

EDMONTON PUBLIC SCHOOLS

May 12, 2009

TO: Board of Trustees
FROM: E. Schmidt, Superintendent of Schools
SUBJECT: Joint Use Agreement: Land
ORIGINATOR: T. Parker, Assistant Superintendent
RESOURCE
STAFF: Michael Ediger, John Nicoll, Lorne Parker

RECOMMENDATION

That a new Joint Use Agreement, which governs the acquisition and disposition of school land, and as enabled under the Municipal Government Act, be approved.

* * * * *

The *Joint Use Agreement: Land (JUA:L)* is a supplementary agreement to the *Joint Use Agreement: Facilities (JUA:F)*, an agreement on sharing and accessing facilities which was ratified by the parties to the agreement in October 2007. The parties to the agreements are the Edmonton Public School Board, the Greater North Central Francophone Education Region No. 2 (Conseil scolaire Centre-Nord), the Edmonton Catholic School Board and the City of Edmonton.

The agreement is consistent with the Board's key interests of:

- maintaining district authority to acquire and dispose of lands as required to meet the educational needs of the community;
- maintaining district interests in land as related to value; and
- facilitating a positive and collaborative long term relationship with the City of Edmonton, and with the other school authority parties to the agreement, on matters relating to land.

Since November 2007, negotiations have been conducted to review and develop the draft *Joint Use Agreement: Land*. The agreement was prepared by legal counsel to the four parties, H. Douglas Montemurro of the firm Parlee McLaws.

Key Elements

1. School boards will be solely responsible for the determination of their current and future school land and building needs. Needs for school sites will be articulated in a Needs Assessment document to be provided to City Council.

2. The City of Edmonton will acquire and service school sites in newly developing areas on behalf of school boards through the reserve land dedication requirements enabled by the Municipal Government Act.
3. School boards and the City will hold dedicated school and park lands in joint-title as Municipal and School Reserve (MSR), as is the current practice in Calgary, and the MSR lands will be designated an appropriate zoning category to facilitate the timely construction of schools. Once the school is built, the title will transfer to the sole ownership of the Board for the school building envelope only.
4. School boards will receive market value for the sale of non-reserve lands, which were typically acquired by the boards prior to the mid-1960's at market value.
5. School boards will receive no value for the 'surplussing' or transfer of reserve lands, which were held by the City on behalf of the boards.
6. A Land Management Committee will provide school boards input into how the proceeds from the sale of surplus reserve school sites will be used.
7. School boards will undertake periodic reviews of existing school sites held by the City on behalf of the school boards with a view to releasing or declaring surplus any unneeded sites.
8. School boards that are party to the agreement will have First-Right-to-Purchase or acquire surplus school property from another board, followed by the City of Edmonton.
9. The *JUA:L* recognizes a new type of reserve land called Community Services Reserve (CSR) as established by the Province of Alberta within the Municipal Government Act. The CSR designation can be applied to reserve lands no longer required by the school boards or City for school or park purposes. The designation would enable the City and the Province to advance programs related to housing, health or other non district community service needs.

Edmonton City Council will consider the draft agreement on May 13, 2009. It is anticipated that the other two school boards will consider the agreement by May 15, 2009. Once endorsed, the District will initiate a review of all vacant school sites to determine if they may still be required to accommodate a future school. A recommendation resulting from this review will be brought before the Board prior to September 30, 2009.

DME:gm

Attachment I – City of Edmonton Report to Community Services Committee on April 27, 2009

Joint Use Agreement - Land

Recommendation:

That Community Services Committee recommend to City Council:

1. That a new Joint Use Agreement - Land with the Edmonton Public School Board, Edmonton Catholic School District and Conseil scolaire Centre-Nord be approved, in accordance with the terms outlined in Attachment 1 of the April 7, 2009, Community Services Department report 2009CSS009.
2. That the Agreement be acceptable in form and content to the City Manager.

Report Summary

This report recommends approval of a new Joint Use Agreement with the three Edmonton area School Boards pertaining to school land. The Agreement provides the framework to guide the partnership over the next ten years in decisions related to acquisition, development, and maintenance of joint use sites, including joint interests in sites declared surplus by any School Board.

Previous Council/Committee Action

A summary of previous City Council and Committee actions is provided in Attachment 2.

Report

- The first Joint Use Agreement enabling the City and School Boards to work together for the community's benefit was signed in 1959 and the agreement has been reviewed and renewed periodically since that time. The

current agreement was approved in 1996 for a ten-year period.

- As of April, 2006, the first Joint Use Agreement can be terminated by either the City or the Boards.
- In 2006, a review committee was established with representation from the Administrations of the City of Edmonton, the Public, Catholic and Conseil scolaire Centre-Nord School Boards to negotiate a new agreement. Early in the discussions, it was determined the renewal of terms respecting the "shared use of facilities" and "school lands" would be negotiated as two separate agreements. A new Joint Use Agreement (Facilities) was approved by City Council on October 17, 2007.
- The January 24, 2008, Community Services Department report 2008CSS001 titled *Surplus School Land and Buildings* summarized actions taken by the Province of Alberta to facilitate the use of surplus school land and buildings for additional community purposes. The anticipated direction of the Province (culminating in Bill 41 adopted by the Legislative Assembly in October 2008) influenced key topics of negotiation for the renewal of the Joint Use Agreement - Land. Highlights of amendments to the Municipal Government Act (MGA) (Bill 41) that have implications for school lands specifically are provided as Attachment 3.
- Terms and conditions of the proposed Joint Use Agreement - Land are provided as Attachment 1. The foundation of the agreement continues to be the partners' shared interest in maximizing benefit to the community as a whole as expressed by principles adopted at the commencement of negotiations (see Attachment 4). Key

highlights of the negotiations are summarized below.

School Board Entitlement to Reserve Land

- A School Board's entitlement to vacant reserve land is limited to sites approved for construction by the Alberta Government. School Boards are not entitled to obtain and sell vacant reserve land as a means of creating new capital or operating funds.

Purchase Price for Surplus School Land

- School Boards will continue to be entitled to market value from the sale of surplus school sites that were purchased from the market in the past. Reserve school sites declared surplus will continue to be transferred to the City for one dollar (\$1.00).

Allocation of New School Sites

- City Administration will continue to use its best efforts to meet the requirements identified by School Boards for school lands. A school needs assessment study will guide recommendations regarding the allocation of future school sites in statutory plans and approved subdivisions. This will reduce the inventory of vacant school sites in the future.

Management of School Site Inventory

- The new agreement includes a mechanism for School Boards to conduct regular reviews of their vacant school site inventory. School Boards will identify vacant school sites no longer required for educational purposes. There will be an initial declaration of surplus vacant school sites following shortly after the execution of this agreement, and every three years thereafter. In addition,

Alberta Education is working with School Boards to develop criteria for identifying surplus sites.

The City's current process for determining potential uses of surplus school sites is under review due to recent amendments to the Municipal Government Act. Following the formal approval of the agreement by the Partners, City Administration will immediately implement a public involvement plan and accompanying communication plan to manage and facilitate the City's response to the anticipated declaration of surplus school sites by School Boards.

Focus Area

- Improve Edmonton's Liveability
- Transform Edmonton's Urban Form

Justification of Recommendation

The Joint Use Agreement – Land ensures the cooperative planning of joint use sites and secures the City's right to purchase surplus school lands and buildings. This agreement addresses the issues identified during negotiations and positions the Partners to better manage school land planning-related matters over the next ten years.

Attachments

1. Summary of Terms and Conditions of the New Agreement
2. Summary of Previous Council/Committee Action
3. Overview of Bill 41 Municipal Government Amendment Act, 2008 (No. 2)
4. Principles of the Joint Use Agreement - Land

Others Reviewing this Report

- G. Klassen, General Manager, Planning and Development Department
- L. Rosen, General Manager, Asset Management and Public Works Department

Terms and Conditions of the New Agreement

Governance

New

1. **Separate shared use and land agreements.** This agreement governs the acquisition of joint school and park sites, the allocation of school building land and school playing fields for future schools, and the process for how school sites declared surplus are managed.
2. **All School Boards in one land agreement.** The Conseil scolaire Centre-Nord joins with the Edmonton Public School Board, Edmonton Catholic School Board and the City of Edmonton as a partner to the new Agreement.

Planning Process

Status quo

3. **Partner mandates.** School Boards have sole discretion to determine their requirements for new school sites, and the City has sole discretion to determine how to meet those requirements.

New

4. **School Site Allocation.** The City's allocation of new school sites to the Boards will utilize a school needs assessment study to support decision-making.
5. **Joint title.** Land acquired by the City through dedication or acquired utilizing reserve funds, will be in the name of both the City and the appropriate School Board. Upon construction of a school building, the School Board will assume sole title.

Development and Maintenance of Land

Status quo

6. **Initial development and maintenance.** Sites allocated for future schools are developed and maintained by the City. When a new school is constructed, the City maintains the school playing fields, and the School Board assumes maintenance of the school building land. For non-reserve school sites, the City maintains school playing fields where community access is provided, and the School Board maintains the school building land.

Disposition of Surplus Non-Reserve and Reserve School Sites

Status Quo

7. **Surplus declaration.** School Boards have sole discretion for the decision and timing of all surplus school site declarations.

8. **Surplus school purchase price.** When the City decides to exercise its right to purchase a surplus school site acquired by means other than statutory dedication (i.e. purchased or acquired as a gift by a School Board), the Board is entitled to the market value for the land. With respect to surplus school lands acquired through reserve dedication, the Board either quit claims sites it does not own or transfers reserve land it does own to the City for the sum of one dollar (\$1.00). School Boards are entitled to the depreciated value for school buildings located on these sites.

New

9. **Board's first right to purchase.** Each School Board will have 90 days to exercise the first right to declare interest in and purchase a surplus school site from another School Board; if more than one Board expresses interest, the Conseil scolaire Centre-Nord School Board will have priority.
10. **City's right to purchase and timeline.** Subsequent to no interest expressed by School Boards, the City will have 180 days to exercise its interest in the surplus school site.
11. **City's right to purchase timeline.** When the City determines it wishes to purchase the surplus school site, it must obtain budgetary and financial approvals within the 180 day right-to-purchase period. The City will be able to extend the right to purchase period for up to 45 days, or request an extension in excess of 45 days, and the School Board may, in its discretion, grant the requested extension.
12. **Subdivision and rezoning of partial sites.** When the City expresses interest in purchasing only a portion of the surplus school site, the sale and purchase is dependent on obtaining the required subdivision, and rezoning that portion of the site the City does not wish to buy. If the conditions precedent are not satisfied, the City will have the option of purchasing the whole site.

Management of School Site Inventory

New

13. **Regular review of school sites.** School Boards will conduct regular reviews of their vacant school sites beginning in 2009 and continuing in three-year intervals to identify those sites they no longer require for educational purposes.

Summary of Previous Council/Committee Action

1. April 2, 2007, City Council Public hearing meeting
The following motion was passed:
That Administration provide a report to Executive Committee that outlines the Municipal Government Act requirements and various processes involving the City and School Boards regarding the provision of school sites, including the status of the Joint Use Agreement currently under review. This report is to include a range of possible actions to address the School Boards' requests for school sites in new neighbourhoods and the impact this request has on the planning of new neighbourhoods.
2. July 11, 2007, Executive Committee (held in private) Report 2007CSS011 titled *Provision of School Sites, Not-Yet-Assembled Sites*
This report provided a brief update on recent developments that may impact the future provision of school sites.
3. July 11, 2007, Executive Committee (held in private) Report 2007CSS012 titled *Joint Use Agreement Briefing, Legislative Changes – Schools and School Sites*
This report consolidated and summarized a number of school site and joint use related issues and recent meetings with the Provincial Government to address these issues.
4. December 18, 2007, City Council (held in private) Report 2007CSS014 titled *Joint Use Agreement – Land Update*.
This report summarized key points of consensus reached by the administrations of the City of Edmonton, Edmonton Public Schools, Edmonton Catholic Schools and Conseil scolaire Centre-Nord (the Partners) on basic philosophy, principles and actions that would lead to a new Joint Use Agreement: Land between the Partners.
5. January 30, 2008, City Council Report 2008CSS001 titled *Surplus School Land and Buildings, Final Report*
This report summarized actions by the Province of Alberta to facilitate the use of surplus school land and buildings for other school purposes.

Overview of Bill 41 Municipal Government Amendment Act, 2008 (No. 2)

Bill 41 Municipal Government Amendment Act, 2008 (No. 2) was introduced in the Legislative Assembly on October 29, 2008. The Act received Royal Assent on December 2, 2008, but has yet to be proclaimed by Cabinet. This delay should resolve itself when the School Act Regulation revisions are reviewed and accepted.

The amendment to the Municipal Government Act broadens the permitted uses for surplus reserve school sites to include police stations, fire stations, emergency medical stations, and libraries, municipal facilities providing direct service to the public, affordable housing, non-profit day cares, non-profit senior citizens' facilities, and non-profit special needs facilities. It allows municipalities the opportunity to designate lands for community service uses once the sites have been declared surplus by School Boards and approved by the Minister of Education.

When a reserve school site is declared surplus by a school board, a municipal council may now choose to replace the existing reserve designation (e.g. M.R., S.R., M.S.R.), with the CSR designation. The CSR designation can only be applied to the school building envelope, and not to the adjacent playing fields or park space.

The changes to the Municipal Government Act are reflected in the revised Joint Use Agreement presented to City Council.

Principles of the Joint Use Agreement – Land

The Parties are committed to the following Principles with respect to the acquisition, planning, development, maintenance and disposition of Joint Use school sites.

COOPERATIVE PLANNING	Joint Use Sites shall be cooperatively planned and managed. The parties shall work together to ensure that the rights of each are respected.
TIMING	In the spirit of cooperation, the Parties will attempt to communicate decisions and provide required or requested information as soon as reasonably possible after a decision has been made or information is required or requested.
EFFICIENCY and PLANNING	The resources of the four parties shall be efficiently used for the maximum benefit of the community.
SHARED COSTS	Costs associated with the administration of the agreement be fairly and equitably shared among the four parties to the Agreement.
EQUAL PARTNERSHIP	There shall be equal authority among the parties to the Agreement with respect to decision-making.
RESERVE	All Reserve Land and Reserve Funds provided, dedicated or obtained after the Effective Date, shall be used, where appropriate for the purpose of creating and developing Joint Use Sites and Parks and Recreation Sites pursuant to the Municipal Government Act.
TRANSPARENCY and OPENNESS	The Parties shall make available to each other such information as is necessary to ensure the principles of this Agreement are being observed.
CONFLICT RESOLUTION	When difficulties arise among the parties, the parties shall work together to resolve such difficulties in a respectful way and with a spirit of cooperation and collaboration.
AUTONOMY and ORGANIZATIONAL INTEGRITY	The parties honour the respective organization, cultures, mandates, budget and administrative process of the other parties.