Winnipeg

Local Improvements Audit
Final Report
July 2010

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Audit Department

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EXECUTIVE SUMMARY

The Local Improvements service is a coordinated effort between six City departments. Though the service is a relatively small one for the City, comprising only 1% to 2% of the annual capital budget on average, it can be fairly complex. The service involves a number of stakeholder groups, requires adherence to specific legislative requirements contained in *The City of Winnipeg Charter* and *The Local Improvement Regulation By-law* and monitoring of numerous different types of projects.

An audit of Local Improvements was included in the City Auditor's 2009-2010 Audit Plan. The objectives of the audit were:

- To examine the governance framework and management practices relative to the local improvements service and the extent of coordination between the City departments involved in the process.
- To review compliance of a sample of local improvements with authorities.

The scope of our audit included the years 2005 through 2009. During this period, completed local improvement projects added a high of $6.2 million to a low of $512,000 to the City's capital assets. The number of projects completed ranged from 17 to 49.

The local improvement service is intended to provide citizens with an opportunity to improve local infrastructure in their neighbourhoods. Many different types of projects qualify as local improvements. Local improvement projects can be for an above-ground improvement, such as paving roads or installing sidewalks, or for an underground work, such as installing water mains or wastewater sewers. There are also opportunities to initiate special agreements that may serve to improve infrastructure for a smaller number of residents or businesses through the construction of projects with unique characteristics.

Local improvement projects can be proposed by citizens, by Council, or in connection with development agreements (as a subset of projects proposed by Council). Virtually all publicly available information is directed towards projects proposed by citizens, so that citizens can navigate through the service. The process requires the citizen proposing the project to file a petition containing signatures from 60% of the property owners, as determined by land ownership percentage that will be affected by the improvement project. Contrarily, once the project has been advertised, property owners have at least 30 days to file a "Notice of Objection" containing signatures from 60% of the property owners, also determined by land ownership percentage, to cease the improvement from proceeding. If a sufficient level of agreement is obtained, the project will be put out for bids, constructed and then taxes levied to the property owners through local improvement taxes. Property owners have the choice of paying out the taxes assessed in full or financing the amount on their property tax bills.

Key Observations and Recommendations

We found thirteen development agreements that contained clauses to impose local improvement taxes that we did not believe met the intent of *The City of Winnipeg Charter*. In five of these cases, the clauses were referred to in reports supplied to Council; however, in the other eight cases, the clauses were either added to the body of the agreement or added to the agreement by way of a subsequent amendment without informing Council of the changes. These agreements involved the installation of basic infrastructure elements in new

residential developments to be taxed as local improvements that would be paid by future property owners. The imposition of local improvement taxes in these instances is inconsistent with the vast majority of development agreements where these items are treated as basic infrastructure. Further, we noted these eight cases did not receive Council approval as required by *The City of Winnipeg Charter*. We have forwarded these cases to the Legal Services Department for further review. We have also recommended that the *Local Improvement Regulation By-law* be amended to ensure that this type of situation does not occur in the future.

The Local Improvement Branch of the Assessment and Taxation Department acts as a coordinating hub for the service. We identified opportunities to strengthen the level of oversight of the process through the addition of a quality review process within the Assessment and Taxation Department. We believe that the addition of a quality review process within the department will increase the assurance that the local improvements comply with legislation and the regulation by-law, and will further assure that Council receives all relevant information regarding a local improvement project before the taxes are imposed on property owners.

Local improvements that have been initiated through a development agreement involve different processes. These improvements are effectively approved by Council and therefore do not require 60% approval by affected property owners. We found, however, that citizens are at a disadvantage under this process because, in most cases, the developer owns 50% of the affected land on one side of the street and private property owners own the other 50% of the affected land. In these cases, the private property owners will rarely ever successfully stop an improvement by petition alone. We have made a recommendation to ensure affected property owners are notified of the next meeting of the Community Committee to ensure they have the opportunity to appeal to Council regarding the taxes to be imposed.

We observed that the rates charged for underground local improvements were last updated in 2007, but had not been revised before then since 1982, over twenty years prior. By charging the revised static rate for underground works, we observed that some projects resulted in a 20-75% surplus. A static rate is also used for above-ground lighting services, while current costs are used to assess local improvement taxes for all other above-ground works. Due to the risk of large variances from actual projects costs when using the static rates, we have recommended that the rate methodology for underground works and for lighting services be revised to better approximate the actual project costs. This will ensure that the taxes levied for all local improvement works approximate the actual project costs and that rates are updated on a more frequent basis.

We identified two accounting issues as follows: (1) some assets and liabilities are not being recorded and (2) revenues are being recognized on a cash basis, rather than on an accrual basis. Our evaluation was limited in scope in these areas due to the availability of data.

Projects handled through the local improvement process can span many years and the supporting documentation may need to be referenced decades later. Currently, much of the critical records and maps are maintained in a single hard-copy format. For this reason, we have made a recommendation that the branch explore options for creating electronic back-up files for all project documentation.

MANDATE OF THE CITY AUDITOR

The City Auditor is a statutory officer appointed by City Council under *The City of Winnipeg Charter*. The City Auditor reports to Council through the Audit Committee (Executive Policy Committee) and is independent of the City's Public Service. The City Auditor conducts examinations of the operations of the City and its affiliated bodies to assist Council in its governance role of ensuring the Public Service's accountability for the quality of stewardship over public funds and for the achievement of value for money in City operations. Once an audit report has been communicated to Council, it becomes a public document.

AUDIT BACKGROUND

The Local Improvement Service offered by the City of Winnipeg is a highly compartmentalized process that requires the coordination and cooperation of six City departments, with no one person having oversight of the process as a whole. Due to the complexity of the service structure and the risks involved in its coordination, an audit of the Local Improvement Service was added to the 2009-2010 Audit Plan.

AUDIT OBJECTIVES

The objectives of this audit were:

- To examine the governance framework and management practices relative to the local improvements service and the extent of coordination between the City departments involved in the process.
- To review compliance of a sample of local improvements with applicable authorities.

AUDIT APPROACH

We have conducted the audit in accordance with generally accepted auditing standards. **Appendix 1** provides a flowchart of the audit process.

- We conducted interviews with the Manager of Taxation and Finance, the Supervisor of Administration and Finance and the Senior Local Improvement Clerk in the Assessment and Taxation Department; Local Improvement Project Engineers and Assistant Controllers from the Water and Waste Department and the Public Works Department; the Land Development Administrator from the Planning, Property and Development Department; the Manager of Capital Projects and Project Coordinator from the Corporate Finance Department; and a Project Leader from the GIS Solutions Division of the Corporate Support Services Department.
- We obtained and reviewed financial and statistical data from the Supervisor of Administration and Finance in the Local Improvements Branch of the Assessment and Taxation Department.

- We obtained and reviewed relevant by-laws and legislation from the City of Winnipeg and the Province of Manitoba.
- We obtained and reviewed the City's Development Agreement Parameters.
- We obtained and reviewed development agreements on a test basis to determine the nature of local improvement arrangements embedded within the agreements.
- We discussed the local improvement process and several specific cases with staff from the Legal Services Department.
- We reviewed publicly available information on the local improvements process in Calgary, Montreal, Toronto and Vancouver, and made limited inquiries regarding publicly available information and development agreements in these jurisdictions.

The conclusions in our report are based upon information available at the time. In the event that significant information is brought to our attention after completion of the audit, we reserve the right to amend the conclusions reached.

INDEPENDENCE

Audit team members selected for the audit did not have any conflicts of interest.

AUDIT SCOPE

The scope of this audit was to examine the performance of the service in the years 2005 through 2009. Based on the information we obtained through our fieldwork, we expanded the scope to include reviewing the compliance of certain local improvement projects with relevant sections of *The City of Winnipeg Charter* and applicable by-laws.

Some of our analyses were limited due to the record retention capabilities in the Local Improvement Branch's MANTA database system. These limitations, and their effects on performance information, have been adequately detailed in the relevant sections and recommendations in this report.

AUDIT CONCLUSIONS

The audit work performed led us to the following conclusions:

- The Local Improvements Branch works with other City departments to complete the majority of projects within a two-year period. We identified opportunities to strengthen the oversight role performed by the Assessment and Taxation Department and to ensure a project cost methodology is in place for imposing taxes associated with local improvements. We also identified opportunities to improve accounting for the assets, revenues and liabilities created under local improvements.
- We reviewed citizen-initiated local improvements and found them to be compliant with all applicable authorities. We did identify opportunities to improve communication with potentially affected property owners for those local improvements initiated by a developer. We also found thirteen development agreements that contained clauses to impose local improvement taxes that we

do not believe meet the intent of the language of *The City of Winnipeg Charter*. Of the thirteen development agreements, Council properly approved only five. We have referred the other cases to the Legal Services Department for further review and also recommended that the *Local Improvement Regulation By-law* be amended to ensure that this type of situation does not occur in the future.

ACKNOWLEDGEMENT

The Audit Department wants to extend its appreciation to the members of the Assessment and Taxation Department, Public Works Department, Water and Waste Department, Property, Planning and Development Department, City Clerk's Department and the Legal Services Department's staff for their cooperation. In particular, we would like to thank the Senior Local Improvement Clerk for his professionalism and cooperation throughout the performance of this audit.

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June 24, 2010
Date

LOCAL IMPROVEMENTS BRANCH BACKGROUND

The Local Improvement Process

The City of Winnipeg Charter ("the *Charter*") gives citizens the opportunity to improve local infrastructure in their neighbourhoods through the local improvements process.[1] This process allows citizens to pay the City for their share of the costs of upgrades to roads, sewers, water works and street lighting, over basic infrastructure that may exist.

The concept behind the service is simple. When the development of new residential areas takes place, developers are required to install minimum infrastructure elements, as determined by the City – a concept that is similar to "minimum code" requirements in building construction. These minimum infrastructure requirements have changed over time, and past requirements – especially standards that were in place before the creation of Unicity in 1971 – may have allowed for lower-grade infrastructure to be installed than what is required by current standards, such as graveled roads and ditch drainage systems. Under the local improvements sections of the *Charter*, and through various by-laws enacted by City Council, property owners have the ability to improve the infrastructure associated with older properties. When an above-ground improvement is completed, such as paving roads or installing sidewalks, the Public Works Department oversees the project. When underground work is completed, such as installing water mains, wastewater sewers and land drainage sewers, the Water and Waste Department supervises the project.

> **"Local Improvement"** means a project intended to be paid for or maintained wholly or in part by local improvement taxes imposed on real property benefited … and includes projects carried out under a local improvement district.
> *- The City of Winnipeg Charter, Section 406*

Another section in the *Charter* allows for entire neighbourhoods, also known as "Local Improvement Districts", to share the costs of constructing larger projects, such as community centres or local parks, with the entire district that will benefit from the project. Local Improvement Districts are conceptually similar to localized local improvement projects except that they have procedural differences due to the larger number of property owners affected. We did not focus on Local Improvement District projects in this audit because of the rarity of their occurrence. Development agreements also contain provisions that allow developers to recover costs of works that benefit privately owned properties.

It is difficult to encapsulate exactly what projects can qualify as "local improvements", given the fairly broad definition in the *Charter*; however, the term "improvement", along with the statement that improvement "work" includes the reconstruction or renewing of works, suggests that the intent of the service is to provide *additional* benefit to citizens over the basic infrastructure elements that would have already been installed in the area in question.

> **"Work"** means works or services which may be undertaken as local improvements under the *Charter* and includes the reconstruction or renewing of any such works.
> *- Local Improvement Regulation By-law No. 98/72, Section 2.1*

[1] *The City of Winnipeg Charter* Part 8, Division 5

There is a fairly detailed and lengthy process to initiate local improvements, and an array of steps that must be completed before the actual works are constructed. This process is outlined in more detail in **Appendix 2**, along with an optimal timeline of when all of the steps in the process should be completed. The key points to project initiation, or rejection, of an improvement project are that the project requires 60% of the affected property owners, as determined by property ownership percentage, to vote for the improvement to proceed. Conversely, once a local improvement has been publicly advertised, affected property owners will have at least 30 days to file a "Notice of Objection" containing signatures from 60% of the property owners, as determined by land ownership percentage, to cease the project from proceeding. If a project is successfully halted by way of the objection process, another petition for the same project cannot be made for a two-year period.[1] Once an improvement has been approved, the related department will issue a bid opportunity under the City's *Materials Management Policy* to construct the work.

In recent years, the local improvement process has been used to implement several unique yet beneficial projects. The Local Improvement District mechanism was utilized from 2006 to 2008 for the construction of improved infrastructure to service the Fairfield Park neighborhood. There have also been special agreements[2] made to initiate riverbank stabilization projects and the construction of downtown skywalk systems to facilitate pedestrian traffic in all weather conditions.

Taxes and Rates

After local improvement projects have been completed, the total costs of the projects will be analyzed and the taxes will be assessed. Taxes are billed to affected property owners based on the assessable frontage feet on their properties. There are two different methods of assessing the taxes. For all underground works, a static rate is used per frontage foot which was last updated in 2007. This was the first time the rate had been updated since 1982, more than twenty years before. For all above-ground work except lighting services, the costs of all identical project types for the year are pooled together to arrive at a uniform per-frontage-foot rate, which is then imposed on individual properties based on the number of assessable frontage feet for each property; lighting improvement rates are static, similar to underground works.

Local Improvements Organizational Structure

The organizational structure for the local improvements is compartmentalized. The service may be described as a "collaboration of efforts" between departments, rather than having one specific department that performs the entire process. Every project requires the involvement of the Assessment and Taxation Department, the City Clerk's Department, the Legal Services Department and, depending on the project, an agreement to be negotiated with a developer by the Planning, Property and Development Department, or the technical aspects to be overseen by the Public Works Department or Water and Waste Department.

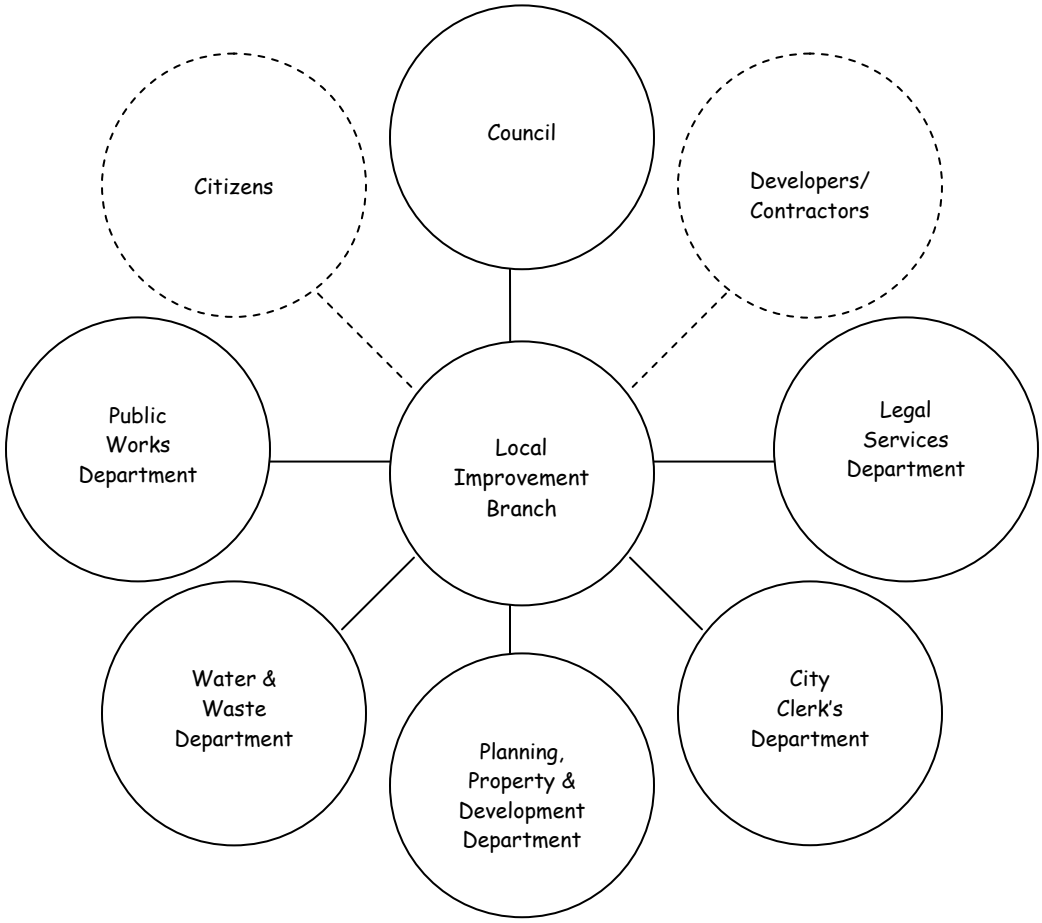
Management in the Local Improvements Branch of the Assessment and Taxation Department has described the Branch as being the "coordinating hub" that binds the process together but, in

[1] *The City of Winnipeg Charter*, Section 411(a)

[2] Special agreements are entered into with smaller community interest groups for projects with unique specifications, that are not within the parameters published in the *Local Improvement Regulation By-Law*.

actual fact, no one department has complete authority over the service as a whole. The Local Improvement Branch currently has one full-time equivalent senior clerk and one full-time equivalent clerk (class C) for the service. Time is also allocated from both the Manager of Taxation and Finance and the Supervisor of Finance and Administration from the Assessment and Taxation Department to carry out the service.

Local Improvement Stakeholders



We also analyzed the organizational structures of local improvement services in other metropolitan areas, based on information available on the websites of the cities of Calgary, Montreal, Toronto and Vancouver. There were two different forms that the service took in these cities. Two of the cities had one Local Improvement office that would handle citizen inquiries and the overall administration of the service. The other two cities divvied up the service to allow the most relevant department to handle the above ground or below ground project.

KEY RISKS FOR THE SERVICE

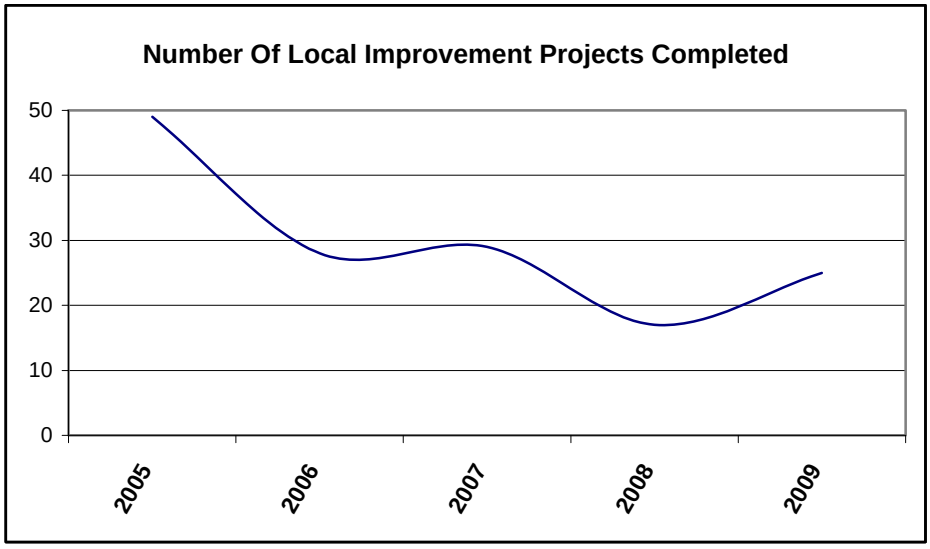
The *potential* key risks associated with the local improvement service include:

- rates charged to residents may not accurately reflect the costs of the projects completed;
- projects that do not meet the intent of local improvement legislation may be charged to citizens as "local improvements";
- development agreement processes may not provide sufficient information to citizens regarding local improvement projects;
- financial accounting may not be in accordance with relevant standards; and
- physical documents used for tracking the progress of local improvement projects may not be properly safeguarded.

TREND ANALYSIS 2005-2009

The construction of local improvements is a minor activity for the City of Winnipeg when compared to overall capital investments made on an annual basis. The total dollars added to capital assets annually through local improvements only makes up about 1 to 2% of the total capital budget or about $3 million annually, on average. Exhibit 1 illustrates that the Local Improvement Branch handles about twenty-five to thirty projects per year[1], although the number of projects completed can vary significantly in any given year. Oversight of the local improvement process is complex given that the involvement of multiple departments varies with the nature of the local improvement project approved. Coordinating the service requires the Assessment and Taxation Department to have an understanding in local improvement processes, development agreement language, City by-laws and Provincial legislation, to be able to perform the coordination role.

Exhibit 1: Project Load



Source: Local Improvement Assessment Sheet

[1] For measurement purposes, each specific type of improvement is counted as one individual project. For example, when a lane is paved, this represents one project and when a sewer is installed, this is a separate project, despite the fact that the sewer and the lane pavement may both affect the same stretch of roadway.

The Senior Local Improvement Clerk explained to us that the demand for local improvements is cyclical. In leaner years, such as the two most recent operating years, in which there has been a global recession, the demand for local improvements drops. Speculation on this is that property owners prefer to invest in home improvement that will directly affect the value of their homes, rather than indirectly through community infrastructure improvement. It is also important to note that while the number of projects completed in a year appeared to be declining overall, there were several large, long-term projects in progress at the end of 2009, including the construction of downtown skywalks ($8.7 million to February 2010) and riverbank stabilization projects ($540,000 to February 2010).

It is interesting that while the number of projects completed in 2009 rose over the prior year, the amount of capital invested declined, as shown in Exhibit 2. This was due to many smaller projects being completed in 2009, which did not significantly add to the capital asset base.

Exhibit 2: Financial Summary

Year	Projects	Capital Invested	Taxes Imposed		City Capital Budget	
2005	49	$ 4,060,240	$ 3,203,756	(79%)	$ 298,468,000	(1.36%)
2006	28	$ 6,241,949	$ 5,130,451	(82%)	$ 307,583,000	(2.03%)
2007	29	$ 4,339,368	$ 3,413,366	(79%)	$ 427,323,000	(1.02%)
2008	17	$ 1,004,582	$ 1,097,868	(109%)	$ 421,099,000	(0.24%)
2009	25	$ 511,998	$ 527,484	(103%)	$ 476,489,000	(0.11%)

Source: Local Improvement Costing Reports & City of Winnipeg Capital Budgets

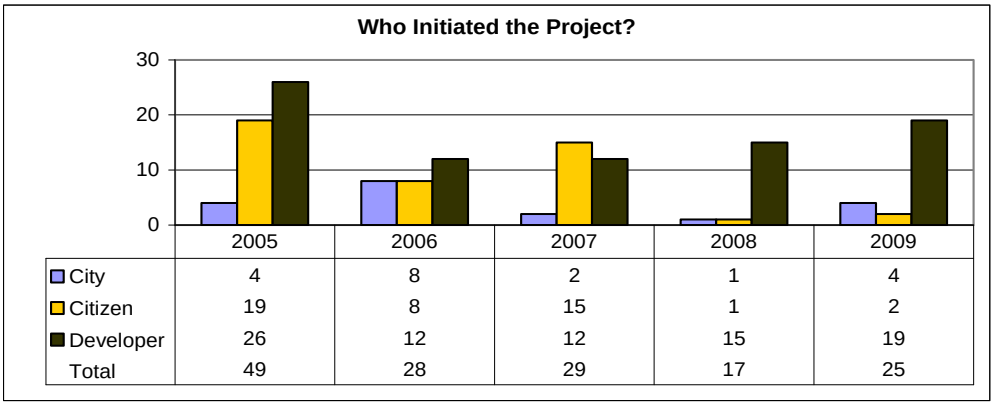
While the demand for improvements may be cyclical, the long-term trend is almost certainly that demand will continue to drop. As time passes, two factors affecting infrastructure construction will continue to emerge. First, minimum infrastructure requirements will continue to become more stringent as City engineers find new ways to increase infrastructure quality in order to reduce future maintenance costs. Second, the neighbourhoods in the city that require local improvements will continually decrease as more projects are completed, ultimately leading to fewer local improvement projects. This is similar to what is occurring at the City of Toronto. The Director of Development Engineering for the City of Toronto confirmed to us that local improvements were rarely used there.

Normally, the taxes imposed on projects will recover about 80% of the costs of the project because some of the land affected is within City owned right-of-ways, or is an otherwise exempt portion of property, and is not billed to property owners as dictated by *The Local Improvement Regulation By-Law*. Despite this, we did observe that the taxes imposed in the last two years surpassed the costs incurred for the total number of projects completed. The reason for this was that several of the underground works were completed in association with various development agreements. While the tax rates imposed for these improvements remained static, the funds that were reimbursed to the developers were limited to the developers' costs for constructing the improvements. The developers' costs proved to be less than what would have otherwise been paid if the City had contracted out the projects and resulted in a surplus of taxes assessed over reimbursements issued to the developer. We address this issue later in the report.

Many of the departmental stakeholders within the City believed that the most typical type of local improvement is a project that is proposed by a citizen, on behalf of a local neighbourhood.

During the course of our audit we found, however, that the most common type of local improvements processed are projects connected to development agreements. Citizen-initiated projects are the second most common and the least common type are City-initiated projects, which are generally completed in connection with local improvement districts and special agreements.

Exhibit 3: Project Origin



Source: Local Improvement Assessment Sheets

The Manager of Taxation and Finance for the Assessment and Taxation Department noted that citizen-initiated projects can take over three years to complete. In our analysis, we found that the majority of all improvement projects were completed within two years and that virtually all are completed within three years (see Exhibit 4). The spike in projects completed in over three years in 2007 coincides with the higher number of citizen-initiated projects completed in that year.

Exhibit 4: Project Leadtimes

Year Completed	Length of the Project					
	Under 2 Years		Under 3 Years		Over 3 Years	
2005	27	(55%)	46	(94%)	3	(6%)
2006	18	(64%)	23	(82%)	5	(18%)
2007	16	(55%)	18	(62%)	11	(38%)
2008	16	(94%)	16	(94%)	1	(6%)
2009	23	(92%)	24	(96%)	1	(4%)

Source: Local Improvement Assessment Sheet

Citizen-initiated projects generally take longer to complete for several reasons. First, citizen-initiated projects require the agreement of at least 60% of the affected owners, based on land ownership percentage; obtaining this agreement can be a lengthy process. Second, the coordination of several departments does add to the project delivery time, given that the tasks involved in approving the improvement must happen in a sequential order, and each department will place their assigned task in queue when they receive it. Third, proposed improvements must go to Council and its committees as part of the process of ensuring that residents are fully informed on the improvement and additional taxes. Also, unlike development projects where a developer will construct the local improvement, citizen-initiated projects require the City to engage contractors to construct the works. Lastly, short construction seasons and availability of contractors can increase the number of years required to complete projects.

Through our review of publicly available information in four Canadian cities, we found that the length of time for improvements can be an issue in other cities as well. The City of Vancouver, in fact, has specifically included information in its local improvements FAQ documentation as to why the process can take so long, noting that the coordination of departments is also a cause for delay in their city.

OBSERVATIONS AND RECOMMENDATIONS

The remainder of this report deals with our recommendations. We believe that the issues identified are important and implementing the recommendations will improve oversight over the local improvement service to ensure projects meet the intent of the *Charter*, as well as ensure a consistent approach to the calculation of rates associated with local improvements. A complete summary of our recommendations is attached as **Appendix 4**.

Are rates being properly assessed?

The *Charter* definition of local improvements mandates that taxes will be imposed on benefiting land in order to pay for the costs of the local improvements. City practice is to assess taxes to property owners based on the frontage feet for their properties. Currently, there are two different methods being used to calculate for frontage-foot rates: (1) rates determined for above-ground works, other than lighting services, and (2) rates determined for underground works and lighting services.

Above-Ground Works

The policy for rates paid for above-ground improvements, other than lighting services, is set out in the relevant sections of the *Local Improvement Regulation By-law* ("the *By-law*"). The standard language in the *By-law* under each type of above-ground work is that "the total cost of constructing [the improvement] shall be levied against the lots fronting [the improvement] at a uniform rate."[1] Estimated frontage rates for each type of improvement are provided on Public Works' website with the disclaimer that the rates are only estimates, and that property owners will pay the actual costs associated with the project. We note that this method can result in variations from the estimated rate to the actual rate charged. The actual rates charged to property owners are calculated by pooling the costs of all projects of the same type for the year that each project is completed, and dividing the total costs by the total assessable frontage feet for all similar projects. These rates are analyzed and adjusted at the end of each year and are used to levy taxes for the projects that have been completed in the year. The new rates and the current year cost experiences are also used to update the estimated rates available to the public on an annual or biennial basis. We found no issues with this method of calculation within the scope of our audit.

Lighting services rates are charged based on a static frontage rate according to the *By-law.* These rates were last updated in 2006. To maintain consistency with the process of calculating costs for other above-ground rates and to ensure that the rate is updated on a regular basis, the rate methodology for lighting services should be consistent with other above-ground works.

Recommendation 1
We recommend that the Assessment and Taxation Department work with the Public Works Department to recommend to Council that the *Local Improvement Regulation By-law* be amended so that the method of calculation for rates charged for lighting services be the same as those charged for other above-ground works.

[1] *The Local Improvement Regulation By-law*, Sections 3.1(ii), 3.2 and similar language in 6.3

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will work with the Public Works Department to bring forward the above noted recommendation to Council for consideration by the end of the first quarter 2011.

Underground Works

Contrary to the method used to calculate above-ground works, underground works use static rates that are also set out in the *By-law*. These rates stand in place until the *By-law* is amended. The most recent time these rates were adjusted in the *By-law* was in 2007; however, prior to that the rates had not been adjusted since 1982, more than twenty years before. The Water and Waste Department advised us that they would be updating the rates on a five year basis or sooner if market conditions warrant. When the rates were increased in 2007, the water main rate increased 122% (from $36 to $80 per frontage foot) and the wastewater sewer rate increased 163% (from $38 to $100 per frontage foot). For reference, the construction price index increased 130% for the time period of 1982 to 2007.[1]

The reason for the rate increase is clear; it was made to better reflect the costs of the projects. When analyzing the cost recovery on underground works completed in 2008 and 2009, however, we noted that the taxes assessed could vary significantly from the actual costs of the projects. In some cases, the taxes exceeded the actual project costs incurred by anywhere from a 20% to 75% margin. The explanation provided by Water and Waste for the surpluses was that these projects were constructed by developers. The development agreements state that when a local improvement tax is assessed in connection with the agreement, the developer will only be paid the lesser of the taxes assessed or the developer's costs associated with the project. The result is that when the developer's costs are less than the taxes assessed, the surplus is kept by the City. While the method of collection in this case is in line with rates in the *By-law*, it is not within the parameters of the *Charter* language, which only allows for the actual costs of the project to be collected via sections 406 and 418. By extension, the *Charter* does not intend that surpluses be collected through the tax rate. In these cases, the local improvement taxes imposed must reflect the actual cost of the project, as it is less than the static rate.

> The City may include the following in the cost of carrying out the local improvement: (a) all capital costs incurred for the purpose of the local improvement, including the cost of acquiring real property that Council considers necessary for the local improvement; (b) the cost of professional services needed to undertake the local improvement; (c) the amount required to repay any existing debt incurred for an earlier local improvement to be replaced or upgraded; (d) the costs of financing the local improvement; (e) other expenses incidental to the undertaking of the improvement or to the raising of revenue to pay for it.
>
> *- The City of Winnipeg Charter, Section 418*

In addition, we observed that for projects completed in 2008, the taxes imposed in five of the projects only recovered 20% to 40% of the actual project costs. After further analysis, we determined that four of these projects had lower recoveries because the approval by-laws for the projects had been passed before the rate was increased in 2007. We were also informed by

[1] Source: Statistics Canada Construction Price Index for Non-Residential Buildings. We note that there is no such index available for infrastructure works on Statistics Canada's website.

Water and Waste staff that, even though the fifth project charged the increased rate, it had a lower recovery because of the significant amount of exempt property as determined by the *By-law*.

Though we did find that each of these projects had legitimate reasons for lower recoveries, the costs associated with underground works can vary significantly. Water and Waste staff advised us that underground project costs can vary dramatically depending upon the size, scope and complexity of the project; therefore, it would be reasonable to conclude that in the future, actual project costs may significantly exceed the taxes imposed under the static rate, similar to the four cases observed in 2008. For projects where actual costs exceed the taxes imposed through the static rate, Water and Waste staff advised that the cost overages are funded out of the operating budget for the year. In other words, the general City of Winnipeg ratepayer subsidizes any local improvement project cost overruns through the water and waste utility rates.

Our interpretation of the *Charter* with respect to local improvements requires the citizens requesting the improvements to pay their proportionate costs associated with the project. The proportionate costs should not be subsidized by general utility ratepayers. Water and Waste staff has informed us that the current fixed rates are sufficient enough to recover the affected property owners' costs for the vast majority of projects. However, in projects where it is determined that the bid price will exceed the fixed rate estimate, the affected property owners should be notified of the cost increase prior to the start of construction. This can be achieved by issuing another notice of objection, which will allow the affected property owners to confirm their willingness to proceed at the higher cost (i.e. higher taxes).

Recommendation 2
We recommend that the Assessment and Taxation Department work with the Water and Waste Department to recommend to Council that the *Local Improvement Regulation By-law* be amended so that the rate imposed to affected property owners benefiting from Water and Waste local improvement projects reflect their proportionate share of the actual costs of the project.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will work with the Water and Waste Department to recommend to Council that the Local Improvement Regulation By-law be amended so that the rate imposed on Water and Waste local improvement projects be the lesser of the rate stated in the By-law, which is the advertised rate, or the actual costs of the project. The rate in the Bylaw will be reviewed at least every five years or more frequently if market conditions warrant. The Assessment and Taxation Department will work with the Water and Waste Department to bring forward a report for Council's consideration that fully reviews the procedures for local improvement projects that exceed advertised costs. This report will be brought forward by the end of the first quarter of 2011.

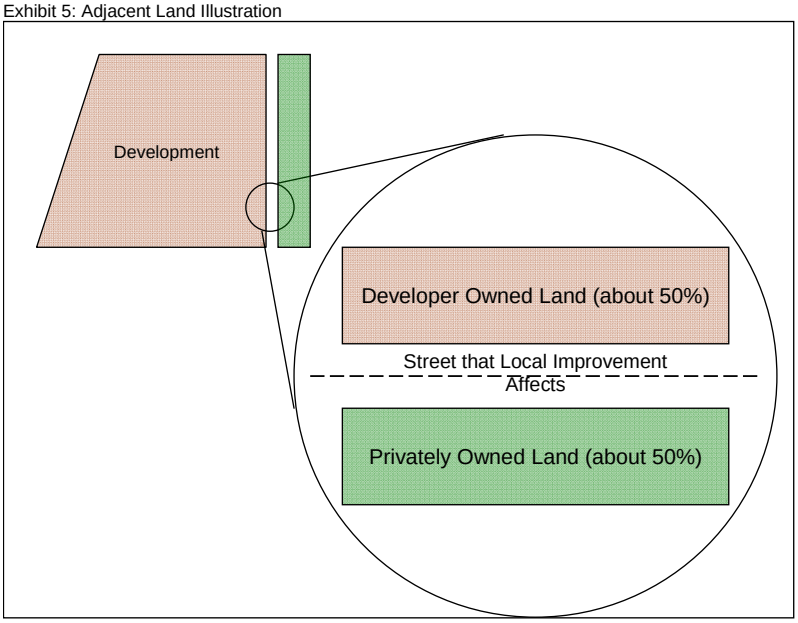
Are appropriate projects being categorized as local improvements?

We observed that a high proportion of local improvement projects were stemming from development agreements. This caused us to expand the scope of our audit to ensure we firmly understood this form. As noted in Exhibit 3, this is the most common type of local improvement performed; however, it has the least amount of public documentation associated with it.

Through our audit work, we found two distinct types of arrangements whereby developers could initiate the local improvement process. We were able to confirm with three other cities that they do not have similar abilities for developers to be paid back through the collection of local improvement taxes.

Type 1: The Development-Boundary Improvement

Exhibit 5: Adjacent Land Illustration



Under a typical development agreement, the developer is given the opportunity to initiate the local improvement tax process on privately-owned properties that border the development itself and have benefited from work completed by the developer. We discussed this scenario with the City's Legal Services Department to determine whether this arrangement should be considered as a "local improvement." They suggested that since the authorization by-laws for the projects are approved by Council, the local improvements are also approved by Council, thereby qualifying them as local improvements proposed by Council, in accordance with section 408 of the *Charter*.

> A local improvement may be proposed (a) by Council; or (b) by a petition signed by registered owners of at least 3/5 of the total real property that is to be benefited by the proposed local improvement.
>
> *- The City of Winnipeg Charter, Section 408*

As Exhibit 5 illustrates, there appears to be an inherent problem with respect to the normal local improvement process. In this scenario, the private property owners on the street will typically not own enough of the fronting land to successfully vote down the local improvement if they were opposed to it. Under the *Charter*, property owners can file an objection against the local improvement, but since the private owners will typically own 50% of the land, at most, the property owners will rarely ever have 60% (3/5) required to stop the improvement through the objection alone, regardless of the financial impact that it will have on their properties. We do note that that the percentage of private property owners' objections is shown in the reports given to the Community Committees. We also note that a clear emphasis is placed on the percentage of objections based on the total land ownership, including the developer's portion, in these same reports. Since the objection mechanism provided in the *Charter* is likely to fail in this scenario, the only way that property

> Where registered owners of at least 3/5 of the total real property that is to be benefited by a proposed local improvement object to the local improvement, the proposed local improvement must not be proceeded with.
>
> *- The City of Winnipeg Charter, Section 411*

owners will have a fair chance of articulating their objections to the improvement is by attending the Community Committee meetings that address the improvement. However, the *Charter* does not require that the letters of notice sent to property owners include the time and place of the next Community Committee meeting regarding the local improvement when the properties front the improvement. The letters of notice must include this information only in those cases where the tax has been assessed on properties that *do not* front the local improvement. The Senior Local Improvement Clerk informed us that he has made it his practice to include the time and place of the next Community Committee meeting in all letters of notice to affected property owners; however, this is a practice that could easily be lost in the event of staff rotation, retirement or turnover.

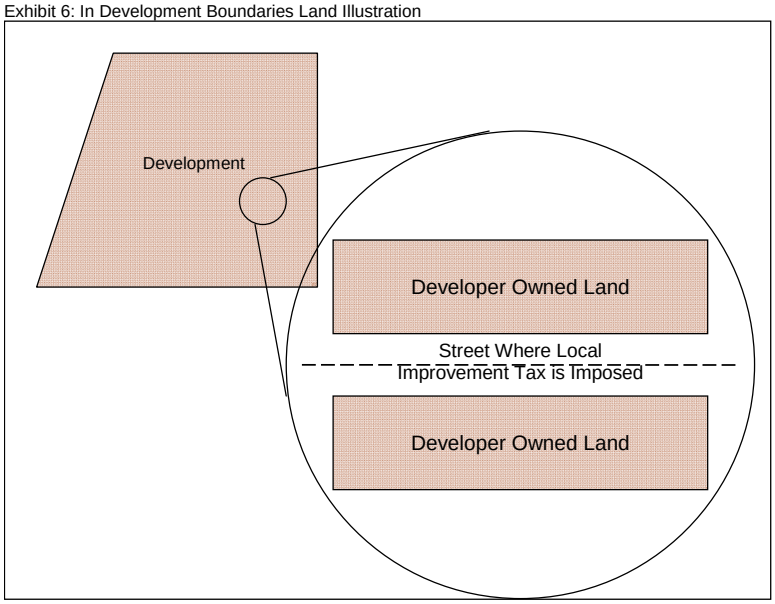
Recommendation 3
We recommend that Assessment & Taxation Department develop an amendment to the *Local Improvement Regulation By-Law* to include notification of the next Community Committee meeting in all the letters of notice to property owners as defined in section 409(3) of the *Charter*.

Management Response
Management concurs with this recommendation. As noted, the Department already has incorporated the process of notifying property owners of the next upcoming Community Committee meeting into the business process in dealing with local improvements. Solidifying this process within the By-Law will ensure that this is continued. The Assessment and Taxation Department will bring forward the above noted recommendation to Council for consideration by the end of the first quarter 2011.

<u>Type 2: The Inside-Development Local Improvement</u>

In the second arrangement where local improvements have been approved through development agreements, the affected properties are located entirely within a development itself. These properties are still 100% owned by the developer when the local improvement tax is proposed and then are subsequently sold to citizens that end up paying the local improvement taxes. A geographical illustration is shown in Exhibit 6.

Exhibit 6: In Development Boundaries Land Illustration



The following table shows the steps that went into executing the local improvement process on the installation of land drainage sewers in several developments under this type of arrangement. We note in the table that authorization by-laws are not being prepared for these specific local improvement taxes.

"Inside-Development" Local Improvement Process	
1	Developer has agreement that allows the developer to initiate a local improvement tax for the installation of land drainage sewers in subdivisions that he is constructing.*
2	The developer completes a phase of the development agreement and registers the subdivision with the Land Titles Office.
3	The developer requests the initiation of the local improvement tax in accordance with the agreement language.
4	The developer sells the subdivided lots to home-building companies or property owners.
5	The improvement tax is assessed and imposed on property owners in the next tax year.
*We observed 8 cases where this clause had been added to the agreement without obtaining Council approval. These cases are discussed later in the report.	

From our review of the project files, we were unable to ascertain the reason for this type of arrangement. We confirmed with the Land Development Administrator in the Planning, Property and Development Department that land drainage sewers are a basic infrastructure element for residential subdivisions, similar to roads, watermains and wastewater sewers; therefore, we questioned why this should be classified as a local improvement? We obtained a copy of an administrative report that explained that similar arrangements had been used for residential home developments twice in the past – both instances occurring in 1975 under agreements with one developer – but the arrangement had not been used again until 2002 with a different developer. In a 2002 letter, this second developer requested that the land drainage sewers for a development be classified as a local improvement, similar to the 1975 agreements. In this letter, the developer argued that enacting the tax would make the lots more affordable for young families, enable more families to qualify for mortgage loans, and reduce the size of the down payment required for these lots[1], which were located in a downtown infill subdivision. Council ultimately approved this request.

Since this initial request, the developer has continued to request the same local improvement clause in six of his subsequent development agreements between 2002 and 2006. The Land Development Administrator challenged a request by the developer in 2006 but the developer argued that precedent had been set, which caused the clause to remain in that agreement and also in subsequent development agreements. When we analyzed properties in the affected subdivision from the 2006 agreement that was challenged, we observed that the average assessed lot value (land only) was $110,000 and the average assessed total property value (including home) was just under $340,000. This price point does not appear to support the affordability for young families assertion previously made by the developer. The total value of the local improvement taxes assessed to date in this one development alone has exceeded $250,000, resulting in an average additional tax of $2,036 per property.

Similar to the development-boundary arrangements, we discussed with the Legal Services Department whether these "inside-development" arrangements should be considered as local improvements under the relevant sections of the *Charter*. A

> **"Local Improvement"** means a project intended to be paid for or maintained wholly or in part by local improvement taxes imposed on real property benefited… and includes projects carried out under a local improvement district.
>
> *- The City of Winnipeg Charter, Section 406*

[1] It's assumed that the letter intends to convey that the lots would be more affordable to buyers because the lot prices would be reduced if the tax is enacted; however, no mention of an reduction in lot prices is ever stated in the letter.

different lawyer has assumed responsibility for the development agreements portfolio since the last agreement amendment of this nature was approved. In discussions with staff from the Legal Services Department, they are of the view that this type of arrangement falls within the *Charter* definition of a local improvement. We agree with their legal assessment, given the current language in the *Charter*; however, we do not believe that these arrangements are consistent with the intent of the legislation defining the service. The lawyer now responsible for the development agreement portfolio agreed with this assessment and noted that he has not observed any further amendments of this nature to development agreements.

The first reason we do not believe these arrangements are consistent with the intent of the legislation has to do with consistency of application. For the development agreements in question, the installation of land drainage sewers is considered a local improvement; however, in the vast majority of all other residential development agreements these sewers are considered a minimum infrastructure requirement. Therefore, a local improvement tax should not apply. If we took the same logic a step further, then all basic infrastructure features, such as roads, watermains and wastewater sewers, could be viewed as a local improvement. Clearly, this is not the intent of the legislation.

The second reason has to do with the timing of the tax imposed. In other local improvement arrangements, the affected property owners have adequate opportunity to object to the tax. That is not the case in this scenario, where the local improvement tax is requested immediately after the registration of the subdivision with the Land Titles Office. At this time, the land is still 100% owned by the developer. The tax will not be levied on the properties until the next year's property tax billing, at which time the majority of the lots have been sold to third parties. Because the developer was the owner of all of the land when the tax was requested, no advertisement of the tax is made, in accordance with section 409(4) of the *Charter*. However, even if advertisement was made, there would be no owners that would oppose the tax because the developer still holds all of the land at that time. By the time the property is sold to the intended owners, the imposition of the tax has already been passed; so, there is not adequate opportunity for the property owners that are now obligated to pay the tax to voice their concerns about the tax. The only notification that the property owners will have that they are paying a local improvement tax is if their lawyers have specifically called the Senior Local Improvement Clerk, prior to purchasing the property, to ask if there is a local improvement tax pending on the property, or by a separate line item included on the subsequent tax bill with the description "Local Improvement Tax – Land Drainage Sewer."

> [The requirement to give notice of and to publicly advertise the improvement does] not apply to a local improvement proposed by a petition signed by all of the registered owners, other than the city, of the total real property to be benefited by it.
>
> - *The City of Winnipeg Charter, Section 409(4)*

We also question who the tax is benefiting? Under a citizen-initiated local improvement arrangement, the citizens who request the local improvement receive the benefit of an improvement in infrastructure in their neighbourhood. Under the arrangement in question the sole benefit of the tax goes to the developer because all of the local improvement taxes collected from the new property owners are remitted back to the developer (less a nominal administration fee kept by the City). Since the installation of basic infrastructure elements was already specifically required by the development agreement, there is no additional benefit provided to the new property owners. Further, there is absolutely no assurance that the cost of this infrastructure development has been factored out of the lot prices when the lots are sold by

the developer. We believe it is quite reasonable to assume that the final property owner may pay for the cost of the infrastructure elements twice: once in the lot price, and then again through the local improvement taxes imposed.

In the development process for a subdivision, a developer makes an application for subdivision to the City which is evaluated by the Administrative Coordinating Group ("ACG") for suitability. The ACG then prepares a report to the relevant committees of Council that will recommend whether to proceed with the subdivision and what elements will be included in the agreement with the developer. We noted several instances where the ability to levy local improvement taxes for land drainage sewers was included in development agreements, but was not included in the ACG's report to Council. In four of these cases, the agreement included a land drainage (local improvement) levy clause that was not mentioned in the original ACG report. In two other cases, City staff added the land drainage levy clause by way of amending letter agreements for the agreements without seeking Council approval. Also, in two other cases, amending letter agreements were submitted to the EPC (Executive Policy Committee) Adhoc Committee on Development Agreement Parameters for approval. The mandate for this committee is to work with the administration and the private sector to update the standards used in creating development agreements. We could not find any evidence that it had been delegated the authority to approve local improvement taxes through the amendment of specific development agreements.

We believe that amending agreements to authorize the imposition of additional taxes on property owners is a significant enough revision to require Council approval. We also believe that the imposition of these taxes warrants a report to Council when they are requested and note that full reports are not submitted with current tax imposition by-laws when they are enacted. Therefore, for these specific agreements, we can find no evidence that Council was properly informed about the enactment of local improvement taxes for land drainage facilities.

We do not believe these local improvements are consistent with the intent of the legislation. For these development agreements, the installation of land drainage sewers is considered a local improvement; however, the Land Development Administrator confirmed that these elements are considered as minimum infrastructure requirements in the vast majority of other residential development agreements. Therefore, we do not believe that a local improvement tax should apply. It is also not clear that Council has approved all of these local improvements. The Legal Services Department should review whether the imposition of local improvement taxes in these cases complies with *The City of Winnipeg Charter*.

Recommendation 4
We recommend that the Assessment and Taxation Department work with the Legal Services Department to review all cases where Council did not approve the authorization by-law to impose a local improvement tax to determine compliance with *The City of Winnipeg Charter*.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will work with the Legal Services Department to conduct this review by the end of the first quarter 2011. The results of this review will then be reviewed and discussed with the Planning, Property and Development Department.

Recommendation 5
We recommend that the Assessment and Taxation Department work with other city representatives to amend the *Local Improvement Regulation By-law* to state the exclusion of

imposing local improvement taxes for basic infrastructure installation that developers are already obligated to install in their development agreements.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will work with the Planning, Property and Development Department and with other departments to bring forward a recommendation to amend the *Local Improvement Regulation By-Law* by the end of the first quarter 2011.

Are projects being properly accounted for?

Local Improvement Tax Revenues

Currently, the City of Winnipeg's accounting policy for local improvement tax revenue is disclosed in a note to the City's Detailed Financial Statements. The note states: "the property owner's portion of the costs may be added to taxes over the length of the debt incurred by the City of Winnipeg ("the City") to cover the costs of the improvement or may be fully paid at anytime. Local improvement taxes which have been paid by the property owners are recognized as revenue in the year paid."[1] This illustrates that local improvement tax revenues are being accounted for on a cash basis, similar to property taxes– that is to say that only the current year's revenues and receivables are recorded at the beginning of the year on an annual basis. We believe that the City of Winnipeg should recognize in full the revenue associated with local improvements in the year the related tax imposition by-laws are passed. During the course of our audit work, we found an example where the Assessment and Taxation Department had fully accrued the revenue and receivable. A total of $7.1 million was fully accrued for one Local Improvement District project that was constructed between 2006 and 2008. While this treatment was inconsistent with the City's current accounting policy for Local Improvement Tax Revenue, we believe it was the correct accounting treatment.

Our conclusion is based on our interpretation of the following principles included in the Public Sector Accounting Board's ("PSAB") *Public Sector Accounting Handbook*:

<u>Economic Substance of Transaction</u>

"Transactions and events are accounted for and presented in a manner that conveys their substance rather than necessarily their legal or other form."[2]

While the *Charter* states that local improvement taxes are "deemed to be" the same as property taxes legally[3], local improvement taxes and property taxes are not of the same economic substance. Rather than being assessed for an annual provision of services like property taxes, local improvement taxes are special levies imposed for *specific* construction works created. If the construction did not take place, then the improvement taxes would not be imposed. Therefore, the events that give rise to the local improvement tax revenue are (1) the construction of the improvement itself and (2) the passing of the related imposition by-law.

[1] *The City of Winnipeg 2008 Detailed Financial Statements*, pg. 68, "Significant Accounting Policies Note 1(i)"
[2] *Public Sector Accounting Handbook Section PS 1000.29(a)*
[3] *The City of Winnipeg Charter*, Section 425

Accrual Basis of Accounting

The accrual basis of accounting requires that actual events occurring in connection with a financial transaction determine how it is accounted for, rather than the payment or receipt of cash alone.[1] Further, revenues should be recognized in the period that the events that gave rise to the revenues occurred, unless the revenues are not measurable, in which case they would be recognized on a cash basis.[2]

Although the City provides different cash payment options through the imposition by-laws (i.e. to pay for the improvement upfront in full, to pay off the balance of the taxes remaining at any time during the financing period, or simply to make payments on an annual basis), the full amount of the tax is measurable when the imposition by-law has been passed. This means that, since all of the revenue is measurable at the time that the imposition by-law is passed, a cash basis of recognition is not justified. Since all of the economic events that give rise to the local improvement taxes have occurred when the related imposition by-law is passed, this is also the point when the revenues should be recognized under PSAB guidance.

PSAB approved a new section of the handbook, PS 3510 – "Tax Revenue", in November, 2009. This section, which is not required to be adopted until fiscal years beginning on or after April 1, 2012, gives further detailed guidance related to revenue recognition policies. We found that our conclusions are consistent with the new PSAB accounting section[3].

For the 175 local improvement projects currently with outstanding receivables – excluding the local improvement district project described above – we estimate that there is currently an understatement of $7.2 million in taxes receivable, which should be added to the City's accumulated surplus in the net financial assets portion of the consolidated statement of financial position.

Recommendation 6
We recommend that the Assessment and Taxation Department should recognize in full the revenue associated with local improvements in the year the related tax imposition by-laws are passed by Council and recognize the total amount receivable for projects that are complete and the tax imposition by-law has been passed by Council.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department together with the Corporate Finance Department will fully assess the appropriate accounting treatment for local improvement taxes in accordance with current and proposed public sector accounting standards. This review, and any adjustments required, will be performed for the year ended December 31, 2010.

Assets and Liabilities

In instances where developers construct the local improvements, the associated agreements require that reimbursing payments be made to the developers when the local improvement taxes are assessed. Either there will be a one-time, lump sum payment to the developer or payments will be made on an annual basis as the taxes are collected from property owners,

[1] *Public Sector Accounting Handbook Section PS 1000.59*
[2] *Public Sector Accounting Handbook Section PS 1200.077*
[3] For further detailed analysis, please see **Appendix 3**

depending on agreement language. Accounting for one-time, lump sum payments is handled by the accounting staff in Public Works (for above-ground projects) and Water and Waste (for underground projects). We found no problems with the accounting for this type of payment.

Accounting for the annual payment option is more involved than a one-time payback. During a re-organization of City functions in 2004, the Assessment and Taxation Department was allocated the responsibility for accounting for these annual developer payback payments. The accounting for these payments currently consists of two journal entries. In the first journal entry, the cash paid is expensed through the operating fund and, in the second journal entry, a capital asset is depreciated and the long-term debt account for the principal portion of the payment is also reduced.

When we asked about the accounts for the second journal entry, we found that no such capital assets or long-term debt amounts had ever been created to be able to reduce the balance. In other words, assets are being depreciated and liabilities reduced each year, despite the fact no opening amount had ever been recorded. From available information, we have estimated that the total capital assets and liabilities are understated by $2 million due to the current accounting treatment; however, our scope was limited to information available since the Local Improvement Branch took over the responsibility of accounting for these payments in 2004. Any impact from prior to 2004 is unknown.

Recommendation 7
We recommend that capital assets and the long-term debt obligations to developers under agreement arrangements be accrued in full when the agreements are executed and that past long-term arrangements that are currently active be fully accrued.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will review existing long-term arrangements with developers and record any adjustments required (in comparison to those amounts already recorded) in accordance with public sector accounting standards. This review, and any adjustments required, will be performed for the year ended December 31, 2010.

Does the process have the proper governance structure?

The issues that we have identified above occurred in part because of the highly compartmentalized nature of the service. While each departmental representative in the process has an understanding of his or her own responsibilities no one person has authority over the entire process. This has allowed for projects to be put through that do not meet the intent of the local improvement legislation, for assessment rates to not be updated in over 20 years, and for some assets, liabilities and revenues not to be recorded.

The imposition by-law is the last point in the local improvements process to bring any relevant information regarding the projects to Council's attention. It is at this point that a quality review process should be implemented to ensure that the local improvements comply with legislation and the by-law and Council receives all relevant information before the by-law is passed. The Assessment and Taxation Department acts as the coordinating hub throughout the local improvement process and prepares the imposition by-law that moves forward to Council. A review of the job description for the Senior Local Improvement Clerk position, confirmed these

responsibilities and stated that the clerk "coordinates and manages all local improvement processes from initiation to assessment." Staff within the Assessment and Taxation Department must have a working knowledge of the legislation, development agreement parameters and language, rate calculation, accounting methods, and operation of the service. The addition of a quality review responsibility within the Assessment and Taxation Department will ensure that judgment is being exercised, and will provide value to the decision makers that the proposed project complies with the *Charter*.

Recommendation 8
We recommend that the Assessment and Taxation Department Director ensure that a quality review process is conducted on all local improvement projects prior to imposition of the associated by-law.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will first draft a quality review process (checklist) and will review this proposed checklist with all stakeholder departments by the end of the first quarter of 2011. Based on the feedback provided by the stakeholders, it is expected that the quality review checklist process will be refined and then implemented by the end of the second quarter in 2011.

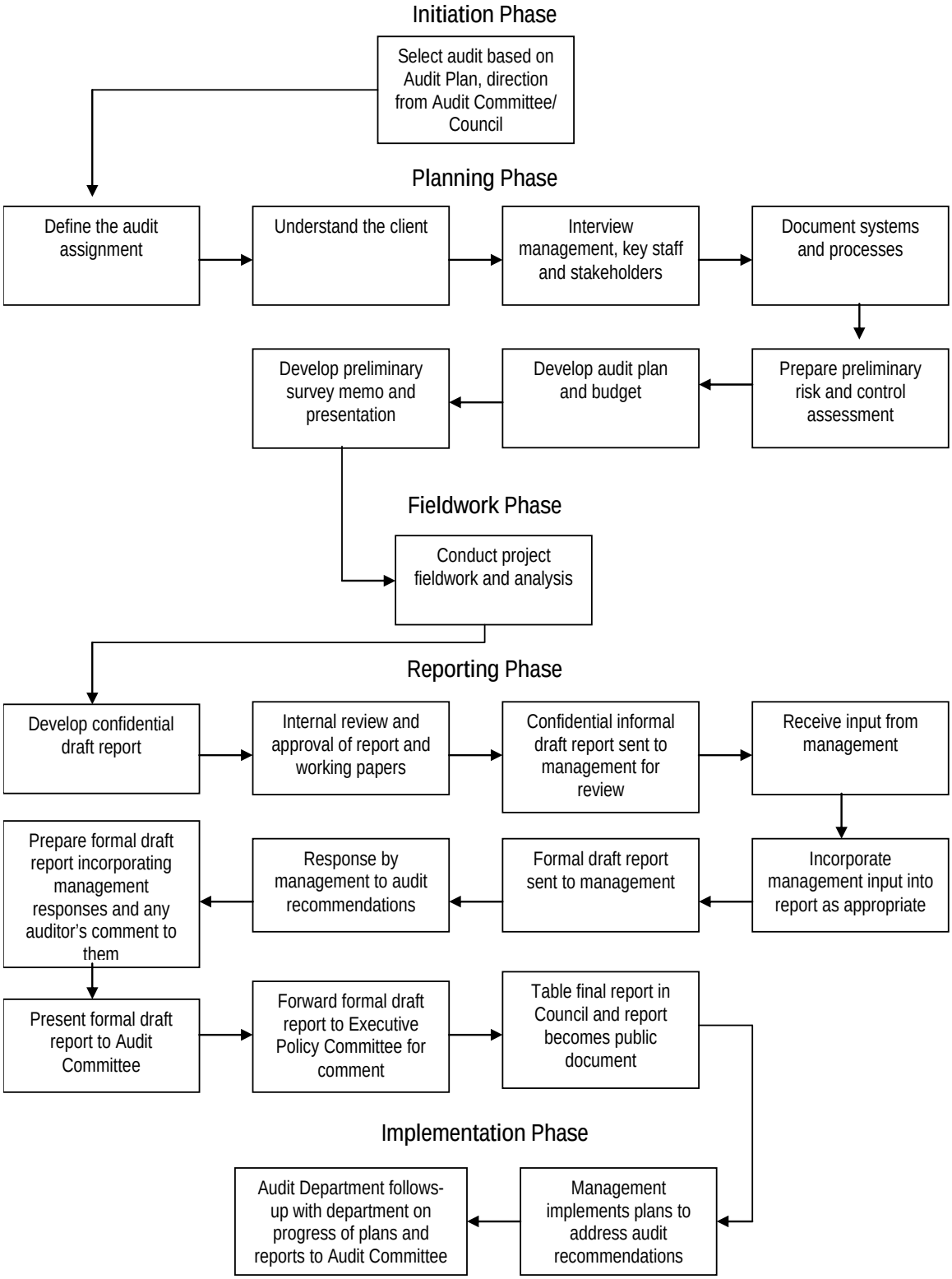
Is information properly protected?

Throughout the course of our fieldwork, we noted that the Senior Local Improvement Clerk would reference physical copies of documentation. It was explained to us that he quite often relies on physical copies of notes that can span as far back as twenty years, for which there is only one physical copy. The documents track the progress of development agreements, subdivision plotting and re-plotting information, and tax deferment notation related to areas where improvement taxes have been deferred until criteria are met to trigger the imposition of the taxes (such as land subdivision and sale). This physical documentation is maintained on giant maps and in various folders and cabinets, all on various types of paper. Any loss of this documentation could result in a complete loss of knowledge of when, what dollar value and under what criteria that improvement taxes should be imposed. We were informed by staff from the Geographic Interface Solutions Branch of the Corporate Support Services Department that the City has several options that may at least reduce the impact associated with the loss of current hard-copy records and eliminate the requirement for hard-copy records in the future.

Recommendation 9
We recommend that the Assessment and Taxation Department evaluate options to create electronic back-up records for all historic, current and future local improvement projects.

Management Response
Management concurs with this recommendation. The Assessment and Taxation Department will evaluate the options that are available to create a suitable cost-effective electronic system to provide a back-up for all local improvement projects by the end of the first quarter of 2011.

APPENDIX 1 - AUDIT PROCESS



APPENDIX 2 – TIMELINE FOR LOCAL IMPROVEMENT SERVICE

Local Improvement ("LI") Process Flow and Optimal Timeline

Citizen confers with relevant City department for an improvement. Department forwards improvement application to LI branch	Start
LI branch prepares a "Petition For" the improvement detailing property owners affected, property frontages and estimated per-frontage-foot rate for improvements	1 Month
Citizen has 90 days from receiving the petition to obtain signatures from the owners of at least 60% total land benefited and return to City Clerk	3 Months
The petition is forwarded to the Senior Local Improvement Clerk, who validates the petition signatures and reports the results to the relevant Community Committee for LI advertisement approval	1 – 2 Months
LI is advertised on the last Monday of March* in the local newspaper and notifying letters are sent by mail to all affected property owners on the same date (March)	1 – 11 Months
Property owners have 30 days to file a "Notice of Objection" containing signatures from the owners of 60% of land benefited to stop the improvement from proceeding further (April)	1 Month
LI is approved by Community Committee and forwarded on to the Standing Policy Committee on Infrastructure Renewal and Public Works for Approval (May)	1 Month
Standing Policy Committee approves LI and forwards it to Executive Policy Committee and Council for approval. The Authorization By-law is also created and forwarded to Executive Policy Committee and Council (June)	1 Month
Contractors are engaged through the City's *Materials Management Policy* process to complete the LI (July)	1 Month
Construction of LI is completed (August – October)	1 – 3 Months
Subtotal to End of Construction	11 – 25 Months
Tax Imposition By-law passed and owners assessed (February)	4 -6 Months
Total from Start to Assessment	15 – 31 Months

*A special advertisement may be made prior to the last Monday of March, provided that the party requesting the special advertisement pays for its inclusion in the local newspaper.

APPENDIX 3 – REVENUE RECOGNITION ANALYSIS

Before the approval of a tax revenue specific section in the Public Sector Accounting Handbook, guidance on tax revenues was limited to relevant portions of PS 1000 – "Financial Statement Concepts" and PS 1200 – "Financial Statement Presentation". These sections and our interpretation of their impact have been fully described in the body of our report.

In November 2009, the Public Sector Accounting Board approved section PS 3510 – "Tax Revenue" to be added to the *Public Sector Accounting Handbook*. This section gives more detailed guidance in regards to when tax revenues should be recognized. The section gives three main criteria and one lesser criteria to determine when revenue should be recognized. The following table outlines when taxes are recognized as revenue.

Tax Revenue Criteria[1]	When Criteria Is Met
1. Tax meets definition of an asset [receivable] under PS 1000.36: (i) embodies a future benefit that involves a capacity to provide future cash flows (ii) government controls access to the benefit (iii) transactions giving rise to control of benefit have occurred	Imposition By-law (By-law Payment Terms) (By-law Payment Terms) (Passing of the By-law)
2. Taxes are authorized	Imposition By-law (Passing of By-law)
3. The event giving rise to taxes has occurred	Construction of Improvement

To a lesser extent, the section goes on to say that taxes are not recognized as revenue if the government "is unlikely to collect it."[2] The collectability of local improvement taxes is assured for the City due to the fact they carry the same weight as all other property taxes[3] and the City may acquire the property through tax sale from the owner if those taxes are not paid.[4]

Under this new section, all revenue recognition criteria are met at the time that the tax imposition by-law is passed for the project; therefore the revenue should be recognized in full at that point. This is similar to our findings in relation to the prior accounting guidance given in PS 1000 and PS 1200, and is also valid when PS 3510 – "Tax Revenue" comes into full force for fiscal years beginning on or after April 1, 2012.

[1] *PSAB Handbook*, PS 3510.08
[2] *PSAB Handbook*, PS 3510.09
[3] *The City of Winnipeg Charter*, Section 425
[4] *The City of Winnipeg Charter*, Section 371

APPENDIX 4 – SUMMARY OF RECOMMENDATIONS

Recommendation 1:
We recommend that the Assessment and Taxation Department work with the Public Works Department to recommend to Council that the *Local Improvement Regulation By-law* be amended so that the method of calculation for rates charged for lighting services be the same as those charged for other above-ground works.

Recommendation 2:
We recommend that the Assessment and Taxation Department work with the Water and Waste Department to recommend to Council that the *Local Improvement Regulation By-law* be amended so that the rate imposed to affected property owners benefiting from Water and Waste local improvement projects reflect their proportionate share of the actual costs of the project.

Recommendation 3:
We recommend that Assessment & Taxation Department develop an amendment to the *Local Improvement Regulation By-Law* to include notification of the next Community Committee meeting in all the letters of notice to property owners as defined in section 409(3) of the *Charter*.

Recommendation 4:
We recommend that the Assessment and Taxation Department work with the Legal Services Department to review all cases where Council did not approve the authorization by-law to impose a local improvement tax to determine compliance with *The City of Winnipeg Charter*.

Recommendation 5:
We recommend that the Assessment and Taxation Department work with other city representatives to amend the *Local Improvement Regulation By-law* to state the exclusion of imposing local improvement taxes for basic infrastructure installation that developers are already obligated to install in their development agreements.

Recommendation 6:
We recommend that the Assessment and Taxation Department should recognize in full the revenue associated with local improvements in the year the related tax imposition by-laws are passed by Council and recognize the total amount receivable for projects that are complete and the tax imposition by-law has been passed by Council.

Recommendation 7:
We recommend that capital assets and the long-term debt obligations to developers under agreement arrangements be accrued in full when the agreements are executed and that past long-term arrangements that are currently active be fully accrued.

Recommendation 8:
We recommend that the Assessment and Taxation Department Director ensure that a quality review process is conducted on all local improvement projects prior to imposition of the associated by-law.

Recommendation 9:
We recommend that the Assessment and Taxation Department evaluate options to create electronic back-up records for all historic, current and future local improvement projects.