

**Minute No. 622**

**Report - Executive Policy Committee – July 2, 2014**

**Item No. 1                      Real Estate Management Review**

**COUNCIL DECISION:**

Council adopted and forwarded the following to the Administration for implementation, namely:

1.        Develop a real estate transaction management framework.
2.        Establish a Planning, Property and Development (PPD) directive for more complete reporting and provide checklist to assist with disclosures.
3.        Establish appraisal guidelines.
4.        Engage Materials Management more consistently to ensure openness, fairness and transparency of procurement processes.
5.        Establish guidelines on retention of external real estate brokers.
6.        Establish guidelines to document real estate brokers' roles.
7.        Establish guidelines when negotiating and establishing commission rates with external real estate brokers.
8.        Retain documentation of internal communication in the transaction file.
9.        All significant agreements and contracts should be reviewed by Legal Services. Standard templates for all Real Estate transactions should be developed.
10.      Develop standardized index and checklist for transaction files and standardized approach for document retention.
11.      Establish guidelines for a comprehensive procurement process for significant lease or acquisition transactions over a certain size.
12.      Incorporate flexibility into lease terms.
13.      Perform market analysis for establishing lease rates.
14.      Develop a formal tracking mechanism to flag delays and highlight where additional actions or decisions may be required.

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## COUNCIL DECISION (continued):

15. Restrict the use of personal email accounts for City business and establish policies for removal of City files offsite.
16. Update Industrial park policy.
17. Develop an Environmental site assessment (ESA) procedure.
18.
  - a) Forward the full Ernst and Young “Real Estate Management Review” to Manitoba Justice for review;
  - b) Request that Manitoba Justice respond to the request through the City of Winnipeg Auditor to Council.
19.
  - a) That the City of Winnipeg create an Independent Fairness Commissioner (IFC), who would have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council, and that they would report directly to Council, via and under the Office of the City Auditor;
  - b) That the power to review and comment on all real estate transactions by the IFC, be retroactive to all potential transactions now underway and that the said IFC be reviewed by Council in 5 years;
  - c) That that the Auditor, in consultation with the City Solicitor, report to Council for the purpose of approving the mandate/model for the IFC and the financial resources required for the operation of the said Independent Fairness Commissioner.
20. That the City Auditor be delegated authority to acquire an external agency, other than Ernst and Young, to oversee the implementation of all the recommendations from Ernst and Young’s report by the Public Service in a timely and efficient manner, to report back to Council on the implementation of the recommendations via the Auditor’s Report to Council.
21. 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:

Moved by His Worship Mayor Katz,

That the 17 recommendations contained with the City of Winnipeg Real Estate Management Review dated June 19, 2014 be adopted and forwarded to the Administration for implementation.

Moved by Councillor Steen,

That Rule No. 27 of the Procedure By-law be suspended to allow three amending motions to be considered concurrently.

Carried

In amendment,

Moved by Councillor Orlikow,  
Seconded by Councillor Wyatt,

WHEREAS the City of Winnipeg powers and structures are provided from Her Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, as outlined in the Winnipeg Charter;

AND WHEREAS Manitoba Justice has the mandate to ensure that municipalities conduct themselves in accordance with the relevant municipal charters and laws;

AND WHEREAS referral to Manitoba Justice for review will assist in restoring public trust;

THEREFORE BE IT RESOLVED THAT Item 1 of the Report of the Executive Policy Committee dated July 2, 2014 be amended by adding the following recommendations to the Ernst and Young “Real Estate Management Review” recommendations:

- 1) That Council forward the full Ernst and Young “Real Estate Management Review” to Manitoba Justice for review, and;
- 2) That Manitoba Justice responds to the request through the City of Winnipeg Auditor to Council.

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DECISION MAKING HISTORY (continued):

In amendment,

Moved by Councillor Wyatt,  
Seconded by Councillor Fielding,

WHEREAS other governments have engaged the services of Fairness Monitoring, also referred to as a Fairness Commissioner engagement;

AND WHEREAS such oversight services are undertaken to help ensure fairness, namely decisions are made objectively, free from bias, favouritism or influence and conform to established rules to ensure openness, namely monitored activity is accessible to all potential participants without unjustified restrictions as to who may participate and to ensure transparency, namely information about the activity is provided to the public and interested parties in a timely manner and facilitates public scrutiny;

AND WHEREAS it has been determined from the Ernst and Young's Real Estate Management Review that there is a need to improve policies and procedures, confusion over who administratively can or should make decisions, a general lack of administrative direction by senior staff and a significant lack of value for money as a result of a lack of policies and documented procedures;

THEREFORE BE IT RESOLVED that the Ernst and Young LLP Real Estate Management Review be amended to add the following recommendation, namely that the City of Winnipeg create an Independent Fairness Commissioner (IFC), who would have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council, and that they would report directly to Council, via and under the Office of the City Auditor;

AND BE IT FURTHER RESOLVED that power to review and comment on all real estate transactions by the IFC, be retroactive to all potential transactions now underway and that the said IFC be reviewed by Council in 5 years;

AND BE IT FURTHER RESOLVED that the Auditor report to Council for the purpose of approving the mandate/model for the IFC and the financial resources required for the operation of the said Independent Fairness Commissioner.

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DECISION MAKING HISTORY (continued):

In amendment,

Moved by Councillor Eadie,  
Seconded by Councillor Havixbeck,

WHEREAS it has been determined from the Ernst and Young's Real Estate Management Review that there is a need to improve policies and procedures, confusion over who administratively can or should make decisions, a general lack of administrative direction by senior staff, and a significant lack of value for money as a result of a lack of policies and documented procedures;

AND WHEREAS the implementation of the recommendations of the Ernst and Young Report will be crucial to addressing issues of fairness, openness and transparency with regard to both real estate transactions and management;

THEREFORE BE IT RESOLVED that Item 1 of the Report of the Executive Policy Committee dated July 2, 2014 be amended by adding the following recommendation to the Ernst and Young LLP Real Estate Management Review recommendations:

- Delegate authority to the City Auditor to acquire an external agency, other than Ernst and Young, to oversee the implementation of all the recommendations from Ernst and Young's report by the Public Service in a timely and efficient manner, to report back to Council on the implementation of the recommendations via the Auditor's Report to Council, and to have the Acting CAO do all things necessary to ensure the Auditor has the resources to conduct said recommendation.

With the permission of Council and the concurrence of his seconder, Councillor Eadie amended the resolve and restated his motion as follows:

Moved by Councillor Eadie,  
Seconded by Councillor Havixbeck,

WHEREAS it has been determined from the Ernst and Young's Real Estate Management Review that there is a need to improve policies and procedures, confusion over who administratively can or should make decisions, a general lack of administrative direction by senior staff, and a significant lack of value for money as a result of a lack of policies and documented procedures;

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DECISION MAKING HISTORY (continued):

AND WHEREAS the implementation of the recommendations of the Ernst and Young Report will be crucial to addressing issues of fairness, openness and transparency with regard to both real estate transactions and management;

THEREFORE BE IT RESOLVED that Item 1 of the Report of the Executive Policy Committee dated July 2, 2014 be amended by adding the following recommendation to the Ernst and Young LLP Real Estate Management Review recommendations:

- Delegate authority to the City Auditor to acquire an external agency, other than Ernst and Young, to oversee the implementation of all the recommendations from Ernst and Young's report by the Public Service in a timely and efficient manner, to report back to Council on the implementation of the recommendations via the Auditor's Report to Council.

The motion moved by Councillors Eadie and Havixbeck was put.

Councillor Eadie called for the yeas and nays which were as follows:

Yea: His Worship Mayor Katz, Councillors Browaty, Eadie, Gerbasi, Havixbeck, Mayes, Orlikow, Pagtakhan, Smith, Steen, Vandal, Wyatt and Sharma. 13

Nay: Councillors Fielding and Nordman. 2

and the motion moved by Councillors Eadie and Havixbeck was declared carried.

With the permission of Council and the concurrence of his seconder, Councillor Wyatt amended the first and third points of his resolve and restated his motion as follows:

Moved by Councillor Wyatt,  
Seconded by Councillor Fielding,

WHEREAS other governments have engaged the services of Fairness Monitoring, also referred to as a Fairness Commissioner engagement;

AND WHEREAS such oversight services are undertaken to help ensure fairness, namely decisions are made objectively, free from bias, favouritism or influence and conform to

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DECISION MAKING HISTORY (continued):

established rules to ensure openness, namely monitored activity is accessible to all potential participants without unjustified restrictions as to who may participate and to ensure transparency, namely information about the activity is provided to the public and interested parties in a timely manner and facilitates public scrutiny;

AND WHEREAS it has been determined from the Ernst and Young’s Real Estate Management Review that there is a need to improve policies and procedures, confusion over who administratively can or should make decisions, a general lack of administrative direction by senior staff and a significant lack of value for money as a result of a lack of policies and documented procedures;

THEREFORE BE IT RESOLVED Item 1 of the Report of the Executive Policy Committee dated July 2, 2014 be amended by adding the following recommendations to the Ernst and Young “Real Estate Management Review” recommendations, namely that the City of Winnipeg create an Independent Fairness Commissioner (IFC), who would have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council, and that they would report directly to Council, via and under the Office of the City Auditor;

AND BE IT FURTHER RESOLVED that power to review and comment on all real estate transactions by the IFC, be retroactive to all potential transactions now underway and that the said IFC be reviewed by Council in 5 years;

AND BE IT FURTHER RESOLVED that the Auditor, in consultation with the City Solicitor, report to Council for the purpose of approving the mandate/model for the IFC and the financial resources required for the operation of the said Independent Fairness Commissioner.

The motion moved by Councillors Wyatt and Fielding was put.

The Speaker called for the yeas and nays which were as follows:

Yea: His Worship Mayor Katz, Councillors Browaty, Eadie, Fielding, Gerbasi, Havixbeck, Orlikow, Pagtakhan, Steen, Vandal, Wyatt and Sharma. 12

Nay: Councillors Mayes, Nordman and Smith. 3

and the motion moved by Councillors Wyatt and Fielding was declared carried.

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## DECISION MAKING HISTORY (continued):

With the permission of Council and the concurrence of his seconder, Councillor Orlikow amended the second point of his resolve and restated his motion as follows:

Moved by Councillor Orlikow,  
Seconded by Councillor Wyatt,

WHEREAS the City of Winnipeg powers and structures are provided from Her Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, as outlined in the Winnipeg Charter;

AND WHEREAS Manitoba Justice has the mandate to ensure that municipalities conduct themselves in accordance with the relevant municipal charters and laws;

AND WHEREAS referral to Manitoba Justice for review will assist in restoring public trust;

THEREFORE BE IT RESOLVED THAT Item 1 of the Report of the Executive Policy Committee dated July 2, 2014 be amended by adding the following recommendations to the Ernst and Young “Real Estate Management Review” recommendations:

- 1) That Council forward the full Ernst and Young “Real Estate Management Review” to Manitoba Justice for review, and;
- 2) That Council request that Manitoba Justice respond to the request through the City of Winnipeg Auditor to Council.

The motion moved by Councillors Orlikow and Wyatt was put.

The Speaker called for the yeas and nays which were as follows:

Yea: Councillors Browaty, Eadie, Fielding, Gerbasi, Havixbeck, Orlikow, Vandal and Wyatt. 8

Nay: His Worship Mayor Katz, Councillors Mayes, Nordman, Pagtakhan, Smith, Steen and Sharma. 7

and the motion moved by Councillors Orlikow and Wyatt was declared carried.

The motion for adoption of the item, as amended, was put and declared carried.



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DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 2, 2014, the Executive Policy Committee forwarded the matter without recommendation to Council.

Councillor Havixbeck, Charleswood-Tuxedo Ward, submitted a motion with respect to the Real Estate Management Audit.

COUNCIL DECISION:

On September 27, 2012, Council adopted the following motion of the Standing Policy Committee on Property and Development:

BE IT RESOLVED THAT an external and objective Real Estate Management audit be conducted, going back a minimum of 5 years, which will review the processes and policies used for all major land Acquisition, Sales, Transfers and External leasing activities, including all transactions where commissions or management fees were paid with City of Winnipeg funds.