EXECUTIVE POLICY COMMITTEE MEETING, NOVEMBER 8, 2017 9:00 AM

IN THE MATTER OF: **WILKES ALIGNMENT TO WILLIAM R. CLEMENT PARKWAY EXTENSION, ITEM NO. 5**

SUBMISSION OF SOUTH WILKES COMMUNITY ASSOCIATION INC. ("SW COMMUNITY ASSOCIATION")

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OVERVIEW

The City of Winnipeg ("**City**") has identified the William R. Clement Parkway and Sterling Lyon Parkway as important components of the City's future transportation system. Planning for these important components has been approached in an integrated manner.

On December 16, 2014, under RFP 732-2014, a preliminary design study was awarded to MMM Group (now WSP Canada Group Limited), to provide a preliminary design for the William R. Clement Parkway between Grant Avenue and Wilkes Avenue, a grade separation plan to deal with the CN mainline, and an extension of the Sterling Lyon Parkway, as one contiguous project (collectively the "**WRCP/SLP Extension**").

It has very recently come to light that WSP Canada Group's ("**WSP**") chosen route alignment for the Sterling Lyon Parkway Extension is **not** the alignment chosen by the majority of Charleswood residents canvased, which was the Wilkes Avenue alignment (Option 1). WSP has moved forward with designing and costing a wholly *new* option (Option 4) that was never put to the public for consideration.

Simply put, the WSP proposed route for the east-west extension of Sterling Lyon Parkway (Option 4) would irreparably harm the new community in South Charleswood (hereinafter referred to as the "**South Wilkes Community**"). The proposed routing will punch a four-lane separated street - an 80 meter wide right of way - through the heart of the new South Wilkes Community. In addition, the WSP proposed road alignment design is flanked by 2 additional two-lane connector roads between Loudon Road and Liberty Road, to feed traffic on and off of the proposed four-lane separated street. Functionally, the proposed street alignment would have eight lanes of traffic across a five to seven property-wide area in the core residential area of this South Wilkes Community.

The WSP proposed Option 4 is ill-conceived, unwarranted, and will result in the need to expropriate partially or fully at least 73 properties, current to 2017 data on hand. The City of Winnipeg has minimal property holdings along the WSP proposed Sterling Lyon Parkway alignment, which means that the vast majority of property expropriations would be from private land holders, at significant cost to the City as a whole.

The Option 4 proposed road alignment will result in expropriation payments to approximately 73 affected owners; and additional expropriation payments to an *unquantified* group of land owners and leasehold interest holders with injurious affection claims, compensable under *The Expropriation Act.* This is not a "few" property holders, and represents a significant expenditure which will impact the City as a whole.

The costs related to expropriation of Option 4 vs the twinning of Wilkes Avenue were recently estimated by BW Ferguson & Associates Ltd, Brett Ferguson (principal), as set out in the report: South Wilkes Consultation Examination of Property Acquisition Costs Associated with Alignment Options for William R Clement Parkway Extension, Winnipeg, MB, as of November 2017 ("**Ferguson Report**").

The Ferguson Report estimates the expropriation costs for the Option 4 alignment would be $21,623,268 (for 73 takings), while the Wilkes widening (twinning) estimated costs are $12,031,854, and would require only 45 property takings.

Furthermore, the resulting deleterious impacts on the property values of South Wilkes Community as a whole are not supportable or necessary as there is a viable alternative routing that is already in place - Wilkes Avenue. The importance of Wilkes Avenue as a City street of regional significance is clearly set out in the City's Planning Documents, and the continued development of this important multi-regional artery should be supported.

The need to widen Wilkes was identified five (5) years ago, in a November 2012 Charleswood area Transportation Study by MMM; see Assiniboia Community Committee Meeting, December 4, 2012, Item No. 13 Administrative Report of L. Escobar, with attachments. At that date, the MMM study identified 43 properties that would be impacted by a widening of Wilkes. At that date the Wilkes property expropriation cots were estimated at $5.25M, with construction costs of $36.4M (road, drainage and illumination). We note that the 43 estimated properties impacted by a Wilkes widening, in by MMM, is very similar to the 45 properties identified in the Ferguson Report.

We have no knowledge where the City came up with its recent estimation, provided to City Councillors, that a Wilkes widening would require full or partial expropriations from

50 residential/agricultural properties and 10 commercial properties. And, that the Option 4 route would only require expropriations of 48 residential/agricultural properties. The data and detailed property identifications set out in the Ferguson Report speaks for itself, as to its accuracy, see p. 2 of Ferguson Report.

The safety concerns with centering a four-lane separated street, and ancillary feeder street system, into the middle of an area designated by the City in its Planning Documents as a "new community" area are considerable. We are aware that traffic flow numbers along existing Wilkes Avenue are substantial. Placing this level of traffic in the heart of a community that was never designed to accommodate such traffic flows puts the safety of the residents at risk.

The bright lighting, noise pollution and particulate pollution that would result from placing a four-lane separated street, and ancillary feeder road system, in the residential area of the South Wilkes Community would irreparably harm the character and desirability of this new community.

The widening of Wilkes Avenue right-of-way, as part of the WRCP/SLP Extension, is the logical and appropriate planning approach that would be in keeping with transportation planning and community planning strategies, and existing linkages to Capital Region Provincial Road 427.

The SW Community Association respectfully asks the Executive Policy Committee on ("**EPC**") to pass the resolution as set out in Item No. 5 of the Agenda to the November 8, 2017 meeting, and direct the public service, and consultants hired pursuant to RFP 732-2014, to ensure that any planning and design of the WRCP/SLP Extensions project utilize only the existing Wilkes Avenue right-of-way and property directly contiguous thereto (the along Wilkes alignment). And furthermore, the SW Community Association asks that any *future* planning and design of the WRCP/SLP Extensions not contemplate, in any way shape or form, a new road south of Wilkes Avenue that is not contiguous with the existing Wilkes Avenue right-of-way, as set out in the above noted resolution.

FACTS

1. The City of Winnipeg Transportation Master Plan includes the extension of the William R. Clement Parkway. On April 25, 2012, City of Winnipeg Council fast tracked the portion of the William R. Clement Parkway extension from Grant to Wilkes Avenue from a medium-term project to a short-term project; see Council decision on July 19 2017.

2. On June 25, 2014, City of Winnipeg Council identified the William R. Clement Parkway as a *priority* under the Building Canada Fund (Major Project component); see Council decision on July 19 2017.

3. Beginning in the spring of 2015, WSP initiated meetings with stakeholders (local area developers, Manitoba Infrastructure, and local special interest groups) and the public on three specific alignment options for the WRCP/SLP Extension.

4. Three options were put forward for the east-east portion of the WRCP/SLP Extension:

    Option 1 - Wilkes Avenue alignment
    Option 2 - Sterling Lyon Parkway North Alignment
    Option 3 - Sterling Lyon Parkway South Alignment

5. One public meeting was held on January 19, 2016, at Charleswood United Church - with approximately 400 attendees. Comments were solicited and respondents were asked to rank each of the three options. Option 1 - Wilkes Avenue alignment was the respondents' preferred option.

6. Public respondents commented that this Option 1 is least disruptive to properties and neighborhoods South of Wilkes Avenue, utilizes existing roads which may help keep costs down, and maintains Wilkes Avenue as an east-west connection. Respondents also mentioned the other two options would result in property expropriations; WSP Design Summary at p.7.

7. We note that the Public Open House Posters that were used to advertise the WRCP/SLP Extensions design *only* showed the portion of the proposal related to the William R. Clement Parkway. The three options for the Sterling Lyon Parkway Extension were not included on the public materials distributed before the meeting.

8. The SW Community Association expects that the turnout for the public open house and support for Option 1 - Wilkes Avenue alignment - would have been *even higher* if the three options for the Sterling Lyon Parkway Extension had been publically disclosed, in advance of the meeting. South Wilkes Community is concerned as to why relevant details for such an important initiative were not fully and expressly reflected in the Public Open House documents prepared by WSP and the City.

9. Since July 17, 2016, when the WSP Submitted an Environmental Act Proposal on the William R Clement Parkway Extension Project to Manitoba (July 2017 - 5514150-000) WSP has (for reasons unknown) settled on a preferred design option that reflects none of the three options identified to the public. For purposes of this Submission, we have referred to this as "Option 4".

10. Option 4 cuts through the centre of the new South Wilkes Community, bisects Fort Whyte greenbelt lands, and eventually reconnects to Wilkes Avenue near the intersection of Wilkes Avenue and Charleswood Road. SW Community Association understands that Option 4, as WSP's preferred option for the east-west Sterling Lyon Parkway extension alignment, is the ***only option*** that is being costed and the plan is to put Option 4 forward to City Council in early 2018.

11. However, the materials posted online through Public Works, City of Winnipeg, on the WRCP/SLP Extension, update August 2017, *still* only show the three options previously identified to the public. Pursuant to a public search, there is no way to know that Option 4 is now the ***only option*** under consideration and being costed by WSP.

12. Furthermore, the Public Works Online Document, Update August 2017, included a "frequently asked questions" section which states the following:

> ***How with this new facility impact existing properties?***
> *There are a small number of privately owned properties that will need to be acquired should the William R. Clement Parkway (WRCP) Extension and re-alignment of Wilkes Avenue construction project receive Council approval in the future. The City will be in touch with the affected property owners directly and will meet one-on-one with them in the fall of 2017 ahead of the public open house.*

13. Affected homeowners in the South Wilkes Community area only learned of the existence of WSP's "preferred" Option 4 alignment in September/October 2017, when invited to meetings by WSP, in which they were shown only a *portion* of Option 4 - not the whole proposed routing. We understand that only property owners whose property was identified for *expropriation* purposes were invited to the recent meetings with WSP and City representatives. Homeowners were told that they could agree to sell their property to the City, or wait to have their property (or part of their property) expropriated for the Sterling Lyon Parkway Extension. Copies of Option 4 were requested but not provided.

14. At the most recent October 4, 2017, meeting of the IRPW Committee, Committee members were provided with an internal Update on Major Infrastructure Project Studies (Report 9), prepared by B. Neirinck, P. Eng., under the direction of J. Berezowsky, as Acting Director of Public Works ("**Update Report**").

15. The Update Report on the William R. Clement Parkway Extension identifies the scope of the preliminary design study; which includes "an extension of Sterling Lyon Parkway." It states the study is near completion. The reader is referred back to the original three-option WSP Design Summary, for additional project details. Surprisingly, the IRPW Committee is being directed to materials that do not reflect the only WSP recommended design option - Option 4.

16. The Update Report contains reference to a Class 4 estimate on the portion of the WRCP/SLP Extension - between Grant and Sterling Lyon Parkway - at $250 Million, and notes a Class 3 estimate is currently being prepared along with a Class 4 estimate for the portion of the WRCP/SLP Extension, between Wilkes Avenue and McGillivray. Without any details, it is impossible to ascertain what portion of this estimate relates to build costs and what reflects estimated expropriation costs. Also, it is not clear exactly what portions of Option 4 are being scoped into each of the above referenced estimates.

17. A map version of the full Option 4 was obtained through Councillor Marty Morantz on October 21, 2017.

18. Based on the Ferguson Report, Option 4 will require the full expropriation of 25 properties, 6 of which are currently owned by the City of Winnipeg, 1 being owned by Manitoba Hydro.

19. Option 4 will also require the partial expropriation of 73 properties.

20. In addition, there are a significant number of land owners who own lands that are contiguous to those that will be expropriated, or sufficiently near to, who will suffer a significant diminution in the value of their property, as a result of any Option 4 expropriation.

21. In summary, Option 4 will result in expropriation payments to approximately 73 individual property owners, based on the full or partial expropriations of their properties, and payments to an unquantified number of *additional* property owners, and tenants with leasehold interests, who will also be entitled to injurious affection compensation, under *The Expropriation Act*.

22. In addition to impacting homeowners, Fort Whyte Foundation Inc., is anticipated to lose in the range of 13 acres of its lands, under Option 4. We note that Fort Whyte's Executive Director, Bill Elliott has signed the Petition in support of the within motion.

23. Fort Whyte is a greenbelt jewel enjoyed by City residents at large, and at this time the impact of an Option 4 expropriation of its lands is unknown. It does not appear that Fort Whyte was a canvased stakeholder, pursuant to the WSP Design Summary details.

24. The area encompassing the South Wilkes Community is identified in the City's **Compete Communities Direction Strategy** as a New Community area, and as such is subject to the development directions set out in that planning document.

ARGUMENT

Planning Criteria

1. *The City of Winnipeg Charter* requires the City to prepare and enact development plans and ancillary documents, to guide long term transportation and land use planning.

2. **Complete Communities Direction Strategy** is the City's land use plan, adopted through By-law, which took legal effect on July 20, 2011.

3. The City's **Sustainable Transportation Direction Strategy,** also adopted by Council in 2011, created the policy framework from which the City's **Transportation Master Plan** was drafted (collectively, the "**Planning Documents**").

4. The City's Planning Documents were designed in tandem to promote community development that is logical, compatible and sustainable. Together, these Planning Documents must guide the City's decision-making on transportation infrastructure in order to appropriately shape the way Winnipeg grows.

5. To date, the planning process related to the development of Option 4 has not been approached in a logical or transparent manner, nor does it appear to seek compatibility with existing infrastructure, or promote the sustainability of the new South Wilkes Community, as required under the Planning Documents.

6. Appropriate Information with respect to the Public Hearing on the Sterling Lyon Parkway Extension options was not provided to the public, and as recently as October 4, 2017, Committee members were still being referred to defunct options as part of the Public Works updates on the WRCP/SLP Extensions. Partial information on WSP's preferred Option 4 has only been released within the last few weeks to select homeowners, and the pressure to organize responses within mere days of receiving information has been taxing, to say the least, on the South Wilkes Community.

7. **No information has been shared as to why the widening of Wilkes Avenue, the first choice of the residents of the South Wilkes Community, is not the most logical and appropriate option.**

8. Statements made by Public Works, in public documents and then subsequently repeated in the media, that only a "small number of privately owned properties that will need to be acquired should the William R. Clement Parkway (WRCP) Extension and re-alignment of Wilkes Avenue construction project receive Council approval in the future" does not reflect the reality that the City itself has identified close to 100 properties that will need to be dealt with through an expropriation process. In the SW Community Association's opinion, the Public Works statement gives an inaccurate impression of the total cost impacts to the City.

Transportation Networks

9. The City has acknowledged through by-laws it has enacted that internal road networks are designed to accommodate the safe and efficient movement of vehicles, in light of existing and projected traffic volumes and transit routing options available.

10. The Sustainable Transportation Direction Strategy identifies Wilkes Avenue as a "City Street of Regional Significance", as it provides connection to the Capital Region at the City limit, where it becomes Provincial Road 427; see p. 37.

11. The development of streets of regional significance supports the development of the Capital Region as a whole. Other streets of regional significance identified in the Sustainable Transportation Direction Strategy include for example: Portage

Avenue, Roblin Boulevard, McGillivray Boulevard, Pembina Highway, Fermor Avenue, and Lagimodiere Boulevard. Collectively, these streets in all cases form the backbone to which connector streets attach.

12. The City has continued to develop and enhance streets of regional significance over the last decade. There is no reason why Wilkes Avenue ought not to be similarly developed as a key east-west transportation linkage, from Sterling Lyon Parkway to the City limit.

13. There is no indication in the Planning Documents of a planned east-west Sterling Lyon Parkway connection traversing south of Wilkes Avenue or otherwise. And the extension of the Sterling Lyon Parkway - a high volume four-lane street and ancillary feeder two-lane streets - through the middle of the South Wilkes new community is contrary to the planning principles set out in the **Complete Communities Direction Strategy,** including:

    a. new communities are to be developed in a sustainable manner;

    b. new communities are to be developed to encourage green development and conserve natural areas.

14. We understand that the relevant traffic studies show Wilkes Avenue is heavily used by the public. Option 4 could reasonably expect similar traffic loads to what Wilkes Avenue currently experiences. The noise associated with eight lanes of potential traffic, within a seven house expanse, will make the areas around the Sterling Lyon Parkway Extension undesirable and potentially unlivable.

15. The increased lighting required for a four-lane separated street (and ancillary collector streets) is significant and will change the character of the neighbourhood by the increased light scape alone.

16. The rural character of this community, with significant greenbelt spaces, will be irreparably changed if Option 4 proceeds. At this point, without further details, it is impossible to project the impact on Fort Whyte Foundation's short terms and long term plans, with a proposed taking in the range of 13 acres.

Expropriation Costs

17. As noted above, based on the Ferguson Report, 73 properties that will require either a full or partial expropriation, if Option 4 proceeds.

18. However, these 73 properties only represent a *portion* of those property owners who will be entitled to compensation under *The Expropriation Act* (Manitoba).

19. The largest costs to the City of Winnipeg relating to property expropriations may be the costs associated with paying out injurious affection amounts to property owners and leasehold interest holders, disturbance damages, and the overall costs of moving this many properties through the expropriation system, which allows for hearings before the Land Values Appraisals Commission to determine compensation payable.

20. Additionally, there are a significant number of land owners who have lands that are contiguous to those that will be expropriated. Diminution in the value of their respective lands may be compensable under *The Expropriation Act* (Manitoba), s. 31(1):

> **Injurious affection where no land taken**
>
> 31(1) Due compensation for injurious affection where an authority does not acquire part of the land of an owner shall consist of the amount of such damages sustained by the owner, including any reduction in the market value of the land, as are the result of the existence, but not the construction or use, of the works and for which the authority would be responsible in law if the works were maintained otherwise than pursuant to the authority of a statute.

21. Some property owners may only have a small portion of their lands expropriated, if Option 4 proceeds. However, with a planned right of way of 80 meters in width, the setback between the proposed road alignment and buildings or houses on site appears relatively narrow. Depending on the positioning of the home on the parcel

of property, in some cases the proposed Option 4 road alignment will make the current home positioning untenable and more extensive damage payments may arise.

22. It is not clear as to whether any comparative analysis was conducted on the total costs related to proceeding with Option 4 as opposed to Option 1. On initial advice the SW Community Association has received to date, it appears that the total expropriation costs related to Option 4 are vastly more expensive than the City would incur proceeding with the expansion of Wilkes, Option 1.

23. In light of the designation of Wilkes Avenue as a street of regional significance, and in light of the principles set of in the City's planning Documents, instructing the City to promote community development that is logical, compatible and sustainable; and in light of the significant expropriation costs that will be incurred, to the detriment of the City as a whole, the South Wilkes Community supports aligning the Sterling Lyon Parkway Extension so that it is contiguous with the existing Wilkes Avenue right-of-way, and the motion set out as Item No. 5, which supports this position.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of November, 2017.

PITBLADO LLP

Per: _____

Darla L. Rettie, Counsel for South Wilkes Community Association Inc.