Agenda – Council – January 25, 2024

Report – Executive Policy Committee – January 16, 2024

Item No. 1 Essential Services – New Legislation

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2024, the Executive Policy Committee did not concur in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That Council request the Province include the City of Winnipeg under the list of employers covered by essential services exemptions, such inclusion requiring the City and its unions (where applicable) to negotiate to conclusion, an essential services agreement before the commencement of any strike or lockout;

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

Report – Executive Policy Committee – January 16, 2024

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2024, the Executive Policy Committee passed the following motion:

WHEREAS the Province of Manitoba has indicated that they are moving forward with a legislated ban on replacement workers in event of a strike/lockout;

AND WHEREAS the City of Winnipeg should be included under the list of employers who are covered by provincial essential services legislation, such legislation requiring the parties to a collective agreement to negotiate an essential services agreement before the commencement of any strike/lockout, with any disputes about content or implementation resolved by a neutral third party;

AND WHEREAS inclusion under the legislation would provide certainty about what definition of "essential" or "emergency" services is to be used by the parties or the third-party arbitrator in the process of determining an essential services agreement;

THEREFORE BE IT RESOLVED THAT Public Service recommendations 1 and 2 be deleted and replaced with the following:

1. That Council requests the Province include the City of Winnipeg under the list of employers covered by essential services exemptions, such inclusion requiring the City and its unions (where applicable) to negotiate to conclusion, an essential services agreement before the commencement of any strike or lockout;

2. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

and submitted the matter to Council.

On November 14, 2023, the Executive Policy Committee laid the matter over for 60 days.

On October 17, 2023, the Executive Policy Committee laid the matter over for 30 days.

On July 5, 2023, the Executive Policy Committee laid the matter over for 60 days.

Report – Executive Policy Committee – January 16, 2024

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

On April 18, 2023, the Executive Policy Committee laid the matter over for 90 days.

On March 13, 2023, the Executive Policy Committee laid the matter over to its meeting on April 18, 2023.

ADMINISTRATIVE REPORT

Title: Essential Services – New Legislation

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Geer	M. Jack	N/A	M. Jack

EXECUTIVE SUMMARY

The Public Service is seeking Council approval to request the Province of Manitoba enact legislation to deem certain City services essential.

Essential services legislation ensures that, when collective bargaining agreements are in negotiation, the employer can have assurance that those services and positions impacting life, limb, critical infrastructure, personal safety, public safety, and public health will continue in the event of a labour disruption.

Provincial legislation already prevents Winnipeg police officers, firefighters and paramedics from going on strike, with their labour disputes sent to arbitration when a deal can't be reached at the bargaining table. Further, the collective agreements for both the Winnipeg Association of Public Service Officers (WAPSO) and the Winnipeg Fire Paramedic Senior Officers' Association (WFPSOA) contain language that allows a collective bargaining impasse to be referred to an interest arbitrator for settlement. However, there are a number of City services not covered under existing legislation, including water treatment and distribution, sewage collection, and treatment and fire paramedic 911 operations. The majority of these positions are expected to be delivered by CUPE 500 staff members.

To preserve core services in the event of a labour disruption, the Province of Manitoba has enacted *The Essential Services Act (Health Care)* and *The Essential Services Act (Government and Child and Family Services).* Services protected under *The Essential Services Act (Government and Child and Family Services)* are listed in Appendix A.

The City's request for legislative changes is consistent with existing provincial law.

RECOMMENDATIONS

1. That Council direct the Public Service to seek provincial legislation for essential services for positions impacting life, limb, critical infrastructure, personal safety, public safety, and public health.

2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

Council approval is required to request changes to provincial legislation.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no financial or administrative implications to the recommendations of this report

HISTORY/DISCUSSION

An essential services agreement would provide assurance that a limited number of staff would continue to deliver essential services in the event of a labour disruption. If the employer and the union cannot agree to essential services, the matter would be referred to a mediator (agreed to by both parties) for resolution before a work stoppage could occur.

The essential services that could potentially be included in provincial legislation include:

- Buildings - security, emergency repairs and maintenance
- City governance (e.g. support to City Council, election)
- Financial processes (e.g. payroll and payment of vendors)
- Technical support for critical systems
- Emergency road and bridge repair
- Traffic management/barricading
- Snow clearing
- Transit Plus support services
- WFPS 911 operations center
- Water treatment and distribution
- Sewage collection and treatment
- Land drainage and flood control

During recent collective agreement negotiations, the Public Service made several unsuccessful attempts to negotiate an essential services agreement with CUPE Local 500. The City's proposal for the maintenance of essential services would have involved ten percent (10%) or less of the Union's membership.

The absence of an essential services agreement in this most recent round of bargaining highlighted several significant risks, including:

Environmental Risk

Failure to operate the sewage collection and treatment system could result in Environment Act violations, raw sewage spills, flooded basements, harm to rivers and Lake Winnipeg, and more combined sewer overflows. It would take months to recover from a system failure and at a significant cost.

Public Health Risk
Failure to operate the water treatment and distribution system could result in non-potable water that would require a boil water advisory. A boil water advisory would be catastrophic to the health care system (hospitals, personal care homes), schools and daycares. People could become sick or die if they did not follow the boil water advisory. It would take months to recover from a system failure and at a significant cost.

Public Safety Risk
A loss of water distribution pumping stations could result in the loss of fire protection.

Economic Risk
An interruption in water would require restaurants to close. Hotels would incur additional costs to host guests. Manufacturing could be negatively impacted, etc.

This Provincial legislation could also benefit those rural municipalities that rely on Winnipeg for certain essential services.

A jurisdictional scan of legislation in western Canada and Ontario is attached as Appendix B.

FINANCIAL IMPACT

Financial Impact Statement Date: February 2, 2023

Project Name:
Essential Services – New Legislation

COMMENTS:

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

Jason Duke - February 2, 2023
Jason Duke, CPA, CGA
Acting Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

- Human Resources
- Legal Services

OURWINNIPEG POLICY ALIGNMENT

Goal alignment: Leadership and Good Governance
- Acting in the intergenerational, and city-wide public interest, for broad community benefit
- Responsiveness to community needs and human rights

Goal alignment: Environmental Resilience
- Providing equitable access to, and responsible management of, potable water and urban sanitation
- Providing equitable access to affordable, reliable, and renewable energy sources
- Providing responsible consumption, production, and end-of-life management of non-renewable resources
- Eliminating sources of pollution, including carbon pollution, and other hazardous materials

Goal alignment: Good Health and Well-Being
A healthy city supports the provision of basic needs, social determinants of health, and human rights through equitable access to food, water, housing, income, employment, transportation, recreation, literacy, and social inclusion. These needs are best addressed through effective cross-sector collaboration, promoting good physical and mental health for all.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The continued operation of essential services, including water and sewage treatment, is critical to the City's ongoing commitment to climate action and its compliance with *The Water Protection Act* – To provide for the protection and stewardship of Manitoba's water resources and aquatic ecosystems. Includes watershed planning, protection of wetlands, and establishing water quality standards. Requires the City to upgrade the North End Sewage Treatment Plant to include biological nutrient removal to minimize nutrients discharged to local waterways. It also requires the City to reuse the wastewater biosolids, and to recover the nutrients from the biosolids to the maximum extent possible.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: Office of the Chief Administrative Officer
Prepared by: M. Geer, Deputy Chief Administrative Officer
Date: January 26, 2023

Attachments:

Appendix A – Services Protected Under *The Essential Services Act (Government and Child and Family Services)*
Appendix B - Essential Services Agreement Jurisdictional Scan (Including Western Canada and Ontario)

Appendix A – Services Protected Under *The Essential Services Act (Government and Child and Family Services)*

The following services in the following departments are declared to be essential services:

Department of Agriculture
Veterinary Services
Dairy/Poultry Lab and Inspection Services

Department of Culture, Heritage and Citizenship
Flood Support

Department of Energy and Mines
Emergency Response Team

Department of Environment
Emergency Response Team

Department of Family Services
Income Security
Emergency Social Services
Children's Special Services
Child Welfare
Manitoba Developmental Centre
Seven Oaks Centre for Youth
Community Living

Department of Finance
Legislative Building Information Systems

Department of Government Services
Security Services
Building Heating and Cooling Systems
Emergency Maintenance
Emergency Measures Organization
Air Radio
Air Ambulance
Water Bombing

Department of Health
Brandon Mental Health Centre
Selkirk Mental Health Centre
Air Ambulance
Continuing Care
Public Health
Mental Health
Laboratory and Imaging Services

Department of Highways and Transportation
Traffic Signals Maintenance
Airports and Marine Service
Emergency Firefighter Payroll
Flood Control
Wildfires
Bridge Failure

Department of Justice
Adult and Youth Correctional Facilities
Community Corrections
Medical Examiner's Office
Public Guardian and Trustee
Court Services
Sheriff's Officers
Maintenance Enforcement

Department of Labour
Workplace Safety and Health
Fire Commissioner's Office

Department of Natural Resources
Emergency Flood Control
Emergency Wildfire
Ambulance Services (Falcon Lake)
District Office Enforcement Programs

Department of Rural Development
Water Treatment Plants

Appendix B – Essential Services Agreement Jurisdictional Scan (Including Western Canada and Ontario)

Jurisdiction	Legislative Instrument	Comments
Alberta	Division 15.1 of the Labour Relations Code	Does not cover municipalities
Saskatchewan	Part VII of the Saskatchewan Employment Act	Does not define an 'essential service'. Does not explicitly cover municipalities, but might by job functions (issue has not been decided yet by the SLRB)
BC	Labour Relations Code Part 6	By application of either party or on their own motion, the Minister may direct the board to designate some services as 'essential'
Ontario	Crown Employees Collective Bargaining Act	Applies to the Crown, Crown employees and the bargaining agents of Crown employees. Most critical service sectors have access to interest arbitration through various Acts.
Manitoba	The Essential Services Act (Government and Child and Family Services) (1) The Essential Services Act (Health Care) (2)	(1) Applies only to the Government of Manitoba, an agency as defined in The Child and Family Services Act, and an authority established under The Child and Family Services Authorities Act. (2) Applies only to specified employers involved in the delivery of health services, and the unions representing the employees of those employers