Agenda - Council - April 27, 2005

Report - Standing Policy Committee on Property and Development - April 5, 2005

Item No. 10 Constable Edward Finney School - Amendments to Lease for Portion of Andrew Mynarski Park by Seven Oaks School Division for Parking Purposes
File FI-2.2(34)

STANDING COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the lease agreement between the City and Seven Oaks School Division for a portion of Andrew Mynarski Park, as identified on Misc. Plan 6698/3, be amended in accordance with the terms and conditions contained in the report from the Director of Planning, Property and Development dated March 18, 2005.

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

Pursuant to Section 205(2) of The City of Winnipeg Charter, disposal of land owned or acquired by the City for park or cemetery purposes requires approval by two-thirds of all Members of Council.

Report - Standing Policy Committee on Property and Development - April 5, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 5, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: **Constable Edward Finney School – Proposed Amendments to the Lease of a Portion of Andrew Mynarski Park by the Seven Oaks School Division for Parking Purposes**
Lord Selkirk/ West Kildonan Community
Old Kildonan Ward

For submission to: **Standing Policy Committee on Property and Development**

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

Report date: March 18, 2005

Recommendation(s):

1. That the proposed lease agreement between the City and Seven Oaks School Division for a portion of Andrew Mynarski Park as identified on Misc. Plan 6698/3 be amended in accordance with terms and conditions contained herein;

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

REPORT SUMMARY

Key Issues:

- On March 10, 1989, the City and Seven Oaks School Division entered into a 25 year lease agreement for the development of a parking lot on a portion of Andrew Mynarski Park.

- Being as the City has the right to alter the insurance requirements and coverages within the Lease Agreement and that there is a need to update various references, the Planning, Property and Development Department wishes to amend the terms and conditions to reflect administrative and insurance details.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

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):

-

REASON FOR THE REPORT:

Pursuant to By-law 7100/97 s.11(e), the Standing Policy Committee on Property and Development has delegated authority to approve the terms and conditions for the leasing of City-owned property.

HISTORY:

At its meeting held on June 15, 1988, Council approved the terms and conditions for a lease of a portion of Andrew Mynarksi Park with the Seven Oaks School Division. The particulars were as follows:

Owner:	City
Tenant:	Seven Oaks School Division
Location:	North of Anglia Avenue
Description:	Portion of Andrew Mynarski Park shown on Misc. Plan 6698/3
Purpose:	Parking Lot
Commencement:	August 1, 1988
Term:	25 years ending July 31, 2013
Renewal:	Year to year by mutual consent
Rent:	$1.00 per annum

Insurance:	To indemnify the City and provide CGL with City to be named as additional insured with cross liability and a minimum limit of $250,000.00 all-inclusive
Tenant Responsibility:	To be responsible for all costs incurred in the construction of the parking lot. To maintain and keep the lands in good and reasonable safe repair and to keep clear of debris and snow. Maintain all signage. To allow the City to use the leased lands when the school is not in session. To be responsible for any plantings to buffer the parking lot.
Cancellation:	Upon default

The City and Seven Oaks School Division executed the Lease Agreement under date of March 10, 1989.

Since August 1, 1988, the Seven Oaks School Division completed the development of a parking lot and has been utilizing the subject City property for school purposes.

By e-mail dated January 25, 2005, the City's Insurance and Risk Manager advised the Department of the need to revise the Insurance requirements within the lease agreement in response to a departmental circularization.

The Planning, Property and Development Department circulated the subject lease agreement to the Public Works and Community Services Department(s) and the Planning and Land Use Division for review and comments.

DISCUSSION:

1. Background and Proposed Amendments:

Constable Edward Finney School is located adjacent to Andrew Mynarski Park as shown on the attached Misc. Plan 6698/3. In 1988, the Seven Oaks School Division entered into a lease agreement with the City for the use of a portion of the park to develop a parking lot.

Upon a request from the Manager of the Risk and Insurance, the Department reviewed this lease agreement and identified various issues as follows:

a) Lease Agreement Status:

The City and Seven Oaks School Division executed the original lease agreement dated August 1, 1989.

Since August 1, 1988, the Seven Oaks School Division has occupied the subject site. The lease agreement has a term of 25 years and the Tenant is in good standing.

References to insurance requirements and coverage contained in the lease agreement require updating. In addition, the Department will also seek to update other references within the Agreement.

b) Insurance:

The City's Risk and Insurance Branch reviewed this matter and provided advice as follows:

> "Please note that insurance from MAST - Manitoba Association of School Trustees - is on file covering off these leases. The insurance is currently in good standing, not expiring until July 01, 2005.
>
> To further safeguard the City, the Lessee shall purchase and keep in force during the full term hereof, a comprehensive general liability policy including, but not limited to the following provisions:
>
> (1) Commercial general liability insurance, in the amount of at least five million dollars ($5,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain contractual liability, to remain in place at all times during the full term hereof;
>
> (2) Lessee shall not cancel, materially change, or cause any such policy or policies to lapse without a minimum fifteen (15) days prior written notice to the City of Winnipeg;
>
> AND deductibles shall be borne by the Lessee;
>
> AND the Lessee shall file with the City a Certificate of Insurance in a form satisfactory to the City Solicitor;
>
> AND the City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of this agreement."

The Department proposes to amend Clause 2(k) accordingly to reflect the updated insurance requirements.

c) Proposed Administrative Amendments:

The original lease terms included various administrative contacts within the Lease Agreement. The Department is proposing the following amendments:

i) All references to the City's General Manager of Parks and Recreation and General Manager shall be changed to the Director of Public Works;

ii) All references to the Department of Environmental Planning shall be changed to the Planning, Property and Development Department;

iii) All references to the Streets and Transportation Department shall be changed to the Public Works Department;

iv) All references to Mandalay West Park shall be changed to Andrew Mynarski Park; and,

v) The Notice Provision in Clause (7) shall be updated to include the current address of the Seven Oaks School Division – Secretary Treasurer.

Being as the School Division still requires the use of the subject City-owned property and that same is not required for parks and recreation use, the Administration is recommending approval of the subject terms of lease.

Financial Impact Statement

Date: March 14, 2005

COMMENTS:

There is no financial impact associated with the subject proposal.

"Original Signed By"
Mike McGinn, C.A.
Manager of Finance

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

Public Works Department

Community Services Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: D.Armstrong
PPD File #: 4330/4-A
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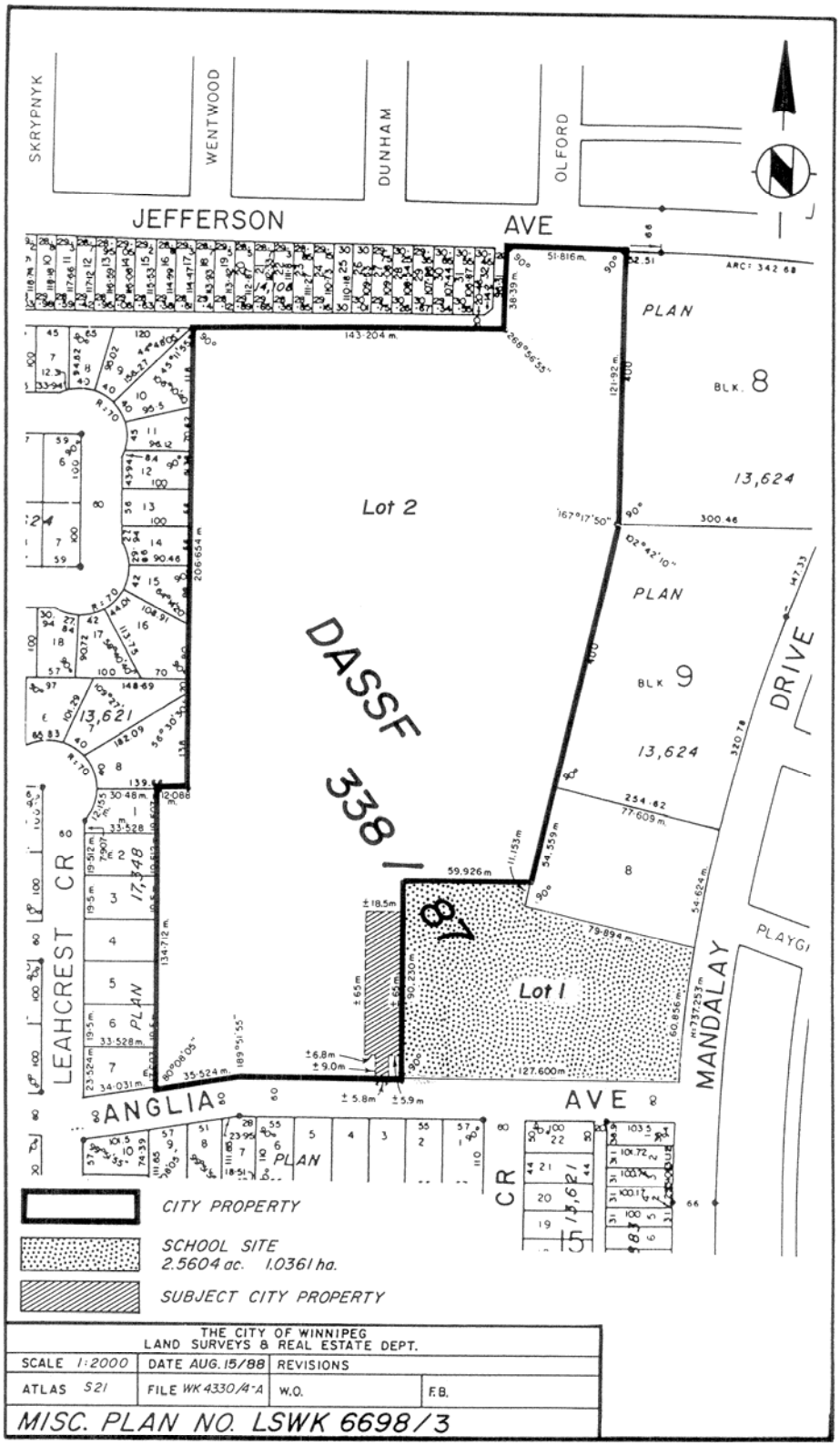
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Lot 2
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13,624
DRIVE
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PLAYGI
LEAHCREST CR
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PLAN
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CR
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Lot 1
CITY PROPERTY
SCHOOL SITE
2.5604 ac. 1.0361 ha.
SUBJECT CITY PROPERTY
THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.
SCALE 1:2000
DATE AUG. 15/88
REVISIONS
ATLAS S21
FILE WK 4330/A1-A
W.O.
F.B.
MISC. PLAN NO. LSWK 6698/3