Report - Executive Policy Committee - May 7, 2003

Minute No. 410
Item No. 5 Reactivation of Levies for Local Improvements Deferred on 929 Shaftesbury Boulevard pursuant to By-law No. 7094/97 and 901 Shaftesbury Boulevard By-law No. 7095/97
File SL-3 (Vol. 15)

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the deferments for local improvements on Shaftesbury Boulevard authorized under By-law Nos. 7094/97 and 7095/97 cease, and that the appropriate assessments be reactivated with a requirement for payment to be made in either of the two methods outlined below:

Property	Improvement Type	Cash Payment	Term	Annual Levy
(1)	Land Drainage Sewer	$24,384.00	2002 - 2021	$2,410.10
(2)	Land Drainage Sewer	$ 7,680.00	2002 - 2021	$ 759.09

   a. The local improvement may be paid for at the prevailing cash cost up to and including the last day of the month subsequent to that during which the cash cost statement is mailed (immediately pursuant to the passing of the reactivating By-law).

   b. First levy(s) payable at par up to and including the last day of the month subsequent to that during which the tax statement is mailed (immediately pursuant to the passing of the reactivating By-law).

      The second and all the following levies will be scheduled to appear on the City's normal annual tax bills for the prescribed terms with the usual provisions for prepayment by commutation to apply.

2. That the foregoing reactivations be assessed against Part River Lot 16/17, St. Charles, C.T. 1481206 (929 Shaftesbury) and C.T. C18198 (901 Shaftesbury).

3. That the reactivation By-laws prepared by the City Solicitor be adopted by City Council.

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

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Murray,
That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2003, the Executive Policy Committee concurred in the administrative recommendation and submitted its recommendation to Council.

On April 23, 2003, the Executive Policy Committee laid over consideration of this matter for thirty (30) days.

On March 18, 2003, the Executive Policy Committee laid over consideration of this matter for thirty (30) days.

On February 19, 2003, the Executive Policy Committee laid over consideration of the matter to its meeting scheduled for March 19, 2003, and requested the Administration to provide a further report outlining the process to be followed.

Re: **REACTIVATION OF LEVIES FOR LOCAL IMPROVEMENTS DEFERRED ON 929 SHAFTESBURY BOULEVARD PURSUANT TO BY-LAW 7094/97 AND 901 SHAFTESBURY BOULEVARD, BY-LAW 7095/97**

For submission to: **Executive Policy Committee**

Submitted by: **Chief Financial Officer**

Report date: **February 11, 2003**

In camera item: ☐ Yes ☒ NO

Recommendations:

1. That the deferments for local improvements on Shaftesbury Boulevard authorized under By-laws 7094/97 and 7095/97 cease, and that the appropriate assessments be reactivated with a requirement for payment to be made in either of the two methods outlined below:

Property	Improvement Type	Cash Payment	Term	Annual Levy
(1)	Land Drainage Sewer	$24,384.00	2002 - 2021	$2,410.10
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   a. The local improvement may be paid for at the prevailing cash cost up to and including the last day of the month subsequent to that during which the cash cost statement is mailed (immediately pursuant to the passing of the reactivating By-law).

   b. First levy(s) payable at par up to and including the last day of the month subsequent to that during which the tax statement is mailed (immediately pursuant to the passing of the reactivating By-law).

      The second and all the following levies will be scheduled to appear on the City's normal annual tax bills for the prescribed terms with the usual provisions for prepayment by commutation to apply.

2. That the foregoing reactivations be assessed against Part River Lot 16/17, St. Charles, C.T. 1481206 (929 Shaftesbury) and C.T. C18198 (901 Shaftesbury).

3. That the reactivation By-laws prepared by the City Solicitor be adopted by City Council.

Report Summary

Key Issue(s):

- By-law 7094/97 – agricultural land granted the property owners a five (5) year deferment for payment of their Land Drainage Sewer Local Improvement deferred on 929 Shaftesbury Boulevard. The deferment period has expired on September 24, 2002.

- By-law 7095/97 – residential land granted the property owners a five (5) year deferment for payment of their Land Drainage Sewer Local Improvement deferred on 901 Shaftesbury Boulevard. The deferment period has expired on September 24, 2002.

- A formal appeal has been filed on both properties, which cannot be heard until after the Local Improvement is reactivated.

Implications of the Recommendation(s):

General Implications

	None
	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment: The reactivation by-laws will levy local improvement costs to the current owner, unless the owner is successful with the pending appeal or requests and is granted a further deferment.

Policy implications

X	No
	Yes

Comment:

Financial implications

X	Within approved current and/or capital budget
	Current and/or capital budget adjustment required

Comment: There are no financial implications.

Report

Re: Reactivation of levies for local improvements deferred (renewal) on the following two properties:

1. 929 Shaftesbury Boulevard, Deferred By-law 7094/97 - agricultural land

Realty Roll Number:	10003765500
Legal Description:	Part of River Lot 16/17 Parish of St. Charles
Owner:	Cherlee Investments Ltd. (H. Schlamp, Director)
Address:	901 Shaftesbury Blvd. Winnipeg, Manitoba R3P 0M5

2. 901 Shaftesbury Boulevard, Deferred By-law 7095/97 – residential land

Realty Roll Number:	10003765100
Legal Description:	Part of River Lot 16/17 Parish of St. Charles
Owner:	Harold G & June J Schlamp
Address:	901 Shaftesbury Blvd. Winnipeg, Manitoba R3P 0M5

Recommendations:

1. That the deferments for local improvements on Shaftesbury Boulevard authorized under By-laws 7094/97 and 7095/97 cease, and that the appropriate assessments be reactivated with a requirement for payment to be made in either of the two methods outlined below:

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   The second and all the following levies will be scheduled to appear on the City's normal annual tax bills for the prescribed terms with the usual provisions for prepayment by commutation to apply.

2. That the foregoing reactivations be assessed against Part River Lot 16/17, St. Charles, C.T. 1481206 (929 Shaftesbury) and C.T. C18198 (901 Shaftesbury).

3. That the reactivation By-laws prepared by the City Solicitor be adopted by City Council.

Reason for the Report:

The maximum five (5) year period granted by Deferment By-laws 7094/97 and 7095/97 has expired on September 24, 2002 and only Council can approve the reactivation By-laws.

History:

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

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

On April 7, 1997, Committee on Works and Operations designated Shaftesbury Boulevard as a Regional Street, therefore, the above ground improvements were done as "City at large", and the Land Drainage Sewer was constructed and assessed as a Local Improvement. The improvement was completed on October 25, 1996 and assessed on the 1997 Tax Bill.

On June 4, 1997, two deferment applications were received from Mr. Schlamp by the Local Improvements and Miscellaneous Revenue Division. Although both holdings did not meet all the conditions as stated in the deferment applications, the administration recommended deferral for the agricultural land and no deferral for the residential property. The decision to defer the agricultural land levy was based on the fact that the land receives little benefit from the Land Drainage Sewer due to significant variation in elevation between the land and the roadway. Deferral was not recommended for the

principal residence since it receives greater benefit from the Land Drainage Sewer in that a catch basin is located in Mr. Schlamp's driveway.

On July 4, 1997 the Committee on Finance and Administration recommended both properties for deferral to the Executive Policy Committee. The Executive Policy Committee concurred with the Committee on Finance and Administration and on July 23, 1997, Council adopted the Executive Policy Committee recommendations to defer the Local Improvements on both properties.

Discussions have been on going between Mr. Schlamp and the City regarding development of the property at 929 Shaftesbury Boulevard. At the June 19, 2002 Council Meeting an amended proposed plan for rezoning and development was approved. This plan has not been finalized and Mr. Schlamp has verbally advised that he will be submitting a new plan of subdivision.

On September 19, 2002 Mr. Schlamp filed a formal appeal of the Local Improvement levy for both properties.

Discussion:

Conditions set forth in Deferment By-laws 7094/97 (929 Shaftesbury Boulevard) and 7095/97 (901 Shaftesbury Boulevard) state:

1. "The deferment permitted under this By-law shall cease upon the occurrence of any of the following:

    a. Upon the fifth anniversary of passing of the By-law;

    b. There can be legal registration of a plan of subdivision affecting part or all of the property where deferment has been permitted;

    c. Where part or all of a property enjoying deferment is rezoned permitting a change in land use. The effective date upon which the special assessments shall become due and payable under this sub clause shall be the day the rezoning permitting a change of land use comes into force and effect under the appropriate by-law;

    d. Any other condition which, in the opinion of 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;

    e. Granting of a variance, allowing change in land use. The effective date upon which the special assessment shall become due and payable

under this sub-clause shall be the date of the variance order."

2. "When the lands herein become subject to special assessments as a result of cessation of deferment, such special assessment shall be levied against the said lands at the then prevailing rates and paid at the prevailing cash cost or amortized at the then current capital borrowing rates."

The fifth anniversary (clause 1(a)) granted by Deferment By-laws 7094/97 and 7095/97 expired on September 24, 2002. As such, Council is required to approve the necessary reactivation By-laws.

On September 19, 2002 Mr. Schlamp filed a formal appeal on both properties. In the opinion of the Legal Services Division both properties are appealable but the appeal cannot be heard until the Local Improvement is reactivated on both properties.

Further, the Planning, Property & Development Department has recently been advised that the property owners intend to file a new development application and may be requesting a further deferment of the Local Improvement charges should the appeal not be successful.

Financial Impact Statement:

Project Name: Reactivation of Levies for Local Improvements Deferred - 901& 929 Shaftesbury Blvd.

Date: February 11, 2003 First Year of Program **2003**

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required					
Less: Existing Budgeted Costs					
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus					
Other - Enter Description Here					
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs					
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts					
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

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

"original signed by Carrie Erickson"
Manager of Finance and Administration

In preparing this report, there was consultation with and concurrence by:

Planning, Property & Development Department
Legal Services Department

This Report Submitted By:

Department:	Corporate Finance Department
Division:	Taxation & Revenue
Prepared by:	Robert Weselowski
File No.	Schlamp Reactivation Rpt_4.doc