Agenda – Executive Policy Committee – November 30, 2005

REPORTS

Item No. 11 **Reactivation of Levies for Local Improvements deferred on 901 and 929 Shaftesbury Boulevard**
File SL-3

ADMINISTRATIVE RECOMMENDATION:

1. That the deferments for local improvements on 929 and 901 Shaftesbury Boulevard authorized under By-law No. 176/2003 as amended by By-law No.192/2004, and under By-law No. 177/2003 as amended by By-law No. 193/2004, respectively, cease effective November 1, 2005.

2. That the appropriate assessments be reactivated and local improvement taxes be imposed with a requirement for payment in either of the two methods outlined below:

Property	Improvement Type	Cash Cost Payment	Term	Annual Levy
929 Shaftesbury Boulevard	Land Drainage Sewer (trunk only)	$15,240.00	2005 – 2024	$1,493.52
901 Shaftesbury Boulevard	Land Drainage Sewer (trunk only)	$4,800.00	2005 – 2024	$470.40

3. That the City Solicitor/Manager of Legal Services prepare the reactivation by-laws.

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

ADMINISTRATIVE REPORT

RE: REACTIVATION OF LEVIES FOR LOCAL IMPROVEMENTS DEFERRED ON 929 SHAFTESBURY BOULEVARD PURSUANT TO BY-LAW 176/2003 AND 901 SHAFTESBURY BOULEVARD PURSUANT TO BY-LAW 177/2003

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Chief Financial Officer

REPORT DATE: November 22, 2005

RECOMMENDATION (S):

1. That the deferments for local improvements on 929 and 901 Shaftesbury Boulevard authorized under By-law 176/2003 as amended by By-law 192/2004, and under By-law 177/2003 as amended by By-law 193/2004, respectively, cease effective November 1, 2005.

2. That the appropriate assessments be reactivated and local improvement taxes be imposed with a requirement for payment in either of the two methods outlined below:

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3. That the City Solicitor prepare the reactivation by-laws.

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

REPORT SUMMARY:

Key Issue(s):

- By-law 192/2004 granted the property owners a one-year deferment for payment of a Land Drainage Sewer (trunk only) Local Improvement on 929 Shaftesbury Boulevard. The deferment period expired on October 31, 2005.

- By-law 193/2004 granted the property owners a one-year deferment for payment of a Land Drainage Sewer (trunk only) Local Improvement on 901 Shaftesbury Boulevard. The deferment period expired on October 31, 2005.

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**
	Involves a multi-year contract

Comment(s): The reactivation by-laws will impose local improvement taxes on the current owner.

Policy Implications

x	**No**
	Yes

Comment(s):

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): There is no financial impact to the City of Winnipeg. The deferments for both properties were recorded as a receivable on the Balance Sheet.

REASON FOR THE REPORT:

The conditions prescribed by Deferment By-laws 192/2004 and 193/2004 expired on October 31, 2005. Council approval is required for reactivation of the local improvement taxes.

HISTORY:

On November 22, 1994 Local Improvements (Land Drainage Sewer, Street Pavement, Sidewalks and Street Lights) were advertised for Shaftesbury Boulevard from Grant Avenue to Wilkes Avenue. Petitions were taken out against the projects but were unsuccessful. Mr. Schlamp, owner of 929 and 901 Shaftesbury Boulevard, signed these petitions.

On February 14, 1995 the Assiniboia Community Committee recommended that all the subject Local Improvement projects proceed.

On April 7, 1997 the Committee on Works and Operations designated Shaftesbury Boulevard as a regional street, thereby funding the above ground improvements as a "City at large" project. The Land Drainage Sewer component was constructed and assessed as a Local Improvement, completed on October 25, 1996 and assessed on the 1997 tax roll.

On June 4, 1997 the City received deferment applications from Mr. Schlamp for 929 and 901 Shaftesbury Boulevard. Although both holdings did not meet all conditions as stated in the deferment applications, the administration recommended deferral for the agricultural land (929 Shaftesbury) and no deferral for the residential property (901 Shaftesbury). The decision to defer the agricultural land levy was based on the fact that the land received little benefit from the Land Drainage Sewer due to significant variation in elevation between the land and the roadway. Deferral was not recommended for the principal residence since it received greater benefit from the Land Drainage Sewer in that a catch basin is located in Mr. Schlamp's driveway.

On July 4, 1997 the Committee on Finance and Administration recommended to the Executive Policy Committee that both properties be deferred. The Executive Policy Committee concurred with the Committee on Finance and Administration and on July 23, 1997 Council adopted the Executive Policy Committee recommendation to defer the Local Improvements on both properties.

Discussions between Mr. Schlamp and the City regarding development of the property at 929 Shaftesbury Boulevard resulted, on June 19, 2002, in Council's approval of an amended proposed plan for rezoning and development. However, this plan was not finalized although Mr. Schlamp advised a new plan of subdivision would be submitted.

On September 19, 2002 Mr. Schlamp filed a formal appeal of the Local Improvement levy for both properties. After considering the evidence presented, The Board of Appeal, on October 14, 2003 granted Mr. Schlamp's request to waive the lateral charges for the Land Drainage Sewer Local Improvement because the properties did not benefit from the land drainage improvements on Shaftesbury Boulevard. However, the Board simultaneously denied the appeal for trunk charges as the assessment was considered fair and equitable on the basis that the decision was consistent with the rules being applied to similar properties throughout the City. Furthermore, the Board recommended to the Executive Policy Committee that the Local Improvement trunk charges be deferred until the sooner of October 31, 2004 or the signing of a development agreement pursuant to the rezoning and subdivision File DASZ 2/2002.

On October 29, 2003 the Executive Policy Committee concurred with The Board of Appeal's recommendation to defer the trunk charges for 929 and 901 Shaftesbury Boulevard. On November 26, 2003 Council adopted the Executive Policy Committee's recommendation and, on December 17, 2003, passed By-laws 176/2003 and 177/2003.

On December 8, 2004 the Executive Policy Committee recommended that the local improvement trunk charges, in the amount of $20,040 for 901 and 929 Shaftesbury Boulevard be deferred until October 31, 2005, or until the signing of a development agreement pursuant to the Rezoning and Subdivision under File DASZ 2/2002, whichever shall occur first.

On December 15, 2004 Council adopted the Executive Policy Committee's recommendation of December 8, 2004 and passed By-laws 192/2004 and 193/2004.

DISCUSSION:

Conditions set forth in Deferment By-laws 192/2004 (929 Shaftesbury Boulevard) and 193/2004 (901 Shaftesbury Boulevard) state:

> *"The deferment permitted under this by-law shall cease upon the occurrence of any of the following:*
>
> *(1) upon October 31, 2005; or*
>
> *(2) upon the signing of a development agreement pursuant to the rezoning and subdivision under File No. DASZ 2/2002,*
>
> *whichever shall first occur."*

The Property and Development Department has advised the development/servicing agreement pursuant to DASZ 2/2002 has not been executed. Therefore, Council is required to approve the necessary reactivation By-laws.

When lands become subject to special levies as a result of an expired deferment of a local improvement, these local improvement taxes are imposed against the property at the prevailing cash cost rate or amortized at the prevailing current capital borrowing rates. These two methods are outlined below:

Property	Improvement Type	Cash Cost Payment	Term	Annual Levy
929 Shaftesbury	Land Drainage Sewer (trunk only)	$15,240.00	2005 – 2024	$1,493.52
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The cash cost statement may be paid up to and including the last day of the month subsequent to that in which the tax statement is mailed. This will occur immediately pursuant to the passing of the reactivation By-law.

If the property owner elects to pay through the annual levy and not the cash cost option, the first annual levy(s) are payable at par up to and including the last day of the month subsequent to that in which the tax statement is mailed. This will occur immediately pursuant to the passing of the reactivation By-law.

The second and all subsequent tax impositions will appear on the City's annual tax bill for the properties for the prescribed terms. The property owner will be able to commute the outstanding balance any time during the payment term.

FINANCIAL IMPACT STATEMENT - Date: November 17, 2005

There is no financial impact to the City of Winnipeg. The deferment for both properties was recorded as a receivable on the Balance Sheet.

"Original signed by Carrie Erickson"
Carrie Erickson
Manager of Finance & Administration

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

Legal Services Division

THIS REPORT SUBMITTED BY:

Corporate Finance Department
Taxation & Revenue
Prepared by: Robert Weselowski, Manager of Taxation and Revenue
File : Shaftesbury Reactivation Rpt Nov 17 2005.doc