Minute No. 197
Report – Executive Policy Committee – February 16, 2005

Item No. 1 **Method to Fund Comprehensive Review of Zoning By-law No. 6400/94**
File EZ-DAZ

COUNCIL DECISION:

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

1. That an $11.00 flat fee surcharge on Development Applications be approved in order to fund the comprehensive review of The Winnipeg Zoning By-law No. 6400/94 until such time as the total cost of the review, namely, $400,000.00, is recouped.

2. That the Chief Administrative Officer be delegated the authority to approve and award a multi-year contract not exceeding two (2) years in duration and $400,000.00 in value (including PST and GST) for the provision of a comprehensive review of The Winnipeg Zoning By-law No. 6400/94.

3. That the Proper Officer 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 His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 16, 2005, the Executive Policy Committee passed the following motion:

> WHEREAS the Standing Policy Committee on Property and Development recommended that a 16% surcharge be added on all Development Applications, on a temporary basis until such time as the total cost of the review, namely, $400,000.00, is recouped;
>
> AND WHEREAS there has been consultation with the building and development industry, and the industry advised that if such a charge were necessary it would prefer an $11.00 flat fee on Development Applications;
>
> THEREFORE BE IT RESOLVED THAT the Executive Policy Committee recommends to Council that the Planning, Development and Building Fees By-law No. 166/2004 be amended to provide for a $11.00 flat fee surcharge on Development Applications in order to fund the comprehensive review of the Zoning By-law No. 6400/94 until such time as the total cost of the review, namely, $400,000.00, is recouped;
>
> BE IT FURTHER RESOLVED that authority be delegated to the Chief Administrative Officer to approve and award a multi-year contract not exceeding two (2) years in duration and $400,000.00 in value (including PST and GST) for the provision of a comprehensive review of The Winnipeg Zoning By-law No. 6400/94;

and submitted the matter to Council.

On February 9, 2005, the Executive Policy Committee laid consideration of the matter over to the Executive Policy Committee meeting scheduled for February 16, 2005.

Report – Executive Policy Committee – February 16, 2005

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION:

On February 1, 2005, the Standing Policy Committee on Property and Development recommended to the Executive Policy Committee that favourable consideration be given to imposing a fixed percentage surcharge of sixteen (16) percent on development applications, on a temporary user pay basis, as a method of funding the cost of hiring a consultant for a major review of The Winnipeg Zoning By-law No. 6400/94, such surcharge to be imposed until such time as the total cost of the review, namely, $400,000.00, is recouped.

On November 2, 2004, the Standing Policy Committee on Property and Development directed the Administration to proceed with the review, contingent on the necessary funding being in place, and report back to Committee with respect to methods of obtaining funding together with a blueprint for the by-law review, with the intent of holding the public hearing and Council enacting a new by-law prior to the General Municipal Election in October, 2006.

Re: Method to Fund Comprehensive Review of Zoning By-Law No. 6400/94

For submission to: Standing Policy Committee on Property and Development

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

Report date: November 26, 2004

Recommendation(s):

That this report be received as information.

REPORT SUMMARY

Key Issues:

- A comprehensive review of the Zoning By-law is needed to complement new Plan Winnipeg policies adopted in December 2001 and bring the policy and regulatory environments into alignment.
- The Standing Policy Committee on Property and Development has approved the hiring of a consultant to carry out the review, subject to funding being available.
- This review is expected to cost $400,000. Funds are not available in the existing operating budget to hire a consultant to pursue this project.
- On October 2, 2004 Standing Policy Committee on Property and Development instructed administration to review and report back on alternate sources of funding to cover the cost of hiring a consultant.
- This report presents an option for generating funds to support the project.
- There has been no consultation with the industry with respect to this surcharge as result the surcharge may be received negatively by the building and development industry and may compromise the goodwill developed to date.

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 surcharge considered on development applications and related services could be credited to an accrual account until $400,000.00 is raised in order to generate sufficient revenues to cover the costs of undertaking a major review of the Zoning By-law.

Policy implications:

[X] **No**

☐ **Yes**

Comment(s):

-

Environmental implications:

☒ **No**
☐ **Yes**

Comment(s):

-

Human resources implications:

☒ **No**
☐ **Yes**

Comment(s):

-

Financial implications:

☐ Within approved current and/or capital budget
☒ Current and/or capital budget adjustment required

Comment(s):

- The departmental operating budget would have to be increased by $200,000 a year for 2 years and the revenue from the surcharge could be credited to an accrual account until $400,000.00 is raised.

REASON FOR THE REPORT:

Under the City of Winnipeg Organization By-law, the Standing Policy Committee on Property and Development is responsible for providing policy advice to Council on matters related to Development Control, Land Development and Planning and Land Use.

HISTORY:

On August 24, 2004, the Planning, Property and Development Department submitted a report to the Standing Policy Committee on Property and Development with the following recommendations:

That the Administration be directed to hire a consultant to undertake a comprehensive review of the Winnipeg Zoning By-law No. 6400/94 to be completed by mid-2007;
That funds for this project be included in the 2005 – 2007 operating budget;

That text amendments to the Winnipeg Zoning By-law not proceed in the interim unless under exceptional circumstances.

On October 2, 2004, the Standing Policy Committee on Property and Development received the report and after some discussion over the recommendations, provided the following direction to administration.

"The Standing Policy Committee on Property and Development concurred in administrative recommendations 1 and 3 *and* referred recommendation 2 to the Administration for review and report back on alternate sources of funding to cover the cost of hiring a consultant, said report to be submitted to the meeting of the Committee on November 2, 2004."

On November 2, 2004, a request was made by the Administration for an extension of time for report completion for the purposes of completing the analysis and conducting the research into funding alternatives. The Standing Policy concurred in the administrative recommendation, as amended, that funds for this project be included in the 2005 – 2006 operating budget of the Planning, Property and Development Department.

Furthermore, the Committee directed the Administration "to proceed with the review, contingent on the necessary funding being in place, and report back to Committee with respect to methods of obtaining funding together with a blueprint for the by-law review, with the intent of holding the public hearing and Council enacting a new by-law prior to the General Municipal Election in October, 2006."

In order to satisfy the direction of the Committee, two reports will be submitted, the first being to identify options for alternative sources of funding, the second being a report outlining the blueprint for the Zoning By-law 6400 review.

DISCUSSION:

A surcharge on development applications would allow the Department to collect funds for the comprehensive review of the Winnipeg Zoning By-law No. 6400 directly from the customers who would benefit from such a review. The surcharge will be imposed on development applications identified in Appendix "A" (attached).

The method of charging a surcharge on certain applications to cover costs directly related to the delivery of services associated with those permits has been implemented in other cities in Canada. Research indicates that there are presently at least two Canadian cities that apply surcharges to their permit fees.

The City of Calgary applies a $14.00 surcharge to all new single and two-family dwelling construction permits and $5.00 surcharge to all other construction projects (i.e., renovations for residential, commercial, industrial and trade permits). The surcharge goes directly to the Alberta Safety Codes Council for the development and implementation of training programs associated with the Alberta Building Code. The training programs are designed for use by building inspectors, plan examiners and other building officials to help in the enforcement of the building code.

Prior to 2001, the City of Vancouver had a surcharge which was described as a "surcharge on building permit fees of the fee schedule in the Building By-law to cover the costs of administering the energy utilization amendment to the By-law." This was based on a percentage value of the declared value of permits and was originally established in 1991. The surcharge was related to the growing building envelope problems, potential lawsuits, need for additional inspection staff, resources and training to enforce the code requirements. In the final year of the surcharge, the percentage totaled approximately $224,000. In 2001, the City removed this surcharge.

Many U.S. States have implemented surcharges attached to municipal permit fees where the fees either go directly to the State Treasurer or are targeted towards a specific program. The City of Baltimore, MD, for example, has a tax that is levied and imposed on every permit. The amount of the tax is 5% of the final cost of the permit, rounded up to the nearest whole dollar. The funds are deposited to the General Fund and accounted for in a revenue account entitled "Homeless Relief Assistance", with the legislative intent that an equivalent amount be appropriated in the future for the relief of the homeless.

Some other U.S. cities that also have surcharges are:

- City of Minneapolis & City of St. Paul (value of work x .0005)
- City of Los Angeles (one stop charge of 2% of permit total fee and systems surcharge of 6% of permit total fee)
- City of San Jose (25% of permit fee)

- City of San Francisco (6.5% surcharge for work performed beyond the initial permit fee)
- City of Seattle ($4.50 on each building permit and $2.00 per dwelling unit for all dwelling units constructed but not including the first unit)
- City of Miami (numerous surcharges based on the permit fees used to support code programs, training and education of City permit and inspections staff).

In order to offset the impact on the operating budget of the Planning, Property and Development Department of hiring a consultant, a surcharge could be applied to development related applications associated with the Zoning By-law. The surcharge would be used to fund the Zoning By-law 6400 comprehensive review – a directly related surcharge to the cost of the service, which can be easily understood by the customer. The intent would be to implement the surcharge until the required funding of $400,000 is collected. The number, types and total fees collected on these applications are provided in Appendix "A" of this report. Appendix "A" also includes "Notes to Appendix", which contains "Considerations Re: Fixed Amount Surcharge of $11.00", "Considerations Re: a Fixed Percentage Surcharge of 16%", and "Considerations Re: a Variable Percentage Surcharge of 10%-20%".

The Department intends to develop a communication plan outlining the surcharge and its intent so that the users being impacted by the surcharge will not see this as another tax but rather as a limited additional cost that will be used to modernize and improve the zoning provisions used by the City.

There has been no consultation with the industry with respect to this surcharge as result the surcharge may be received negatively by the building and development industry and may compromise the goodwill developed to date.

One of the issues of a surcharge solely on development application fees is that the revenue it will generate is difficult to predict with certainty, as it is entirely dependent on the fluctuations in the development industry. The Department proposes that the revenues generated will be credited to an accrual account until such time as $400,00.00 is raised.

Use of Land Operating Reserve to Finance Review

The Department has concluded that the use of the Land Operating Reserve is not a possible source of funds required to do the comprehensive review of the Zoning By-law. The Land Operating Reserve was established solely to offset the costs directly related to sale, acquisition and marketing of land in the City of Winnipeg.

The comprehensive review of the Zoning By-law does not meet the eligibility criteria for funding of projects under the Land Operating Reserve. Except in limited circumstances, which do not apply here, the City of Winnipeg Charter prohibits the use of money raised for a reserve fund except for the purpose for which the fund was established. Therefore, the Land Operating Reserve is not an option for the intended purpose.

Permit Stabilization Fund

In a more proactive approach, the Department intends to research the creation of a "Permit Stabilization Fund". There are numerous examples of such "special purpose" funds currently in use at the City, the Land Operating Reserve Fund, the Snow Clearing Reserve Fund, and the Commitment Reserve Fund being just a few. Funds from the Permit Stabilization Fund could be used to finance the following:

- Annual fluctuations in the construction activity on the Department's budget.
- Information technology required to deliver the services, thus reducing the reliance on the capital budget.
- Deficits in the Department's development, permits and inspection services revenues resulting from a decline in the number and/or type of permits/approvals issued.
- Unexpected expenditures associated with ongoing improvements to service delivery (e.g. Permits X-Press, Zoning By-law 6400 review).

The City of Hamilton, the Town of Oakville, and the City of Saskatoon are using a similar Reserve successfully.

Prior to the establishment of a fund a detailed analysis on the impact to the City of Winnipeg's General Revenue Fund, and on the method of implementation that would serve all users in a fair and equitable manner, would be required. Appropriate governance and policy systems would need to be established to manage the fund and a funding cap may need to be instituted to ensure public accountability of the funds.

FINANCIAL IMPACTS:

Funding for the comprehensive review of By-law No. 6400 has been identified at a total appropriation of $400,000 for consulting services at $200,000 per year for 2005 and 2006. Revenues generated would be credited to an accrual account until the increase in the operating budget of the Department is offset.

Financial Impact Statement

Date: November 25, 2004

Project Name: **First Year of Program** 2005

Methods to Funding Comprehensive Review of Zoning By-law No. 6400/94

	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	$ 206,000	$ 206,000	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	206,000	206,000	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The direct costs in both 2005 and 2006 represent $200,000 in consulting expenses for the review of by-law 6400/94 plus the 3% GST component, which is offset by an equal recovery in Corporate Finance. The $200,000 in consulting expenditures each year could be offset by revenues of an equal amount to be generated by applying a 16% surcharge on all "development permits and services" provided by the Department.

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

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

Legal Services Division – Corporate Services Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Development and Inspections Division
Prepared by: Deepak Joshi
PPD File #:

Document name: O:\Reports Directive\Development and Inspections\Manager of D&I\Funding for by-law 6400 review2.doc
Last Updated: November 26, 2004

APPENDIX "A"
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
DEVELOPMENT APPLICATIONS AND SERVICES

Type	2001		2002		2003	
	Number	Fee	Number	Fee	Number	Fee
Development Permit	5152	161,297.61	5487	168,727.15	5827	180,160.78
Home Occupations	2784	298,530.00	1211	129,996.83	1293	140,201.21
Mobile Signs	4942	167,990.82	5899	197,647.96	5379	184,176.36
Zoning Memo's	3997	161,021.64	4262	173,687.86	4018	166,206.64
Zoning Adjustment	2	152.55	1	31	0	0
Zoning Inspections	128	6,208.50	137	6,541.84	130	6,116.73
Zoning Variance	1056	268,578.03	1081	274,936.41	1224	311,306.27
Conditional Use	286	103,765.56	274	99,411.77	390	141,498.50
Verification of Use Letters	134	10,937.08	107	8,733.34	136	11,110.32
Zoning Form Letters	26	990.34	9	342.81	4	152.36
Central Property Search	396	120,819.60	466	142,176.60	502	153,160.2
DAZ – Zoning	25	14,282.75	36	20,576.16	43	24,566.33
DASSF – Shortform Subdivision	47	9,559.80	76	15,458.40	63	12,814.20
DAS – Subdivision	0	0	2	1,067.86	1	533.93
DASZ – Subdivision & Zoning	31	29,367.54	28	26,525.52	42	39,788.28
DAPS – Plan of Survey	12	1,830.60	12	1,830.60	21	3,203.55
CONDO – Condominium Plan	12	203.40	3	152.55	5	254.25
ZAA – Zoning Agrmnt. Amendment	21	9,712.29	17	7,862.53	17	7,862.3
SAA – Subdivision Agrmnt. Amendment	0	0	1	423.23	0	0
CA – Consent	23	2,339.10	23	2,339.1	15	1,525.55

DAASP – Air Space Plan	0	0	2	101.7	3	152.55
BDB – Building Design Board	42	4,143.28	38	4,977.04	26	3,638.47
Urban Design Review	115	10,316.21	115	10,838.57	95	10,822.23
TOTALS	**19231**	**1,382,046.7**	**19087**	**1,294,386.8**	**19234**	**1,399,251.0**

APPENDIX "A"
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
DEVELOPMENT APPLICATIONS AND SERVICES

Notes to Appendix

Considerations Re: Fixed Amount Surcharge of $11.00

Advantages:

1. Simple to apply.
2. Would generate the required $200,000/year assuming 2005 & 2006 transaction volume is not materially different than the average for 2001-2003.

Disadvantages:

1. Surcharge unlikely to be perceived as "fair and equitable".
2. Customers making low dollar value purchases would bear a disproportionate share of the total surcharge.
    - Of the 19,184 average volume of transactions, 14,921 (78%) are for an average value of between $30.66 and $41.41.
    - On a percentage basis, fixed amount would represent a surcharge to these customers ranging from 27% to 36%.

Considerations Re: a Fixed Percentage Surcharge of 16%

Advantages:

1. Surcharge would be perceived as "fair and equitable".
2. All customers would pay the same proportionate share of the total surcharge.
3. Amount of surcharge for 78% of transactions would be between $4.91 and $6.63.
4. Would generate the required $200,000/year assuming 2005 & 2006 transaction volume and mix is not materially different than the average for 2001-2003.

Disadvantages:

1. Decrease in volume of high dollar value transactions would adversely affect revenues generated more so than using a fixed amount surcharge.
2. Added complexity to application and tracking of surcharge.

APPENDIX "A"
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
DEVELOPMENT APPLICATIONS AND SERVICES

Considerations Re: a Variable Percentage Surcharge of 10%-20%

Advantages:

1. Amount of surcharge for 78% of transactions would be between $4.14 and $6.95
2. Would generate the required $200,000/year assuming 2005 & 2006 transaction volume and mix is not materially different than the average for 2001-2003.

Disadvantages:

1. Surcharge unlikely to be perceived as “fair and equitable”.
2. All customers would not pay the same proportionate share of the total surcharge.
3. Decrease in volume of high dollar value transactions would adversely affect revenues generated more so than using a fixed amount surcharge.
4. Additional complexity to application and tracking of surcharge compared to a fixed amount or fixed % surcharge.

DEVELOPMENT PERMITS AND SERVICES
2001 - 2003

TYPE	Average Number of Transactions	Average Total Revenues	Average $ Value Per Transaction	Surcharge to All TX's 11.00	Fixed Surcharge as % of Fee	% Levy on All TX's 16.0%	Surcharge Amount per TX	Variable % Levy 10.0% 20.0%	Surcharge Amount per TX
Development Permits	5,422	166,250.64	30.66	59,642	36%	26,600	4.91	33,250	6.13
Home Occupations	1,763	186,174.55	105.62	19,389	10%	29,788	16.90	37,235	21.12
Mobile Signs	5,407	187,762.25	34.73	59,473	32%	30,042	5.56	37,552	6.95
Zoning Memos	4,092	169,465.79	41.41	45,016	27%	27,115	6.63	16,947	4.14
Zoning Adjustment	1	71.52	71.52	11	15%	11	11.44	7	7.15
Zoning Inspections	132	6,430.73	48.84	1,448	23%	1,029	7.81	643	4.88
Zoning Variance	1,120	272,816.95	243.51	12,324	5%	43,651	38.96	27,282	24.35
Conditional Use	317	100,863.03	318.51	3,483	3%	16,138	50.96	10,086	31.85
Verification Of Use	126	9,467.92	75.34	1,382	15%	1,515	12.05	1,894	15.07
Zoning Form Letters	13	558.65	42.97	143	26%	89	6.88	112	8.59
Central Property Search	455	135,057.60	297.05	5,001	4%	21,609	47.53	27,012	59.41
DAZ	35	18,478.36	533.03	381	2%	2,957	85.28	1,848	53.30
DASSF	62	13,492.20	217.62	682	5%	2,159	34.82	1,349	21.76
DAS	1	711.91	711.91	11	2%	114	113.91	71	71.19
DASZ	34	27,472.86	816.03	370	1%	4,396	130.56	2,747	81.60
DAPS	15	1,830.60	122.04	165	9%	293	19.53	183	12.20
CONDO	7	169.50	25.43	73	43%	27	4.07	17	2.54
ZAA	18	8,479.12	462.50	202	2%	1,357	74.00	848	46.25
SAA	0	282.15	846.46	4	1%	45	135.43	28	84.65
CA	20	2,339.10	115.04	224	10%	374	18.41	234	11.50
DAASP	2	67.80	40.68	18	27%	11	6.51	7	4.07
Building Design Board	35	4,699.12	132.99	389	8%	752	21.28	470	13.30
Urban Design Review	108	10,664.45	98.44	1,192	11%	1,706	15.75	1,066	9.84
TOTALS	**19,184**	**$ 1,323,606.79**	**$ 69.00**	**211,024**	**16%**	**211,777**	**11.04**	**200,888**	**10.47**