Agenda – Council – April 27, 2005

Report – Executive Policy Committee – April 20, 2005

Item No. 5 Expropriation of the Lands west of Kenaston Boulevard required for the Kenaston Grade Separation Project
File SC-4

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee submitted the following to Council:

1. That the Declaration of Expropriation made December 15, 2004, executed pursuant to By-law No. 182/2004 and expropriating the following lands:

   A. The lands taken for Public Road and McCreary Road as the same are shown bordered on Plan Deposit 1302/2004 WLTO, prepared by Albert Gerhard Degner, of the City of Winnipeg, Manitoba Land Surveyor.

   B. Parcels A and B as the same are shown bordered on said Plan Deposit 1302/2004 WLTO.

   The lands described in numbers 1 and 2 are expropriated free and clear of all encumbrances, except for the lands in number 2 which are expropriated subject to Caveat Nos. 184328 and 199899.

   The lands described in numbers 1 and 2 except mines, minerals and named substances which are excepted from or not included in the Certificate of Title of the registered owner of the surface under *The Real Property Act* or are not owned by the owner of the surface under *The Registry Act*, and except reservations in favour of the Crown as excepted from the Title of the owner of the surface, or to which Title is subject by implication under the provisions of *The Real Property Act,*

   is hereby confirmed.

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2. That Council's reasons for confirming its Declaration of Expropriation with respect to certain lands on McCreary Road south of Wilkes Avenue which in the opinion of the Inquiry Officer are not reasonably necessary for the achievement of the City's objectives are as follows:

   A. As part of the Kenaston Grade Separation Project, the intersection of McCreary Road and Wilkes Avenue is being signalized and channelized. The expropriation will enable the City to pave a portion of McCreary Road, to construct shoulders along McCreary Road, and to construct turning lanes to reduce traffic congestion; and

   B. The expropriation will enable the City to perform necessary maintenance on McCreary Road, including upgrading of the roadway and regrading or relocation of the adjacent ditches.

3. 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:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee passed the following motion, namely:

WHEREAS:

(a) Pursuant to its By-law No. 182/2004, The City of Winnipeg ("the City") authorized the expropriation of the lands described therein and executed a Declaration of Expropriation dated December 15, 2004; and

(b) Notice of the intended expropriation was served by the City upon all owners of the lands intended to be expropriated, and was published in a newspaper having general circulation in the locality in which the said lands are situate, pursuant to section 1 of Schedule "A" to *The Expropriation Act;* and

(c) Notices of objection to the intended expropriation were served upon the City by some of the said owners, pursuant to section 3 of Schedule "A" to *The Expropriation Act*; and

(d) The City requested the Minister of Justice to appoint an inquiry officer; and

(e) The Minister of Justice on March 18, 2005 appointed an inquiry officer pursuant to section 4(2) of Schedule "A" to *The Expropriation Act*, and an inquiry was conducted on March 21, 2005;

AND WHEREAS the inquiry officer submitted his report to the City on April 14, 2005, wherein he stated that in his opinion the intended expropriation is fair and reasonably necessary for the achievement of the objectives of the City (the said objectives being in relation to the Kenaston Grade Separation Project), except for certain lands on McCreary Road south of Wilkes Avenue which in his opinion are not reasonably necessary for the achievement of the objectives of the City;

AND WHEREAS *The Expropriation Act* provides that Council of the City shall consider the report of the inquiry officer, and where Council makes an order confirming the intended expropriation which is not in accordance with the opinion of the inquiry officer, Council shall state its reasons for making the order;

AND WHEREAS it is advantageous that the City proceed with the expropriation of all lands described in By-law No. 182/2004;

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DECISION MAKING HISTORY (continued):

THEREFORE BE IT RESOLVED that the Declaration of Expropriation made December 15, 2004, executed pursuant to By-law No. 182/2004 and expropriating the following lands:

1. The lands taken for Public Road and McCreary Road as the same are shown bordered on Plan Deposit 1302/2004 WLTO, prepared by Albert Gerhard Degner, of the City of Winnipeg, Manitoba Land Surveyor.

2. Parcels A and B as the same are shown bordered on said Plan Deposit 1302/2004 WLTO.

   The lands described in numbers 1 and 2 are expropriated free and clear of all encumbrances, except for the lands in number 2 which are expropriated subject to Caveat Nos. 184328 and 199899.

   The lands described in numbers 1 and 2 except mines, minerals and named substances which are excepted from or not included in the Certificate of Title of the registered owner of the surface under *The Real Property Act* or are not owned by the owner of the surface under *The Registry Act,* and except reservations in favour of the Crown as excepted from the Title of the owner of the surface, or to which Title is subject by implication under the provisions of *The Real Property Act.*

is hereby confirmed;

BE IT FURTHER RESOLVED that Council's reasons for confirming its Declaration of Expropriation with respect to certain lands on McCreary Road south of Wilkes Avenue which in the opinion of the Inquiry Officer are not reasonably necessary for the achievement of the City's objectives, are as follows:

1. As part of the Kenaston Grade Separation Project, the intersection of McCreary Road and Wilkes Avenue is being signalized and channelized. The expropriation will enable the City to pave a portion of McCreary Road, to construct shoulders along McCreary Road, and to construct turning lanes to reduce traffic congestion; and

2. The expropriation will enable the City to perform necessary maintenance on McCreary Road, including upgrading of the roadway and regrading or relocation of the adjacent ditches.

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DECISION MAKING HISTORY (continued):

COUNCIL:

On December 15, 2004, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the properties identified in the report from the Director of Planning, Property and Development dated November 25, 2004, and required by the City for the Kenaston Grade Separation Project west of Kenaston Boulevard and to effect the associated street opening in accordance with Misc. Plan 9178/25.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.