Minutes – Executive Policy Committee – March 19, 2009

REPORTS

Minute No. 179 Deferment of Local Improvement Taxes - King Edward Street from Garton Avenue to Chapman Avenue
eFile SL-3

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommends to Council:

1. That the property listed in Appendix A to the report from the Chief Financial Officer dated January 27, 2009, be granted a deferment of the Local Improvement taxes imposed by By-law Nos. 10/2008, 11/2008 and 17/2008 for a maximum period of five (5) years only, or less if one of the following occurs:

    A. Registration of a plan of subdivision or resubdivision affecting part or all of the property.
    B. Where part or all of the property enjoying deferment is rezoned permitting a change in land use.
    C. Granting of a variance, allowing change in land use.
    D. Any other condition which, in the opinion of City Council, would remove or alter the reasons originally advanced to support the deferment, such as a consent to convey a portion of the site to a developer, where a change in land use is contemplated.

2. That the Acting City Solicitor/Manager of Legal Services be requested to prepare the deferment by-laws.

3. That the Chief Administrative Officer be delegated authority to approve discharges of Notices of Deferments that are registered in the Winnipeg Land Titles Office pursuant to the deferment by-laws passed in accordance with this report, upon receipt of payment in full of the applicable deferred Local Improvement taxes.

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

DECISION MAKING HISTORY:

Moved by Deputy Mayor Swandel,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

RE: DEFERMENT OF LOCAL IMPROVEMENT TAXES ON ROLL # 14098631000 IMPOSED BY BY-LAW NOS. 10/2008, 11/2008 AND 17/2008.

FOR SUBMISSION TO: **EXECUTIVE POLICY COMMITTEE**

ORIGINAL REPORT SIGNED BY: **CHIEF FINANCIAL OFFICER**

REPORT DATE: **January 27, 2009**

RECOMMENDATION (S):

1. That the property listed in Appendix A be granted a deferment of the Local Improvement taxes imposed by By-law Nos. 10/2008, 11/2008 and 17/2008 for a maximum period of five (5) years only, or less if one of the following occurs:

   (I) Registration of a plan of subdivision or resubdivision affecting part or all of the property.
   (II) Where part or all of the property enjoying deferment is rezoned permitting a change in land use.
   (III) Granting of a variance, allowing change in land use.
   (IV) Any other condition which, in the opinion of City Council, would remove or alter the reasons originally advanced to support the deferment, such as a consent to convey a portion of the site to a developer, where a change in land use is contemplated.

2. That the City Solicitor prepare the deferment by-laws.

3. That the CAO be delegated authority to approve discharges of Notices of Deferments that are registered in the Winnipeg Land Titles Office pursuant to the deferment by-laws passed in accordance with this report, upon receipt of payment in full of the applicable deferred Local Improvement taxes.

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

Report Summary

Key Issue(s):

- Council passed Tax Imposition By-law Nos. 10/2008, 11/2008 and 17/2008 for Wastewater sewer, Land Drainage Sewer – Laterals, and Watermains respectively on February 20, 2008.

- The registered owner of the property identified as roll # 14098631000 with a legal

description of Lots 1, 2, 4, 6 & 7, Plan 17736, Parish Lot SE 26 11 2E objected to the local improvements on October 6, 2006.

- Under the conditions for the deferment of local improvements in order to qualify the holding must be a principal residence and/or agricultural lands.

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
	Involves a multi-year contract

Comment(s):

Policy Implications

x	**No**
	Yes

Comment(s):

Regulatory Implications

x	**None**
	Eliminates or reduces regulatory impact
	Proposes regulatory impact

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): The financial impact of the deferment of the Local Improvement Taxes is the City's internal cost of borrowing and is considered minimal. The deferments for the properties will be recorded as a receivable on the City's Balance Sheet.

Report

REASON FOR THE REPORT:

Council approval and a by-law are required for deferment of the Local Improvement taxes.

HISTORY:

On April 6, 2006, Global Homes in accordance with their Development Agreement AG 24/03 requested that the City advertise local improvements for Land Drainage Sewer – Laterals, Wastewater Sewer and Watermain service in King Edward Street from Garton Avenue to Chapman Avenue (Appendix B).

On September 25, 2006, The City advertised the three local improvements in the Winnipeg Free Press for the installation of these services.

On October 2, 2006, an official petition against the local improvements was issued to Mrs. Marcella Rootsaert.

On October 6, 2006 the petition against (notice of objection) was filed with the City Clerk and it was determined that the petitioners did not meet the minimum requirement of 60% of the assessable frontage to defeat the local improvement.

On February 21, 2007 Council passed Authorization By-law No. 35/2007 allowing the work for the three local improvements to proceed.

On February 20, 2008 the Assessment and Taxation Department issued Local Improvement Cash Cost statements advising the benefiting property owners of the final cost of the projects and the options to pay.

On April 11, 2008 the 2008 realty tax roll was completed and the charges for municipal tax, school tax, frontage levies and local improvement taxes were added to the roll.

The annual property tax statement was mailed on May 2, 2008 to Alice McDougall with charges for the first year of the local improvement taxes totaling $8,429.12 for all of the improvements.

On May 27, 2008, Marjorie Danylchuk, acting on behalf of the property owner Alice McDougall, applied for the deferment of local improvement taxes.

DISCUSSION:

Under *The City of Winnipeg Charter*, Council authority to grant deferments is found under subsection 423(1) which states:

> **Power to defer charges**
> 423(1) Council may, by by-law, defer or remit, subject to such terms and conditions as may be prescribed in the by-law, the payment of the whole or a part of any local improvement taxes imposed.

Previously adopted Council policy pertaining to local improvement deferments continue to apply.

Pursuant to Council policy, requests for deferment of local improvement levies are only considered after the subject levies appear on the property tax rolls. To apply for deferment, the property owner must complete and submit an "Application for Deferment of Local Improvement Levies" form available from the Assessment and Taxation Department. It should be noted that any property owner who signs a petition in favour of a local improvement or fails to oppose it when given the opportunity to do so is automatically disqualified from any consideration for deferment of that improvement.

The Deferment of Local Improvement Levies Policy provides definitions for qualifying residences and agricultural lands and conditions under which a deferment may be considered (Appendix C).

The application for deferment of local improvement taxes made by Marjorie Danylchuk on behalf of Alice McDougall meets the definitions and conditions of the Council policy as the property is zoned agricultural and the local improvements have no immediate useable benefit. In addition to this Alice McDougall signed the notice of objection form (circulated by Mrs. Marcella Rootsaert) on October 4, 2006. The notice of objection form was filed with City Clerk's on October 6, 2006.

The annual local improvement taxes that the property owner is requesting be deferred are $8,429.12.

In accordance with *The City of Winnipeg Charter*, notice of any deferments approved will be filed in the Winnipeg Land Titles Office and an entry will be made on the affected certificates of title. The cost for filing these notices is included in the Assessment and Taxation Department annual operating budget.

Financial Impact Statement - Date: Dec 29, 2008

The financial impact of the local improvement charge delay is the City's internal cost of borrowing and is considered minimal. The deferments for all properties will be recorded as a receivable on the City's Balance Sheet. Based on the recommendation, this deferment could be for up to five years.

Brad Cull
Manager of Taxation & Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Legal Services Division – as to legal issues only

External Consultation With:

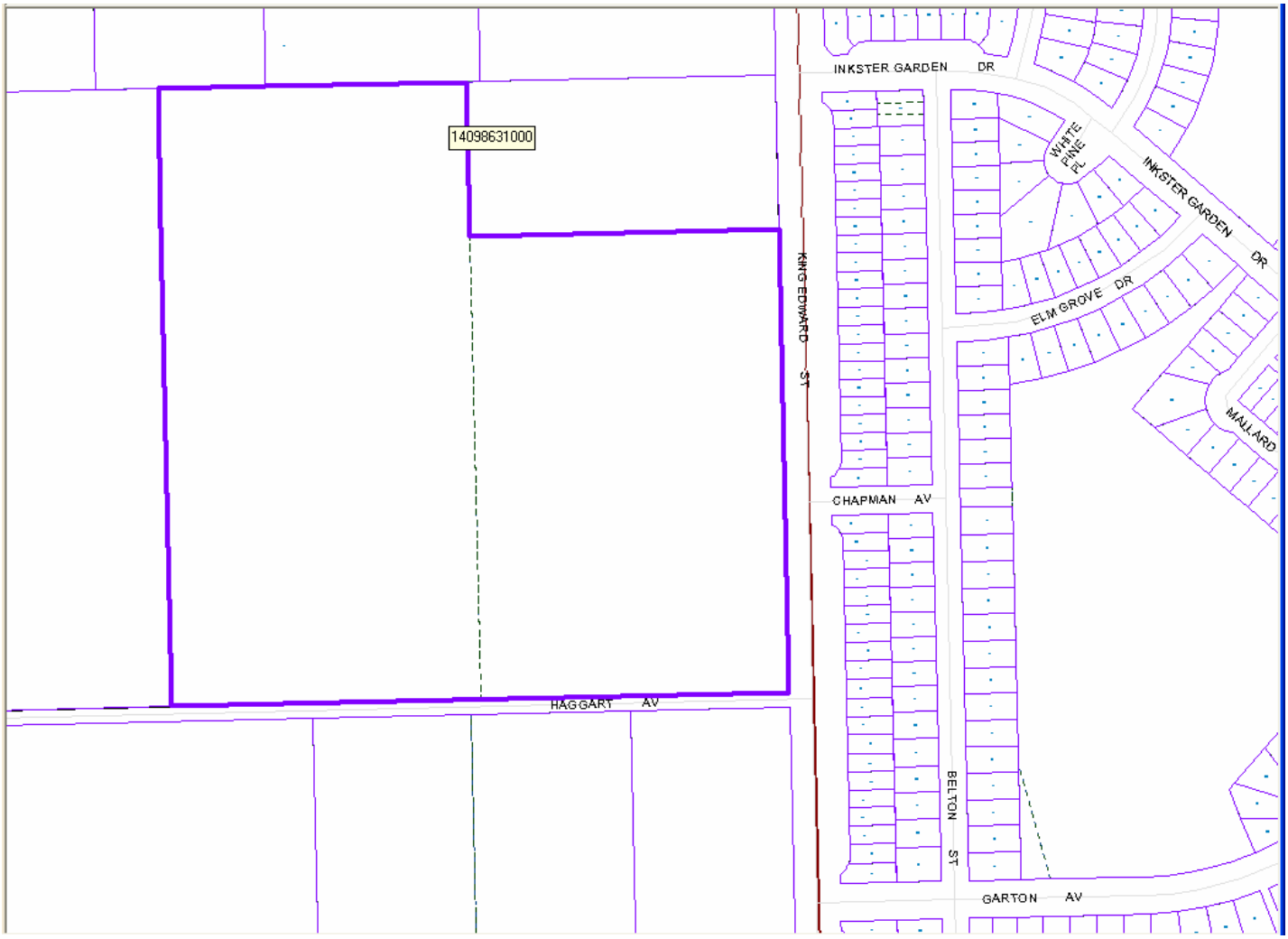
THIS REPORT SUBMITTED BY:

Department: Assessment and Taxation
Division:
Prepared by: Nelson Karpa, Director, Assessment and Taxation Department
File No. LI Deferment Report – Roll#14098631000.doc

Appendix A
Local Improvements for Roll # 14098631000

Roll #	Lot	Plan	Parish Lot	Local Improvement	Term	Tax Imposition By-law	Taxable Measurement	Annual LI Tax	Total LI Costs
14098631000	1, 2, 4, 6 & 7	17736	SE 26 11 2E	Wastewater Sewer	2008-2027	10/2008	376.30	$3,552.27	$71,045.40
14098631000	1, 2, 4, 6 & 7	17736	SE 26 11 2E	Land Drainage Sewer – Laterals	2008-2027	11/2008	376.30	$639.71	$12,794.20
14098631000	1, 2, 4, 6 & 7	17736	SE 26 11 2E	Watermain	2008-2017	17/2008	376.30	$4,237.14	$42,371.40
							Total Annual LI Tax	**$8,429.12**	

Appendix B


14098631000
INKSTER GARDEN DR
WHITE PINE PL
INKSTER GARDEN DR
ELM GROVE DR
MALLARD
KING EDWARD ST
CHAPMAN AV
HAGGART AV
BELTON ST
GARTON AV

Appendix C

The definitions and conditions for the deferment of local improvements are listed as follows:

1. **Definitions:**

a) Local Improvement means a work or service as defined in Section 406 of The City of Winnipeg Charter.

b) Principal Residence means:

(I) "single dwelling unit" being a complete building or portion of a building in which a family or person lives, eats and sleeps, and that is entered as a separate parcel on the real property assessment tax roll of a municipality as one dwelling unit and which is classified as farm and residential property as defined in Part IX of The Public Schools Act:

(II) "principal residence" includes the residence occupied by the applicant which is his residence but which is not part of a condominium or co-operative housing scheme of which he is a member, shareholder, participant or partner; and in case of an applicant who owns and resides in a farm residence, includes the parcel of land on which the residence is located.

c) Agricultural Lands means:

(I) a parcel of land not less than four contiguous acres of land improved and used for the purpose of grain growing, raising or keeping of farm stock or market gardening where the net income derived by the applicant from the sale or disposal of the grain, farm stock or market produce raised, kept or grown on the land exceeds the net income which the applicant derives from any other sources.

(II) where the registered owner of the land in (I) above is a corporation this application shall not apply unless at least ninety percent in number and value of the shares of the corporation are held by individuals.

(a) whose principal occupation is growing grain, raising or keeping farm stock, or market gardening, and whose net income from grain growing, raising or keeping farm stock or market gardening is more than his net income from other sources; or

(b) who are parents, spouses, children, brothers or sisters of individuals described in (a) above.

d) Double Frontage Lot means a lot that extends from one street to another, where the streets are 33 feet in width or greater.

2. The conditions may include, but are not restricted to:

- That the property assessed will receive no immediate usable benefit from the proposed improvement

- That the applicant must have filed an objection against the proposed local improvement

Conditions:

a) To qualify the holding must be a principal residence and/or agricultural lands.

b) That deferments, if granted, shall be in effect for a maximum period of five (5) years or less if one of the following occurs:
   (I) registration of a plan of subdivision or resubdivision affecting part or all of the property.
   (II) where part or all of the property enjoying deferment is rezoned permitting a change in land use.
   (III) granting of a variance, allowing change in land use.
   (IV) any other condition which, in the opinion of City Council, would remove or alter the reasons originally advanced to support the deferment, such as a consent to convey a portion of the site to a developer, where a change in land use is contemplated.

c) Application for deferment must be submitted on or before December 31st in the year that the subject local improvement levy is first assessed.

d) Deferment will only be granted in qualifying cases for a principal residence in which case the maximum deferral will be restricted to 100 feet frontage or for the agricultural uses when the owner's principal occupation is growing grain, raising or keeping stock or market gardening, the net income from which is more than the income from all other sources.

e) Deferment may be granted, only on the basis of no immediate useable benefit to the owner of the property involved, and subject to condition 2(b), as long as that and other qualifying conditions continue to exist. Whether or not the property changes hands, the deferment may stand. It is also recognized that any property owner who signs a petition in favour of a local improvement or fails to oppose it when given the opportunity to do so would automatically disqualify himself from any consideration for deferment of that improvement.

f) There shall be no deferments of district levies, water or sewer maintenance frontage levies, boulevard, ornamental lights, granular surface roads or sidewalks.

g) Deleted by Order in Council dated April 15, 1981.

h) Reinstatement of levies as provided for in the deferment by-law shall be at the then prevailing City rates including interest at the City's current capital borrowing rate.

i) The subject property shall be encumbered by the provisions for future liability contained herein and/or as prescribed by Council from time to time and that any such encumbrances which are required to be registered at the Winnipeg Land Titles Office shall be so registered.

These terms and conditions for deferments are Council policy and accordingly are subject to waiver or amendment by Council. The terms and conditions for any given deferment are set out in the by-law authorizing the particular deferment.