ask the Administration to immediately contact the CNR and request that they reopen the Midway for public access, and failing a positive outcome of this; request the Administration initiate legal proceedings against the CNR to preserve and defend the rights of all Winnipeg citizens to use the CN Midway as guaranteed under The Prescription Act.

On May 5, 2004 Executive Policy Committee laid over consideration of the April 21, 2004 Council Motion and requested the Administration to contact the Canadian National Railway (CNR) in an effort to resolve the issue of reopening the Midway for public access.

HISTORY:
During a company labour dispute from mid February to mid March, CN prohibited public access into the Transcona Yards. Following the labour dispute, CN permanently closed the midway to public access.

In mid March, 2004, the administration conducted a thorough search of Winnipeg Land Titles, the Town of Transcona By-law which closed certain lanes and streets in what are now the CNR Transcona Yards and of the Real Estate Division file index. This search failed to return any evidence of any crossing agreement between the City of Winnipeg and the CNR in the Transcona Yards.

Administration has been in discussion with CN on the reopening of the midway and is awaiting formal response.

DISCUSSION:

Public Safety

The Transcona Yards are private lands actively being used as a rail yard. As currently configured, the pedestrian link between Transcona and South Transcona across these yards provides for an unsafe public pedestrian walkway. Through discussions with CN, the Administration was made aware of the following:

- The area referred to as the Midway consists of a north-south corridor between industrial buildings in the Transcona Yards. An overhead crane services this corridor, facilitating the movement of heavy materials between buildings. Trucks and other heavy equipment move throughout this area on a daily basis. There are no special markings to designate an area within the Midway for pedestrian movement.
- South of the Midway is a parking lot, a number of switching tracks and CN's Main line. Daily in and out movement of rail cars occurs on the switching tracks, and regular movement of trains, at speeds as high as 60 mile per hour occurs on the main line. As

there is no public right of way crossing any of these tracks, there are also no signalized or controlled crossings.

Given the current nature of the business-related activities taking place within the Transcona Yards, and the lack of formal designation of a public pedestrian route, the Transcona Yards should not be promoted as a safe pedestrian link between Transcona and South Transcona.

Secondary Plan

The Standing Policy Committee on Property and Development is recommending that a collaborative and consultative planning process be initiated to create an Area Redevelopment Plan for the Transcona Yards Industrial neighbourhood (considered at Standing Policy Committee on Property and Development meeting of June 8, 2004). A secondary plan is the most effective tool to balance CN's development objectives with the interests of immediate neighbourhoods and the long-term infrastructure requirements for Transcona. It is intended to provide specific or detailed information on particular issues within a defined area or neighbourhood of the City and to articulate approaches to addressing these local issues and concerns. As such, the proposed secondary planning process for the Transcona Yards Industrial Neighbourhood creates a meaningful opportunity for the public to participate in the consideration of matters such as neighbourhood connectivity.

Financial Impact Statement

Date: 10-Jun-04

COMMENTS:

There are no financial impacts associated with the recommendations of this report.

"Original Sign By"
Mike McGinn, CA
Manager of Finance

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

Planning and Land Use Division, Planning Property & Development Department

Real Estate Division, Planning Property & Development Department

Public Works Department

Legal Services Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Office of the Director
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PPD File #:

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