Minutes – Executive Policy Committee – October 31, 2012

REPORTS

Minute No. 426 Deferment of Local Improvement Taxes – 774 Bonner Avenue (North Kildonan Ward)

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 Attachment 1 be granted a deferment of the local improvement taxes imposed by By-law No. 45/2012 for a maximum period of five years only, or less if one of the following occurs:

    A. Registration of a plan of subdivision or re-subdivision 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 Director of Legal Services and City Solicitor prepare the deferment by-law.

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-law 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 implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

ADMINISTRATIVE REPORT

Title: DEFERMENT OF LOCAL IMPROVEMENT TAXES ON 774 BONNER AVENUE (ROLL NO. 04003432500) PURSUANT TO BY-LAW NO. 45/2012

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Cull Manager of Taxation and Finance	N. Karpa City Assessor	M. Ruta, CFO	D. Joshi, COO

RECOMMENDATIONS

1. That the property listed in Attachment 1 be granted a deferment of the local improvement taxes imposed by By-law 45/2012 for a maximum period of five years only, or less if one of the following occurs:

   (I) Registration of a plan of subdivision or re-subdivision 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-law.

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-law 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 implement the intent of the foregoing.

REASON FOR THE REPORT

Council approval and a by-law are required for deferment of local improvement taxes.

IMPLICATIONS OF THE RECOMMENDATIONS

FINANCIAL IMPLICATIONS

(x) Within approved Current and/or Capital Budget.

( ) Current and/or Capital Budget adjustment is 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 this property will be recorded as a receivable (asset).

HISTORY

On February 22, 2006, Council passed By-laws for imposition of local improvement taxes for local improvements in John Huyda Drive for the property located at 774 Bonner Avenue as follows in Chart 1:

CHART 1: 774 Bonner Avenue – roll no. 04003432500 – LI DEFERMENT

By-law No.	Improvement Type	Term	Cash Cost Amount	Annual LI Levy for 2006
35/2006	Wastewater Sewer	2006-25	$1,698.60	$ 160.47
38/2006	Land Drainage Sewer	2006-25	804.60	75.99
48/2006	Watermain	2006-15	1,609.20	226.63
55/2006	Concrete Street Pavement (25 foot x 6 inch)	2006-15	4,925.94	693.30
63/2006	Ornamental Street Lighting	2006-08	420.18	158.69
TOTAL			**$9,458.52**	**$1,315.08**

On February 21, 2007, the local improvements per Chart 1 were deferred by By-law No. 37/2007.

On February 21, 2012, the deferment of the local improvements authorized under By-law No. 37/2007 had ceased.

On February 22, 2012, Council enacted By-law No. 45/2012 to reactivate these same local improvements previously deferred by By-law No. 37/2007. See Chart 2 below.

On March 8, 2012, the Assessment and Taxation Department issued Local Improvement Cash Cost Statements advising the benefiting property owners of the cost of the local improvements and the options to pay.

On April 13, 2012, the 2012 Realty Tax Roll was completed and the charges for municipal tax, frontage levies and local improvement taxes were added to the roll.

On May 11, 2012, the annual property tax statement was mailed to David and Marie Scott with charges for the first year of the local improvement taxes totaling $1,235.51 for all of the improvements.

On June 6, 2012, David and Marie Scott re-applied for the deferment of the local improvement taxes.

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 in favor 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 (see Attachment 2).

The application for deferment of local improvement taxes made by David and Marie Scott meets the definitions and conditions of Council policy as the property is their principal residence which is situated on a "Double Frontage Lot" which has no immediate useable benefit to the owners of the property involved, and is subject to condition 2(b), as long as that and other qualifying conditions continue to exist (see Attachment 3 for an air photo and survey plan of 774 Bonner Ave).

The total annual local improvement taxes that the registered property owners are requesting to be deferred are $1,235.51, as shown in Chart 2 below.

CHART 2: 774 Bonner Avenue – roll no. 04003432500 – LI REACTIVATION

By-law No.	Improvement Type	Term	Cash Cost Amount	Annual LI Levy for 2012
45/2012	Wastewater Sewer	2012-31	$1,698.60	$ 154.22
45/2012	Land Drainage Sewer	2021-31	804.60	72.86
45/2012	Watermain	2012-21	1,609.20	210.98
45/2012	Concrete Street Pavement (25 foot x 6 inch)	2012-21	4,925.94	645.92
45/2012	Ornamental Street Lighting	2012-14	420.18	151.53
TOTAL			**$9,458.52**	**$1,235.51**

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 certificate of title. The cost for filing these notices is included in the Assessment and Taxation Department's annual operating budget.

FINANCIAL IMPACT

Financial Impact Statement **Date:** August 20, 2012

Project Name:

Deferment of Local Improvements on 774 Bonner Avenue (Roll No. 04003432500)

COMMENTS:

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

(Original Signed By)
Radhika Abeysekera
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

In preparing this report there was consultation with:

Internal

Legal Services Department (as to legal issues only)

External

SUBMITTED BY

Department: Assessment and Taxation
Division: Taxation and Finance
Prepared by: G. Wladyka, Senior Local Improvement Clerk
Date: August 20, 2012
File No. N/A

Attachment 1: Listing of Local Improvements for Deferment

Attachment 2: Air Photo & Survey Plan Location

Attachment 3: Definitions & Conditions for Deferment of Local Improvements

ATTACHMENT 1

Listing of Local Improvements for Deferment
774 Bonner Avenue
Roll No. 04003432500

Lot	Plan	Parish Lot	Local Improvement	Term	Tax Imp. By-law	Taxable Measurement (Feet)	Annual LI Tax	Cash Cost Amount
13	20285	43/46K	Wastewater Sewer	2012-2031	45/2012	44.70	$ 154.22	$1,698.60
13	20285	43/46K	Land Drainage Sewer – Laterals	2012-2031	45/2012	44.70	72.86	804.60
13	20285	43/46K	Water Main	2012-2021	45/2012	44.70	210.98	1,609.20
13	20285	43/46K	Concrete Street Pavement (25 feet x 6 inches)	2012-2021	45/2012	44.70	645.92	4,925.94
13	20285	43/46K	Ornamental Street Lighting	2012-2014	45/2012	44.70	151.53	420.18
						Total Annual Local Improvement Tax	**$1,235.51**	

ATTACHMENT 2

Definitions & Conditions for Deferment of Local Improvements

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

1. **Definitions:**

a) Local Improvements 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.

ATTACHMENT 2

Definitions & Conditions for Deferment of Local Improvements
(CONTINUED)

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 5 years or less if one of the following occurs:

(I) registration of a plan of subdivision or re-subdivision 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 tax is first imposed.

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.

ATTACHMENT 2

Definitions & Conditions for Deferment of Local Improvements
(CONTINUED)

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.

ATTACHMENT 3

774 Bonner Avenue – Air Photo & Survey Plan Location



