

IMPROVEMENT DISTRICT MANUAL

2012

Table of Contents

Introduction	4
Disclaimer	
Contact Information	
Publications	
Improvement Districts	
Regional Districts	
Improvement District Legislation Index	9
 Corporate Structure	
Letters Patent	10
Improvement District Boundary Amendments	
Trustees and Officers - Appointment, Selection, Duties and Responsibilities	
 Government and Procedure	
Bylaws and Resolutions	19
Elections	
Trustee Terms of Office and Eligibility	
Meetings - Regular, Annual General and Special	26
Annual General Meeting Checklist	
Standing and Select Committees	
 Powers and Services	
Fire Protection	31
Fire Department Administration and Operation	
Acquisition and Disposal of Real Property	
Expropriation	36
Statutory Rights-of-Way	
Landowner Consultation and Approval	
Guidelines for Obtaining Landowner Approval	
Referendum Guidelines	41
Alternative Approval Process	
Services	
Subdivision Servicing Requirements	45
Extended Services and Latecomer Payments	
 General	
Conflict of Interest	50
Document Retention	
Freedom of Information / Protection of Privacy	55

Insurance, Liability and Indemnification	
Strata Information	
Consultants & Contractors	60
Conversion	
Accounting	
Accounting	64
Accounting and Reporting Requirements	
Financial Statements	
Budgeting	
Investment Guidelines	
Borrowing	
Short-term (Temporary)	73
Long-term	
Cost Recovery	
Assessment and Taxation	75
Steps for Carrying Out Assessment and Taxation (Fire Protection and/or Street Lighting)	
Tax Sale	
Connection Charges	82
Capital Expenditure Charges	
Establishment	
Calculation and Justification	
Uses of Money in a Capital Expenditure Fund	
Miscellaneous Charges and Service Fees	91
Tolls (User Rates)	
Other Financial	
Planning for Capital Projects	
Renewal Reserve Funds	
Charitable Donations	
Metered Rates and Water/Drought Management	98
Forms, Notices and Samples Appendix	101

Purpose

This Manual has been prepared by the Ministry of Community, Sport and Cultural Development (Ministry) as a guide for improvement district employees, trustees, and others who have an interest in the administration and operation of improvement districts. The Manual contains general information on a wide variety of topics as well as sample documents.

The size of improvement districts, and the number of services they provide, varies considerably, as does the experience of improvement district staff and trustees. The Manual has been written so that only a limited knowledge of improvement districts is necessary to understand the information presented. Also, since the majority of improvement districts are responsible for operating water systems or fire departments, more emphasis has been placed on the administration and financial aspects of those services. The information has application to every improvement district, regardless of their size and the number or types of services they deliver.

The information in the Manual is meant only as a guide. Careful reference to the provisions of the *Local Government Act* and other applicable statutes should be made on all matters. References to provisions in the Act are references to the *Local Government Act* unless stated otherwise.

An electronic version of the Manual is available on the Ministry's website (www.cscd.gov.bc.ca/lgd/). Printed versions of this Manual or legislation including the *Local Government Act*, and the *Community Charter* are available from Crown Publications, Queens Printer for British Columbia at:

Crown Publications
Queen's Printer for British Columbia
PO Box 9452 Stn Prov Govt
563 Superior Street, Victoria, BC V8W 9V7
P: (250) 387-6409 or 1-800-663-6105 (toll free)
F: (250) 387-1120
Website: www.crownpub.bc.ca/

Copies of the legislation are also available at public libraries throughout B.C.

Disclaimer

The information contained in this Manual is provided as general reference and while all attempts have been made to ensure the accuracy of the material, the Manual is not a substitute for provincial legislation.

Please refer directly to the latest consolidation of provincial statutes at BC Laws (www.bclaws.ca) for specific improvement district provisions and requirements within the *Local Government Act*.

Contact Information

The Local Government Department of the Ministry provides advice about the system of local government in the province. In addition, the Department is responsible for reviewing applications from local governments and improvement districts where an approval is required by Cabinet, the Minister, or the Inspector of Municipalities.

Website: www.cscd.gov.bc.ca/lgd/
Location: 800 Johnson Street, Victoria

For information on the **financial operations** of improvement districts, contact the Local Government Infrastructure and Finance Division at:

Mailing Address: P.O. Box 9838, Stn. Prov. Govt.
Victoria, BC V8W 9T1
Phone: (250) 387-4060 Facsimile: (250) 356-1873

For information on the **administration** of improvement districts, contact the Advisory Services Branch of the Local Government Governance and Structure Division at:

Mailing Address: P.O. Box 9839, Stn. Prov. Govt.
Victoria, BC V8W 9T1
Phone: (250) 387-4020 Facsimile: (250) 387-7972

For information regarding boundary changes, contact the Structure Branch of the Local Government Governance and Structure Division at:

Mailing Address: P.O. Box 9839, Stn. Prov. Govt
Victoria, BC V8W 9T1
Phone: (250) 387-4019 Facsimile: (250) 387-7972

Enquiry BC is a provincial referral service connecting British Columbians to public servants in Ministries throughout the BC Public Service:

In Victoria call: 250-387-6121
In Vancouver call: 604-660-2421
Elsewhere in B.C. call: 1-800-663-7867
Outside British Columbia: 604-660-2421
E-mail address: EnquiryBC@gov.bc.ca
Hours of Operation: 7:30 a.m. to 5:00 p.m., Monday to Friday

Municipal and Regional District Information

Local government mailing address, telephone numbers, e-mail addresses and websites are available online through CivicInfoBC at: <http://www.civicinfo.bc.ca/11.asp>

Publications

The Ministry has developed a number of publications aimed at providing advice and direction to local governments. These publications can be found on the Ministry's web-site at <http://www.cscd.gov.bc.ca/lgd/>.

The Ministries of Health Services and Environment have developed publications which may be of interest to improvement districts. Please visit their respective web-sites, for the most up-to-date information (www2.gov.bc.ca).

The following publications may be of specific interest to improvement district elected officials and officers. They are on the Ministry website unless attributed to another Ministry.

- Bylaw Preparation Manual
- Improvement District Governance Policy
- Managing Changes to Local Government Structure
- Improvement District Trustee's Handbook
- Improvement District Conversion Guide
- Alternative Approval Process Guide
- Referendum Guide
- Well Protection Toolkit (Ministry of Environment)
- Design Guidelines for Rural Residential Community Water Systems (Ministry of Environment)
- Emergency Response Planning for Small Waterworks Systems (Ministry of Health Services)
- Guidelines for the Approval of Waterworks (Ministry of Health Services)
- Dealing with Drought Handbook (Ministry of Environment)

Improvement Districts

Incorporated between 1920 and 1995, improvement districts are autonomous special purpose public bodies similar to regional district service areas, responsible for providing one or more local services for the benefit of the residents in a community. They vary considerably in size, from small subdivisions to urban communities. Improvement districts are usually located in rural areas of the province where in the past there was no alternative form of local governance available, suitable, or desirable for the community. They are similar in structure to a municipality but are more informal and are assigned responsibility by the province to provide one or more services such as waterworks, fire protection or street lighting. There are over 200 improvement districts operating in the province.

Improvement districts are brought into existence by the provincial government through Cabinet Orders which authorized the passage of a document known as Letters Patent. The Letters Patent contain the name of the improvement district, its boundary and the service(s) that it can provide to the residents within its boundary.

Improvement districts are represented by an elected board of trustees, one of whom has the additional duty of chair. Each trustee is elected for a three-year term by the eligible landowners of the improvement district. To be eligible to vote, or to be a candidate for trustee, a person must be eighteen years of age, a Canadian citizen, an owner of land in the improvement district and a B.C. resident for the previous six months.

The improvement district's Letters Patent, applicable sections of the *Local Government Act*, and other applicable provincial statutes outline the powers that can be exercised by the board of trustees. These powers include the ability to enact and enforce its regulations and charges, to assess and collect taxes, to acquire, hold and dispose of lands, to borrow money and to expropriate lands required to carry out its objects. The board of trustees exercises these powers through the passage of resolutions and bylaws.

Although improvement districts are independent public corporations, they are subject to supervision in some respects by the Ministry. Each year the improvement district's audited financial statements and the minutes of its annual general meeting are reviewed and filed with the Ministry. Prior to January, 2009, any bylaw enacted by a board of trustees did not come into effect until it was registered with the Inspector of Municipalities. The legislation was changed at that time to allow some specific types of bylaw to come into effect as soon as they are enacted by the board of trustees. A list of these bylaw types is contained in Section B. However, even a bylaw of this type must still be filed with the Inspector.

Ministry staff are available to provide advice and direction to those involved with improvement districts. For further information regarding improvement districts or other local government options for administering services in rural areas, please contact the Ministry.

Regional Districts

Regional districts were created by provincial legislation enacted in 1965. B.C. is divided into 27 regional districts, which together cover the entire province, except for the sparsely populated Stikine region. Each regional district is governed by a board, consisting of both elected representatives from the rural areas as well as appointed representatives from the municipalities within its boundary.

Regional districts provide governance and services which vary according to community needs. These services may include those usually found in urban areas such as: water supply and distribution; sewage treatment and disposal; fire protection; and, street lighting. Additionally, they may administer regional services such as recreation facilities; regional parks; libraries; garbage disposal; land-use planning; and, building inspection.

Every improvement district, except for one in the Stikine region, is located within the boundary of a regional district, yet each is independent of the other. Certain overlaps in jurisdiction, however, can and do occur. For example, regional districts can develop land-use plans to guide development to certain areas; however, the services needed to support that development may be the responsibility of an improvement district. Co-ordination between the two organizations is critical to ensure that expectations for development match the ability for services to be provided.

Regional districts are eligible to apply for a number of grant programs available from senior governments. They also have a broad range of financing options available through the Municipal Finance Authority (MFA). Advantages such as these and others, have encouraged some improvement districts to transfer responsibility for its services to the regional district. This is achieved by a provincial action to revoke the improvement district's Letters Patent and transfer its assets, liabilities and bylaws to the regional district. This process is undertaken when there is support for it from the regional district board, the improvement district board and the landowners.

Regional districts are the service delivery agency of choice in rural areas because they allow for the consolidation of land use and service decision-making under one authority, and they have greater administrative and financial resources.

The Ministry's policy states that it will not create new improvement districts and will not grant existing improvement districts responsibility for providing new services where there is a regional district capable of providing the services desired by the community. Other aspects of the Ministry's policy with regard to improvement districts and the background for developing the policy is outlined in the publication available online called the Improvement District Governance Policy.

For further information on regional districts, contact your regional district or the Ministry.

Improvement District Legislation – Index

Part 23 of the *Local Government Act* contains the majority of the provisions relating to improvement districts. The index below provides a listing of specific legislative references to improvement districts that are not contained in Part 23. It is for reference only and may not be complete. Please refer to the website: www.qp.gov.bc.ca/statreg/ for an electronic copy of the Act. For a paper copy of the Act, or other legislation, contact:

Crown Publications
Queen's Printer for British Columbia
PO Box 9452 Stn Prov Govt
563 Superior Street, Victoria, BC V8W 9V7
P: (250) 387-6409 or 1-800-663-6105 (toll free)
F: (250) 387-1120
Website: www.crownpub.bc.ca/

Local Government Act - Other Than Part 23

Certain other sections of the *Local Government Act* also apply to improvement districts:

- | | |
|-------|---|
| 8 | Request by a board of trustees for a vote on the incorporation of a new municipality |
| 14.2 | Transfer of improvement district reserve funds in relation to the establishment of a municipal local area service |
| 15 | Publication of improvement district Letters Patent |
| 287 | Immunity for improvement district officers |
| 287.2 | Indemnification against proceedings |
| 288 | Immunity against certain nuisance actions |
| 300 | Self insurance by local authorities |
| 420 | Registration of purchaser in a municipal tax sale |
| 781 | Dissolution of community planning areas and improvement districts |
| 855 | Consultation with board of trustees in the development of a regional growth strategy |
| 856 | Facilitation of agreements during the development of a regional growth strategy |
| 863 | Regional growth strategy to be provided to improvement districts |
| 868 | Improvement district bylaws, services and works to conform with regional growth strategy |
| 879 | Regional district to consult with improvement districts during OCP development |
| 884 | All improvement district bylaws and works to be consistent with regional district official community plans |
| 938 | Subdivision servicing requirements |

Corporate Structure

Letters Patent

Improvement districts are brought into existence by the province through Cabinet Orders that incorporate them through the issuance of a document called Letters Patent. The Letters Patent contain important provisions such as the name of the improvement district; its boundary, and the service(s) that it can provide to the residents within its boundary. Every improvement district must have a copy of its Letters Patent and all amendments so they can be referenced by the trustees, staff and landowners. Copies of Letters Patent and their amendments are also available from the Ministry.

There are circumstances when the board of trustees may wish to have provisions in the improvement district's Letters Patent changed. The most common change is to the improvement district boundary description. Usually this is done to include additional parcels of land where the owners wish to receive the service(s) provided by the improvement district.

The legislation does not require landowner approval for changes that are made to Letters Patent, other than boundary changes, which require support of the majority of the properties being taken into or removed from the boundary. However, the Minister or Cabinet may want assurances that the trustees have broad landowner support before they will consider the change.

The Ministry processes all proposed changes to Letters Patent. Therefore, if trustees are considering changes to the Letters Patent, it is recommended they contact the Ministry for further information on the process. More detailed information on the process of boundary amendment is contained in the next section.

On occasion, there is a desire to have the responsibility for improvement district services transferred to a municipality or a regional district. Where this occurs, a Cabinet Order is used to revoke the Letters Patent for the improvement district and transfer its assets and liabilities to the other local government. The bylaws of the improvement district are continued as bylaws of the municipality or regional district and can be amended or repealed. There are many implications for transferring services from an improvement district to a local government and further information about the implications and the transfer process is covered in the section titled Conversion later in the Manual. More detailed information about the implications and the process is available in the publication called the *Improvement District Conversion Guide*, which is available online.

Improvement District Boundary Amendments

The boundary description for an improvement district is located in its Letters Patent. The boundary of an improvement district marks the geographic limit within which the improvement district can deliver its service(s) and exercise its powers. An improvement district cannot deliver, charge for, or regulate services outside of its boundaries. The only exception to this rule is for an improvement district that provides a fire protection service where, under certain circumstances, the service can be provided outside its boundary.

An improvement district boundary is defined in its Letters Patent by listing the legal descriptions of each parcel of land located within its geographic area, or by describing the boundary by following the legal descriptions of parcels located on the perimeter of its boundary (a process called metes and bounds), or by a map. In some cases, the boundary may follow geographic features such as riverbanks or shorelines. The boundary should never bi-sect a parcel of land.

An improvement district boundary must not overlap with another local government's jurisdiction where the same service(s) are being delivered as the improvement district's service(s). The reason for this is to avoid having two jurisdictions that have the authority to provide a service but who may have different standards and regulations. There should be no satellite areas that are separated from the main boundary by intervening lands which are not being serviced by the improvement district.

Improvement district boundaries are defined based on parcels of land where the owners signed a petition to join the improvement district in anticipation that they will receive the improvement districts service(s). There may be areas or parcels of land within an improvement district where its services are not currently being provided, but the service could be provided if the property owner were to submit an application for the service to the improvement district.

The improvement district boundary extension process is initiated when a landowner outside the boundary requests a service from an improvement district. The board of trustees cannot change the improvement district boundary. Any change to the Letters Patent, such as a boundary amendment, must be referred to the Ministry for consideration by the Minister and/or Cabinet. If there are properties where improvement district services cannot be provided because of geography or other conditions, the board of trustees may wish to consider asking the province to exclude the properties from the boundary. Information about the boundary amendment process is contained on the following pages.

Petition to Extend a Boundary

The board of trustees must be satisfied with the answers to the following questions before submitting an application to the Ministry for a boundary extension:

Can the property or area be serviced by the improvement district?

If an improvement district cannot currently supply its services to the area proposed for inclusion within the boundary then the area should not be included. If the improvement district is not certain about whether its services can be supplied to an area being proposed for inclusion, it could ask its staff to review the matter, or it contact with a company that can provide professional advice to the board. The board may ask the property owner who is seeking to receive services from the improvement district to finance the cost of the company's report unless the information has broader benefit to the rest of the improvement district.

Is the owner willing to pay the costs (if any) of joining the improvement district?

There is no "buy-in fee" for properties that join an improvement district; however, where an improvement district operates a water system, the usual connection costs will apply to a property once it is included within the boundary. These costs cannot be collected until the boundary extension is approved by the province because the improvement districts powers do not extend beyond its boundary. It is a good practice for the improvement district to provide the property owner wishing to have their property included within the improvement district's boundary with a list of the costs that will be applicable once the boundary extension is approved to avoid misunderstandings.

Where an improvement district operates a fire department, there are no direct costs for providing fire protection to the owner's property. However, an estimate can be provided to the property owner about the annual property tax that they can be expected to pay based on the taxable value of the property's lands and improvements. In addition, there may be a saving to the property owners fire insurance costs once their property is included within the improvement district.

Is the property or area already located within the boundary of a local government that is providing the same services as the improvement district?

The boundary for an improvement district must not overlap the jurisdiction of a local government that delivers the same service(s) as the improvement district delivers. This avoids the potential for conflicting regulations, standards and enforcement.

Is there a current application for the property or area to be subdivided?

Subdivision approval cannot be granted unless the owner of the property can show to the subdivision approving officer that there is an adequate source of potable water available to each parcel of land in the planned subdivision. If the improvement district is expected to supply the water, the subdivision approving officer will ask the board of trustees whether there is sufficient water to supply the property and whether the owner has satisfied the improvement district's requirements. If the parcel is located outside of a municipality, the subdivision approving officer is an employee of the Ministry of Transportation and Infrastructure. If the parcel is located within a municipality, the subdivision approving officer is an employee of the municipality.

If the area being proposed for inclusion within the improvement district's boundary is also proposed for subdivision, legal descriptions for the newly created lots are not assigned until the subdivision

approving officer has given their final approval and the new legal descriptions are registered in the offices of the Land Title and Survey Authority. These legal descriptions can then be used by the Ministry to describe the area being included within the improvement district boundary. However, if the improvement district finds that the subdivision approving officer will not approve the subdivision until the property is first included within its boundary, then the improvement district should contact the Ministry for direction as an alternative way to describe the area being proposed for inclusion within the boundary may be necessary.

Is the property or area located immediately adjacent to the current boundary?

The Ministry's policy is to avoid extending the boundary of improvement districts if it creates a 'satellite' area. A satellite is an area that is separated from the main boundary by intervening areas where the service(s) of the improvement district are not be delivered.

Have the property owners indicated their willingness to join the improvement district?

In the case of small boundary extensions (i.e. less than 30 parcels) individual petitions should be signed by the property owners for each parcel of land. In the case of larger boundary extensions, the Ministry may advise the improvement district to advertise the boundary extension, with the condition that if more than 50% of the property owners of the area of extension representing more than 50% of the parcels (or 50% of taxable assessed values in the case of fire protection districts) object to the proposal, they must hold a vote of those residents. Please contact the Ministry for further direction when considering a large boundary extension. In some instances the Ministry may refuse to consider a large boundary extension as indicated in its improvement district governance policy.

Once the board of trustees has received satisfactory answers to the above foregoing questions, the following information must be submitted to the Ministry:

- Evidence of consent by the owners of property in the proposed extension area. In most cases, this will be a petition signed by the owner(s) and endorsed by a majority of the trustees (see sample in the Forms Appendix). The petition must include the legal description of each parcel.
- A map or plan outlining the area being considered for inclusion. The map or plan should show the parcel(s) being considered for inclusion and enough of the surrounding area to demonstrate its context. If the area of extension is fairly large, and not all of the property owners have signed a petition in favour of inclusion, the map should also indicate those properties where petitions have been signed a petition.

The Ministry will review the application and if it is approved by the Minister and/or Cabinet, the boundary amendment documentation, including the Cabinet Order or Minister's Order and a map, will be sent by the Ministry to the improvement district and to all local and provincial government agencies that may be impacted such as the Land Title and Survey Authority. The same process is followed if the boundary is being reduced: provide a petition for exclusion and a map or plan.

Section 15 of the *Local Government Act* requires that following the issue of Letters Patent the improvement district must publish a copy of it in a local newspaper. Alternatively, a synopsis of the Letters Patent could be published together with a statement of where a copy may be examined. If a boundary description is set out in the synopsis, it must state where a map of the boundary description may be viewed. It is recommended that the Letters Patent or synopsis be published by the improvement district within one month of being notified of the approved boundary change.

Improvement districts that operate fire departments, or supply street lighting, and who use the province as assessor and collector for taxation purposes, should be aware that the properties being included within the boundary will not be taxed until the year following the extension. For improvement districts that operate water systems, taxes may only be collected if the boundary extension is approved in time for the properties to be placed on the current year's assessment roll and a tax notice can be sent to the owner prior to the tax due date. Tolls may be pro-rated once the properties are connected to the water system.

Trustees and Officers – Appointment, Selection, Duties and Responsibilities

Trustees

All decisions made by the board of trustees that affect the services provided by the improvement district to its residents are decided by a vote by the majority of trustees attending a meeting. Each trustee has a single vote and therefore, one trustee cannot commit the district to any particular course of action, not even the chair. Since the powers of trustee are collective, rather than individual, this means that a trustee negotiating an agreement or contract on behalf of the district cannot make a commitment until the rest of the trustees have had the opportunity to review and vote on the matter.

Trustees are expected to act in the best interest of the community and are accountable for their decisions to the residents. Trustees must not use their position to benefit personally or they may be accused and/or convicted of being in a conflict of interest. Further information on this topic can be found later in this section.

Trustees should try to attend every meeting. A meeting can only be held, and decisions made, as long as a quorum (a majority of the trustees) is present. If a trustee is unable to attend meetings for an extended period of time they should consider resigning their position so that another person can be elected to fill the position. It is not possible for the other trustees, the landowners, or any other person, to remove a trustee from office because of poor attendance or for any other reason.

The duties of a trustee are assigned under the *Local Government Act* and cannot be delegated to anyone else. The duties include:

- electing one of themselves as chair at the first meeting in each year and at the first meeting after a vacancy occurs in the office of the chair (section 738);

- appointing and dismissing officers or employees and deciding the terms and conditions of their employment (section 738.4);
- passing bylaws and resolutions to exercise any of the powers granted to the trustees (section 746);
- sending a tax notice to every owner of land with sufficient information on assessment to show how the taxes were calculated (section 758);
- appointing three of themselves, or other persons, to constitute the Court of Revision to revise the assessment roll and consider complains about assessment (section 754);
- fixing the date, time and place for a tax sale if a property has taxes that are more than 24 months in arrears (section 762);
- calling a meeting of the landowners once a year within the period stipulated in the improvement district's Letters Patent and presenting them with the audited financial statement for the preceding calendar year (section 741); and
- furnishing the Inspector of Municipalities with a true copy of the audited financial statements by May 15 of each year (section 741.1).

The board can appoint a standing and select committees and further information about committees can be found later in this section.

There is no requirement for a trustee to disclose his or her financial holdings under the *Financial Disclosure Act* as is required for municipal and regional district elected officials.

The term of office for all trustees is three years unless they were elected to fill a position that became vacant before the end of the term. Any remuneration (honorarium) paid to the trustees must be decided at each year's annual general meeting by the landowners.

The qualifications to be a trustee are established in each improvement district's Letters Patent or, failing that, in section 737 of the Act. If, during their term, a trustee no longer meets the qualifications to be a trustee, the next step is dependent on the wording contained in the improvement district's Letters Patent. If the Letters Patent indicate that the qualifications must be in place for a person to be nominated for the position, but not to hold office, the trustee can complete their term. If the Letters Patent indicate that the qualifications must be met for a person to be nominated to and hold office, the trustee is disqualified and an election must be called within a reasonable period (60 days is recommended) to fill the vacancy.

Trustees acting in the course of their duties will not generally be liable for damages arising out of the decisions they make. Section 287 of the Act provides protection that limits their liability to certain actions such as gross negligence, malicious or wilful misconduct, dishonesty, libel or slander. Further information on this topic can be found in the section on insurance, liability and indemnification.

Chair

The chair is a required position as outlined in section 738 of the Act. The chair is first and foremost a trustee who is elected by the landowners at the annual general meeting. The trustees then elect one of themselves as chair at the first meeting in each year, or at the first meeting after the office of the chair becomes vacant. If the chair is absent from a meeting, the members present must appoint one of themselves as acting chair for the purposes of conducting that meeting.

The main duty of the chair is to preside at meetings of the trustees and as such, must be familiar with the rules governing meetings. These rules are adopted by the trustees in a meeting procedures bylaw and are commonly based on *Roberts Rules of Order* or Parliamentary procedure. A sample meeting procedures bylaw can be found in the Bylaw Preparation Manual. Where a question on procedure is raised, the chair has the power to decide points of order although the other trustees can appeal the decision.

The chair can loosely be compared to that of mayor in a municipality. All members of the board, including the chair, have one vote. However, the chair is often regarded as the person who sets the tone and direction for the improvement district.

The chair has the authority to call a meeting of the trustees (section 739). They may also prepare the agenda for each meeting, although this can be delegated to the corporate officer. After the minutes of the meeting have been adopted (usually the first order of business at the following meeting), the chair and corporate officer should sign them as being correct. The chair must sign every bylaw passed by the board (section 747(1)(b)) and they are customarily a co-signer with the corporate officer to any agreement, contract and financial account.

Financial Delegation

The board of trustees is ultimately responsible for the improvement district's finances. However, the financial officer or fire chief are often asked by the board to prepare annual budgets because of their intimate knowledge of the equipment, staffing needs and requirements of safety agencies, such as the Worker's Compensation Board. Final decisions on the budget are made by the board which needs to weigh the projections in the budget against the impact it will have on the services delivered to the landowners and their level of taxation.

A board of trustees can delegate its spending authority to improvement district employees (usually a corporate officer). The extent of that delegation depends on the purpose, the amount and the level of responsibility that the staff member has in the organization. Some boards allow staff to purchase supplies up to a maximum dollar amount as long as they are within the overall budget allocation for that purpose. This allows the board to concentrate on larger issues. The delegation of spending authority should have appropriate fiscal controls and should be authorized by resolution.

For example, if the board of trustees is asked to allocate funds to a volunteer fire fighter's association, they should have a clear idea as to the use of those funds unless they are willing to take

the risk that the money may be spent for purposes that the board may not support. To mitigate such circumstances, the board could request, for example, that the volunteer fire fighter association itemize the use of funds requested, or provide a budget.

Further information about the roles and duties of the chair and trustees can be found in the Improvement District Trustees Handbook which is available online.

Officers

The board of trustees must pass a bylaw to establish the corporate officer and financial officer positions that have responsibility for performing specific duties set out in the Act (section 738.1). Additional duties can be assigned to those officers by bylaw or by resolution. The board may wish to establish additional officer positions (such as a fire chief position) by bylaw.

The board of trustees has full discretion to choose an appropriate title for each of the officer positions such as manager, corporate officer, or administrator. The same person may be appointed to any number of the officer positions and it is quite common to appoint the same person as the corporate officer and the financial officer. A sample Officer's Position Establishment Bylaw can be found in the Bylaw Preparation Manual.

The duties listed below must be performed by the people assigned to the corporate officer positions although other duties can also be assigned by the board of trustees.

Corporate administration (section 738.2):

- preparing accurate meeting minutes and ensuring the safekeeping of minutes, bylaws and other improvement district business records;
- providing access to all improvement district business records as required by law or authorized by the board of trustees;
- signing and certifying copies of bylaws and other documents as required or requested;
- accepting, on behalf of the improvement district or the board of trustees, notices and documents given or provided to the improvement district or the board of trustees; and
- keeping the improvement district seal and having it affixed to documents as required.

Financial administration (section 738.3):

- receiving all money paid to the improvement district;
- keeping all funds and securities of the improvement district;
- expending and disbursing money in the manner authorized by the board of trustees;
- investing funds in investments (section 745(4));
- preparing, maintaining and keeping safe the accurate records and full accounts of the improvement district's financial affairs; and
- compiling and supplying information on the financial affairs of the improvement district required by the Inspector of Municipalities.

The board of trustees is not required to pass a bylaw to appoint an assessor or collector for the improvement district. However, the board of trustees needs to assign the assessor duties to the officer assigned responsibility for either corporate or financial administration. This can be done by resolution or in the Officer Position Establishment Bylaw.

The board of trustees should establish the terms and conditions of employment for each officer position in a contract or agreement (section 738.4). These employment contracts or agreements must be passed by a board resolution.

As long as there is reasonable notice, and taking into consideration the provisions of any contract or employment agreement, the board of trustees can terminate the appointment of an officer with a two-thirds vote of all the trustees (i.e. not just the trustees present at a meeting). If termination is for cause, a vote by a majority of trustees can be made without any period of notice. It is a good practice for a board of trustees to seek the advice of legal counsel when considering whether to terminate an officer or employee in order to avoid situations where the person dismissed files an application for wrongful dismissal.

A trustee should not be appointed to a corporate officer position as the duties of elected officials and officers are separate and distinct. It also increases the potential risk of liability for the improvement district and the individual. An improvement district that has a trustee performing the duties of a corporate officer is a good candidate for conversion to a local government.

Trustee and Employee Relationships

Trustees are not employees of the improvement district and should avoid undertaking any paid work on its behalf. Undertaking paid work increases the risk that the trustee is in a conflict of interest position and increases the improvement district's risk for liability if they are not a trained system operator. For instance, the Worker's Compensation Board may not cover a trustee who is injured while working on a water system.

The duties of trustees are distinctly different from the duties of employees. Trustees are elected and empowered to make policy decisions that impact the services that the improvement district provides to its citizens. Employees implement the decisions made by the board of trustees and provide expert advice to the board. A trustee who is involved in the day-to-day improvement district administration and operations of the improvement district blurs the lines separating the duties of elected officials and employees. This can lead to employees being given conflicting instructions by each trustee or create an environment of resentment because of the interference of elected officials in the duties that are assigned to the employees. A negative trustee/employee relationship creates unwanted tension and deflects discussions from the core issues facing the improvement district regarding its services. It may also lead to the resignation of employees, costly dismissals and difficulties hiring new employees.

Employees should recognize and accept decisions made by the board of trustees. Employees have a

responsibility to advise the board on the implications of their decisions, especially as they relate to legislative requirements; however, they should not enter into debate with trustees about issues at board meetings. Once a decision has been made by the board, it is the responsibility of employees to respect and implement the decision.

The following management tools may help to foster a positive relationship between elected officials and improvement district employees:

- current and inclusive job descriptions for all employees;
- clear lines of communication between the trustees and employees;
- regular performance planning and appraisals for employees;
- policies controlling access by trustees to improvement district buildings and other facilities except in emergencies;
- information packages and/or training sessions for newly elected trustees covering legislation; improvement district bylaws, policies, and current issues;
- a policy regarding the hours during which trustees can contact employees;
- a policy that encourages training opportunities for employees;
- a policy that all information is provided equally to each trustee;
- direction that trustees and staff should not issue public statements purporting to reflect the board's opinion without prior approval by the board;
- the adoption of ethical behaviour standards;
- strategic plans that outline key goals and objectives of the improvement district; and
- an appropriate system of fiscal control.

Government and Procedure

Bylaws and Resolutions

Section 746 of the Act states that improvement district matters are decided when a board of trustees passes a bylaw or a resolution. Both are similar, in that they record a decision made by a majority of the trustees at a properly convened meeting; however, resolutions are effective immediately upon passage, whereas certain bylaws must be registered with the Inspector of Municipalities before they become effective.

Resolutions

The format for a resolution is less structured than for a bylaw. A sample resolution has been provided in the Forms, Notices and Samples Appendix. All resolutions should be numbered and kept on hand in a register or binder for easy reference. If a bylaw is not required to be passed in relation to a matter, the board must pass a resolution in order to record its decision.

Bylaws

Bylaws are legal documents containing provisions supported by a majority of the trustees at a properly convened meeting. The circumstances under which bylaws may or must be passed are outlined mainly in section 746 of the Act. For example, a bylaw is required in order to levy taxes, collect fees, regulate the services delivered by the improvement district and to borrow money.

Certain types of bylaws do not come into force until they are registered with the Inspector of Municipalities, who may refuse to register a bylaw or take any other action considered in the interest of the improvement district or the province. These bylaws include such matters as borrowing and establishing capital expenditure charges, taxation and regulations. Other types of bylaws are effective immediately on passage by the trustees, although it is still necessary to file these bylaws with the Inspector of Municipalities.

Bylaws That Require Registration with the Inspector of Municipalities	Bylaws That Must Be Filed with the Inspector of Municipalities
Taxation	Tolls
Meeting Procedures	Agreements
Capital Expenditure Charge Establishment	Capital Expenditure Charge Disbursement
Indemnification	Renewal Reserve Establish/Disbursement
Latecomer Agreements	Assessment
Borrowing	Connection Charge
Regulation	Officer Position Establishment
Fire Department Operation/Regulation	Miscellaneous Charge

The corporate officer of each improvement district prepares bylaws on the direction of the board of

trustees. In order to ensure the format of the bylaw meets the requirements of the legislation, a checklist has been prepared in order to assist with the preparation and submission of the bylaw for registration or filing with the inspector of Municipalities. The checklist is in the Forms, Notices and Samples Appendix. In addition, a separate guide has been created called the Improvement District Bylaw Preparation Manual that has more detailed information for drafting bylaws as well as sample bylaw formats.

Bylaws can be introduced and passed by a majority of the trustees at one meeting, or they can be introduced at one meeting and passed at another. Bylaw introduction starts by assigning it a number and drafting a brief synopsis of its intent. The wording of the bylaw can then be debated and changed by the board at any time before it is passed. However, once a bylaw comes into force, the wording of the bylaw can only be changed if the board passes another bylaw to amend the provisions of the first bylaw. A sample format for an amending bylaw can be found in the Bylaw Preparation Manual.

If a bylaw is introduced at a meeting but the trustees decide against passing it, they can rescind the introduction of the bylaw and then pass a new bylaw using the same number. If, once a bylaw comes into effect, the board later decides it does not need the bylaw or wants to replace it with a new one, they must repeal the original bylaw. This can be accomplished either by including a repeal clause in the body of the bylaw that replaces the original bylaw, or by passing a separate bylaw whose sole purpose is to repeal the original bylaw. A sample format for a repeal bylaw can be found in the Bylaw Preparation Manual.

Bylaws can only be passed at a legally convened meeting of the board. There is no requirement for any bylaws to be presented to the landowners at the annual general meeting, or for bylaws to be supported by a majority of the landowners except for borrowing bylaws where the Inspector of Municipalities will need evidence that the landowners support the borrowing bylaw. Depending on the circumstances, the approval of the electors will be required by holding referendum, an alternative approval process, or by holding a vote at a special general meeting. Ministry staff can advise which method of elector approval can be used.

Improvement districts do not have the ability to make the provisions in a bylaw retroactive. Bylaws are only effective on:

- the date that it is registered with the Inspector;
- on the date it is passed by the board of trustees if registration is not required, or;
- on a future date specified in the bylaw.

The Act requires that every bylaw adopted by the board must be signed by the person presiding at the meeting (Chair) and by the corporate officer. In addition, every bylaw passed must be sealed with the improvement district seal. A copy of every bylaw must be kept safe by the corporate officer even if the bylaw is no longer in effect. The original copy of bylaws should not be loaned out in case it is misplaced. A photocopy of a bylaw must be provided to landowners upon request along with

the payment of any photocopying charge.

Bylaw Registration Procedures

Unless otherwise stated, two copies of every bylaw passed by the board must be forwarded to the Ministry for registration with the Inspector of Municipalities. For those bylaws that must be filed with the Inspector, a single copy of the bylaw will suffice.

In addition to ensuring the proper number of copies is forwarded and that the format is correct, there must be sufficient supporting information submitted with the bylaw to enable Ministry staff to provide a summary of the bylaw's purpose and implications to the Inspector. This information could be outlined in a covering letter that is sent to the ministry along with the bylaw, by attaching a copy of the minutes of the meeting at which the bylaw was discussed and passed, or by enclosing copies of budgets, studies or reports that support the provisions in the bylaw. Certain bylaws, such as capital expenditure charge establishment bylaws, require specific information showing the calculations that were used to determine the amount of the capital expenditure charge.

Ministry staff review all bylaws requiring registration with the Inspector. When a bylaw is registered, it will be signed by the Inspector, the Inspector's seal will be affixed to the bylaw and a copy will be returned to the improvement district. One copy of each bylaw will be retained by the Ministry for safekeeping. Sufficient time should be allowed for mailing, reviewing and registering bylaws - in most cases, a one-month period. Submitting bylaws in the correct format, and with sufficient information to explain their purpose and implications, will ensure registration occurs in a timely manner.

Bylaw Enforcement

The enforcement of some bylaw provisions can be done by improvement district employees while the provisions in some bylaws may require enforcement by the courts.

Taxation and toll bylaws contain provisions that can be enforced by improvement districts employees. For example, toll bylaws generally provide authority for an improvement district to shut water off to a property where the owner has not met the deadline for paying tolls and sufficient notice is provided to the property owner. Further information about the penalties in tax, toll and other charging bylaws is provided in the Manual under those headings.

Section 759 of the Act states that every assessment made and every tax, toll or charge established by bylaw forms a lien on the land on which it is imposed. This lien has preference over any other claim, lien, privilege or encumbrance of any person, except for the Crown and municipal taxes previously accrued. The lien does not require registration at the offices of the Land Title and Survey Authority to be preserved.

An improvement district cannot have outstanding taxes, tolls or other charges added to the provincial tax roll and collected by the province. However, because they form a lien on the property,

the owner will always be responsible for the outstanding amount, even if the property is sold. In fact, the sale of the property is often the best opportunity to recover the amount owing as potential owners usually check with the improvement district to determine if there are any outstanding charges owing to the improvement district. The exception to this is when bankruptcy is involved. Further information on the effect of bankruptcy is contained in the Assessment and Taxation section.

An owner of land does not have to take immediate action to have a lien removed from their property. In cases where the improvement district may have to wait a long time before it will be able to collect the amount it has outstanding, they might want to consider applying to the courts for payment under the *Small Claims Act*.

If a person is found in contravention of an improvement district regulatory bylaw, the improvement district must give the alleged offender an opportunity to comply with the bylaw by sending the owner of the property written notice of the violation and citing the bylaw section contravened. The owner should be given a certain period of time to rectify the problem. The notice should be sent by double registered mail or be personally delivered.

If the property owner does not comply with the notice, an injunction can be sought to cease the activity or remedy the condition. Alternatively, steps could be taken to lay a charge under the provisions of the *Offence Act*. If a summary conviction is obtained, the maximum penalty that can be assigned by the court is six months in jail, a \$2,000 fine, or both.

Improvement districts do **not** have authority to levy fines and no bylaw should include such a provision.

Improvement districts contemplating legal action against a person in violation of their bylaws should obtain as much evidence of the incident as possible and document the matter by keeping notes of all conversations, observations and witnesses. The location of the offence, date and time will be important to the case. None of the options for enforcing bylaw provisions that involve the courts should be undertaken without a resolution of the board and the advice of legal counsel.

Elections

The Letters Patent for every improvement district contain provisions for the first election of trustees as well as subsequent elections. The majority of Letters Patent state the election is to take place at the annual general meeting, but a few of the larger improvement districts have provisions allowing them to hold the election on a separate date. Letters Patent may have additional restrictions on who is eligible to vote or to be a candidate.

A list of all property owners qualified to vote in the improvement district should be prepared for the election. This voters list may be based on the district's assessment roll, the provincial assessment roll, or other sources of information. There is a comprehensive set of election procedures contained

in the Forms, Notices and Samples Appendix.

Voter Eligibility

Persons entitled to vote at an election must be:

- a Canadian citizen;
- at least eighteen years of age;
- an owner of land in the improvement district; and
- a resident of the province for the previous six months, or legal representative of an owner of land in the improvement district who has died, become insolvent or insane.

In some cases, the Letters Patent for the improvement district may contain contrary provisions about voter eligibility. Some Letters Patent contain provisions restricting eligibility to persons who are 21 years of age or who are British subjects. These references were changed by Cabinet Orders passed in 1985 and 1987 so they no longer apply.

One vote is also allowed for each board or corporation that owns land within the improvement district. The board or corporation must designate one person to act as an authorized agent to vote on its behalf. This should be done in writing so the returning officer can verify their eligibility when voting.

If more than one person is registered on title as a landowner, each one can vote as long as they also meet the other qualifications. However, no person can have two votes unless they meet the qualifications to be an elector and are also an agent authorized to vote on behalf of a board or corporation.

Voting Procedures

One of the underlying principles of a democratic society is the right to choose community representatives in an open, fair and honest process. The only election provisions that are contained in legislation are the eligibility requirements to vote, notice requirements, the timeframe when the election is to be held, the place where the election is to be held (the annual general meeting) and the method for challenging an election. The board of trustees has discretion to decide all other election procedures.

Improvement districts that do not adopt election procedures that can be used for each election increase the risk that the inconsistent procedures will be used from one election to another and the possibility of election improprieties. Therefore, it is strongly recommended that every improvement district adopt basic election procedures that cover the following issues:

- **Officer Presiding at Elections**

The board must appoint a person to act as a returning officer who is not a trustee, a candidate, or a close relative of a candidate. A list of duties and responsibilities for the position should be established as well as the amount of any remuneration that is paid for

their services if it they are not an improvement district employee who is already assigned this responsibility in their contract with the improvement district. Where a large voter turnout is expected, provision may also be made for a deputy returning officer and/or poll clerks.

- **Nominations**

Procedures should be established for whether the nomination must be given in writing and when the nomination period closes. There are no requirements that nominations must be supported by an eligible elector. There is also no requirement that the person who is being nominated must be present at the time of the election, but it would be prudent to have evidence that the nominee has accepted their nomination. The returning officer must be provided with information to determine whether a candidate meets the eligibility requirements.

- **Scrutineers**

Scrutineers observe the election process to ensure that proper process is followed. Usually a candidate appoints one person to be their scrutineer. The person appointed must not be a trustee or a candidate. The scrutineer can be present while voting is occurring and at the final ballot count but they cannot participate in or interfere with the election procedures.

- **Voters List**

A list of electors is not required but it may speed the voting process. It also ensures that the number of ballots cast in an election equals the number of electors who were given a ballot. The list may also serve as evidence of who voted if the results of the election were to be challenged. Since it is difficult to produce a completely accurate voters list, landowners should have the opportunity to be added to the list of electors when they appear at the voting place.

The list of electors can be based on the assessment roll, billing records, or another source of information. If there is any question as to whether a person is eligible to be added to the voters list, the returning officer can ask that a person complete a solemn declaration that attests to their eligibility. A sample of a solemn declaration is in the Appendices.

Election procedures should outline whether electors are required to sign the voters list. Since the list contains personal information such as names and addresses, a copy should not be provided to individuals.

In the case of municipalities and regional districts, the legislation provides that one copy of the list of electors can be made available to each candidate. The candidates must sign a statement that they will not inspect the document or use the information in it except for the purposes of the election. If they use it for other reasons, the penalties include fines, imprisonment and a prohibition from voting or holding an elected local government office

for up to six years.

There are no similar penalties for improvement district elections. Therefore, if an improvement district adopted a policy in favour of providing candidates with a list of electors, there are no legislated penalties if a candidate uses the list of electors inappropriately. Therefore, it may be advisable for improvement districts to adopt election procedures prohibiting anyone from having a voters list other than the returning officer. However, the list should be available for viewing by the public so that they can advise the returning officer if they are aware of a person who has left the community or who has died.

If an improvement district chooses not to prepare a voters list prior to an election, an alternative is to use a poll book. The returning officer or election staff record the names and addresses of eligible electors in the poll book when they request a ballot provided that they produce evidence of their eligibility.

- **Voting**

Election procedures should require that voting be conducted using a secret ballot. Ballots are the critical evidence of the election results and should be protected from potential mishandling or tampering by placing them in a sealed ballot box. Election procedures adopted by the board should cover such things as the form of the ballot, how it must be marked, how and when they are to be counted and how they are to be kept safe until the statutory period for challenging elections (two weeks) has passed.

It should be noted that only persons attending the election, and meeting the eligibility requirements, are entitled to vote. Persons not attending the election in person cannot vote by proxy or by mail ballot.

- **Elections for Vacancies with Different Terms of Office**

Where a trustee position becomes vacant before the end of the term, an election is required to fill the vacancy in a by-election. If the vacancy occurs less than two months before the regular election, it could create a situation where there will be an election for two trustee positions at the annual general meeting with differing terms. Provision should be made in the election procedures for determining the process that will be followed in this circumstance.

It is recommended that a separate election be held for each trustee position. In other words, an election is first held for the position with the longest term. After the vote is decided another election is held for the position with the shorter term.

Trustee Terms of Office and Eligibility

Section 736 of the Act states that the powers of an improvement district are to be exercised and its

property is to be managed by trustees elected by the persons entitled to vote.

Terms of Office

All trustees are elected to a three-year term of office. An exception occurs when a trustee is elected to fill the remainder of the term for a position that became vacant before the end of a three-year term. A person cannot be appointed on an acting basis to fill the remainder of a trustee's term - all trustees must be elected to their position. Therefore, when a vacancy occurs in office due to the resignation, death, or disqualification of a trustee, an election should be held as soon as reasonably possible (60 days is recommended).

Trustees are usually elected at the annual general meeting unless the Letters Patent for the improvement district state otherwise. Their term is considered to begin at the annual general meeting at which they were elected and to end just prior to the annual general meeting three years later. The date for holding the annual general meeting can change from year to year as long as it falls within the timeframe established in the improvement district's Letters Patent. Therefore, a trustee's term should not be strictly interpreted as exactly three years from the anniversary date of their election.

Since the terms for trustees were staggered at the first election of trustees held following the incorporation of the improvement district, the terms for the trustees do not all expire in the same year. Depending on the number of trustees in an improvement district, only one or two positions will expire annually. This system provides some continuity on the board so that corporate knowledge can be passed on to new trustees.

Eligibility

Every person who is qualified to be an elector in an improvement district is also qualified to be a trustee. Voter eligibility is covered in the previous section and unlike the eligibility requirements for municipal and regional district offices; eligibility is restricted to landowners (and the other requirements for citizenship, residency and age).

Some improvement district Letters Patent may contain an exception to the rule that a trustee must also be eligible to be an elector. This provision is a holdover from the days when the *Veteran Lands Administration Act* did not allow spouses of veterans to be co-owners of lands administered under that Act. Since the spouse could never be a landowner, they were not eligible to vote or to be a trustee. Some improvement districts felt this was unfair and requested the province to include provisions in their Letters Patent to waive the eligibility requirements to be a trustee if a person was the spouse of an eligible voter. Since the provision in the *Veteran Lands Administration Act* is no longer in effect, the board may wish to approach the Ministry to have the Letters Patent changed to remove this provision since it allows a person to be a trustee who is not otherwise eligible to vote for trustees.

If a trustee sells their property in the improvement district and, is therefore no longer a landowner,

their eligibility to hold office may or may not change. In most instances, the trustee may remain in office but is not eligible to run again. Letters Patent may, or may not, contain a provision that says trustees must meet the eligibility requirements to hold office.

Sample election procedures can be found in the Appendices.

Meetings – Regular, Annual General and Special

Regular Board Meetings

Section 739 of the Act states the board must, by bylaw, make rules and regulations for the calling of meetings of the trustees and the transaction of business. Since every improvement district must hold meetings, the adoption of meeting procedures is crucial to ensure that they run smoothly. A sample meeting procedure bylaw can be found in the Bylaw Preparation Manual.

Government and Procedures

Some of the meeting procedures that must be included in a meeting procedure bylaw are stated in section 739 of the Act. For example, the bylaw must establish the procedures for giving advance public notice respecting the date, time and place of the annual general meeting. Also, the bylaw must outline the process for giving notice to each trustee for meetings of the board.

A meeting of the board cannot be held unless there is a quorum of trustees. A quorum is a term used to denote the minimum number of trustees that must be present in order to hold a meeting. If a meeting cannot be held, the improvement district cannot conduct its business. A quorum is always a majority of the trustees. For example, where a board of trustees consists of three trustees the quorum is two; where there are five trustees, a quorum is three trustees; and, where there are seven, a quorum is four trustees. If one or more trustees must leave a meeting so that there is no longer a quorum, the meeting ends.

Most meetings of the board are scheduled at regular intervals such as the first Monday of each month. The meeting procedure bylaw will clarify whether it the chair or the corporate officer (or both) who can give notice to each trustee of the board meetings and how that notice is to be given. For example, the board may decide in its meeting procedure bylaw to include a requirement that the notice must be given in writing (including email) a certain number of days in advance of a meeting. In anticipation that a meeting may have to be held in an emergency, the bylaw could also provide for the usual notice requirements to be waived where there is unanimous consent from all trustees.

The chair may call a meeting at any time, and is required to call a meeting if requested in writing by a majority of the trustees, or the Inspector of Municipalities.

It is a good practice for all board meetings to be open to the public. Persons other than members and officers may be excluded from a special meeting if, in the opinion of the board, the public interest so requires it. These meetings are known as “in camera”, or “closed”, meetings and should

only be used when discussing legal matters, property acquisition, or personnel issues. The board may wish to voluntarily adopt the rules set out in Section 90 of the *Community Charter* which states the circumstances where a municipal council or regional district board is allowed to close a meeting to the public.

The Office of the Ombudsperson has drafted a best practices guide for meetings of local governments that may be of interest to improvement districts. The guide is available online at: http://www.ombudsman.bc.ca/images/resources/reports/Special_Reports/Open_Meetings_Web.pdf

The chair presides at all meetings. If the chair is absent from a meeting, the trustees present must appoint one of themselves to act as chair for that meeting. As long as proper notice of the meeting has been given, there is a quorum, and there is a chair, the business of the improvement district can be conducted. If these conditions do not exist, then business cannot be conducted.

Trustees record their decisions and exercise their powers by voting on motions at board meetings. Landowners who attend board meetings cannot make motions or vote on them because they are not trustees. However, a trustee could decide to put an idea from a landowner forward as their own motion. The only exception to this rule is at the annual general meeting where the landowners decide how much remuneration (if any) is paid to the trustees for the upcoming year.

The public should be encouraged to address the board at its meetings in order for the board to be aware of questions or concerns from its citizens. It is a good practice for the board to allocate a place in its meeting agenda where residents can address the board directly. In order to be prepared for the issues to be discussed, some improvement districts restrict the speakers to those who have previously written to the improvement district with an outline of the topic they wish to discuss. To avoid lengthy meetings, some improvement districts limit the length of time or the number of times that a resident can speak. Others allow an open forum but whichever method is chosen, it should be included as part of the board's meeting procedures bylaw.

The minutes of all meetings convened by the trustees must be recorded, but the extent of the information recorded is determined by the board. For example, some districts only record motions and whether they passed or failed while others also record the discussion about the issue. The minutes of a meeting need to be brought to the next meeting for correction and then signed by the chair. The minutes then form a part of the historical record of the improvement district and must be kept safe by the corporate officer. Copies of meeting minutes can be made available to the trustees as well as to the public. The improvement district may charge the landowner to recover its costs for photocopying the minutes. Meetings where the public was excluded from a meeting cannot be provided to the public unless the board agrees to make it public.

Annual General Meetings

Every improvement district is required to hold an annual general meeting (AGM). The improvement

district's Letters Patent establish the time period for holding the meeting which is generally between January 1 and May 1. If the board were to hold the AGM outside of the period specified in the Letters Patent, anything that transpires at the meeting, such as the election of trustees, could be challenged. If the board has an important issue to raise at the AGM and the background for the issue will not be ready in time, then a special general meeting should be held at a later date to discuss that matter, rather than delaying the AGM.

Section 741 of the Act states that the AGM must be open to the general public - not just to the landowners. In addition, the Act requires that improvement districts give all landowners at least 14 days notice of the AGM in accordance with the procedures established in its meeting procedures bylaw. Generally, improvement districts give notice by advertising in a newspaper circulating within their community, by sending a notice by first class mail to the properties within its boundary, and/or by posting the notice in prominent places such as a community bulletin board.

The notice must set out the date, time, and place of the meeting. The board may also wish to consider the following suggestions for increasing public attendance:

- Advertise the notice in a size that is likely to be spotted;
- Include an agenda for the meeting in the notice;
- Locate the notice in the section of the paper that is read most often;
- Publish the notice in a community paper as well as a regional paper;
- Indicate whether a special guest has been invited to speak at the AGM;
- Publish the notice more than once (as long as the first notice is 14 days before the AGM); and
- Include in the notice the names of any nominees for the position(s) on the board that will be filled at the AGM (if they are known) as well as the eligibility requirement to vote.

The Letters Patent for each improvement district sets out the activities that must take place at the AGM. These activities are consistent between improvement districts and include the following:

- Provide the landowners a report on the conditions of the improvement district's works;
- Present the audited financial statements for the preceding year;
- Discuss with the landowners any matter relating to the works or finances of the improvement district;
- Have the landowners fix the remuneration of the trustees for the upcoming year; and,
- Elect trustees to the positions that are vacant.

Note that a vote from the landowners about the amount of remuneration (if any) that is to be paid to the trustees is binding on the board. The board may wish to be prepared by presenting a recommendation to the landowners about the amount of remuneration that they consider to be adequate for performing the duties of office.

Audited financial statements and all other financial information (budgets, capital expenditure

programs and statistical reports) must be submitted to the Inspector of Municipalities by May 15 each year. The AGM minutes and trustee list should be submitted to the Inspector as soon as they are completed after the AGM. Note that the minutes of the AGM can be certified as correct by the trustees at its first meeting following the AGM.

A checklist of items that need to be undertaken at the AGM and submitted afterwards to the Ministry is included in the next section.

Special General Meetings

The board may call a special general meeting at any time for any purpose. A special general meeting is often held to elect a trustee if a vacancy occurred on the board before the trustee's term of office expired. In addition, important matters are often discussed at a special general meeting such as major infrastructure projects that may substantially impact the finances of the improvement district and result in the levels of taxes and/or tolls being increased. If approved by the Ministry, a vote may be held for a borrowing bylaw at a special general meeting. Notice of the special general meeting must be given in the same manner as for the annual general meeting.

Annual General Meeting Checklist

Improvement districts must give notice of the date, time and place for holding the annual general meeting (AGM) at least 14 days prior to the meeting. The following checklist is provided to ensure improvement districts carry out all of the activities that they are required to perform at the AGM:

- ☐ Audited financial statements for the previous year are presented;
- ☐ A decision is reached by the landowners on the amount of remuneration that will be paid to the trustees for the following year;
- ☐ An election held for the trustee position(s) that is vacant or will expire at the meeting;
- ☐ A report on the condition of improvement district's works is presented; and
- ☐ Discussions are held about important matters such as rate increases, capital infrastructure projects or other issues.

The following items must be submitted to the Ministry following the annual general meeting:

- ☐ A copy of the annual general meeting minutes;
- ☐ A list of trustees with contact information;
- ☐ The audited financial statements for the previous year;
- ☐ A statistics report; and
- ☐ Any other information that the Inspector of Municipalities may require.

Standing and Select Committees

Section 740.1 allows a board of trustees to appoint a select or standing committee by resolution.

A select committee is established for a single purpose and once that purpose has been fulfilled, the committee ceases to exist. Select committees generally consider or inquire into a matter and then report its finding and a recommendation to the board. For example, a select committee may be established to review job applicants and to make a recommendation to the board of trustees that one of the applicants be hired. A select committee might also review bids submitted by contractors for a major construction project and then make a recommendation to the board of trustees that one of the bids be accepted.

A standing committee is established to consider matters that are ongoing. For example, a standing committee may be established to monitor the improvement district's financial situation on a regular basis. If an improvement district provides more than one service to a community such as fire protection and water, standing committees may meet regularly to consider issues related to one of those services.

Select and standing committees are established by the board of trustees - not by the chair, and the board also decides who will serve as members of the committees. Persons who are not trustees can be appointed to committees but there must be at least one trustee on each committee.

An advantage for appointing non-trustees to a committee is that it provides an opportunity for people with particular expertise to share it with the other committee members and ultimately, the board of trustees. Also, a committee may benefit from members who have a wide variety of views about the matter(s) being considered.

Committees benefit from having a clearly established purpose, timeframe and procedures. The meeting procedures to be followed by committees are generally established in the meeting procedure bylaw adopted by the board of trustees. The procedures will determine, for example, whether it is the board of trustees or the committee members who will determine the person who will chair the committee's meetings.

As select and standing committees are purely advisory, they cannot commit a board of trustees or an improvement district to any particular action. They cannot pass bylaws, spend funds, hire employees, supervise employees, or authorize the signing of contracts. These are all actions that can only be decided by a board of trustees. Committees can be useful for reducing the amount of time needed by the board of trustees to research and consider matters and allow the trustees to focus its discussions on the committee's report and/or recommendation(s).

The procedures to be followed by the members of a committee for conducting its business must be established in the board's meeting procedures bylaw.

Improvement district employees may be assigned by the board of trustees to assist committees by providing technical expertise, or by arranging meetings and taking minutes. Committees do not have

the ability to interfere with an employee's duties.

Powers and Services

Fire Protection

Fire protection is the second most common service provided by improvement districts and the issues that arise in the administration of the service are often unique.

Regulation

Fire departments often find they are asked to provide more than just fire protection. They may be called upon to respond to medical emergencies, rescues, traffic accidents and hazardous material incidents. Since the Letters Patent for improvement districts that granted them the authority for fire protection does not include these other activities, the board of trustees must decide whether the fire department will respond to them. If the board wants the fire department to respond to these kinds of activities, it must include them in its fire department establishment bylaw. A sample fire department establishment bylaw can be found in the Bylaw Preparation Manual.

The fire department establishment bylaw also defines the responsibilities of the fire chief. Whether paid or not, the fire chief is considered to be a board-appointed employee. The fire department establishment bylaw also establishes the scope of authority delegated by the board to the fire chief for the operation of the fire department.

In order to prevent fires, fire departments often regulate open burning, inspect public premises to identify fire hazards; and control people near the scene of an incident. The authority to regulate in relation to fire protection was granted to improvement districts in an Order in Council passed by Cabinet in 1989. A copy of this Order in Council and the wording of the legislation that is applicable may be obtained from the Ministry. A fire protection regulation bylaw can be found in the Bylaw Preparation Manual.

Open Burning Smoke Regulation (BC Reg #145/93) was passed by the province in 1993 and affects open burning in improvement districts. The board may wish to solicit input from the community before implementing or changing the times when burning is permitted.

Mutual Aid

An improvement district fire department may enter into a mutual aid agreement with other fire departments. This can be very beneficial for incidents where the fire department needs assistance from, or can provide assistance to, a neighbouring fire department. The mutual aid agreement must be authorized by bylaw. A sample agreement bylaw and mutual aid agreement can be found in the Bylaw Preparation Manual.

Boundary Concerns

Fire protection is the only service an improvement district can provide beyond its boundary. This authority was granted to improvement districts by an Order in Council passed in 2005. The Order in

Council allows improvement districts to respond to incidents outside its boundary. However, a board of trustees can only exercise this authority if they include it in a bylaw and it needs to identify the types of incidents to which the fire department will respond.

An improvement district can contract with a land owner to provide fire protection to their property if it is located outside the boundary of the improvement district. However, it would be a good practice for the improvement district to provide this service on an interim basis until the property can be included within the boundary of the improvement district. Including the property within the boundary of the improvement district means that it will be taxed on the same basis and at the same time as all other properties in the improvement district, and that it is entitled to the same level of service.

Indian Reserves are not taxable, so if the board of trustees is willing to provide fire protection to a First Nation, there is no advantage for including the Indian Reserve within the improvement district's boundary. A contract is the best method for providing fire protection to Indian Reserves.

Fire Department Administration and Operation

Office of the Fire Commissioner

The Office of the Fire Commissioner (OFC) can be an additional source of information for those improvement districts that operate fire departments. The OFC has developed manuals such as the Fire Department Operational Guidelines to help fire departments meet the safe work practices required by WorkSafe BC.

Taxation

Fire protection and street lighting are the only two services provided by improvement districts where the province can act as the assessor and collector. This service is voluntary; therefore, improvement districts may choose to undertake their own assessment process and do their own billing and collection.

Fire Hydrants

The question of who pays for the installation and maintenance of fire hydrants is a recurring one when the organization operating the water system differs from the one responsible for the fire department. There is no single answer to this question; rather, it is a matter to be worked out by the two organizations. However, the most common arrangement is for the organization operating the water system to retain responsibility for the installation and maintenance of the hydrants because it:

- owns the water system on which the hydrants are located;
- controls the design of the water system and the location of hydrants;
- has the authority to pass regulations requiring developers to install hydrants;
- has staff who are knowledgeable about maintaining water system components and the necessary equipment to perform the job; and,

- use the hydrants for flushing water mains.

Fire departments want the hydrants to be in proper operating order when they are needed in an emergency and as such, may be willing to pay all, or part, of the maintenance costs. One of the key issues is that the fire protection organization and the water purveyor may have different jurisdictional boundaries and different methods of cost recovery. Therefore, consideration needs to be given to who benefits from the fire hydrants and who should pay towards their upkeep. Any agreement reached between the two organizations should be formalized in writing. The improvement district(s) will need to formalize the agreement by attaching it to a bylaw and a sample agreement bylaw can be found in the Bylaw Preparation Manual. A sample fire hydrant maintenance agreement is in the Appendices.

Fire Flows and Liability

There are no provisions in legislation or an improvement district's Letters Patent that oblige a board of trustees to provide water for fire protection purposes. Rather, it is a policy and water system design decision based on available water supplies and the desire by the community to have fire hydrants that are capable of being used by a fire department to suppress fires in an emergency.

Where an improvement district has installed fire hydrants on its water system, it is often assumed by landowners they are there to provide water for fire fighting. However, this is not always the case, as the hydrants may be used exclusively for flushing the water mains. Some water systems do not have the storage capacity or the pressures necessary to provide water for firefighting purposes.

Most community water systems are designed with fire hydrants installed at one thousand foot intervals. This is in recognition that properly pressurized and supplied water hydrants are usually the best source of water for fighting fires in the community. If there are no hydrants, a fire department can take other steps to secure water for emergencies such as placing drop tanks in various locations, using tanker trucks, or obtaining water from nearby bodies of water.

If the board of trustees is aware that the improvement district's hydrants cannot provide adequate fire flows and they do not convey this information to either the landowners or to the fire department, the trustees may expose themselves and the improvement district to a risk for liability. Insurance companies may be able to provide the board with further advice about this matter. This situation differs from the one where the water supply is interrupted temporarily through no fault of the improvement district which is a situation where Section 288 of the Act indemnifies the improvement district against legal proceedings.

Installation and Maintenance

In some cases, the number and placement of hydrants is recommended and financed by the fire protection organization although the installation of the fire hydrants is done by the water purveyor. The placement of fire hydrants in new subdivisions and the design information for fire hydrants need to be adopted in the water purveyor's subdivision regulation standards and should be developed in

consultation with the fire department.

Subdivision Control

Communication between fire departments, water purveyors, land-use authorities and other emergency agencies is a good practice. Local governments, provincial emergency response agencies, and improvement districts all have a common interest with regard to emergency situations such as interface fires, forest fires, industrial fires and other emergency situations, so discussions about their common interests could prove beneficial.

House Numbering

Communities can benefit from having properties assigned a street address as this allows fire departments and other emergency response organizations to quickly identify locations where an incident is occurring. However, improvement districts do not have the ability to assign street addresses. If this is a concern for a board of trustees, the improvement district should contact the regional district to see if it would be willing to provide this service.

Fire Department Members as Trustees

Trustees are not prohibited in the legislation against being a fire fighter in the same improvement district. However, there are several reasons why the situation should be avoided.

In a recent court case, a volunteer fire fighter was disqualified from being elected to a local office. The case had implications for local government elected officials so the province enacted a regulation clarifying that a volunteer fire fighter could be eligible as an elected local government official provided the person was a true volunteer. In other words, they are eligible to be an elected official so long as they receive no monetary compensation for their service as a fire fighter. For clarity, monetary compensation does not include the following:

- Reasonable and necessary expenses that are incurred and reimbursed;
- Insurance coverage, worker's compensation coverage, personal clothing, equipment or training directly related to the performance of the volunteer services; and
- Gifts in recognition of long service or exemplary service.

If a volunteer fire fighter receives monetary compensation, then they must take a leave of absence from the position in order to run for office and resign if they are elected. The reason that fire fighters who receive monetary compensation are restricted from being elected to local government office is because of the high probability of being in a conflict of interest situation or of being biased.

While there is no specific conflict of interest legislation that applies to improvement district firefighters or trustees, there is a risk that they could be found to be in a conflict of interest situation under common law. Therefore, it is recommended that improvement district fire fighters follow the same rules that apply to their local government counterparts.

Acquisition and Disposal of Real Property

Section 745 of the Act gives a board of trustees the power to acquire, hold and dispose of land and other property necessary or useful in carrying out the improvement district's objects. The proceeds from the sale of such land and other property can also only be used for the objects granted to the improvement district in its Letters Patent. Improvement districts are not in the land development business and should not be acquiring land for speculation purposes. Section 746(1)(a) requires a bylaw if an improvement district is entering into a contract about land.

There is no legislative requirement for the board of trustees to refer decisions about property acquisition or disposal to the landowners (unless required by the Inspector of Municipalities when considering an improvement district's bylaw). It would be a good practice for the board to inform its landowners when major decisions are made about the acquisition or disposal of property.

Acquisition

There are several methods by which an improvement district might acquire land and other property:

- **Donation or Bequest**

The board should carefully consider the cost implications (maintenance/development/liability) and be aware of any special conditions or covenants attached to the transfer that may limit their decision-making authority over the property.

- **Purchase**

As the board will be expending public funds, the trustees should make every effort to negotiate a purchase price which is close to the assessed value of the property. If property values have fluctuated, a formal appraisal may be useful. Monies used to acquire property must be raised for the purpose for which said property is to be used. For example, monies raised from water revenues (taxes, tolls) are used for lands on which will be located reservoirs, wells, or other water-related works. Revenue received from taxpayers for fire protection purposes are used for acquiring land for fire halls. If the board enters into a lease agreement it must pass an agreement bylaw.

- **Tax Sale Default**

Section 765 of the Act states that an improvement district may acquire land at a tax sale.

- **Expropriation**

Section 750 of the LGA states that an improvement district may acquire land and works by expropriation. This is further explained in the following section.

Under section 744 of the Act, land, and its improvements, owned by an improvement district are exempt from taxation by the provincial government, a regional district or a municipality.

Where an improvement district owns land or property, the board may lease it to a society or a community association provided it is related to the objects of the improvement district. For example, if an improvement district has the object for a community hall it could lease the land and a building located on it to be managed by a non-profit organization. The board must pass a bylaw to enter into such a lease agreement.

Disposal of Property

The trustees are the stewards for the lands owned by the improvement district. When considering property disposal, the following questions should be considered:

For what purposes was the property originally purchased, acquired or held?

It may be necessary to review the relevant meeting minutes and correspondence at the time of the property acquisition to determine how and why it was acquired.

Why is the property no longer required?

Are there restrictions on the property (e.g., covenants, easements, or zoning) that affect the ability of the board to use it? Is the property no longer needed for the improvement district's short or long-term needs?

How is the property to be sold and how is the price to be determined?

Unless a surplus property is being transferred to another government body, the maximum value obtainable for the land should be sought to avoid public concerns that the board of trustees was granting a favour to the purchaser. If improvement district employees are not familiar with how to market properties or the land transaction process, it would be a good practice for improvement districts to use a realty company to manage the sale. Properties transferred from an improvement district to a government body are often sold for a nominal amount.

What is the anticipated use of proceeds from the sale?

If an improvement district provides more than one service such as water and fire protection, and the property was purchased from revenue raised for one of the services or intended to be used for that service, then the proceeds from the sale of the property can only be used for the same service. It would be a good practice to place the proceeds in a renewal reserve fund established to finance capital improvements for that service.

Expropriation

Sections 749 and 750 of the Act give improvement districts the power to expropriate land, works and certain water licenses that are reasonably required to carry out any of its objects as granted in the improvement district's Letters Patent.

Expropriation should only take place as a last resort when all other attempts at negotiating a fair

settlement have failed. The expropriation process can be expensive, time-consuming and represents the forced acquisition of property without the owner's consent. An improvement district should not attempt to expropriate land without retaining legal counsel and advising the Ministry of the situation.

Since 1987, expropriation procedures have been set out in the *Expropriation Act*. In general, the procedures require the Minister responsible for the improvement district legislation to approve the expropriation and send the approval to the improvement district and the owners of the property being expropriated. Afterwards, a bylaw must be passed by the board to acquire ownership of the land being expropriated.

The improvement district must deliver their appraisal of the land being expropriated to the owner and pay the owner that amount. Within 30 days of the payment, the improvement district must file a vesting notice in the offices of the Land Title and Survey Authority which then transfers title to the improvement district. The owner can appeal to the courts for additional compensation within one year if they are not satisfied with the amount paid to them by the improvement district. The cost of the appeal can be assigned to the improvement district by the court.

Where an improvement district has been issued a water license, it can expropriate land under provisions contained in the *Water Act* if the land is required for the construction of works authorized under the water license. This authority extends to works located outside the boundary of the improvement district. In all other cases, the power to expropriate can only be used within the improvement district boundary.

Easements and Statutory Rights-of-Way

Whenever an improvement district needs to locate its buildings or works on land that it does not own, it must obtain the property owner's permission. However, a verbal or written agreement with the property owner is not sufficient to guarantee that the improvement district will continue to have access to the buildings or works should ownership of the property change. A new property owner may want to use the land for different purposes and they can insist that the buildings or works located on the property be removed within a reasonable period of time. To avoid this situation, improvement districts that want to locate buildings or works on property it does not own must enter into an easement or statutory right of way agreement with the owner and have the agreement registered in the offices of the Land Title and Survey Authority. Once registered, the agreement is binding on all subsequent owners of the land and can only be changed or removed by mutual agreement of the improvement district and the property owner.

If an improvement district has inherited a situation where no easement or statutory right of way exists for buildings or works located on property it does not own and the property owner gives the improvement notice to remove the buildings or works, the options available to the board of trustees are to: relocate the building or works; negotiate an easement or statutory right of way; expropriate

an easement or statutory right of way; or offer to purchase the land.

Wherever possible, works such as water lines should be located along road rights-of-way instead of privately owned property. A permit from the Ministry of Transportation and Infrastructure is required for any works to be installed on a road right of way unless the road right of way is located within a municipality, in which case the permission of the municipality must be obtained. For buildings or works that the improvement district wants to locate on Crown land, a lease or statutory right-of-way may be obtained from the province. It may also be possible to obtain a Crown grant or a nominal rent tenure.

To register an easement agreement or statutory right-of-way at the Land Title and Survey Authority, a surveyed plan of the land must be attached to the document. The agreement with the owner sets out the terms and conditions for the improvement district to access and locate buildings or works on the property and well as any compensation paid to the property owner. It would be a good practice to have a person in the legal profession who is familiar with these types of documents to prepare them on behalf of the improvement district. Once the terms of the easement agreement or statutory right of way are acceptable to both parties, the board of trustees will need to pass a bylaw to allow it to enter into the agreement.

An easement agreement or statutory right-of-way should grant an improvement district all of the usual rights and privileges necessary for it to own and operate the water system or buildings located on the land in perpetuity. The agreement should not contain complicating conditions in favour of the landowner that would unduly restrict the improvement district. Some of the provisions that are typically considered include the following:

- A detailed description of the works to be installed, including items such as roadways, intakes, wells, reservoirs, pumping stations, pipelines, power lines, signal cables, etc.
- An area sufficiently large enough to allow construction, maintenance or replacement machinery to operate. The usual width for a pipeline is six metres. A wider strip may be required on steep ground, for deep excavations, or for clearing trees;
- The right at any time for ingress and egress by all authorized improvement district personnel either on foot or by vehicle to construct, test, operate, inspect, maintain, alter, remove and renew its works;
- Provisions that clarify the landowners' right to encumber the area, for example, by planting fruit trees, paving, erecting buildings, parking, installing tile fields, or growing crops; and
- Provisions to indemnify the property owner against any liabilities arising out of the ordinary use of the right of way by the improvement district.

Undue limitations on noise levels, hours of access, limited term, cancellation clauses, landscaping, or fencing should be avoided. The cost of obtaining a statutory right-of-way is usually a nominal amount because the works will benefit the property owner as well as the community at large. However, there may be circumstances where more than a nominal amount is requested by the

property owner due to a lowering of property value, inconvenience, or other considerations. In these cases, the improvement district will have to carefully weigh the implications for the cost of the agreement against the cost to locate the buildings or works somewhere else.

Landowner Consultation and Approval

There are circumstances when a board of trustees may want to survey the landowners to determine their opinion on a matter before committing the improvement district to a particular course of action. In addition, the Inspector of Municipalities may require that an improvement district obtain evidence of landowner support before deciding whether to register a bylaw such as a borrowing bylaw. There are very few provisions in the Act or Letters Patent that explain the why, when, or how to obtain the approval of the electors. Therefore, the information in this Manual has been developed to guide improvement districts.

Elector approval can be obtained by several different methods. Not all of the methods are suitable in all circumstances. Therefore, the Ministry needs to be contacted for advice before a board of trustees decides which method it will use to obtain landowner approval.

Voluntary Landowner Approval

Most improvement district Letters Patent state that the board of trustees may call a special general meeting to discuss a matter with the landowners. The meeting provides an opportunity for the board to ask the eligible landowners present at the meeting for an indication of support for the matter being discussed at the meeting. The types of matters typically discussed at a special general meeting are the ones that can have a substantial impact on the landowners such as borrowing bylaws, large rate increases, major capital projects, a water meter installation program and proposed watering restrictions. There are no constraints on matters that can be referred to landowners for approval except that they must relate to the services being provided by the improvement district.

Requirements for Landowner Approval

Section 747 of the Act states that the Inspector of Municipalities may register a bylaw, refuse to register it, or take any other action considered in the interest of the improvement district or the province. Occasionally, the Inspector of Municipalities requires an improvement district to provide evidence that its landowners support a bylaw before registering it. This occurs most often when a bylaw is expected to have a substantial impact on landowners - either financially, or through a fundamental change to the way in which the improvement district delivers or regulates its services. Long-term borrowing bylaws generally require landowner approval, as do bylaws that substantially increase rates charged to the landowners.

Methods of Landowner Approval

Landowner approval occurs after a matter is studied and the options and implications are identified. Information about the review process can be found in the section on Planning for Capital Projects.

The following methods can be used to obtain landowner approval depending on the circumstances:

Annual General or Special General Meeting

Most improvement district Letters Patent state the board of trustees may call a special general meeting to discuss a matter which, in the opinion of the board, should be brought up at a general meeting. The trustees could hold a vote at the meeting provided that the landowners are properly notified in advance of the matter to be discussed and that there will be an opportunity to vote on it. The notice gives the landowners an opportunity to be prepared for the discussion. It is less convenient than holding a referendum because they have to be present at the meeting in order to vote. However, the results of the vote are known immediately after the vote is taken and it may be suited to situations where the number of landowners in the improvement district is relatively small. If a very small proportion of the eligible landowners attend the meeting then the results may not reflect the views of a majority of the landowners.

Where a vote is planned to be held at the annual general or special general meeting, the improvement district must follow the notification procedures outlined in its meeting procedures bylaw. The notice must clearly indicate the matter that is going to be discussed at the meeting and the fact that a vote will be held. All voting should be done by secret ballot.

Petition

Petitions are usually used for boundary extensions and are suitable for that purpose because they usually involve a small number of properties. This method requires an improvement district to develop and mail a petition to the owners of property being proposed for inclusion within the improvement district's boundary. The property owners sign the petition and return it to the improvement district if they are in favour of having their property included in the boundary. The Ministry does not generally support the use of petitions except for minor boundary extensions.

Referendum

A referendum is a vote held where eligible landowners cast their ballot at a polling station on a date established for the purpose by the board of trustees. An improvement district may be required by the Ministry to hold a referendum prior to the approval of a bylaw or other matter requiring the Ministry's approval. An improvement district may also initiate a referendum itself, but there is no specific authority in the Act or Letters Patent that state when a referendum is required or the process for holding it. Since the majority of improvement districts are fairly small (population less than 300), it is unlikely they will need to use a referendum since a special general meeting is a more practical method for obtaining landowner approval. More detailed information on referendum procedures can be found in the Referendum Guidelines section of the Manual.

Alternative Approval Process

An alternative approval process (AAP) is a method for electors to have direct input into a proposed action or decision of the board. The process begins when a notice is published explaining the issue and the electors have an opportunity to petition against it within 30 days. If ten percent of the

electors petition against the matter, the board cannot proceed with it unless a referendum or a special general meeting is held and a majority of the eligible electors who vote are in favour of it. Additional information about the process to conduct an alternative approval process can be found in the section on AAPs.

Guidelines for Obtaining Landowner Approval

Landowner approval occurs after a process of study and analysis and information on the review process can be found in the section on Planning for Capital Projects.

The percentage of landowner support that must be obtained in order for a vote to pass is not established in the legislation. In most cases, the vote passes if a majority of the electors who cast a vote is more than 50% of all votes cast. However, projects that have a substantial impact on landowners should receive a higher percentage of voter acceptance. The percentage of voter turnout should also be taken into consideration. While there is no minimum percentage of voter turnout stipulated, a low percentage of voter turnout may not necessarily reflect the majority view and a board of trustees should consider holding another vote.

The results of a vote or petition are not binding on a board of trustees, the Ministry, or Cabinet. There may be circumstances where overriding concerns result in a project or issue being either approved or rejected by the board, the Ministry, or Cabinet regardless of the view expressed by a majority of the landowners.

Referendum Guidelines

A referendum is a vote held where eligible landowners cast their ballot at a polling station on a date established for this purpose by the board of trustees. As there are no provisions in the legislation that determine the process for holding a referendum, the following information is provided as a guideline. The procedures to hold a referendum should be adopted by the board of trustees so that they are consistently applied to each referendum that is held.

Voting Date

The board selects a date, time and place for conducting the vote as well as the wording of the question that will be on the ballot. Before choosing a date, the board needs to consider whether a majority of the electors are likely to be absent or preoccupied with other events as it may impact the percentage of voter turnout. It may also raise concerns from landowners that the timing was not optimal. A vote held on a Saturday between the hours of 8:00 a.m. and 8:00 p.m. is recommended in most cases. An advance poll may be held for those electors who will be absent or otherwise unable to vote on voting day. If an advance poll is held, it should be scheduled between one and two weeks prior to voting day. The voting place should be accessible to people who have mobility difficulties and large enough that electors and election officials are not obstructed.

The Question

The wording of the question that is to be on the ballot is decided by the board of trustees. It must be worded so that the voters can indicate agreement or opposition by making the appropriate mark on the ballot opposite the word "Yes" or the word "No". For example: Are you in favour of the board of trustees adopting Bylaw No. 123 that authorizes the borrowing of \$1,000,000 in order to finance the construction of a new reservoir?

Returning Officer

The board of trustees must appoint a returning officer, also referred to as the chief election officer, to coordinate the voting process. The person selected should be very familiar with improvement district or local government voting procedures. The returning officer can be an improvement district employee, but they cannot be a trustee or a candidate. The chief election officer can appoint a deputy returning officer or poll clerk(s) as needed. The board determines the amount of remuneration to be paid for the election duties to be undertaken.

All of the activities at the voting place station are the responsibility of the returning officer. These often include making arrangements for a lockable ballot box and a suitable number of ballots to be printed with the question as worded by the board. It may also include having suitable directional signs, a shielded area where the ballots can be marked and marking pencils.

Notice

Notice of the referendum is to be advertised in the manner outlined in the meeting procedure bylaw for notifying the landowners about the annual general meeting. This means giving 14 days notice, usually by advertising in a local paper or by ordinary first class mail, to all eligible landowners setting out date, time and place of voting. To further encourage voter turnout, the notice could also indicate the purpose and background to the issue, the wording of the referendum question, the voter elector eligibility requirements, the financial impact on the average resident(if any) and a phone number to call for further information. Where notification is given by advertisement in a newspaper, its size and location should be prominent to attract attention. A public information meeting, public open house, information brochure, or a second advertisement placed in the local paper a week before the referendum, are other ways of encouraging voter turnout.

Voters List

Prior to the date set for the referendum, the returning officer may prepare a list of eligible electors.

The eligibility requirements are established in each improvement district's Letters Patent. Since improvement districts have an election for one or more trustees every year, it may already have a voters list. This is normally prepared from the improvement district's assessment roll, which is updated annually for taxation purposes. If the improvement district does not already have landowner information, the returning officer may be able to obtain a list of property owners from BC Assessment or the regional district. As an alternative to a voters list, an improvement district may use a poll book. A poll book is used on the day of the referendum by the returning officer to record

the names and addresses of landowners when they request a ballot and provide evidence that they are eligible to vote.

Voting Procedures

On the day of voting, landowners entering the voting place are asked their name so they can be checked against the voters list if a voters list is being used. If they are eligible to vote, they are informed of the procedure for completing the ballot. If the elector's name is not on the voters list, they can still be given a ballot if the chief election officer is satisfied that the person is eligible or the elector is willing to sign a solemn declaration (sample at end of the Election subsection). Those electors voting as an agent of a board or corporation must show evidence of their appointment as agent. There is no other authority in the legislation or Letters Patent, which would allow one landowner to vote on behalf of another landowner (for example, voting by proxy is not permitted). A landowner must be present at the voting place in order to vote.

The ballot box should be located near the returning officer so they can witness the ballots being cast and to ensure there is no tampering. At the start of voting, the first elector should be asked to certify that the ballot box is empty. At the close of the poll, the ballot box should be sealed and then opened in the company of witnesses (scrutineers) when the ballots are to be counted. Ballots should only be rejected if there is no clear indication of the voter's intent. For example, ballots with no boxes marked or with both boxes marked can be rejected. A separate count is kept for and against the question and the number of spoiled ballots. The returning officer should declare the result and then seal the ballots back in the box in case a recount is requested or the results are challenged. The ballots should be kept for at least two weeks.

Voting Result

The results of the referendum should be made public as soon as the outcome is known. The board may wish to advertise the results and notify the local media. If the referendum was a prerequisite to the adoption of a bylaw or project which is subject to approval by the Ministry, a copy of the advertisement and the returning officer's declaration of voting results must be submitted in support of the bylaw.

Alternative Approval Process

An alternative approval process (AAP) is a method for electors to have direct input into a decision or project being proposed by the board and was formerly known as the "counter-petition" method. The improvement district must advertise information about the proposal and the electors then have an opportunity to petition against it. If more than ten percent of the electors petition against the proposal, the board cannot proceed with it unless the approval of the electors is obtained through a referendum.

Process

The improvement district must create the petition, known as the elector response form, and make it

available to electors. The board must set a deadline by which completed forms must be submitted to the improvement district. Notice of the AAP must be published in at least two issues of a newspaper, and the second publication must appear at least 30 days before the deadline set by the board. Information about the AAP opportunity could also be mailed by first class mail to all electors if there is no newspaper circulating in the community. From the time of the first publication, a copy of the notice should also be posted in a public place in the improvement district.

The notice must include the following:

- a general description of the proposal, including costs;
- a statement that the board of trustees may proceed with the proposal unless more than ten percent of electors petition against it;
- the area the proposal benefits (i.e. usually the entire improvement district);
- the deadline by which signed the elector response forms must be submitted to the improvement district;
- an estimate of the number of persons who must petition against the proposal in order to force a referendum (those persons eligible to vote at an election would be eligible to sign an elector response form); and
- how elector response forms may be submitted to the improvement district (i.e., where they can be mailed, faxed, or delivered).

The elector response form must be clear so that the persons considering whether to sign the form understand the proposal that is the subject of the alternative approval process. For example: By completing this elector response form I oppose the proposal by the ABC Improvement District to adopt Bylaw No. 123 which authorizes the borrowing of up to \$1 million in order to finance the construction of a water reservoir, unless a vote is held. It is recommended that an elector response form be designed for individual elector responses. An elector response form that allows multiple elector responses may raise concerns about the lack of anonymity.

In order to estimate the ten percent threshold, the improvement district will need to use its voters list. If a voters list does not exist, the board of trustees must make a fair determination of the total number of eligible electors and provide the information to the landowners upon request.

Once the 30-day period has ended, the improvement district's corporate officer must certify the number of valid elector response forms that were received. If at least ten percent of the electors sign valid elector response forms, then the improvement district cannot proceed with the proposal unless a majority of the electors vote in favour of it at a referendum or a vote at a special general meeting.

If less than ten percent of the electors sign elector response forms the board may proceed with the proposal. If the registration of a bylaw is pending, the corporate officer's certification of the results should be submitted to the Ministry along with other background material, to allow a review of the

bylaw to be completed. If more than ten per cent of the electors sign an elector response form, the board of trustees cannot proceed with the proposal unless it passes at a referendum.

Please see Section 86 of the *Community Charter* for further information on AAPs.

Services

Service Requests - General

Section 752 of the Act states there is no obligation for an improvement district to convey, supply, or furnish any service to any person, land, or premises. It also states that a person to whom any improvement district refuses to convey, supply, or furnish any service may appeal the decision to the Inspector of Municipalities who may then make any order in the matter considered just and reasonable.

The decision to accept an application for a service is usually based on whether there is capacity available and whether it is economically feasible. When the board is reviewing an application for a service by a landowner, be it inside or outside existing boundaries, they usually allocate the cost to the applicant, not the existing users. In order to determine whether there is sufficient capacity to approve a service request, the following may be helpful:

An overall water system plan

A long-range plan for upgrading or extending the water system to meet existing and future demands, prepared and updated from time-to-time by a professional engineer familiar with such systems, and tied to a phased capital expenditure program based on priorities and costs.

Regulatory and charging bylaws

A subdivision regulation bylaw defining the design and construction standards and the application process should be adopted by the board. Charging bylaws, such as a capital expenditure charge bylaw and a connection charge bylaw, should reflect the costs to provide the service now, and in the future.

If the board refuses an application for service and the matter is appealed to the Inspector, it is likely that the appeal will be upheld unless the improvement district can show that it has reached the end of its capacity and it is not possible to increase the capacity without jeopardizing the service to existing customers. Therefore, the board of trustees should always be in a position to provide an applicant with a breakdown of works and costs necessary to provide the service.

When properties are proposed for development, there are two opportunities for improvement districts to make their comments known to the agencies responsible for deciding whether to approve it:

- when reviewing subdivision applications, the subdivision approving officer is required to contact

improvement districts (and others) in accordance with Section 81 of the *Land Title Act*. The wording of Section 81 states: “If a plan of subdivision affects land located in an improvement district under the *Local Government Act*, within seven days after the plan is received by the approving officer for approval, the approving officer must notify the board of trustees of the improvement district”. Typically, the improvement district will advise the approving officer whether it has the capacity to provide service(s) to the property in question, the requirements they have established with regard to subdivisions and whether the applicant has agreed to meet those requirements; and

- in the case of developments that require a change to land-use designations, a regional district is required to consult with improvement districts (and others) during the development, amendment or repeal of an official community plan in accordance with Section 879 of the Act. Section 879 says in part: “the regional district must consider whether consultation is required with school district boards, greater boards and improvement district boards”. This is an opportunity for the improvement district to provide comments to the regional district about any impact proposed developments will have on its service(s).

Subdivision Servicing Requirements

Section 747.1 of the Act empowers a board of trustees to establish a subdivision servicing standards, by bylaw, for any service they provide. These standards outline such things as design, type of materials to be used, and construction requirements.

The servicing standards can be varied for different areas, land uses, zones, or for different circumstances. Once the subdivision servicing standards are established by bylaw, an improvement district can require a developer to meet the standards on their land and on that portion of a highway immediately adjacent to the site being developed or subdivided. The primary enforcement mechanisms for these requirements are:

- for land that is being subdivided, a municipal, regional district or provincial subdivision approving officer appointed under the *Land Title Act* must not approve a subdivision if services do not meet the standards established in an improvement district bylaw; or
- for land that is being developed, if the improvement district has entered into an agreement with a local government for this purpose, the local government may refuse to issue a building permit unless the owner has provided services to the standard required in the improvement district bylaw.

The following are limitations on the ability for an improvement district to require an owner subdividing or developing their property to meet the improvement district’s servicing standards:

- the ability to set servicing standards only relates to works and services that are within the objects of the improvement district as described in its Letters Patent. In other words, an

improvement district that has water as its only object cannot set servicing standards for sewers, or for any service besides water;

- requirements may only be made under these provisions if they are directly attributable to the subdivision or development. Therefore, if an owner, in accordance with the improvement district's bylaw, provides water, sewage or drainage facilities that serve land other than the land being developed or subdivided, then the portion of the facility that serves other properties is considered an excess or extended service, and the provisions of section 747.2 of the Act automatically apply. This means that if the owner is required to provide these excess or extended services, they are entitled to compensation from properties, which connect to, or use, the services if that connection or use begins during the next 15 years. For more information see the section on Extended Services and Latecomer Payments;
- an owner cannot be required to provide works that are included in a capital expenditure charge (CEC) calculation. However, if the owner agrees to provide these works, any cost related to them that are included in the calculation of a CEC must be deducted from the amount that would otherwise have been collected for a CEC from the owner; and
- improvement district subdivision servicing standards cannot be imposed for a subdivision created under the *Strata Property Act*.

A sample subdivision regulation bylaw can be found in the Bylaw Preparation Manual.

Improvement districts in which development is occurring may wish to establish subdivision servicing standards by bylaw. Once the bylaw is adopted, the improvement district must provide a copy of the bylaw to the provincial, regional district or municipal subdivision approving officer. This is essential if an agreement has been made in which a local government agrees to withhold building permits, unless the improvement district's servicing standards have been met.

Regional districts, municipalities and improvement districts have concurrent authority to establish subdivision servicing standards. It is important that improvement districts consult with regional districts, municipalities, and the subdivision approving officer of the Ministry of Transportation and Infrastructure in developing their subdivision servicing bylaws to ensure that the interests of each are met. The improvement district may be responsible for providing water and the regional district fire protection. Both parties will likely want to ensure that pipes are sized to provide both potable water and adequate fire flows.

The objective of these discussions should be to achieve a common standard in the bylaws of both the improvement district and the regional district or municipality. This reduces confusion for the applicant and for the subdivision approving officer.

Improvement districts should be aware of the distinction between services that are required in relation to the property being subdivided or developed and those that are required to service other properties. If an improvement district requires an owner to provide services for other properties, the owner is entitled to compensation from latecomers. If the improvement district fails to collect

latecomer revenues, the improvement district could be held liable for those costs.

Excess and Extended Services and Latecomer Payments

Section 747.2 of the Act allows a board of trustees to require that an owner of land that is to be subdivided or developed, provide excess or extended services as described below.

An excess or extended service is that portion of a water, sewage, or drainage system that can serve properties other than the land being subdivided or developed. For example, if a six-inch water main is adequate to serve land being subdivided, or developed, but the improvement district requires the owner to install a larger main to accommodate anticipated future demand, the excess service would be the difference between the six inch main and the larger one. Similarly, if the property being subdivided or developed is physically removed from the existing service infrastructure and an owner is required to extend that infrastructure from its termination to the owner's property, that portion of the infrastructure is considered an extended service.

The up-front cost of the excess or extended service is generally paid by the improvement district unless the board of trustees views the costs as excessive. If the board considers the costs to be excessive then the improvement district can require the owner of the property being subdivided or developed to initially pay for the service. However, if the owner is required to pay for the excess or extended service, the improvement district is required to impose a latecomer charge on those properties that later connect to, or use the service. These amounts are then turned over to the owner of the property that paid for the service.

In the circumstance where the owner pays the initial cost of the excess or extended services, latecomer charges must be imposed by the improvement district until:

- a date agreed on by the owner and the board of trustees;
- if there is no agreement, a date determined under the *Commercial Arbitration Act*; and,
- in any case, no more than fifteen years from the date the service was completed.

Latecomer charges must be based on that portion of the owner's costs that the improvement district calculates are related to the excess or extended service, and the part of that amount that it considers will benefit each of the properties that could be serviced. The amount imposed for an individual property must include interest calculated annually payable for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins. A bylaw is required to establish both the latecomer charge and the interest rate. Sample formats of these bylaws can be found in the Bylaw Preparation Manual.

If the improvement district pays all or part of the initial cost of providing the excess or extended services, it has a choice whether or not it wishes to impose latecomer charges. If the improvement district chooses to impose the charges, it must establish the charge and the interest rate by bylaw

using the same procedure as described above. The latecomer charge can be collected for a period not exceeding fifteen years past the date that the service was completed. In the event that no one chooses to connect to the service within the time period, the improvement district would, in effect, have financed the works.

Improvement districts must choose, based on values and practicalities, whether the costs of installing services are to be paid by developers or by the improvement district. If it chooses to pay initially, the improvement district must then decide whether or not to impose latecomer charges. It is important that improvement districts make these decisions in the context of potential development within its boundary only – development which might occur outside this boundary cannot not be taken into account.

As part of its decision-making process, the board of trustees should consider a number of factors, including:

- what is the cost of the excess or extended service likely to be?
- how much development is expected to occur over the next fifteen years in the affected area?
- what is the likelihood that development will actually take place over that time frame?
- if the improvement district were to pay some or all of the costs, is it prepared to accept the risk that anticipated development does not occur, in which case the improvement district will not be able to recover all of its original investment?

To implement a latecomer charge, an improvement district must determine the proportion of the infrastructure cost which constitutes excess or extended service and calculate the benefit of the excess or extended service to each parcel of land that will be serviced. For example, if half of the cost of an extended service is determined to benefit six parcels of land because a water main now exists in front of their property, and the estimated benefit is half the cost (say \$6,000), and the improvement district determines the benefit to be equal for each parcel, the latecomer charge will be \$1,000. Other methods could be used, such as the amount of frontage for each parcel located adjacent to the water main. However, it is more difficult to estimate some benefits such as the completion of a water main loop.

The improvement district is not required to enter into a formal latecomer agreement with the subdivider or developer unless the collection period agreed to by both parties is less than fifteen years. Nevertheless, it is recommended that formal agreements be drawn up to allow both sides to clearly identify and fully understand their obligations. The following are some points to consider in determining whether to institute latecomer chargers for an excess or extended service:

- a developer does not have to apply to receive latecomer payments. The obligation to pay the charge to the owner rests with the improvement district;
- where an improvement district pays all or part of the cost and expects to get repaid by latecomers, they need to determine the risk of recouping their cost within fifteen years;

- latecomer charges may require a significant amount of staff time in preparing the documentation and administering the charges;
- an improvement district is not required to notify property owners of the latecomer charge, nor are they required to register it against title. However, the improvement district may wish to consider sending a letter to the property owners who would be subject to the charge at the time the excess or extended service is constructed;
- developers will need to provide certain basic information with respect to their development so that the improvement district can calculate costs, benefits and charges;
- latecomer charges should be paid to the developer within a reasonable time of being received by the improvement district (for example, within sixty days); and
- the interest rate established by bylaw should be set at a reasonable level, such as the amount the improvement district earns on its investments.

General advice about latecomer charges from a municipal perspective can also be found in the Ministry's Development Finance Choices Guide available at:

http://www.cscd.gov.bc.ca/lgd/intergov_relations/library/development_finances_choices00_guide.pdf

General

Conflict of Interest

Introduction

There are no legislative provisions that deal with conflict of interest for improvement district trustees or employees. However, Division 6 of Part 4 of the *Community Charter* provides rules for local government elected officials that should be considered guidelines for trustees.

A person is in a conflict of interest situation when they exercise an official power or perform an official duty or function in the execution of their office, knowing that it will further their private interests. A person is likely to be in a conflict of interest situation where there is a reasonable perception, which a reasonably well-informed person could properly have, that the person's ability to exercise an official power or perform an official duty or function may have been affected by their private interests.

One of the reasons for the lack of a specific definition for conflict of interest is the difficulty in trying to define every situation where a conflict of interest exists. Most public officials have a conflict of interest simply by the fact that decisions they make could affect themselves. For example, trustees are responsible for setting tax levels and establishing regulations, which affect themselves as well as everyone else in the district. However, these are usually looked upon as unavoidable responsibilities that go with the job and are not considered a conflict of interest.

Conflict of interest can also exist where the benefit to the person in public office may be indirect. For example, if a contract for construction work is let to a company that is owned by a trustee's family member, such as a spouse or brother, a potential conflict exists. But what if the contract was to a brother-in-law or cousin? There is no clear answer to this question.

Steps can be taken to avoid or minimize the potential for conflict of interest. Bringing the potential conflict to the attention of the board and then removing themselves from the situation is a reasonable step for a trustee to take. For example, if a trustee is expected to vote on a matter where a potential conflict exists, they should inform the board of their interest, and during discussions or votes on the matter, leave the room so the rest of the trustees can be free to discuss and decide without their influence. Guidelines and policies could also be established by the improvement district which would guide its trustees and employees in their actions by identifying procedures to follow in the execution of their duties.

The common law allegation of conflict of interest can be part of an attempt to strike down a bylaw, resolution or decision of the board. In court cases, the test generally used will establish a standard of reasonableness as to the likelihood of specific bias on the part of the interested person. It is important to note that even the appearance of a conflict of interest may cause as many problems as an actual conflict.

A trustee or improvement district employee should not be involved in any decision where they might be seen as deriving personal benefit (monetary or otherwise) from the outcome of the decision. In such a case, leaving the board meeting, discussion or vote, and in no way influencing the vote may insulate the trustee or employee from allegations of conflict of interest and any subsequent consequences.

The public expects elected officials and public employees to be independent, impartial and duly responsible to the people. For this reason, the following three principles should be followed:

- government decisions and policy should be made through the proper and lawful channels of government structure;
- public office must not be used for personal gain; and
- the public must have confidence in the integrity of its government.

The Law

Each trustee and employee is responsible for determining whether they are in a conflict of interest. If in doubt, advice should be sought from a solicitor. The board should consider whether trustees can seek a solicitor's advice at the improvement district's expense or whether this is the trustee's responsibility.

Public Duty and Private Interests

A trustee's overriding duty is to all the residents of the improvement district. If a trustee has any question as to whether they may be in a conflict of interest, they can:

- declare to the board at the first opportunity their interests, or known interests of any close relatives, in any enterprise which proposes to transact business with the improvement district;
- declare to the board at the first opportunity their interest or the known interests of any close relative or business associate in any property which is subject to a rezoning proposal, development proposal, subdivision or any permit or other consideration within the improvement district where a decision involving the improvement district's services might be required;
- make no effort whatsoever to influence the trustees or staff in any decisions on these matters;
- leave the place of the meeting prior to discussion and before a vote on the subject occurs; and
- not vote on the matter.

A trustee should not do anything which they cannot justify to the public. It is not always enough to avoid actual impropriety; trustees should avoid any occasion for the appearance of improper conduct at all times.

It is the responsibility of each trustee to declare a conflict of interest if he or she has a direct or indirect financial interest in any matter under consideration by the board of trustees or a committee

of the board. This could include any benefit obtained by relatives, close friends, or associates of the trustees.

Where the benefit to a trustee is in common with the landowners, then a conflict of interest may not exist. For example, if a trustee votes in favour of reducing water rates, it is not a conflict of interest even though each trustee will benefit from reduced rates.

Membership on Board Committees

Trustees, or an organization to which they are personally connected, may have professional business or personal interests that involve the services for which the board is responsible. Such interests may be substantial and closely related to the work of one of the improvement district's committees concerned with planning or developing land, personnel matters, or contracts for supplies, services, or works. Before seeking or accepting membership of any such committee, a trustee should seriously consider whether their membership would require them to disclose an interest so often that they would be of little value to the committee, or weaken public confidence in the impartiality of the committee. A trustee should not seek or accept the chair of a committee whose business is closely related to a substantial interest or range of interests of the trustee or of any organization with which they are associated.

Use of Confidential and Private Information

Trustees acquire much information that may not be public and is considered confidential. It is a betrayal of trust to use confidential information for personal advantage. Trustees must not communicate confidential information to anyone not entitled to receive it.

If a trustee disagrees with the designation of such information as confidential, or the designation of those entitled to receive it, they should advise the board in writing, and at an in-camera meeting advise them of the reasons for the disagreement. If the disagreement is not resolved, then the board may at least make preparations to respond to the matter.

Gifts and Hospitality

Trustees should treat any offer, gift, favour, or hospitality that is given them in the course of their duties with caution. The person or organization making the offer may be doing, or seeking to do, business with the improvement district, or may be applying for planning permission or some other kind of decision. Working lunches and other social occasions arranged, or authorized by the trustees may be a proper way of doing business, provided that no extravagance is involved. There are no specific rules around acceptance of tokens of goodwill on special occasions. Trustees are personally responsible for all such decisions and for avoiding the risk of damage to public confidence. The receipt or offer of, gifts should be reported to the board.

Use of Improvement District Facilities

Any facilities or resources, such as transport, stationery, or office support services, provided by the improvement district for trustees in relation to their duties are to be used strictly for those duties

and for no other purpose.

Undue Influence

Trustees should not use their position to secure special privileges, favours, or exemptions for themselves or for any other person.

Bias and Partiality

Trustees should avoid any situations that could cause a person to believe that the trustee may have brought bias or partiality to a question before the board.

Conduct After Leaving Office

After leaving office, a trustee should abide by these guidelines except for those related to confidential information which will apply in perpetuity, or until public release of such information is authorized by the board.

While provisions in the *Community Charter* do not apply to improvement districts, local government elected officials have specific restrictions with regard to confidentiality, use of insider information, inside influence, outside influence, accepting gifts and disclosing contracts with the local government, which should be used as a guideline.

Document Retention

The following information is presented as a general guideline for improvement districts to assist in developing a records and documentation policy. There are no provisions in the Act that relate to this subject.

General correspondence

Documents and correspondence are usually retained for a period of five to seven years. Refer to the *Document Disposal Act* for further details. While the procedures outlined in the *Document Disposal Act* should serve as a guideline for improvement districts, the statutory requirement of requesting approval for the destruction of public documents pertains only to the ministries and institutions of the provincial government.

Billings

Sewer and water billings and cemetery receipts can be destroyed after five years. Burial permits are required to be kept in perpetuity. There is no need to keep cheque book stubs where cancelled cheques have been retained. Some of the other records, however, may be of interest to local historians. The destruction of any documents or records should be authorized by resolution of the board. The concurrence of the auditor should also be obtained. No documents which might give rise to a cause of action should be destroyed until the time limitation for such actions has passed.

Causes of Action

It is important to note that the majority of actions that may be brought in court cannot be initiated after six years from the date the event occurred. However, in normal tort actions, there is a six-year limitation period, and most actions would be brought within a year or two after the damage has occurred. Therefore it is not necessary to retain most records for more than two years. Legal counsel can advise the board of trustees if there are questions around document retention.

Bylaws

Bylaws are legal documents that form part of the historical record of the improvement district and must be kept safe by the corporate officer in perpetuity.

Minutes

Agendas of trustee meetings may be destroyed once the meeting has been held. The minutes replace the agenda as a permanent record of the proceedings. Meeting minutes are accepted in court as evidence of what transpired. The minutes are a vital record of board decisions and must be kept safe by the improvement district's corporate officer in perpetuity.

Personnel Records

Personnel files may be destroyed after a period of six years. There is no set period of retention for payroll records. The books of account and records are required to be maintained by employers (including improvement districts) under the provisions of the *Income Tax Act*, the Canada Pension Plan Act and the *Employment Insurance Act*. Written permission is required from the Canada Customs and Revenue Agency before payroll files can be destroyed. Improvement districts should retain all records, books of account and vouchers necessary to verify the information.

Assessment Information

Assessment rolls should be retained for historical purposes for a minimum of ten years and then may be destroyed following a resolution of the board.

Electronic Media

Consideration could be given to preserving documents in electronic media to reduce the amount of space needed to store documents.

Section 35 of the *Evidence Act* states that photographic film, prints, reductions and enlargements, micro photographic films, and photocopies are admissible in evidence where the original no longer exists. Therefore, if an improvement district wanted to reduce the amount of storage space needed for its records, it could use any of these methods to record the information and then destroy the original.

General

The following are minimum retention periods for the disposal of documents. The destruction of any and all documents, records, or correspondence may only occur with board approval.

Documents and records to be retained permanently:

- burial permits;
- bylaws;
- Certificates of Title; and
- minutes of board meetings.

Documents and records that may be destroyed after ten years:

- Assessment Rolls.

Documents and records that may be destroyed after eight years:

- cemetery receipts;
- sewer billings;
- water billing;
- accounting records;
- bank statements;
- cancelled cheques;
- vouchers.

Documents and records that may be destroyed within a period of one year:

- Cheque book stubs (when in possession of related cancelled cheques);
- list of electors.

Documents and records that may be destroyed only after receiving approval:

- payroll records (require written permission of Canada Customs and Revenue Agency).

Freedom of Information / Protection of Privacy

All improvement districts are subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA). The purposes of FIPPA are to:

- give the public a right to access to records;
- give individuals a right to obtain and correct personal information about themselves;
- specify limited exceptions to the right of access to records;
- prevent the unauthorized collection, use or disclosure of personal information by public bodies; and
- provide independent review of decisions by public bodies.

The basic premise of FIPPA is that all information held by public bodies is accessible to the public unless an exception specified in FIPPA applies.

The following are examples of items either required by statute to be made available, or that are routinely released by improvement districts:

- Letters Patent;

- bylaws;
- agendas and minutes of any meeting other than an in camera meeting;
- the annual financial statements and auditor's report; and
- annual reports on the operation of its services.

Whether the improvement district's documents are kept at a private residence or in an office, reasonable arrangements should be established so the public can have access to the records.

Some requests for information will need to be processed as formal requests under FIPPA as exceptions in FIPPA may apply to the information in the records. Examples of these include requests for:

- correspondence containing the personal identifiers of complainants, unless a previous disclaimer is issued, and even so, the identifiers could be withheld;
- personal information;
- any reports, studies, correspondence or other items dealt with in-camera;
- information related to negotiations for contracts or the purchase of property, while in process, or in some cases, after the process is completed; and
- any legal advice from the improvement district's solicitor.

Part 3 of FIPPA outlines the rules for the collection, use and disclosure of personal information by public bodies in their day-to-day work. Improvement districts should ensure that any personal information they collect meets the requirements of this part of FIPPA.

If the request is made under FIPPA for records, fees can be charged, so long as the improvement district has met the requirements of section 77 of FIPPA, which requires a bylaw to be passed specifying the fees that will be charged. A sample miscellaneous charges and service fees bylaw is located in the Bylaw Preparation Manual.

FIPPA also requires that every improvement district designate a contact person who can administer FIPPA for the improvement district. Any questions relating to public disclosure or FIPPA should be directed to:

Office of the Information & Privacy Commissioner for British Columbia
P.O. Box 9038, Stn. Prov. Govt.
Victoria, BC V8W 9A4

Phone: (250) 387-5629.

Information about the application of FIPPA can be found at:

http://www.oipc.bc.ca/index.php?option=com_content&view=article&id=53&Itemid=75

Insurance, Liability and Indemnification

As a public body, improvement districts have corporate status. This means they may initiate legal actions or they can be subject to legal actions. In addition, improvement districts are corporately responsible for the actions of their trustees, employees and volunteers acting in the course of their duties. However, trustees, employees and volunteers can also be held personally liable for their actions.

Sections 287 and 288 of the Act state the causes of actions that can be brought against improvement districts, trustees, officers and volunteers.

Boards of trustees should obtain insurance coverage for trustees, employees and volunteers, as well as the improvement district's property assets, even though the legislation does not make it mandatory to do so. There are a wide variety of insurance plans available through insurance agencies which can vary according to the complexities and risks involved with the service provided by the improvement district. Some of the insurance options available include coverage for automobiles, fire, earthquake, flood, crime, boiler and machinery, accidental death, pollution and employee bond.

At a minimum, an insurance policy of at least \$2,000,000 should be obtained in case of a claim for personal injury, death, property damage, or third party liability.

It is always desirable to avoid any actions that could result in costly court challenges. A risk assessment could be undertaken by a professional advisor to identify ways that improvement districts can limit their liability.

Indemnification

Section 743.1 of the Act provides improvement districts the same powers as municipalities with respect to indemnification and identifies who the board of trustees may indemnify. Indemnification means that the improvement district may pay legal costs incurred to defend specific individuals or positions involved in court actions brought against them in the performance of their duties. The costs that may be paid relate to the person's defense or damages recovered against the person. Improvement districts cannot pay a fine imposed as a result of the person's conviction for a criminal offence.

The individuals that may be indemnified include:

- trustees;
- officers or employees;
- volunteer fire-fighters;
- a volunteer who participates in the delivery of services by the improvement district under the supervision of an officer or employee of the improvement district; and,
- select or standing committee members.

There are two alternate ways for the board of trustees to authorize indemnification. The board may

pass a bylaw that identifies which groups of people or positions it will make payments for, and what type of payments it will make (for example, whether the improvement district will pay defense costs, damages, or both). This bylaw would be passed proactively – that is, the board must consider whether or not it wanted to pay these costs before any legal action had been commenced. The bylaw would therefore be in place if an action was started, and the board would not be put in the position of making these decisions on an individual basis in the middle of a court action. However, once the bylaw is passed, the improvement district is obligated to pay the costs it has set out in the bylaw. A sample indemnification bylaw can be found in the Bylaw Preparation Manual.

If a bylaw, as described above, has not been passed, and an action or prosecution is started, the board may, by resolution with a vote of at least two-thirds of all members, agree to pay the person's defence costs, damages recovered against the person, or both. This method is more reactive – it allows the board to make individual decisions as the need arises, but necessitates decisions being made while a court action is underway.

The Act restricts an improvement district's ability to recover its costs from individual trustees, officers, employees, or volunteers. That is, if the improvement district is faced with a court action in its own name, the improvement district cannot commence a suit against any of these individuals to recover its legal costs or damages unless the claim relates to gross negligence of the person, or the person acted contrary to the terms of the person's employment or an order of a superior.

The following considerations may be useful to a board of trustees that is considering whether to pass an indemnification bylaw:

- indemnifying a person can be controversial since the public may perceive that its taxes are going toward legal fees instead of into the maintenance or operation of services;
- if a prosecution or action is brought against a trustee, that trustee is permitted to vote on the resolution with respect to the issue of their indemnification;
- providing for the indemnification of trustees may remove a concern expressed by potential candidates for office about their financial vulnerability if a lawsuit were to be brought against them. Similarly, it may assist in attracting professional staff;
- decisions about what groups to indemnify should be made with a view to avoiding the perception of favouritism or bias;
- the passage of an indemnification bylaw may have an impact on liability insurance rates; and
- the passage of an indemnification bylaw does not prevent the board from securing some form of insurance for trustees, officers, employees and volunteers as a means of coverage against claims.

The vote to pay amounts required for the protection, defense, or indemnification of the person, and to cover costs or damages, requires a two-thirds vote of all trustees, not two-thirds of the trustees present at the meeting where the vote is held.

Strata Information

Taxation

Section 67 of the *Strata Property Act* states: “For the purposes of assessment and taxation, each strata lot ... is a separate parcel of land.” Therefore, each strata lot should receive a separate assessment notice and be taxed as an individual dwelling. Depending on whether the strata development is an apartment-style condominium or a separate townhouse, the water assessment category and associated tax amount could be similar for a standard single-family dwelling. The developer of the strata property is responsible for taxes until the unit is sold.

User Rates (Tolls)

In the interpretation of common property of the strata development, the water supply system is included. Unless the strata development is individual townhouses on water meters, the total water charges should be billed to the strata corporation, and in the event of non-payment, the entire development would be turned off from the water supply main. This is the common method used in municipalities. The developer is responsible for any water tolls until such time as the strata council is formed.

Voting at Elections

Where each strata lot is separately registered at the Land Titles Office, every owner of each strata lot is entitled to vote or to be a trustee so long as they meet the other eligibility requirements.

Connection Charge

There is one connection charge for the strata development where there is only one connection. If strata lots are sold undeveloped, and if the improvement district had to connect each one as it was developed, then a connection charge for each connection would be collected.

Capital Expenditure Charges

Each strata lot represents a separate dwelling. The charge is therefore due for each strata lot created. Determination of what this amount should be depends on whether the board considers each strata unit to be equivalent to a standard single-family residential dwelling.

Regulations

The developer and owners of strata lots are subject to the improvement district’s regulatory bylaws.

Consultants and Contractors

There are times when a board of trustees may need to seek professional advice from an accountant, lawyer, engineer, contractor, or other specialist. For example, expert advice may be required in relation to a costly and/or complex construction project, agreement, or the disposal of property.

A lengthy selection process is usually not necessary for simple construction projects or short-term

contracts. Professional services can be retained on the basis of such things as referrals, general reputation, ability, experience with similar assignments and local knowledge. It is often beneficial to put costly and/or complex construction projects to tender to attract multiple bids and then choose the best one. Tendering is designed to ensure honesty and produce the best price by encouraging qualified bidders to engage in open competition.

Ultimately, the professional retained should have the following qualities:

- a proven track record for similar jobs;
- sensitivity to issues and concerns of the trustees or of the public;
- the resources to be able to undertake the project;
- good two-way communication skills;
- appropriate professional memberships or accreditation; and
- liability insurance.

Identify Needs

The first step in the process is to undertake a needs assessment. What type of project or service is needed - what is the level and extent of service? Are there sensitive issues or key concerns to be considered? What is a rough estimate of the cost? How is the project to be funded and what approvals are needed before funding can be secured? Answering these questions early in the planning process will result in smoother process.

Approvals

Is there a need to pass a bylaw, obtain landowner approval, or obtain project approval from the Ministry or other agencies prior to hiring the contractor and undertaking the project? If not, will the project require approvals later in the process? A bylaw is required for a contract about land or works.

Terms of Reference

Having terms of reference is important both for simple and complex projects, even if the contractor hired has performed satisfactorily for the improvement district in the past. Defining the project in the terms of reference, including any special conditions, ensures that the contractor can make an accurate estimate of the cost and timeline.

Terms of reference should provide background information on the project and state the proposal requirements, including format, estimated fees, number of copies, and the closing time and date for submitting proposals. Including details of the improvement district's evaluation process would be useful to the bidders so they can anticipate how much weight will be given to factors such as local knowledge, fees and previous work experience. The terms of reference should state that the lowest bid may not be the one that is ultimately accepted, particularly when a higher weighting is given to other considerations.

Some professional organizations and consultants have information available to help prepare terms of

reference. Hiring legal counsel may also be useful in ensuring tender documents are complete and correct. Allow for a reasonable time frame for consultants to complete the proposal. The length of time will depend on the complexity of the proposal. A board of trustees could request expressions of interest from qualified firms in order to limit the number of proposals to be reviewed.

Where a project involves purchase of goods and services worth more than \$100,000, or construction in excess of \$250,000, the provisions of the Agreement on Internal Trade will apply. Information on the Agreement can be found online at:

[http://www.jti.gov.bc.ca/DomIntlTrade/DomesticTrade/AgreementonInternalTrade\(AIT\).htm](http://www.jti.gov.bc.ca/DomIntlTrade/DomesticTrade/AgreementonInternalTrade(AIT).htm)

Soliciting Proposals (Tendering)

Once the terms of reference are complete, prospective consultants will need to be contacted to bid on the project. Consultants can be found through other improvement districts and local governments, through professional organizations or by word of mouth. Another option is to advertise.

Receive and Review Proposals

When consultants submit a proposal, the time and date they were received must be recorded.

Proposals cannot be accepted past the time and date established in the terms of reference.

Submissions received after the deadline should be returned unopened with a note that they were received late.

Proposal details should be kept confidential throughout the process.

It is not always necessary for the full board of trustees to review each proposal. The board may establish a select committee to short-list the applications and recommend one or more for consideration by the full board. Each proposal ought to be reviewed separately and then evaluated against the others to develop the short-list. Conflict of interest guidelines should be considered so that no trustee or committee member is involved in relation to a decision for which they have any benefit, perceived or otherwise.

Short Listing

Select two or three submissions for further consideration. It may be beneficial to contact each candidate and set up an interview to clarify any part of the terms of reference and the bid that are unclear to staff or board members.

Once interviews are complete, a second evaluation process may be required to select the appropriate consultant.

Final Approval - Awarding the Contract

The successful contractor or consultant should be notified as soon as practical after the board of trustees has made its decision. It is common practice to notify the unsuccessful bidders that they

were not chosen, advise them who the successful bidder was, and to thank them for their submission.

A formal agreement is necessary between the improvement district and the contractor or consultant. An agreement about land or works must be authorized by an agreement bylaw, which requires registration with the Inspector of Municipalities. A sample agreement bylaw can be found in the Bylaw Preparation Manual of this Manual. Agreements are often signed by the chair and the corporate officer on behalf of the improvement district. The seal of the improvement district is also impressed onto the agreement.

Conversion

Communities evolve over time according to factors such as the availability of employment, new development, changing populations and housing affordability. In communities where an improvement district is located, a time may arise when there is a lack of volunteers willing to serve as trustees, a lack of resources to manage their service(s), or a desire to access capital infrastructure grant programs. In these circumstances and others, the trustees and landowners may decide that there are greater advantages to having a regional district or municipality manage the service(s) for which the improvement district is responsible. In these cases, the Province can revoke the Letters Patent for the improvement district and transfer ownership and responsibility for their services to the regional district or municipality. This process is known as “dissolution” or “conversion”.

To make the conversion possible, a Provincial Cabinet Order is required to transfer the improvement district’s assets, liabilities and bylaws to the other local government and to revoke the improvement district’s Letters Patent. The Act does not require that a vote of the landowners to be held, but Cabinet will be interested to know the general opinion of the landowners before making a decision.

The local government taking over responsibility for the improvement district’s service(s) is obligated to ensure funds collected from the landowners of the former improvement district are used only for the purpose for which they were originally collected.

Further information about the implications and process for conversion can be found in the Ministry’s Improvement District Conversion Guide. Where there is local support for it, the Ministry will undertake the transfer of improvement district services to a municipality or regional district.

Alternatively, in some communities their growth and development may lend itself to consideration of incorporating the community into a new municipality. In this case the improvement district is a key proponent to the process and the trustees and staff frequently evolve into the council and staff of the new municipality.

Further information about the process and requirements for incorporation can be found on the Ministry’s website. This process is lengthy, can be costly, and must be supported broadly throughout the community.

Accounting

The board of trustees is responsible for ensuring that the improvement district meets its financial obligations. For this reason, the board is authorized to levy taxes, tolls and other charges, to invest, spend and to borrow money. The legislation provides a range of options that can be used by the board to implement each of these powers. The decisions will depend on local circumstances, the goals of the trustees and the impact on the landowners.

There are provisions in the legislation that specify the method of accounting that must be used, the requirement to have the financial accounts audited by a certified auditor, and the obligation for a summary of the financial transactions to be made available to the public. The landowners have a significant stake in the financial decisions made by the board, and each year the trustees must present audited financial statements to the landowners at the annual general meeting (AGM). Audited financial statements must also be forwarded to the Inspector of Municipalities every year.

Accounting System

Section 741(1) of the Act requires the financial officer to prepare the financial statements and to present them to the board of trustees. They must be prepared in accordance with generally accepted accounting principles for local governments. The financial statements must be audited by a person who is qualified to be an auditor of a reporting company under the *Companies Act*. Then these audited financial statements must be sent to the Inspector of Municipalities by May 15 each year, and presented by the board to the landowners at the annual general meeting.

An accounting system that provides accurate and timely financial information will assist the board to make informed decisions about the improvement district's finances. When deciding what accounting system to use, the improvement district should consider one that is easy to use, flexible and will enable the auditor to have a complete record of financial transactions that is current and can be verified. It will also facilitate the completion of the financial statements. A sample set of financial statements is in the Forms Appendix. The improvement district's auditor may be able to assist the board with the choice of an accounting system.

Accounting and Reporting Requirements

Accurate and complete financial records will allow the auditor to verify that proper accounting procedures have been used in the preparation of financial statements. It should also minimize the amount of time needed by the auditor to prepare their annual report to the board. The majority of expenses recorded in the accounting system will likely be administrative and operating costs.

An effective accounting system will enable the board to know how much money has been invested, how much is payable at any given time, how much is owing to the improvement district, and how much is available for expenses. This will allow the board to make informed decisions, to maintain a

healthy financial position, and to avoid unnecessary increases in taxes or tolls. The statement of revenue and expense is useful for determining how well the operating costs have been met in relation to the budget. The balance sheet will show the overall financial position.

Improvement districts that provide more than one service, such as waterworks and fire protection, must keep the revenues and expenses of each service separate. For example, money collected from water users cannot be spent on fire protection.

Unless the financial officer for an improvement district is a professional accountant, the assistance of an accounting agency or the improvement district auditor may be useful to ensure the accounting system meets the needs of the improvement district.

The fiscal year ends on December 31 for the purposes of preparing improvement district financial statements and the auditor's reports to the board of trustees, and submitting these documents to the Inspector (Section 741.1 of the Act).

Improvement districts are entitled to a rebate of the amount of the Sales Tax (GST) paid. An application for the rebate can be made by the improvement district annually, quarterly, or monthly. This decision will depend to some extent on the amount of money that is involved and whether it is needed for other purposes. Further information on the GST is available from the Canada Customs and Revenue Agency.

The board will need to determine who has the authority to sign improvement district cheques. It is recommended that each cheque have two signatures and it is common to assign this responsibility to the financial officer and the chair. However, it could also be assigned to two trustees.

At each meeting of the board, a summary of expenditures since the date of the last meeting should be reported. A policy could be established that expenditures above a certain limit must be approved by a resolution from the board. Expenditures should be in keeping with the amounts estimated in the annual budget. This process will allow all trustees to be kept informed about the financial position of the improvement district.

Payment of all invoices must be by cheque, not cash, to ensure that every financial transaction is properly recorded. A petty cash fund is only to be used to make payments for small, incidental expenses.

Duplicate receipts should be kept by the improvement district when payments are received. All money collected must be deposited with the improvement district's financial institution without delay.

Financial Statements

Statement of Revenue and Expense

The statement of revenue and expense appears in the audited financial statements and gives landowners an opportunity to see how the board of trustees spent the money that was collected from taxes, tolls and other charges. The statement of revenue and expense shows total income by source and the total expenditures from this income. Non cash expenditures are dealt with by adjustments to surplus. If the statement does not disclose debt repayments and capital expenditures, there is a possibility that there might be a sizeable excess of revenue over expense. This might be misleading to the taxpayers who might conclude that taxes and tolls are set at levels that are unnecessarily high.

If an improvement district provides more than one service, it is appropriate to have a consolidated statement. However, the improvement district must keep the revenues and expenses for each service separate in its accounting system.

Further information about the items to be included in the revenue and expense statement is as follows.

Revenues	
Taxes	All revenues obtained through taxation. This includes taxes levied and collected by the Province on behalf of improvement districts that provide fire protection and/or street lighting.
Tolls	All revenues obtained through tolls or user charges.
Connection Fees	Amount received for a service connection to improvement district works. This is not a surplus-generating item, but a cost recovery.
Capital Expenditure Charges	Amounts received from developers in consideration for a new unit of water service, if not shown separately on a Capital Expenditure Charge Fund schedule.
Other Revenue	Revenue items not included in previous revenue categories, including interest earned on investments and penalties paid by customers for late payment of taxes or tolls.
Expenses	
Administration	Items such as salaries, insurance, postage, phone bills, and printing costs.
Operations	Expenditures concerned with the daily operation of the improvement district, classified into categories. Certain expenses are incurred where the benefit occurs in future fiscal periods as well as the present. These costs, although

	paid in one period, need to be divided between each benefiting period.
Capital Expenditures	All expenditures for capital purposes need to be included except for: those expenditures financed from long-term borrowings, capital expenditure charge funds, and renewal reserve funds. Annual contributions to the renewal reserve fund are included under Capital Expenditures.
Debt Interest	Payment of interest on all temporary and long-term debts, including amounts levied and collected annually and retained by the Province for repayment of capital tax advances. Debt principal payments are shown after the net revenue item.

Balance Sheet

One consolidated balance sheet covering all activities of the improvement district. Where a renewal reserve fund or capital expenditure charge fund has been established, any changes to the funds should be disclosed in the notes to the financial statements. Changes in fixed asset valuations such as additions, replacements and renewals, and write-offs should also be shown in the notes. A Statement of Change in Financial Position should also be included in the financial statements.

Tangible Capital Assets

Tangible capital assets should be reported in accordance with the accounting standards set out in PS 3150 of the Public Sector Accounting Board. Tangible capital assets are amortized over their useful lives. Decisions about amortization should be made in consultation with the improvement district's auditor.

Renewal Reserve Fund

Every improvement district must have a renewal reserve fund in place to deal with unexpected contingencies. A cornerstone of tangible capital asset management is also to accumulate reserves for the eventual replacement of assets. An improvement district whose works have been financed by borrowing may decide to set aside money into a renewal reserve fund once the loan is repaid.

The amount to be set aside annually in a reserve fund will often be determined on the basis of an engineering report. The remaining useful life of each component of the system will be estimated and a schedule of replacement drawn up, so that the works will be renewed constantly by sections. Periodic engineering surveys will be made, and the annual contribution may be adjusted to reflect revised estimates of system life and construction costs.

Renewal reserve funds are established by bylaw and a separate account at the improvement district's financial institution should be opened. A note should be placed on the account by the financial institution indicating that no withdrawals, or transfers, from the account are to be made unless a renewal reserve fund disbursement bylaw has been passed by the trustees. During the year, contributions to the renewal reserve fund can be made from the improvement district's operating

account.

Monies accumulated in the renewal reserve fund that are not immediately required can be invested in accordance with legislation. Revenue from the sale of any such investments must be deposited in the renewal reserve fund. Renewal reserve funds cannot be pledged as collateral for loans because the funds may be needed from time to time to finance capital projects, sometimes on short notice. All investments should be readily convertible, without penalty, into cash.

The information regarding reserve funds should be shown in the notes to the financial statements. Interest earned on renewal reserve fund assets and profits on the sale of investments should not be shown on the revenue and expenditure statement, but will be added directly to the renewal reserve and its fund. Similarly, any costs incurred to purchase investments, and any loss on the disposal of investments, will be charged directly against the renewal reserve fund.

Capital Expenditure Charge Fund

Capital expenditure charge funds are treated the same way as renewal reserve funds in the preparation of financial statements. All changes in the capital expenditure charge reserve fund during the fiscal period should be shown by a full presentation on a separate schedule.

Capital Tax Advances (long term debt for fire protection purposes)

Under section 756 of the LGA, the Minister of Finance may advance money to an improvement district that provides fire protection or street lighting. This is a form of borrowing through the Province as the money will subsequently be repaid over a specified period of years from the annual taxes collected by the Province from the landowners in the improvement district. A bylaw is required in order to request the money from the Province and provide for its repayment. The amount of the money advanced to the improvement district should be shown in the statement of revenue and expenditures as revenue. The interest owing on the amount of money advanced to the improvement district will show as an expenditure under debt interest. The annual repayment applied against the principal amount advanced to the improvement district will show under debt principal payments.

Audit

A qualified auditor must report to the board of trustees on the annual financial statements and the report must be in accordance with the form and the reporting standards established by the Canadian Institute of Certified Accountants. The purpose of an audit is to safeguard the interests of the landowners by making sure that proper procedures are being followed to record financial transactions in the improvement district's accounting system.

Auditor

Section 741.2 of the LGA requires the board of trustees to appoint an auditor for the improvement district. The auditor must meet the requirements of Section 169 of the *Community Charter*. The person or firm chosen should have no interest in the affairs of the improvement district apart from

their duties as auditor, and should be a member or a partnership whose partners are members in good standing of the Canadian Institute of Chartered Accountants or the Certified General Accountants Association of British Columbia, or a person certified by the board established under the *Company Act* (C.A., C.G.A., and CMA respectively).

Section 741.1(5) of the LGA requires the board of trustees to furnish the Inspector of Municipalities with a copy of the audited financial statements and other financial information required before May 15 each year.

Budgeting

The preparation of an operating budget and a capital expenditure program are essential elements of any improvement district's financial plan. A good budgetary process will estimate future capital and operating costs, which will inform the board of trustees as to the amount of revenue that they will need to meet those costs. Decisions can then be made about how to equitably allocate those costs to the landowners through taxes, tolls and other charges. Decisions can also be made about how much money (if any) should be set aside for contingencies, or for future capital works.

The Inspector of Municipalities may require that budget information be submitted in support of bylaws that are being considered for registration such as taxes, tolls, charges and loans.

Operating

A budget is a plan of operation for a future period of time, usually a calendar year, expressed in monetary terms. It includes a forecast of revenues and expenditures anticipated for that time.

A budget should be prepared and completed several months in advance of the time when the board of trustees needs to consider whether to change its taxes and tolls. This will depend on the due dates set for the taxes and tolls, which vary with each improvement district. Generally, budgets are prepared near the end of the year to guide decisions for the following year.

In order to prepare a budget, it is helpful to review the revenue and expenses for the current year, or for the last two years. A budget can be developed by comparing this in conjunction with anticipated revenue and expenses in the following year. Some of the things to consider when estimating future revenues and expenses are changes in construction costs, salaries, repairs, insurance rates, legal fees or other professional fees, office equipment and earnings on investments.

These projections can then be used to determine whether additional revenue will be required and if so, the source of the revenue needs to be identified. Accurate projections will reduce the need for the trustees to borrow money in the case of a shortfall.

The budget should be completed prior to the annual general meeting so that the board of trustees

can advise the landowners how the improvement district's finances performed for the past year and whether to expect any increases in taxes, tolls, or other charges for the coming year. Additional suggestions for the budget include:

- the budget should be set out in a fashion similar to the revenue and expenditure statement prepared by the improvement district's auditor;
- the budget should contain details of the revenue by type and source, and expenditures by function and activity;
- if surplus revenue from one year is carried forward for use in the next year, it should be shown as other revenue (transfer from prior year's surplus); and
- the current year's portion of the capital expenditure program (source and application of funds) should be included in the budget as other revenue and as a capital expenditure;
- the amount to be allocated to the renewal reserve.

Some improvement districts that operate water systems adopt a policy where tolls and user rates cover the administrative and operating costs, while taxes cover capital costs, debt repayment and reserve fund allocations.

Reviewing the budget on a regular basis during the year against actual revenues and expenditures will allow a board of trustees to make adjustments as needed and avoid possible cost overruns.

Capital Expenditure Program

In the course of developing operating budgets, future capital works must be considered. A capital expenditure program covering a reasonable period of time (minimum five years) equates planned capital expenditures with anticipated revenue sources. The capital expenditure program provides a link between the long-term capital works plan and the current year's operating requirements. The preparation of the capital expenditure program can assist improvement districts in:

- establishing or changing capital expenditure charges;
- developing a renewal reserve fund program; and
- deciding to increase taxes; and,
- deciding whether a short or long-term loan is required.

A capital expenditure program should be established for each service that is provided by an improvement district as well as by expenditure category (i.e. land, buildings, equipment, etc.). Often the information the program is based on comes from an engineering report or feasibility study which prioritizes capital expenditures, or recommends work be completed in phases. Balanced against the expenditures in the program are the sources of revenue that will be used to finance the cost of the capital expenditures. These sources include current year operating funds, capital expenditure charge funds, renewal reserve funds, and loans.

When preparing a capital expenditure program the following points should be considered:

- the capital expenditure program is a presentation in order of priority of the proposed capital expenditures, and the sources of funds available to finance those capital works for each year of the program (e.g. a mix of reserves and borrowing);
- the current year's portion of the capital expenditure program should be included in the annual budget;
- the capital expenditure program should be revised each year; and
- a capital expenditure program may cover any reasonable period of time.

Investment Guidelines

Section 745(4) of the LGA states that money held by an improvement district that is not immediately required, may be invested by the board in investments referred to in Section 183 of the *Community Charter*.

The investment guidelines reflect a conservative management philosophy that is based on three fundamentals: the first priority is the preservation of capital; the second, to ensure easy conversion to available cash; and the third, the achievement of reasonable returns. The preservation of capital is accomplished through the placement of funds with institutions regarded in the marketplace as having the highest credit worthiness. In investing public money it is not sufficient to place funds with institutions that have earned a public reputation as merely a good credit risk.

Section 183 allows investment in one or more of the following:

- securities of, or guaranteed for principal and interest by, Canada or a province;
- securities of a municipality or regional district;
- securities of the Municipal Finance Authority;
- pooled investment funds under Section 16 of the *Municipal Finance Authority Act*;
- investments guaranteed by a chartered bank; or
- deposits in a savings institution, or non-equity or membership shares of a credit union.

Credit risk minimization can also be done through diversified investments. Investing funds in several institutions instead of one reduces risks if one of them does not perform well. Still, it is recognized that there may be situations where this is not practicable or desirable.

The insurance of liquidity, or easy conversion to cash, ensures the ability to fund operating commitments through the drawdown of the investment portfolio. The following instruments are considered liquid: treasury bills; demand deposits; term deposits with a call feature; banker's acceptances; banker's deposit notes; and, tradable promissory notes.

A consequence of the first priority to preserve capital is the obligation to ensure the safe delivery

and settlement of securities. To this end, securities should be purchased for delivery only. Offers by investment dealers to provide the permanent safekeeping function should be avoided, as should accepting a letter of undertaking from an investment dealer promising to deliver securities at a future date. Securities should be held for safekeeping with any financial institution qualifying as an excellent risk under the preservation of capital requirements. Repurchase agreements for the purpose of overnight investments should only be considered if there is same day physical delivery and there are precise terms negotiated in advance as to the sale price and resale price.

Borrowing

Short-term (Temporary or Interim)

Section 746(1) of the LGA authorizes the board of trustees to make bylaws for borrowing amounts the board believes are necessary to meet approved expenditures. Borrowing is done by way of a loan, temporary or otherwise, from a financial institution.

Improvement districts do not have access to lines of credit as this is a form of borrowing with no term end and that would not have landowner approval.

Temporary borrowing is generally used in the following circumstances:

- when an unexpected or unplanned expenditure arises that was not included in the budget, but which requires immediate attention and cannot be met through existing funds on hand (i.e. operating account or reserve funds). The nature and size of the expenditure will influence the trustees' decision about the term of the loan. In most cases, improvement districts should be able to repay the loan within three years; or
- when a major capital project has been approved and is under construction, the cost is financed by interim borrowing until the project is completed, and final cost figures are known. At that time, the interim financing can be replaced by a long-term loan.

Temporary borrowing bylaws must be registered with the Inspector of Municipalities before the money can be obtained from a financial institution. Three copies of the bylaw must be submitted for registration, so that one copy can be kept by the financial institution. Until the bylaw is registered with the Inspector, the capital project, the purchase of assets, or other purpose for the borrowing, cannot be undertaken. Detailed cost and repayment information must be submitted to the Inspector in support of the bylaw (see the section called Planning for Capital Projects). The following points should be noted with respect to the borrowing bylaw provisions:

- **Borrowing Limit** - The amount stated in the bylaw is the maximum amount to be borrowed for the approved expenditure. Actual amounts borrowed under this borrowing authorization may be less depending on the timing of payments and the actual costs incurred;
- **Repayment Date** - The repayment date is tied to the expected cost recovery plan; and
- **Borrowing Institution** - The name of the financial institution, from which the borrowing is to be obtained, is stated in the bylaw.

Note the repayment of a loan is secured by the toll and taxing powers of the improvement district, not by the value of its assets. A sample borrowing bylaw is in the Bylaw Preparation Manual.

Long-term

Sections 746 and 769 to 772 of the LGA authorize a board of trustees to enact bylaws to borrow money by the issue and sale of notes, bonds, debentures and other securities in principal amounts the board believes are necessary.

Long-term borrowing is used to pay out interim financing for capital expenditure projects approved under a temporary borrowing bylaw. For water, long-term financing is arranged through a financial institution chosen by the trustees, under bylaw approved by the Ministry.

For improvement districts that provide fire protection, long term borrowing is undertaken through the Surveyor of Taxes which is done twice a year, in the spring and the fall. At the time the improvement district receives approval to undertake the project they will be placed on a list, and the long term borrowing will be done after the project is completed. The Surveyor of Taxes then collects the annual cost to repay the debt through the provincial tax system.

In general, the term for long-term borrowing does not exceed 20 years, or in the case of fire trucks, not more than 15 years. In either case, borrowing through the Surveyor can be for as little as 3 years.

Cost Recovery

Assessment and Taxation

Sections 746 and 753 to 760 of the LGA authorize the board of trustees to make bylaws in order to assess property, levy and collect taxes and recover unpaid taxes.

Taxes are property charges fixed and payable by all landowners in the improvement district, for which service is provided. Where both taxes and tolls are levied, monies raised through taxes are generally used to meet the annual debt costs, capital out of revenue, and reserve fund allocations.

Taxes may be fixed on the basis of parcels, groups of parcels, values or areas, or any combination of these. Most improvement districts use a simplified parcel tax system where the total costs are divided by the total number of parcels benefiting, to determine a fixed parcel tax. Whatever formula for taxation is, it should be based on an equitable allocation of costs that can be explained to the landowners.

Taxes are generally used in conjunction with tolls as a method of cost recovery, for direct services such as water or garbage collection which involve an element of consumption. Taxes are generally used as the sole method of cost recovery for services that are provided more occasionally or indirectly such as fire protection, street lighting, or dyking. While an improvement district can levy taxes on properties that are not directly receiving a service, consideration must be given to whether the properties could receive the service in the future if the owner requested it. For example, if a water main fronts a property that is undeveloped, there is logic for it to be taxed as the money will be used to ensure the water system is maintained for when the owner wants to develop the property. If a property cannot be connected to a water line, there is no logic for taxing it as the owner will never benefit from the water system. If a property not receiving water is taxed, a capital expenditure charge will not usually be payable at the time a water connection is requested.

Certain properties are exempt from taxation, such as schools and crown lands. A list of exemptions is contained in Section 15 of the *Taxation (Rural Area) Act*.

Bankruptcy and Collection of Charges

If an improvement district has outstanding taxes, tolls, or charges against a property where the owner has filed for bankruptcy, the improvement district should make a claim to the bankruptcy trustee in order to be added to the list of creditors. The claim should specify the amount owing to the improvement district, including any penalties or interest. The bankruptcy trustee will decide how much of the outstanding amount (if any) will be paid to the improvement district from the owner's assets.

Although outstanding improvement district charges automatically form a lien on the property, Federal bankruptcy legislation takes priority over provincial legislation. Therefore, once the

bankruptcy proceedings are finalized, the lien is discharged and the improvement district will not have an opportunity to recover its outstanding amounts from subsequent property owners.

A tax sale cannot be undertaken for a property that is under bankruptcy.

Establishment of taxation

Tax bylaws must be passed by the board of trustees and registered with the Inspector of Municipalities to be in force and effect. A tax bylaw is the only bylaw enacted by a board of trustees that does not continue indefinitely. A new taxation bylaw **must** be passed by the board and registered with the Inspector every year, even if the amount of the taxes are unchanged from the previous year.

For this reason, tax bylaws are not repealed as each one is only in effect for a single year. The only time a repeal clause should ever appear in a tax bylaw is if there has been an error in a bylaw that cannot be addressed by an amendment bylaw, and a replacement has to be done for that year.

The following is an outline of steps a board of trustees must consider when carrying out the assessment and taxation processes.

General Steps to Carry Out Assessment and Taxation

The following steps apply where the improvement district is the assessor and collector for the services for which a tax is to be levied. If an improvement district is responsible for fire protection or street lighting, the improvement district can ask the province to levy and collect taxes for those services on its behalf.

1. Assessor

Assign the assessor duties to the corporate officer or the financial officer position. The duties of the collector are already assigned in legislation to the financial officer.

2. Pass and file an Assessment Bylaw

An assessment bylaw sets out the basis for such assessment and authorizes the assessor to carry out an assessment and create an assessment roll. If you are putting a new assessment bylaw in place, ensure this is done before the Court of Revision is held and before you pass the tax bylaw for that year. The assessment bylaw does not require registration by the Inspector, but must be filed with the Ministry.

3. Prepare the preliminary assessment roll

Every parcel of land (if parcels are the basis of assessment) within the improvement district boundary needs to be listed, showing the name(s) of the registered owner, the property address, the legal description of the property, and the classification into which the property is being placed. Information about the owners and the property may be available from the regional district, Government Agent office, or the local BC Assessment office.

4. Mail out the assessment notices

Assessment notices must be sent out annually to every landowner whose property is assessed. The notice must include a description of the property and the assessment category into which it has been placed, as well as the date, time and place for the Court of Revision. The Court of Revision must be held no less than two weeks after the notice was mailed.

5. Appoint members of the Court of Revision

Annually, the trustees must appoint three persons to constitute the Court of Revision. These may be trustees or other persons, but not the assessor. The members of the Court of Revision should be familiar with: the improvement district boundary; the basis of assessment used; the uses of property in the community; and, the extent of the improvement district's services.

6. Hold the Court of Revision

On the date, time and place that has been appointed, the Court of Revision sits to consider any complaints regarding assessment brought before it. Complaints by landowners may be made regarding their own assessment, or the assessment of other property. If the Court finds that the assessment should be changed, they may amend the assessment and change the assessment roll. If the Court confirms the assessment, no change is made to the roll. The Court only considers complaints about information on the assessment roll such as description, ownership, or that the property was placed in the wrong assessment category. Complaints about the taxes levied against the property are not the concern of the Court.

7. Assessment Appeals

If the Court of Revision heard a complaint and it was disallowed, there is a two week period during which the decision of the Court can be appealed to the Inspector of Municipalities. The Inspector will review the matter and can either ratify the decision of the Court, or amend the assessment accordingly. If there is no appeal at the end of the two week period, the assessment roll is valid and binding until the following year when the process is repeated.

8. Tax Bylaw

The tax bylaw can be passed at any point in this process, but it must be passed and submitted to the Inspector for registration prior to sending out the tax notices. If there are any changes to the assessment bylaw, ensure these have been taken into account prior to passing the tax bylaw.

9. Tax Notice

After the tax bylaw has been registered with the Inspector, a tax notice must be sent to each landowner. This notice must contain a description of the property, the amount of taxes owing, and enough information respecting the assessment and rates of taxation to show how this amount was calculated.

10. Other Considerations

Assessment bylaws may be used until the board of trustees decides to change it but a new tax bylaw must be passed and registered every year.

Samples of the necessary bylaws and forms (i.e. assessment bylaw, assessment notice and tax notice) can be found in the Appendices.

Steps for carrying out Assessment and Taxation (Fire protection and/or street lighting)

Section 756 of the LGA authorizes improvement districts that provide fire protection and/or street lighting to have the Provincial government assess and collect taxes on their behalf by including an amount on each landowner's Provincial tax notice for this purpose. In order to arrange this, the board of trustees must pass a bylaw that sets out the amount of money they need for the following year for fire protection and/or street lighting purposes. The Surveyor of Taxes (Surveyor) then advances the amount of this money to the improvement district on the date or dates requested by the improvement district. The Surveyor charges a small fee for this service that is added to the landowner's taxes.

Each September, the Ministry sends a notice to all improvement districts that provide fire protection and/or street lighting that if they wish to use this method of cost recovery, they need to pass a taxation bylaw and send it to the Ministry along with detailed budget information, before October 30. A copy of this bylaw can be found in the Bylaw Preparation Manual.

After the budget and bylaw are approved, a copy of the taxation bylaw is sent by the Ministry to the Surveyor along with a request that the amount of money in the bylaw be processed. The deadline for the Ministry to send this information to the Surveyor is November 30. The money requested by the improvement district is then advanced by the Surveyor. This occurs on the first business day after July 1 of the following year.

Up to half the requested amount may be advanced to the improvement district as early as the first working day in January, but the improvement district will be charged interest on any funds taken prior to the first business day in July. The interest charge is added to the taxes for that year.

Tax Sale

In addition to all other remedies for the recovery of taxes, such as percentage additions and interest charges, an improvement district must hold a tax sale each year that there are taxes owing to the improvement district for more than 24 months at the date of the sale. Sections 761 to 768 of the LGA and the following preliminary tax sale procedures provide information about the process.

The improvement district must contact the Ministry well in advance of the tax sale date, for confirmation of ownership and for notification sent by the Ministry to each landowner. If the case is

complicated, it will be suggested that the improvement district may want to seek the assistance of legal counsel to ensure that all legislative requirements in each step are met. The method of calculating interest on taxes in arrears is shown in the Forms, Notices and Samples Appendix.

If a property owner is delinquent with their Provincial taxes as well as their improvement district taxes, there is a possibility the property could forfeit to the Province before the improvement district can conduct their tax sale. If Provincial taxes are outstanding when an improvement district proceeds to tax sale, the improvement district must be aware of the amount since they should also notify the purchaser of the outstanding Provincial taxes. Property is normally subject to forfeiture for unpaid Provincial taxes after 24 months, with absolute forfeiture 12 months later. This occurs in December each year. If property goes to the absolute forfeiture, the improvement district will lose its ability to collect its outstanding taxes.

The Ministry will contact the Surveyor's office on behalf of the improvement district for the status of the Provincial taxes on the property where the improvement district has taxes in arrears for 24 months or longer. If absolute forfeiture will occur in the same year, the improvement district would need to schedule their tax sale before the Province's, or not have a tax sale.

If an improvement district is located within the boundary of a municipality, the municipality's financial officer should be contacted to determine if there are outstanding municipal taxes. If a municipal tax sale is occurring, the improvement district should schedule its tax sale before that of the municipality.

It should be noted that there is no redemption period if an improvement district has proceeded to tax sale - the sale is absolute. The collector must ensure that every landowner and chargeholder on a property going to tax sale is aware of this, or risk serious legal challenge.

If a property is listed for tax sale and a partial payment is received by the improvement district, it must accept the partial payment. Any payment made on taxes owing for 24 months or longer is applied first to the oldest outstanding taxes (interest, percentage addition, then initial levy), and then applied against subsequent years. The tax sale would only be cancelled if the amount received was sufficient to pay the full amount owing for oldest outstanding taxation year (initial levy plus percentage addition plus interest to date of payment).

The upset price (the minimum the property can be sold for) of the property is the total tax, interest, penalties owing, plus the cost of conducting the sale and registration fee as set out in section 762 of the LGA. A bylaw is required to establish the improvement district's costs for holding a tax sale and should be registered prior to initiating tax sale for the first time. A copy of this bylaw can be obtained from the Ministry.

At the improvement district tax sale auction, the prospective purchasers must be advised of any improvement district charges (tolls, capital expenditure charges, etc.) which will have to be paid

before the tax sale deed is registered, as well as if there are outstanding Provincial or municipal taxes.

To avoid a conflict of interest situation, no one associated with the improvement district should bid on the property unless they are bidding on behalf of the improvement district. Any property for which there is no bid automatically reverts to the improvement district.

Preliminary Tax Sale Procedures

The following procedures are to be followed by an improvement district to recover unpaid taxes through tax sale proceedings. Improvement districts may want to seek the assistance of legal counsel to ensure that all of the legislative requirements are met.

1. Under Section 762 of the LGA, a board of trustees may hold a tax sale once every year, and sell at public auction all lands where the improvement district's taxes have been owing for 24 months or longer at the date of the tax sale.
2. The board of trustees should decide the date, time and place to hold the tax sale. When deciding this date, they must consider the taxation due date. For example, if June 30th is the due date for the current year taxes to be paid, the tax sale date must be later than June 30th.
3. The Ministry must be contacted and will then notify the Surveyor of Taxes for you, to ascertain whether or not the delinquent properties are subject to forfeiture, and will provide a letter directly to the landowners to confirm to them the improvement districts ability to go to tax sale. You must send the folio number and other identifying information to the Ministry before starting the tax sale process.

In those few cases where an improvement district exists inside a municipality, the Ministry will contact the municipality to determine if the delinquent property is subject to municipal tax sale. This occurs on the last Monday in September every year. Should this be the case, options for the improvement district will be discussed with them.

The provincial government does not hold physical tax sales for unpaid provincial taxes, but carries out a plan of forfeiture which, if taxes are not paid within a period of one year from the serving of the notice of forfeiture, the land reverts to the ownership of the province. If the province's taxes are not paid prior to November 30 of the following year, the land will revert to the province. In view of this, it will be necessary for improvement districts to hold tax sales prior to the land being forfeited because once it is forfeited to the Province, the improvement district may not be able to recover its taxes. Any taxes outstanding for a full 24 months should be collected by tax sale or otherwise prior to November 30, the effective date of forfeiture.

4. If an improvement district discovers that there are properties subject to forfeiture for which taxes are owed to the improvement district for less than the full 24 month period, the board of

trustees should take necessary action to have a statutory lien enforced (section 759) prior to the date of forfeiture.

5. When an improvement district sells a property at tax sale, it is necessary that the Surveyor be advised of the name and address of the new owner, along with a legal description of the property affected. The Surveyor's office can be contacted at:

Ministry of Finance
P.O. Box 9446 Stn. Prov. Govt.
Victoria, BC V8W 9V6

6. If there are Provincial taxes owing at the time of the tax sale, the improvement district should advise those attending the public auction of the amount of Provincial taxes owing so that this amount can be paid to the Province by the new owner after acquiring the property and prior to the forfeiture date.
7. If an improvement district is intending to hold a tax sale, a tax sale charge bylaw should be in place to recover the improvement district's expenses in connection to the tax sale.
8. At least 60 days before the tax sale date, the improvement district officer assigned the responsibilities of collector prepares, signs, and causes to be personally served to each registered owner of each parcel of land liable to be offered for sale at the tax sale, a notice giving the following information:
 - a short description of the land for which the taxes are owing;
 - the amount of taxes owing to the improvement district (including any penalty addition) and the interest owing to the date established for the tax sale;
 - other expenses which, in combination with the above, will constitute the upset price. This price is shown in the tax sale notice;
 - a statement that if the amounts noted above are not sooner paid, the improvement district will, at the time and place shown in the tax sale notice, offer the land for sale at public auction; and,
 - a statement that the said proposed sale of the land will be an absolute sale and that there is no right of redemption for the owner or charge holder after the sale.
9. In addition to arranging personal service of the above tax sale notice to the registered owner(s), the officer assigned responsibility must also notify every holder of each registered charge on the property, either by serving the notice or by registered mail. The officer assigned responsibility must retain a copy of each tax sale notice issued.
10. No other advertisement or publication of the tax sale is required by legislation, but as the tax sale is by public auction, the board of trustees may advertise the sale by any means they deem appropriate to attract bidders.

11. On the day, hour and place fixed for the sale, the officer assigned responsibility must proceed to sell by auction, all properties for which taxes, penalty additions and interest are still unpaid at that time.
12. Further information about the conduct of the tax sale and what notifications must be given is contained in Division 4 of Part 23 of the LGA.
13. A sample tax sale notice and a tax sale deed are included in the Forms, Notices and Samples Appendix.

Connection Charges

Section 746(1) of the LGA authorizes the board of trustees to enact a bylaw to establish charges. A connection charge is meant to recover only the actual cost that the improvement district incurs to complete the physical connection from the water distribution main, to the boundary of the property owned by the applicant who requested the connection. The charge may include a reasonable dollar amount for the improvement district staff to process the application and to inspect the connection before turning the water on. **A connection charge is not a surplus-generating source of revenue for the improvement district or a “buy-in” fee.** A connection charge does not include any other costs.

Depending on the construction history of the improvement district’s water system, the pipes and valves connecting the water mains to individual properties may have been installed long ago, very recently, or not at all. The cost might have been paid by a developer, by the landowners in the improvement district as a whole, or by the owners of property fronting the waterline at the time of construction. If curb stops (valves) were installed, they might be well-marked or they might be hard to locate without excavation.

As a result, connection costs can vary from a simple visit to the site to inspect the landowner’s service pipe connection and to turn on the curb stop, or it may involve road crossings, blasting and considerable expense. In addition, the policies of the improvement district may dictate the work must be undertaken by their own employees, or it might be undertaken by an approved contractor.

Establishment

There are two main methods of establishing a charge to recover the costs incurred by the improvement district for water connections. One is to set a flat charge and the other is a floating charge known as cost-plus. The flat charge is a dollar amount that is usually set at a level which covers the average cost of connections. Where the actual cost to make the connection turns out to be less than the flat rate, the improvement district retains the surplus. Where the cost is more than the flat rate, the improvement district finances the shortfall. In the long run, the improvement district should only break even. This method is used within established systems where the water lines are usually already in place, and the connections are simply at the property line.

With the cost-plus connection charge, the applicant is required to pay the actual cost of the service connection to their property, which may include running the pipeline for some distance. A deposit is required at the time the application is made and the difference is either made up by applicant (for costs higher than the deposit paid) or reimbursed to the applicant (for costs lower than deposit). The amount of this deposit should be set at the expected maximum cost for the type of service connection requested.

The improvement district should not turn water on to the property until the full amount of the connection charge and all other amounts to be collected under its bylaws, are paid. This is the best guarantee for the improvement district to receive full payment of the connection charge. Sample bylaw formats can be found in the Bylaw Preparation Manual. This bylaw does not require registration with the Inspector, but must be filed with the Ministry as soon as it is passed.

Capital Expenditure Charges

Section 746(1)(f) of LGA authorizes the board of trustees to enact bylaws for establishing charges for capital expenditures. An engineering report will be required as a part of the process to establish or update this charge. Capital expenditure charges can only be levied for water or sewer.

A well planned water or sewer system should have spare capacity to service future development. A few customers can usually be hooked up without reducing the quality of service to existing customers. However, the addition of each new connection will gradually erode the ability of the system to deliver a reasonable level of service unless measures are taken in advance by the improvement district to augment the system to compensate for its lost capacity. For a water system, these growth issues can result in a shortage of water at the source, excessive reservoir draw down, inadequate yield of pumps, or low pressures during periods of heavy demand (which usually occurs in summer and/or at higher elevations).

The degree of spare capacity available on any given date in each component of the system will differ. For instance, the intake for a water system may be sized to handle a much greater flow than presently required and the trunk main may be able to convey enough water for some additional demand, but a booster pump may be unable to deliver more water. A second or larger booster pump (or a balancing storage tank) may be required, followed later by paralleling or upsizing the trunk main. Periodic improvements to the system will be required to remove bottlenecks in the capacity of the water system to meet the increasing demand for service due to continuing development. This upgrading should be pre-planned and based on an engineering study which recommends a staged sequence of new works to handle expected growth. These improvements should be carried out before the demand for water exceeds the capacity of the system.

To pay for these improvements to augment system capacity the improvement district can establish a Capital Expenditure Charge (CEC) fund. Developers and landowners who will create the extra

demand for service will be required by bylaw to contribute money to the fund in the form of a charge. The charge must fairly represent the added demand their development will impose on the system. Using this method, the improvement district can accumulate, in advance of need, the money to finance these expansions.

A CEC is also intended to augment system capacity to supply the more intensive use of a service anticipated when land is redeveloped. Redevelopments might result in a change of land use which could mean that the land needs to be reclassified for assessment and taxation purposes. The change in land use might involve land being used for different purposes, such as a residential development on land that was previously agricultural. It might also involve lands where the use is the same but the density has increased such as a single family dwelling being replaced with a duplex or an apartment building.

Under Part 23 of the LGA, there are various methods available to finance the costs of works and services required due to new development. Some of the methods are:

- capital expenditure charges under section 746(1)(f);
- subdivision servicing requirements under section 747.1; and
- latecomer charges under section 747.2.

Prior to enacting a CEC bylaw, the board of trustees should determine what types of works are to be financed by the various methods since CECs are not intended to duplicate any other requirements for works and services. Specific provisions must be included in the CEC bylaw that may void the charge if duplication exists. For example, it could be decided that major water mains will be financed by CECs, whereas water laterals will be the responsibility of the developer under the provisions in a subdivision servicing bylaw. These decisions should be reflected in the capital expenditure program.

Establishment

CEC bylaws must be passed by the board of trustees and registered with the Inspector of Municipalities prior to collecting monies from new development or new services. A sample CEC bylaw can be found in the Bylaw Preparation Manual. A CEC bylaw is not mandatory, but if enacted, it will require periodic review and amendment. Some of the features of the bylaw are:

- improvement districts can have one CEC bylaw for different types of development, that covers new connections, subdivisions, and properties where the use of land has changed;
- it outlines the purpose of the charge, when it is payable, the basis of the charge, and how money in the CEC fund is to be disbursed; and
- it establishes a schedule outlining the different amount of charges that are charged to properties according to the type of land use development involved.

Different capital expenditure charges can be established for areas of the improvement district where

there are costs to improve the water system specific to that area.

Money in the CEC fund can be used to pay engineering study costs or debt incurred as a result of an expenditure related to the capital costs of providing, constructing, altering or expanding facilities to service new development.

A works plan and capital expenditure program are needed to support a CEC bylaw or amendment bylaw that is submitted for registration with the Inspector of Municipalities. A works plan is a prioritized listing of anticipated capital improvements outlined in an engineering report. A capital expenditure program is a schedule which equates planned expenditures in the works plan with anticipated revenue sources. See the Budgeting section for more details about capital expenditure programs.

When the trustees are considering or reviewing a capital expenditure charge bylaw, the following points should be considered:

- CECs may only be fixed for the purpose of providing funds for the improvement district to pay the capital cost of providing, altering or expanding facilities. Therefore, the CEC must relate to costs related to development;
- the CEC must be paid at the time of subdivision approval or when the application for service is approved by the improvement district;
- the CEC bylaw may provide certain exemptions. If the CEC has been paid with respect to the same development that includes either a building or structure or the subdivision of land, then unless further subdivision occurs or additional development is carried out, there is no new capital cost burden and therefore no CEC is payable. Similarly, if the subdivision or development does not impose new capital cost burdens on the improvement district, no CEC can be imposed;
- the bylaw must state that CECs should be fair and equitable and at levels that will not deter development within the community;
- the bylaw must require that all CECs collected be deposited in separate reserve fund to be expended only for the purpose for which the charges were collected. For example, if the improvement district has determined that different CECs can be charged in different parts of the improvement district, the monies generated for each area must be spent on the project, or debt incurred for that project, in that area only.;
- Schedule A of the bylaw will vary directly according to the needs of each improvement district. The CECs must be related directly to the cost of providing, altering or expanding facilities. The cost may vary according to different areas within the improvement district. That is, the board of

trustees could determine that the costs required to serve one area of the improvement district are higher than in other areas; and

- charges could vary according to different capital costs related to any of the different classes of development, and the charge may vary according to the different sizes or numbers of units or lots created by or resulting from a development. However, the charge must be the same for the same capital cost imposed upon the same classes. That is, the charge must be the same for two different properties that are used for the same purpose such as single family dwellings unless the properties are located in different zones identified by the CEC bylaw.

Calculation and Justification

When considering a CEC bylaw, the board of trustees should take into account the following:

- CECs should include growth information from the local government Official Community Plan (OCP) if one has been established in the area. These plans contain the blueprint for present and future development of the community. Improvement districts should consult with their regional district (or municipality or Islands Trust) where an OCP is in place. If an OCP is not in place, then the Ministry will require evidence when reviewing a CEC bylaw that the charge is based on a rational scheme of development;
- realistic population projections should also form part of the basis for determining CECs. Population figures are available from regional districts or BC Stats; and
- an engineering report should identify capital works required to increase the capacity of the water system to service new developments as well as the cost of those works and then correlate this information with the population projections and community plan information.
- The estimated costs included in the report will form the works plan and will need to identify the portion to be financed by new development. These reports are usually prepared by consulting engineers, or occasionally, by improvement district employees where professional staff are employed; and
- CECs should relate to capital costs attributable to projects included in the capital expenditure program that is adopted by the board of trustees.

CECs are used to finance works and services which benefit all anticipated development in the improvement district as opposed to those which benefit only specific properties. The fundamental aim of the CEC concept is the establishment of a framework within which new capital cost burdens are distributed on an equitable basis between existing and future development.

CECs are imposed for the purpose of providing funds for the improvement district to pay the capital

cost of increasing capacity in sewer or water facilities, in order to service directly or indirectly, the development for which the charges are imposed. They cannot be used for services other than water or sewer. CECs should be paid to the improvement district at the time of the approval of the subdivision or the approval of the application for service according to the circumstances.

A bylaw that imposes a CEC is not in effect until it has been registered with the Inspector of Municipalities. The Inspector may refuse to register the bylaw where it is determined that the CEC is not related to capital cost attributable to projects included in a capital expenditure program, where the CECs are deemed excessive in relation to the capital cost of prevailing standards of service within the improvement district, or where the CECs will deter development.

An improvement district should have the engineering report follow these steps:

Determine Units of New Development

- Utilize the OCP and zoning bylaws, or any other information that indicates the amount and type of development that is proposed within the improvement district;
- determine the number of years over which capital costs will be estimated;
- calculate residential units:
 - Population projections, eg. Population increase projected 2010 to 2030 = 10,275
Residential units based on 3.28 persons per unit = 3,211 units
(*factor will vary from one community to another, based on census information).
 - In order to use population projections, an improvement district will require historical data on population relative to residential unit averages and commercial/other properties.
 - Measurement of developable land area and application of density factor, for example 66 hectares x 10.5 units per hectare = 693 units
 - OCP and zoning bylaw designations - Refer to the number of residential lots estimated to be created in an OCP or that can reasonably be expected to be created based on the land-use designations in OCPs and zoned for that purpose.

Determine Costs

- Engineering estimates for the capital projects are required. Estimates must be correlated to population projections;
- the cost of projects completed prior to the registration of the CEC bylaw cannot be included. In order to be able to levy a CEC, new development must impose new capital cost burdens on the improvement district;
- projects must be included in the capital expenditure program, and be within the financial capability of the improvement district;

- projects must be consistent with the OCP, and zoning bylaws, or any other information that gives an indication of the overall proposed development within the community;
- project costs are to be in current dollars - an inflation factor cannot be used. CEC bylaws will need to be amended periodically to reflect changes in the underlying data used to calculate the charge;
- an improvement district may be divided into two or more areas for the purpose of allocating new capital cost burdens if the costs are not uniform throughout the improvement district;
- all costs that would normally be capitalized in the financial accounts of the improvement district may be included in the calculation of CECs. Such costs include planning, engineering and the legal costs related directly or indirectly to the development. Additional costs such as interim financing, administration and a provision for contingencies may also be included where appropriate;
- projects may be determined on a unit basis with reference to historical data; and
- the capital projects must be built to the construction standards established by the improvement district in their subdivision servicing regulation bylaw, water distribution regulation bylaw, or as established by resolution passed by the board of trustees.

Allocate Costs Between Existing and New Development

The cost of a capital project is normally allocated between existing and new development. Even though existing residents may be adequately serviced by the system, each new capital cost burden must be analyzed to determine what benefits, in the form of improved services, accrue to the existing community.

Commonly used factors in determining the methods of allocation include the following:

- population ratio:

Population increase 2010 to 2030	3,500
Design population of the system	25,900
% of cost charged to new development = $(3,500/25,900) \times 100\%$	13.5%
- direct allocation of project costs (such allocations are based on engineering study and analysis):

Cost of projects	\$438,000
Amount allocated to existing development	\$228,000
Amount recoverable by CEC	\$210,000
- Unit ratio

Cost of capital project	\$14,000
Existing units	20

Developable units	12
Total Units	32
Costs assigned to new development:	(12/32) x \$14,000 = \$5,250

Allocate New Development Costs to Residential, Commercial, Industrial and Agricultural Areas

Common methods for determining allocation include (*and these figures are only examples*):

- By definition of unit**

Residential -	1 unit equal to one dwelling unit (0.833 hectare)
Commercial -	1 unit equal to 800 square meters (0.222 hectare)

	DEVELOPABLE		NUMBER
LAND USE	DENSITY	LAND FACTOR	OF UNITS
Residential	25 hectares	12 units per hectare	300
Commercial	3 hectares	45 units per hectare	135
Total Units			435
Cost of Capital Projects			\$1,000,000

Capital expenditure charge for each unit = $\$1,000,000 \div 435 = \$2,299$ per unit

- By using equivalent (weighted) units**

USE	WEIGHTING FACTOR*	NEW DEVELOPMENT	NUMBER OF EQUIVALENT UNITS
	(a)	(b)	(a) x (b)
Residential	1	300 units	300
Commercial	2	135 units	270
Total Equivalent Units			570

* Based on relative water consumption to one residence

Cost of Capital Projects			\$1,000,000
CEC for water per equivalent unit (peu)	= $\$1,000,000 \div 570$	=	\$1,754 peu
CEC applicable to Residential	= 1 x \$1,754	=	\$1,754 peu
CEC applicable to Commercial	= 2 x \$1,754	=	\$3,509 peu

Determine the Time Period

The time period can range from five to twenty years but increments should be selected to average out changes over the long-term. The choice of time period will affect the number of units of new development and the costs. Time periods should not be compressed if projects

with a large amount of excess capacity are planned.

Estimate the Capital Expenditure Charge

When estimating CECs the board of trustees should take into consideration future land use patterns and development, and the phasing of works and services. In addition, consideration should be given to whether the charges: are excessive in relation to the capital cost of prevailing standards of service in the improvement district; will deter development; or will discourage the construction of reasonably-priced housing; or, serviced land in the improvement district.

Collection of Capital Expenditure Charges

CECs collected must be deposited in a separate CEC reserve fund established for that purpose for each service for which the improvement district imposes the CEC.

Uses of Money in a Capital Expenditure Charge Fund

Eligible Expenditures

Projects identified in a works plan and capital expenditure program submitted with a CEC bylaw and approved by the Ministry qualify as an eligible use of CEC funds, and generally fall into one or more of the following categories:

- an engineering study to analyze the improvement district's water or sewer system and provide a plan for upgrading and future expansion to meet additional demands for the service. This study provides information for establishing CECs and used to plan for future growth;
- increasing water system source capacity such as intake works or new wells;
- increasing water or sewer treatment capacity, such as a larger chlorination station, or additional sewage treatment facilities;
- increasing water storage capacity, such as dams or reservoirs;
- increasing water supply capacity by, enlarging or paralleling a main supply line, or in some cases enlarging or looping lateral mains where this will enhance the main supply. Increasing sewage collection capacity can be accomplished by enlarging a main trunk line; and
- payment of debt costs incurred as a result of an approved expenditure related to one of the above-mentioned capital costs.

The following would not be considered an eligible use of CEC funds:

- New or upgraded water supply, storage, treatment or distribution works directly attributable to, and solely for the benefit of, a particular service application (new development or redevelopment). New or upgraded sewer system collection or treatment works attributable as above. These works should be contributed by the developer as required by the improvement district's subdivision servicing bylaw;
- renewal or replacement of water supply, storage, treatment, or distribution works which **do not increase the system capacity**. The renewal or replacement of sewer system collection or

treatment works which do not increase the capacity of the sewer system.

Disbursement of Money from a CEC Fund

CECs are deposited into a reserve fund and together with interest earned on the fund, must only be used for the purpose for which they were collected. This includes a capital cost payment or the payment of a debt incurred to finance the capital works for which the charge was established (i.e. items included in the improvement district's works plan and capital expenditure program).

A capital expenditure charge disbursement bylaw (see sample in the Bylaw Preparation Manual) must be passed prior to expending monies from the CEC fund. This bylaw does not require registration with the Inspector, but it must be filed with the Ministry. The steps in the process are as follows:

- a CEC disbursement bylaw must be filed with the Ministry along with an indication of the amount of the cost of the capital work project that will be financed by the CEC fund, by other funds, or by borrowing;
- once the bylaw is filed with the Ministry, the improvement district can go to their financial institution to have the funds released; and
- once the funds are released, work on the project can begin.

In the event a cost overrun occurs on a project, a new CEC disbursement bylaw must be passed for the balance of the costs.

Miscellaneous Charges and Service Fees

Section 746(1)(f) of the LGA allows the board of trustees to make bylaws for establishing other charges payable to the improvement district. This bylaw does not require registration with the Inspector but the bylaw must be filed with the Ministry.

These charges are only meant to recover direct costs that may be incurred by the improvement district, and **may not be used as a surplus-generating tool**. That would be an inappropriate use of this bylaw.

The charges may include but are not limited to:

- charges for processing NSF cheques;
- charges for tax and toll information or information about changes (or potential changes) to property ownership;
- photocopying of documents;
- charges where improvement district staff are asked to attend to matters on private property; and
- requests for information under the *Freedom of Information and Protection of Privacy Act*.

A sample bylaw format is shown in the Bylaw Preparation Manual. Trustees must take care that inappropriate charges are not made in this bylaw, as it may open the bylaw and the actions of the trustees to legal challenge.

Tolls

Section 746(1) of the LGA authorizes the board of trustees to pass bylaws to fix tolls (user fees) payable to the improvement district, the times of their payment, and the setting of discounts **or** penalty additions to encourage their prompt payment.

Tolls are user charges fixed and payable by all landowners in the improvement district to which a service is provided. Revenue raised from tolls is generally used to meet the administrative and operating costs for a service. Tolls may be a flat rate, a metered rate (where applicable) or a combination of both. The amount of a toll is based on the estimated or actual use of the service. A review of system demand and usage patterns will enable the board to develop a rate structure that is equitable and defensible. Tolls are generally used as a method of cost recovery for water, sewer and garbage collection services. Sample Tolls Bylaws are included in the Bylaw Preparation Manual.

Establishment

Toll bylaws must be passed by the board prior to the rates coming into effect, and a copy of the bylaw must be filed with the Ministry as soon as it is passed by the trustees. The bylaw remains in force and effect until it is amended or repealed by another bylaw. The toll must be justifiable to your landowners, and therefore will be unique to your improvement district. It must be based on your financial plan and would never be based on what another water system charges.

When establishing or considering changes to a toll bylaw, the following points should be considered:

- the number of categories can be limited by identifying types of development that have similar usage patterns. The four major categorical groupings that are often used are: residential (single family and multi-family); commercial; industrial; and, agricultural. If water meters are installed then a metered category should be included;
- if water charges are being changed to metered from unmetered, the board must ensure that all properties in a given category of use (eg. business, residential) must be metered prior to switching to the metered rate. You may not have metered and unmetered rates being applied to a single class of property.
- the board may set discounts or penalty provisions, but not both. The amount should be sufficient to encourage prompt payment but not excessive so as to be considered punitive; and
- the board may, by resolution, order that service be discontinued for unpaid tolls. However, a reasonable period must have passed (usually 60 or 90 days) and a notice must be sent to the property owner and tenant, if there is one, before the service is terminated. The obligation to

send a notice is considered to be satisfied if a reasonable effort was made to present or otherwise deliver the notice. This includes delivering the notice in person or sending it by registered mail. If the amount still remains unpaid, the service is only discontinued after serving another (24 hours) notice. Service should only be discontinued when all other efforts to collect the tolls have failed.

Interest cannot be charged on unpaid tolls, and all tolls fixed under bylaw automatically form a lien and charge on the land which is enforceable through the courts (LGA section 759). A charge for turning a service on or off is usually included in the tolls bylaw. The charge should be reasonable and reflect the average cost of carrying out the task.

Other Financial

Planning for Capital Projects

On occasion, a board of trustees will need to expend a large amount of money for a capital project or capital asset. This could involve the acquisition, construction, reconstruction, replacement, improvement or extension of works, equipment, or buildings. When anticipating a major capital project or asset acquisition, the board of trustees should consider the following steps:

Undertake a Technical and Economic Feasibility Study

A study can be done “in-house” by the improvement district, if it has professionally qualified staff, or through the services of a consulting engineer. There is a section in the Manual called Consultants and Contractors that discusses developing terms of reference for a study and the process for selecting a consulting engineer.

Funding for a study can come from a number of sources depending on its purpose. Improvement districts may be able to use capital expenditure charge funds, renewal reserve funds, surplus operating funds, or loans or borrowed funds to pay for a study. Funding may also be available through their regional district, in the form of grants under the Ministry’s Infrastructure Planning Grant program, feasibility reserve fund allocations, or special assessments.

The degree or extent of the study is determined by the improvement district, but generally needs to address the following:

- the purpose of the project and the results that are expected;
- how the project fits with the works plan and capital expenditure program of the improvement district;
- the implications for the improvement district’s financial position; and
- the approvals (provincial or otherwise) that are necessary.

An improvement district will need to obtain the approval of the Ministry prior to undertaking the project or expending funds if a bylaw is needed to help finance it. Prior to making a submission to the Ministry for review, the improvement district should:

- prioritize the works and identify a time frame for completion;
- identify the methods for financing it; and
- decide the method that will be used to gauge the opinion of the landowners.

Obtain preliminary approval from the Ministry

An application to the Ministry should address the following questions:

- *What is being done?*

- Submit full project details with copies of all studies and reports.
- *Why is it being done now?*
Clarify why the project is being considered at this time.
- *How much will it cost?*
Provide a detailed breakdown of the capital costs and how this is expected to impact operating costs (if any).
- *How will it be financed?*
Identify the sources of revenue for the project such as borrowing, reserve funds, and/or operating surpluses.
- *How will the landowners be impacted?*
Provide an estimation of the impact on taxes and tolls (if any).
- *What is the degree of landowner support?*
Describe the steps have been taken to inform the landowners and solicit their opinion (provide copies of notices, leaflets, newsletters or special meeting minutes).
- *Which method would the board of trustees prefer to obtain formal landowner approval?*
The Ministry will review the project and confirm whether the approval of the landowners is required, and if so, recommend a particular method.

The improvement district will also need to obtain approval from other agencies such as the Ministry of Health (for construction permits) or the Ministry of Transportation and Infrastructure (to place works on road right of ways). The Regional Public Health Engineer can provide a copy of Guidelines for the Approval of Waterworks, which is a useful document for ensuring a project will be completed successfully.

Obtain landowner approval

Generally, any time an improvement district is proposing to borrow money and/or increase taxes or tolls by a substantial amount in order to finance a project, landowner approval will be required before the bylaw will be registered by the Inspector of Municipalities.

Landowner approval can be obtained by referendum, petition, alternative approval process or by vote at a special general meeting. Each method is suited to different circumstances.

If a project is going to be completed over several years, then it might be necessary to obtain Ministry and landowner approval again at a future stage, particularly if the scope of the project changes or the costs increase significantly.

The board need to consult with Ministry staff before obtaining landowner approval for a borrowing bylaw. No commitments with regard to the project should be given to suppliers or contractors until the bylaw is registered with the Inspector of Municipalities.

A detailed Project Approvals Checklist is provided in the Forms, Notices and Samples Appendix.

For more information on the borrowing process, refer to the Borrowing section of the Manual. For more information about the landowner approval process, refer to the section titled Guidelines for Obtaining Landowner Approval.

Renewal Reserve Funds

Section 751 of the Act requires improvement districts to put money aside in a renewal reserve fund to finance the cost of renewing capital works, buildings, or vehicles such as fire trucks when they come to the end of their useful life. Section 746(1)(n) gives the authority to create a renewal reserve establishment bylaw.

Putting money aside in a renewal reserve fund will reduce the financial impact to property owners because the amount of borrowing required can be reduced or eliminated.

An engineering study may be necessary to identify capital projects, their costs, estimated lifespan and priority for replacement. This information, particularly the works plan and the capital expenditure program, should be incorporated into the improvement district's budgeting process.

Establishment

A renewal reserve fund can be established for any improvement district service and more than one renewal reserve fund can be established for that service. For example, a renewal reserve fund might be established for the supply components of a water system (reservoir, wells or supply mains) and another renewal reserve fund could be established for the distribution components (booster stations, distribution mains and fire hydrants). To formally establish a renewal reserve fund, a bylaw must be passed by the board of trustees. This bylaw does not require registration with the Inspector, but must be filed with the Ministry as soon as the bylaw is passed.

A sample renewal reserve fund establishment bylaw is included in the Bylaw Preparation Manual.

The following are potential sources of funds to be deposited into a renewal reserve fund:

- operating surpluses set aside each year for this purpose (no commitment to a specific amount needs to be made until year end);
- an annual budgeted amount that is a percentage of revenue received. This figure could be based on capital depreciation rates used for accounting purposes;
- when a debenture or bank loan has been repaid, the amount previously paid annually to retire the debt could be deposited in the fund;
- any amounts collected through miscellaneous revenue items (interest earned on investments, fees, or other charges); or
- money received from the sale of improvement district property.

The purpose(s) for setting money aside in the reserve fund should be stated in the renewal reserve

fund establishment bylaw. The money should be deposited in an account that is separate from all other funds of the improvement district.

Disbursement

A board of trustees intending to spend money from a renewal reserve fund needs to pass a renewal reserve fund disbursement bylaw. When the bylaw is filed with the Ministry the following should be included, as applicable:

- an estimate of total cost of the capital project or expenditure and the amount that is proposed to be financed from the renewal reserve fund and by other means; and
- appropriate information from an engineering study. If the proposed works are included in an engineering study previously submitted to the Ministry, it does not need to be resubmitted.

When the renewal reserve fund disbursement bylaw has been passed, a copy of the bylaw is usually required by the financial institution in order for the money to be released from the renewal reserve fund. Any amount up to the maximum contained in the bylaw can be withdrawn from the fund. This information must also be provided to the improvement district's auditor.

If a cost overrun occurs in the cost of the project, another renewal reserve fund disbursement bylaw will be necessary.

Charitable Donations and Improvement Districts

A question that sometimes arises is whether or not an improvement district can issue a receipt for charitable donations, of either cash or some form of capital asset. This can be done, under the Income Tax Act, but only in very limited and restricted circumstances.

Before this can be done the improvement district will have to undergo a registration process with the Charities Directorate of Revenue Canada Taxation. The Directorate will provide any improvement district considering this action with the necessary direction and guidance in order to ensure you do not contravene tax law.

Any improvement district considering this should ensure there are no covenants or restrictions placed on any donation that would limit the powers and abilities of the improvement district in owning, maintaining or using said donation.

Metered Rates and Water/Drought Management

Tolls are an important revenue source for those improvement districts that operate water systems. Many boards establish the amount of tolls based on the average costs to supply water to properties with similar types of uses. This fixed-rate approach is the only one possible where water meters are not installed.

In almost all cases, water meters result in both a reduction in water consumption as well as a drop in the basic cost of domestic water. There is also an equity argument in favour of water meters as users pay for the amount of water that they use. Those using less water are not subsidizing those that use more.

Where water meters have reduced water consumption there are also positive implications for capital infrastructure expenditures. Reductions in water usage may allow improvement districts to defer, or even cancel, plans to develop additional water sources, water reservoirs, treatment plants, or supply line upgrades. Also, an improvement district with water meters can more quickly identify and repair leaks in the system resulting in cost savings.

Where water meters are used, there are a number of approaches to pricing for the board of trustees to consider. These include:

- **Single Block Rate**
Where a constant rate is applied to all water consumed over the billing period. All customers pay the same amount for each unit of water used;
- **Increasing Block Rate**
The unit price of water increases beyond a certain level of consumption. The model can be structured so that the first block rate applies to what may be a desirable (and realistic) level of consumption. Usage beyond that level is charged at a different, higher block rate;
- **Seasonal Charge**
Higher volume charges are applied to all water used during the peak water demand season under this approach. High peak-period demand creates the need for over-sizing of water lines and storage facilities relative to what is required to meet demand in non-peak periods. The higher volume charge can be used to transfer more of the infrastructure cost burden to heavy users. The higher seasonal charge may, alternatively, reduce peak-period demand enough to eliminate the need for over-sizing water lines and storage facilities; and
- **Combination Fixed and Block Rate**
Users are charged a fixed rate to cover the system administration and a separate volume-based rate is charged for actual usage.

The decision to install water meters can be informed by installing a few meters on properties that have different uses, then monitoring the consumption rates. This will help to develop a “water use profile”. Even if an improvement district was only looking to install water meters on non-residential properties, it would be useful to develop a profile for residential usage in order to establish a fair and equitable metered rate based on the different rates of consumption.

The Water Distribution Regulation Bylaw (sample in the Bylaw Preparation Manual), allows the board, at any time, to substitute metered service for unmetered service. Each dwelling should have its own water meter, and all water meters are the property of the improvement district. Water meters require maintenance and eventually need replacement, so if borrowing is required to finance a water meter installation program, the term of the loan should not exceed ten years.

Metered rates should not be instituted, however, until all properties in that class of use have been metered. For example, you could not have half the homes in your improvement district paying a metered rate, and the other half paying unmetered rates because their meters had not yet been installed.

Water meters are usually located at the property line at the curb stop. There are different types of water meters - some meters need to be read manually, while others can be read electronically. Customers are usually billed quarterly, but bills can be sent out at the improvement district’s discretion.

Education is a vital part of any program to install water meters. Information on water meters is available from a number of sources, including the Ministry.

Other Water Conservation Measures

The adoption of water conservation practices within improvement districts is in keeping with B.C.’s Water Conservation Strategy at both <http://www.livingwatersmart.ca/> and www.env.gov.bc.ca/wsd/plan_protect_sustain/water_conservation/wtr_cons_strategy/toc.html.

Water conservation should be addressed during the planning phase of a project, including the confirmation of water demands, usage patterns, areas of potential water loss, and water-saving measures. The United States Environmental Protection Agency (USEPA) WaterSense Program <http://www.epa.gov/owm/water-efficiency/> may be a useful reference for water conservation planning because it identifies a range of practical water conservation tools. Water conservation measures available include, but are not limited to, public education, low-water use fixtures, universal meters, water rate structuring, irrigation and low water demand landscaping and leak detection programs. Replacement of problem water mains, service connections and property line shut off valves may also assist in conserving water.

The Provincial government supports sound water conservation practices. This principle was evident throughout the Canada-BC Infrastructure Program where infrastructure grants for local government water-related projects were dependent upon demonstrated demand-side management practices.

Given that water conservation policies, water quality and water quantity are inextricably linked, it is important for an improvement district to implement coherent water conservation policies.

Using water efficiently is one way of meeting water quality and water quantity goals. The efficient use of water can also prevent pollution by reducing wastewater flows, recycling industrial process water, reclaiming wastewater and using less energy. Conserving water is beneficial in a number of ways and adopting sound water conservation practices can help improvement districts avoid, downsize, or postpone water and wastewater projects. Water resource planning has shifted from supply-side management to demand-side management.

Drought Management

In recent years many communities have faced drought and were not adequately prepared to address the situation. Drought conditions, combined with rapid population growth, have resulted in stressed water supplies in many parts of B.C.

Improvement districts should develop a drought management plan.

Information on drought management is available at:

<http://livingwatersmart.ca/drought/resources.html>

Appendices

Forms, Notices and Samples

NOTE: When using the draft formats contained in this section, all blank spaces must be filled. Where there are choices suggested, or notes not to be included in the actual notice or form, these are in square brackets and italicized (eg. [*manager, administrator or other title*]). Where this is seen, make a choice and insert it in your form, notice or sample.

Petition to Extend a Boundary	2
Bylaw Preparation Checklist	3
Sample Election Procedures	
Solemn Declaration	
Budget	
Financial Statements	
Tax Sale Notice	
Tax Sale Deed of Land	
Calculation of Interest on Taxes in Arrears	
Project Approval Checklist	
Assessment Roll	
Assessment Notice	
Tax Notice	
Trustee Resolution	
Sample Mutual Aid Agreement	
Latecomer Agreement	
Hydrant Servicing Agreement	

Petition to Extend a Boundary

I (we), the undersigned owner(s) of land more particularly described below, hereby petition the Lieutenant Governor in Council on the matter of extending the boundary of the

_____ District under Section 734 of the *Local Government Act* to include my (our) tract of land legally described as:

REGISTERED OWNER(S) - (PRINT)	SIGNATURE(S)	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The trustees of the _____ District hereby agree to request the Lieutenant Governor in Council amend the Letters Patent for the _____ District to include the above noted land within its boundary.

Trustee

Trustee

Trustee

Trustee

Trustee

Dated the ____ day of _____, 20 ____.

Bylaw Preparation Checklist

A bylaw becomes effective on the date it is registered with the Inspector of Municipalities or, if registration is not required, then it is effective on the date it is passed by the board of trustees. Tolls bylaws should be passed prior to year they become effective and tax bylaws must be registered prior to mailing out tax notices. When preparing bylaws for submission, please consider the following:

Bylaw Number	Each bylaw must have a unique number from other bylaws; usually sequential. If a bylaw number is used which has already been assigned to another bylaw, the improvement district must repeal one of the bylaws and pass a new one. If a bylaw number has been accidentally missed, the improvement district can subsequently use that number within a reasonable period of time.
Preamble	It is a good practice to include a preamble to explain the background or purpose of the bylaw. Although it does not contain substantive provisions, the preamble could be used to clarify substantive provisions in the bylaw.
Enactment Clause	This is a statement that generally separates the preamble from the substantive provisions in the bylaw and it is a good practice to include it. (e.g. The Trustees of the ABC Improvement District enact as follows:).
Citation	This is the name that describes the general purpose of the bylaw and differentiates it from other bylaws (e.g. This bylaw is cited as "Connection Charge Bylaw No. 123"). A formal citation is used for legal reference purposes. It also is useful for making reference to it in an amending bylaw or a repeal bylaw. (e.g. Connection Charge Bylaw No. 123 is hereby repealed). The citation generally appears as the last section of the bylaw.
Readings and Passage Dates	The dates of reading and passage indicate when the board of trustees held the meeting where the bylaw was considered. Unlike municipal and regional district bylaws, there is no requirement for three readings and adoption. The date must be included to verify that the board did hold a meeting on the date(s) of reading. If a bylaw is passed at a meeting that was not correctly convened (for example, where there was no quorum) then there is a strong risk that the bylaw is null or could be challenged in the courts.
Signatures	Section 747 of the Act states that bylaws must be signed by the Officer assigned responsibility under Section 738.2 and by the person presiding at the meeting at which the bylaw is passed. A bylaw may not simply be signed by two trustees although in exceptional circumstances, a trustee could be designated by the board of trustees as the corporate officer on a temporary basis, but not if that person is also the chair.
Repeal Clause	<p>A repeal clause is required if a bylaw is being replaced by another one. It is more efficient to have the repeal clause in the new bylaw so that the repeal and replacement occurs at the same time. However, there may be circumstances where a bylaw is being repealed but is not being replaced with a new one. In this case, a separate repeal bylaw is enacted (see sample in the Bylaw Preparation Manual).</p> <p>By definition, taxation bylaws only apply to one calendar year (Section 757, Act) so a tax bylaw is never repealed unless it is being replaced by a new tax bylaw within the same calendar year. This would only occur prior to the tax due date of the first tax bylaw.</p> <p>If a contract has a specified term (which they all should) then there is no need to repeal an agreement bylaw when the term of the agreement ends. A repeal clause is only required if an agreement is being modified before the end of its term. Termination of the agreement</p>

	can only occur in accordance with the terms in the agreement usually by one party serving notice within a specified timeframe to the other party.
Seal	Section 747 of the Act states that bylaws of an improvement district must be sealed with the seal of the improvement district. Seals that imprint the name of the improvement district on bylaws and other documents are available from most office supply outlets.
Bylaw copies submitted	<p>For most bylaw types that require registration, you must have two signed and sealed copies of each bylaw submitted to the Ministry.</p> <p>For all types of borrowing bylaws, the improvement district must send the Ministry three signed sealed copies of the bylaw. This allows registration of the third copy which is then presented to the lender. For those bylaw types that require filing, one signed, sealed copy of the bylaw must be submitted.</p> <p>For Operating Tax Advance bylaws (i.e., tax bylaws for fire protection and street lighting purposes where the province acts as the collector), the lender is the Surveyor of Taxes as they are able to advance funds to the improvement districts ahead of the collection date for taxation. Three copies of this bylaw are also required.</p> <p>The Ministry maintains one original copy of every improvement district bylaw to safeguard against bylaws that might inadvertently go missing.</p>
Effective Date	<p>An effective date is not usually necessary in a bylaw. Those bylaws that only require filing with the Ministry are effective on the date they are passed by the board of trustees. Those bylaws requiring registration with the Inspector of Municipalities are effective on the date they are registered.</p> <p>In some cases, a future date might be specified as the effective date. For example, if new tolls are intended to come into effect on January 1 of the following year, the bylaw can include such a provision. However, rather than stating that the tolls become effective January 1, it should state that the bylaw is effective on January 1. This is because a clause is usually included to repeal the previous tolls bylaw, and if only the tolls are made effective on January 1, then the provisions in the former tolls bylaw would no longer exist between the date of registering the new tolls bylaw with the Inspector and January 1.</p> <p>A bylaw cannot be made effective retroactively.</p>

This table indicates which types of bylaw require registration by the Inspector of Municipalities, and which require filing with the Ministry.

Bylaws That Require Registration	Bylaws That Must Be Filed
Taxation	Tolls
Meeting Procedures	Agreements
Capital Expenditure Charge Establishment	Capital Expenditure Charge Disbursement
Indemnification	Renewal Reserve Establish/Disbursement
Latecomer Agreements	Assessment
Borrowing	Connection Charge
Regulation	Officer Position Establishment
Fire Department Operation/Regulation	Miscellaneous Charge

IMPROVEMENT DISTRICT

SAMPLE ELECTION PROCEDURES

Election procedures adopted by the board should cover such things as the form of the ballot, how it must be marked, how and when they are to be counted and how they are to be kept safe until the statutory period for challenging elections (two weeks) has passed.

Legislative References:

- Letters Patent
- *Freedom of Information and Protection of Privacy Act*
- *Local Government Act* (Part 23)

Returning Officer:

The board of trustees will appoint the corporate officer as the returning officer who is the person responsible for the conduct of all elections, by-elections, and referenda.

By-election

In the event of a vacancy occurring on the board of trustees, a by-election will be held within 60 days unless the annual general meeting occurs in that period. The candidate elected serves for the period of time remaining in the term of the position that was vacated. There will be no advance poll held in the case of a by-election.

Notice:

Notice of an election, by-election, or referendum will be published in accordance with Section 741 of the *Local Government Act*, the District's Letters Patent and its meeting procedures bylaw at least 14 days in advance of the date set by the board of trustees for the vote:

- on the District's website;
- in 2 issues of a local newspaper; and
- in several conspicuous public places within the District.

Additional notices may be mailed to landowners.

Eligibility to Vote or to be a Trustee:

As provided in the *Local Government Act* and Letters Patent, persons entitled to vote at an election must meet the following requirements:

- a Canadian citizen;
- eighteen years of age, or older;
- an owner of land in the improvement district, and
- a resident of the province for the prior six months; or
- a person designated – in writing – to act as an authorized agent by a board or corporation that owns land in the District; or
- a legal representative of an owner of land in the improvement district who has died, become insolvent or insane.

An elector cannot vote twice unless they are eligible to vote as an elector and they are also acting as an agent for a board or corporation or they are also legal representative of an owner of land in the improvement district who has died, become insolvent or insane.

Voters List

The corporate officer will prepare a voters list indicating the names of the persons qualified to vote. The voters list is not available to candidates.

Registration

A person may register as an elector at the time of voting by providing information acceptable to the returning officer, or by signing a statutory declaration stating that they are qualified to vote.

Only persons attending the election and meeting the eligibility requirements are eligible to vote. Proxy voting is not permitted.

Advance Poll

An advance poll will be held on the 10th day before the date set by the board of trustees for the vote unless otherwise noted in these procedures.

Insufficient nominations

If, on the day of voting, there are fewer candidates for the number of vacancies on the board of trustees, or there is an exact number of candidates for the number of vacancies on the board of trustees, the candidates are declared elected by acclamation. Where a vacancy still exists on the day of voting after the acclamations, a subsequent voting day will be established by the board of trustees to occur within 30 days. An advance poll will not be held.

A candidate elected by acclamation takes office immediately in the case of a by-election, or at the end of the annual general meeting in the case of an election.

Scrutineers

Candidates named on the ballot can each appoint one scrutineer to attend the voting place during the voting process and the ballot counting process. In the case of a referendum, the returning officer will ask for two landowners to volunteer as scrutineers. A scrutineer must not be a candidate or a trustee. A scrutineer may observe the voting process but may not handle any election document or ballot, or interfere with the conduct of the vote.

Ballots

Ballots will be used for the election of trustees and will contain the name(s) of the persons who have been nominated and are eligible to be a trustee. It must contain a check mark or X next to the name of a candidate to signify the choice of the elector.

Voting Place

Voting will occur at the place designated for this purpose by the board of trustees.

Electors attending the voting place whose name appear on the voters list, or who have registered to vote at the voting place, will be given a ballot to make their choice for candidate or for a referendum question. The ballots will be placed in a ballot box has been designated for this purpose and that has been witnessed as

being empty before the voting starts by a person who is not a trustee, a candidate or an election official. The name of the person will be recorded.

In the case of an advance poll, the returning officer will seal the ballot box at the end of voting in the presence of a witness whose name is recorded and they will safeguard the ballot box until the vote counting occurs on election day. A separate ballot box will be used at the election.

After all the ballots have been cast at the election, the returning officer and election officials will count the ballots in the advance voting ballot box and the ballot box used at the election in such a manner as to be observed by the scrutineers. Ballots that have been marked where there were more choices than there were positions to be elected (over-voting), or in such a manner that the intent of the voter is not clear, are to be counted as spoiled.

Tie Votes

In the event that an equal number of votes are validly counted for one or more candidates, the names of the candidates will be placed on separate pieces of paper by the returning officer. The papers will be folded and placed in receptacle so the names are not visible and a person who is not a trustee, candidate or the returning officer will retrieve a piece of paper from the receptacle and the candidate whose name appears on the paper will be declared elected.

Multiple Terms

Where there is an election to fill two or more vacancies on the board of trustees and the terms of the positions are different, there will be two elections held. The first election will be for the position with the longest term. A second election will be held for the position with the shortest term. A candidate for the first election who is not successful, can also be a candidate for the second election.

Election Results

The returning officer will keep a record of the total number of ballots printed, the number of ballots cast, the number of spoiled ballots, the number of unused ballots and the number of ballots cast for each candidate. In the case of a referendum, the number of ballots for and against the question will be recorded. The returning officer will announce the results of the vote at the place where the vote was held and they will also be placed on the District's website as soon as practicable. The results may also be announced in the media.

Election Challenge

An election can only be challenged in accordance with Section 737 of the *Local Government Act* within two weeks of the election by application to the Supreme Court of BC.

Document Retention

All election documents including ballot accounts, voting books and voters lists used during an election, must be retained by the corporate officer and kept safe for at least 6 months after the election. Ballots will be kept for a three-week period following the election date.

Solemn Declaration

In the matter of the *Local Government Act* and the election of trustees for the Improvement District:

I, _____ a resident of _____, British Columbia, Canada, DO SOLEMNLY DECLARE that I meet the eligibility requirements for voting in the above stated improvement district by virtue of one of the three following sets of criteria:

1. I am a Canadian citizen; eighteen years of age or older; I have resided in the Province of British Columbia for the previous six months; and I am the lawful owner of the following lands by virtue that under the terms of the said agreement for sale, deed, or lease, I am liable for all taxes levied against the said lands and that I have not disposed of, or assigned my interest in the said lands namely, _____.

2 I am the authorized agent of a board or corporation namely, _____ that is an owner of land in the improvement district _____ with offices at _____.

3. I am the legal representative of an owner of land in the improvement district namely _____ who has died, become insolvent or insane and whose last address was, or whose current address is, _____.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under oath.

Signature of Declarant

I am satisfied the information given above is correct and the person stated appears qualified to vote.
Declared before me this _____ day of _____, 20 ____.

Returning Officer

Improvement District 20XX Operating Budget - Waterworks

REVENUE	\$	\$
Taxes		
200 parcels x \$100/parcel/year ¹ (see notes)		20,000
Tolls/User Rates		
170 connections x \$200/connection/year ²		34,000
Connection Charges		1,000
Other Revenue		
Interest and Penalties 500		
Transfer for Prior Year's Surplus ³	2,500	
Transfer from Renewal Reserve Fund ⁴	5,000	
Other	<u>100</u>	<u>8,100⁶</u>
TOTAL REVENUE	<u>63,100</u>	
EXPENDITURE		
Administration		
Salaries and Wages	6,000	
Office and Utilities	2,000	
Audit and Legal	1,000	
Insurance	2,000	
Other	1,000	
		<u>12,000</u>
Operations		
Salaries and Wages	8,000	
Repairs and Maintenance	12,000	
Other	<u>2,000</u>	<u>22,000</u>
Subtotal (Admin + Operating) ²		<u>34,000</u>
Capital Expenditure Out of Revenue		
Capital Acquisitions (Distribution Works) ^{5 & 1}	9,500	
Transfer to Renewal Reserve Funds ¹	<u>5,000</u>	<u>14,500⁶</u>
Debt Charges		
Principal and Interest Payments on Long-term Debt (incl. Sinking Fund Payments)		
- Bylaw No. 40	<u>13,000</u>	<u>13,000¹</u>
Subtotal (Debt & Capital)	<u>27,500</u>	
TOTAL EXPENDITURE	<u>61,500</u>	
SURPLUS (DEFICIT) FOR YEAR	<u>3,600</u>	

Improvement District 20XX Operating Budget – Fire Protection

REVENUE	\$	\$
Taxes		
Operating Tax Advance	25,000	
Capital Tax Advance ⁷	<u>5,000</u>	<u>30,000</u>
Other Revenue		
Interest	250	
Transfer for Prior Year's Surplus ⁸	300	
Transfer from Renewal Reserve Funds ⁹	200	<u>750</u>
TOTAL REVENUE		<u>30,750</u>
EXPENDITURE		
Administration		
Salaries and Wages	4,000	
Office and Utilities	2,000	
Audit and Legal	500	
Insurance	1,000	
Other	<u>500</u>	<u>8,000</u>
Operations		
Salaries and Wages	5,000	
Repairs and Maintenance	4,000	
Other	<u>1,000</u>	<u>10,000</u>
Capital Expenditure Out of Revenue		
Capital Acquisitions (Equipment) ¹⁰	500	
Transfer to Renewal Reserve Funds ¹¹	<u>5,000</u>	<u>5,500</u>
Debt Charges		
Principal and Interest Payments on Long-term Debt (Capital Tax Advances) - Bylaw No. 50 ⁷		<u>5,000</u>
TOTAL EXPENDITURE		<u>28,500</u>
SURPLUS (DEFICIT) FOR YEAR		<u>2,250</u>

NOTES

1. Generally tax revenue generated (\$20,000) should be adequate to cover debt (\$13,000), current year's capital acquisitions out of revenue (\$2,000) and current year's provision for renewal reserve funds (\$5,000).
2. Generally toll/user rate revenue generated (\$34,000) should be adequate to cover administrative (\$12,000) and operating (\$22,000) costs.
3. The amount reported here would also be shown as a "Source of Funds (Surplus Funds on Hand)" in the first year of the capital expenditure program.
4. The amount reported here would also be shown as a "Source of Funds (Renewal Reserve Funds)" in the first year of the capital expenditure program.
5. The amount reported here would represent the "Total Capital Acquisitions" proposed for that year (\$9,500) regardless of the source of funding. In this example, the source of funding for the current year is General Revenue (\$2,000), Surplus Funds on Hand (\$2,500) and Renewal Reserve Funds (\$5,000).
6. Amounts to be expended from the Capital Expenditure Charge Fund are not shown as a revenue transfer or capital expenditure in the operating budget but may be shown as a separate line item or notation in order to connect with the capital expenditure program.
7. The annual amount of repayment on a Capital Tax Advance is shown as a "current year" revenue item as it is actually levied by the Province in that year and retained by the Province as a payment for that year.
8. Any amount reported here would also be shown as a "Source of Funds (Surplus Funds on Hand)" in the first year of the capital expenditure program.
9. Any amount reported here would also be shown as a "Source of Funds (Renewal Reserve Funds)" in the first year of the capital expenditure program.
10. The amount reported here would represent the "Total Capital Acquisitions" proposed for that year (\$500) regardless of the Source of Funding. In this example, the only source of funding for the current year is General Revenue.
11. Any amount reported here would be tied to an "Established Renewal Reserve Fund Program" and would eventually show up as a future "Capital Acquisition" (Expenditure) and "Transfer from Renewal Reserve Fund" (Revenue).

Summary of Five-Year Capital Expenditure Program

Application of Funds	Current Year \$	Next Year	3rd Year	4th Year	5th Year	Total \$
Fire Protection (F)						
Land & Buildings	0	0	0	10,000	50,000	6,000
Vehicles & Equip.	500	0	0	500	15,000	16,000
Sub-total	500	0	0	10,500	65,000	76,000
Waterworks (W)						
Treatment	7,500	0	0	0	0	7,500
Supply/Engineering	0	80,000	0	0	0	80,000
Distribution	2,000	5,000	20,000	2,000	1,000	30,000
Sub-total	9,500	85,000	20,000	2,000	1,000	117,500
TOTALS	10,000	85,000	20,000	12,500	66,000	193,500
Source of Funds						
General Revenue	(F) 500 (W) 2,000	0	0	(F) 500	(F) 5,000	(F) 6,000 (W) 2,000
Surplus Funds on Hand	(W) 2,500	(W) 15,000	0	(W) 2,000	(F) 20,000 (W) 1,000	(F) 20,000 (W) 20,500
Renewal Reserve Fund	(W) 5,000	0	0	(F) 10,000	0	(F) 10,000 (W) 5,000
Capital Exp. Charge Funds	0	(W) 5,000	0	0	0	(W) 5,000
Sub-totals	(F) 500 (W) 9,500	(W) 20,000	0	(F) 10,500 (W) 2,000	(F) 25,000 (W) 1,000	(F) 36,000 (W) 32,500
Long-term Loan	0	(W) 65,000	(W) 20,000	0	(F) 40,000	(F) 40,000 (W) 85,000
TOTALS	(F) 500 (W) 9,500	(W) 85,000	(W) 20,000	(F) 10,500 (W) 2,000	(F) 65,000 (W) 1,000	(F) 76,000 (W) 117,500

Sample Financial Statements

Anywhere Improvement District Consolidated Statement of Financial Position as at December 31, 20XX

	Current Year	Prior Year
Financial assets		
Cash and investments (Note 2)		
Accounts receivable (Note 3)		
Other		
	0	0
Liabilities		
Accounts payable and accrued liabilities (Note 4)		
Deferred revenue (Note 5)		
Capital Expenditure charges (Note 6)		
Other restricted revenue		
Long-term debt (Note 7)		
	0	0
Net debt	0	0
Non-financial assets (Note 9)		
Tangible capital assets		
Inventories of supplies		
Prepaid expenses		
	0	0
Accumulated surplus	0	0
Represented by:		
Operating fund		
Capital fund		
Reserve fund		
Equity in tangible capital assets		
	0	0

Anywhere Improvement District
Consolidated Statement of Operations
for the year ended December 31, 20XX

	<u>Current Year</u>	<u>Current Year</u>	<u>Prior Year</u>
	Budget	Actual	Actual
Revenue			
Taxes			
User Fees			
Investment income			
Other			
Capital Expenditure Charges			
Total revenue	<u>0</u>	<u>0</u>	<u>0</u>
Expenses			
Administration			
Operations			
Debt financing			
Amortization			
Loss on sale of Tangible Capital Assets			
Other			
Total expenses	<u>0</u>	<u>0</u>	<u>0</u>
Annual surplus	<u>0</u>	<u>0</u>	<u>0</u>
Accumulated surplus at beginning of year*		0	
Accumulated surplus at end of year	<u>0</u>	<u>0</u>	<u>0</u>

* The reconciliation to the closing accumulated surplus may be done on a separate statement.

Anywhere Improvement District
Consolidated Statement of Change in Net Debt
for the year ended December 31, 20XX

	Current Year	Current Year	Prior Year
	Budget	Actual	Actual
Annual surplus	0	0	0
Acquisition of tangible capital assets			
Amortization of tangible capital assets	0	0	0
(Gain) / loss on sale of tangible capital assets	0	0	0
Proceeds on sale of tangible capital assets		0	
Write downs of tangible capital assets			
	0	0	0
Acquisition of supplies inventories			
Acquisition of prepaid expense			
Consumption of supplies inventories			
Use of prepaid expense			
	0	0	0
(Increase)/decrease in net financial assets/net debt	0	0	0
Net financial assets/net debt at beginning of year	0	0	
Net financial assets/liabilities at end of year	0	0	0

Anywhere Improvement District
Consolidated Statement of Cash Flow
for the year ended December 31, 20XX

(Indirect method)

	<u>Current Year</u>	<u>Prior Year</u>
Operating transactions		
Annual surplus/(deficit)		
Amortization		
Changes to financial assets		
Increase in accounts receivable		
Increase in accounts payable		
Loss on disposal of TCA		
Increase in deferred revenue		
Increase in capital expenditure charges		
Decrease in other restricted revenue		
Change in deferred revenue		
Other		
Cash provided by operating transactions	<u>0</u>	<u>0</u>
Capital transactions		
Acquisition of tangible capital assets	0	0
Sale of tangible capital assets	0	0
Cash applied to capital transactions	<u>0</u>	<u>0</u>
Investing transactions		
Proceeds from portfolio investments	0	0
Portfolio investments	0	0
Other	0	0
Cash provided by (applied to) investing transactions	<u>0</u>	<u>0</u>
Financing transactions		
Proceeds from debt issues		
Debt repayment		
Actuarial Adjustments		
Cash applied to financing transactions	<u>0</u>	<u>0</u>
Increase in cash and cash equivalents	<u>0</u>	<u>0</u>
Cash and cash equivalents at beginning of year	<u>0</u>	<u>0</u>
Cash and cash equivalents at end of year	<u><u>0</u></u>	<u><u>0</u></u>

Anywhere Improvement District

Notes to the Consolidated Financial Statements

For the year ended December 31, 20XX

Significant Accounting Policies

a. Basis of Presentation

The Consolidated Financial Statements of the Anywhere Improvement District (the AID), which are the representation of management, are prepared in accordance with Canadian generally accepted accounting principles for governments as prescribed by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants. The Consolidated Financial Statements reflect the combined results and activities of the reporting entity which is comprised of the Operating, Capital and Reserve funds. Inter-fund transactions have been eliminated on consolidation.

b. Revenue Recognition

Sources of revenue are recorded on the accrual basis and include revenue in the period in which the transactions or events occurred that give rise to the revenues, and expenses in the period the goods and services are acquired and a liability is incurred or transfers are due. Taxation revenues are recognized at the time of issuing the property tax notices for the fiscal year. Sale of services and user fee revenues are recognized when the service or product is rendered by the AID. Revenue unearned in the current period is recorded as deferred revenue.

c. Investments

Investments are recorded at cost.

d. Tangible Capital Assets

Tangible capital assets, comprised of capital assets and capital work-in-progress, are recorded at cost less accumulated amortization and are classified according to their functional use. Amortization is recorded on a straight-line basis over the estimated useful life of the asset commencing the year the asset is put in to service. Donated tangible capital assets are reported at fair value at the time of donation. Estimated useful lives as follows:

Land Improvements	15 to 20 years
Buildings	20 to 50 years
Fixtures, Furniture, Equipment & Vehicles	5 to 25 years
Technology	5 years
Water Infrastructure	10 to 100 years
Sewer Infrastructure	10 to 100 years
Drainage Infrastructure	25 to 40 years

e. Use of Estimates

The preparation of consolidated financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenues and expenses

during the period. Significant areas requiring estimates include the determination of accrued payroll liabilities and provisions for contingencies. As such, actual amounts could differ from the estimates.

2. Cash and Investments

	Current Year	Prior Year
Restricted cash and investments		
Statutory Reserves	\$	\$
Restricted Revenues	_____	_____
Unrestricted cash and investments	_____	_____
Total cash and investments	\$ _____	\$ _____

3. Accounts Receivable

	Current Year	Prior Year
Taxes	\$	\$
Trade and other	_____	_____
Less allowance for doubtful accounts	_____	_____
	\$ _____	\$ _____

4. Accounts payable and accrued liabilities

	Current Year	Prior Year
Accrued wages and benefits	\$	\$
Trade and other	_____	_____
	\$ _____	\$ _____

5. Deferred Revenue

	Current Year	Prior Year
Deposits	\$	\$
Other	_____	_____
	\$ _____	\$ _____

6. Capital Expenditure Charges

Capital Expenditure Charges are restricted revenue liabilities representing funds received from developers and deposited into a separate reserve fund for capital expenses. In accordance with generally accepted accounting principles, the AID records these funds as restricted revenue which is then recognized as revenue when the related costs are incurred.

	Opening Balance	Receipts	Interest	Transfers Out	Closing Balance
Water	\$ _____	_____	_____	_____	\$ _____

7. Long-Term Debt

	Balance, beginning of year	Additions	Principal Payment	Balance, end of year
Water Fund				
Reservoir				
Water line				

The following principle amounts are payable over the next five years:

	Year 1	Year 2	Year 3	Year 4	Year 5
Water funds					

8. Tangible Capital Assets

	Current Year	Prior Year
Land	\$	\$
Buildings		
Equipment, Furniture & Vehicles		
Engineering structures:		
Water		
Total	\$	\$

For additional information, see the Consolidated Schedule of Tangible Capital Assets (Schedule 1)

The AID has \$ of tangible capital assets under construction in {current year} (in prior year - \$).

During the year there was \$ in write downs (prior year - \$nil). Interest capitalized during this year was \$ (prior year - \$). In addition, underground water infrastructure contributed to the AID total \$ (prior year - \$) and were capitalized at their fair value at the time of receipt.

9. Equity in Tangible Capital Assets

Equity in tangible capital assets (TCA) represents the net book value (NBV) of total capital assets less long term obligations assumed to acquire those assets. The change in consolidated equity in tangible capital assets is as follows:

	Current Year	Prior Year
Equity in TCA, beginning of year	\$	\$
Add: Capital Acquisitions		
Debt principal repayment		
Actuarial Adjustment		
Less: Proceeds from the issue of debt		
Dispositions at NBV		
Amortization		
Equity in TCA, end of year	\$	\$

10. Sale of Services, User Rates, Rentals

	Current Year	Prior Year
Water user rates	\$	\$
Rentals, licenses and permits	_____	_____
Total	\$ _____	\$ _____

11. Expenses by Object

	Current Year	Prior Year
Goods and services	\$	\$
Salary, wages and benefits		
Interest and finance charges	_____	_____
	\$ _____	\$ _____

12. Commitments and Contingencies

Anywhere Improvement District
Consolidated Schedule of Tangible Capital Assets
Year Ended December 31,
20XX

							Other		
			Equipment/ Furniture/		Engineering Structures		Tangible Capital	Current Year	Prior Year
	Land	Buildings	Vehicles		Water	Fire	Assets	Total	Total
Historical Cost:									
Opening Balance								\$ -	
Additions							-	-	
Disposals	-	-		-		-	-	-	
Write Downs	-	-		-	-	-		-	-
Closing Balance, Dec. 31	0	0	0		0	0	0	0	0
Accumulated Amortization:									
Opening Balance	-							-	
Amortization Expense	-							-	
Effects of Disposals									
and									
write down									
adjustments	-	-		-		-		-	
Closing Balance, Dec. 31	-	-		-	-	-	-	-	-
Net book value for year ended December 31, 20XX	-	-		-	-	-	-	\$ -	\$ -

Tax Sale Notice – Sample

To:

TAKE NOTICE that pursuant to Section 762 of the *Local Government Act*, the annual tax sale of _____ District will be held on the _____ day of _____, 20 ____ at _____ o'clock at _____ Street, _____ B.C.
Short Description of Land (Reg, Plan, Block, Lot)

Amount of Taxes Owning and Interest
to Date of Sale

Expenses of Tax Sale

Fee For Issuance and Registration of
Tax Deed

Total of Taxes and Interest/Expenses and
Fee (Upset Price)

AND FURTHER TAKE NOTICE that if the amount of taxes, interest and expenses are not sooner paid, I will offer the above-described land for sale at public auction at the time and place above-mentioned.

AND FURTHER TAKE NOTICE that the proposed sale of land will be an absolute sale and that no right of redemption will remain the owner or the holder of a charge after the sale.

Corporate Officer,

At _____ B.C. on _____, 20 ____ .

Tax Sale Deed of Land - Sample

WHEREAS, under Section 762 of *Local Government Act* the officer assigned responsibility for the _____ District did, on the ____ day of _____, 20 ____, sell by public auction to _____ of _____ that certain parcel or tract of land or premises hereinafter mentioned, for the sum of _____ dollars of lawful money of Canada, on account of unpaid taxes, penalty additions and interest due on that date.

I, the officer assigned responsibility for the _____ District, to conduct the sale, under the provision in the *Local Government Act* and for the consideration aforesaid, do hereby grant, bargain, and sell unto the said _____ their heirs and assigns, all that certain parcel or tract of land or premises, said to contain _____ acres more or less, being described as _____

IN WITNESS WHEREOF, I, have set my hand

and seal this ____ day of _____, 20 ____.

Corporate Officer,

District

Calculation of Interest on Tax in Arrears

The interest rate that an improvement district is allowed to charge on overdue taxes is established in section 760 of the Act . This rate is prescribed by the Lieutenant Governor in Council in the *Taxation (Rural Area) Act*. The rate is revised quarterly and all improvement districts that currently have tax bylaws are advised of these changes by the Ministry. The interest rate can only be charged starting March 1 next following the date on which the taxes were levied.

The following is an example of how interest charges would be calculated for a \$100 parcel tax unpaid for over two years where it is assumed there is a ten percent penalty addition in the improvement district's taxation bylaw. For the sake of simplification, the taxes for years two and three are not shown in the calculations. The interest rates shown are just examples.

<u>DATE</u>	<u>EXPLANATION</u>	<u>AMOUNT OWING</u>
May 30, Year 1	Billing Date	\$100.00
June 30, Year 1	Due Date	\$100.00
July 1, Year 1	10% penalty addition added	\$110.00
Jan 1, Year 2	12.75 interest rate set under the <i>Taxation Act</i>	
Apr 30, Year 2	Interest charge Mar 1 to Apr 30 (61 days) $61/365 \times 12.75\% \times \$110 = \$2.34$	\$112.34
May 1, Year 2	9% interest rate set under the <i>Taxation Act</i>	
Aug 31, Year 2	Interest charge May 1 to Aug 31 (123 days) $(123/365 \times 9\% \times \$110) = \$3.34$	\$115.68
Sept 1, Year 2	8% interest rate set under the <i>Taxation Act</i>	
Dec 31, Year 2	Interest charge Sept 1 to Dec 31 (121 days) $(121/365 \times 8\% \times \$110) = \$2.92$	\$118.60
Jan 1, Year 3	7.5% interest rate set under the <i>Taxation Act</i>	
Apr 30, Year 3	Interest charge Jan 1 to Apr 30 (120 days) $(120/365 \times 7.5\% \times \$110) = \$2.71$	\$121.31
May 1, Year 3	7.75% interest rate set under the <i>Taxation Act</i>	
June 30, Year 3	Taxes now 24 months in arrears. Tax sale set by the board of trustees to occur on August 30	
Aug 3, Year 3	Property owner pays all outstanding taxes and arrears including interest charged May 1 to Aug 3 (95 days) $(95/365 \times 7.75\% \times \$110) = \$2.22$	\$123.53
Aug 4, Year 3	Tax Sale cancelled	0

Project Approvals Checklist

The following checklist should be followed by an improvement district when considering whether to undertake a major capital construction project and expenditure. It can also be used to ensure that complete information is submitted to the Ministry.

	Done?	Attached to Submission?
A. Engineering		
1. An engineering feasibility study and design drawings		
2. A plan showing the location of project in relation to the overall system.		
3. A detailed cost estimate of materials and labour		
4. Details of any public health risks that will be addressed by the project.		
5. The anticipated construction schedule.		
B. Financial		
1. Capital <ul style="list-style-type: none"> - total project cost (including engineering and contingencies) - Methods of funding <ul style="list-style-type: none"> a) capital expenditure charge funds b) renewal reserve funds c) surplus funds on hand d) borrowing - Number of connections or parcels - Total capital cost per connection or parcel 	\$ _____ \$ _____ _____ \$ _____	
2. Operating <ul style="list-style-type: none"> - estimated change in annual costs of administration and operating 	\$ _____	
3. Landowner Costs <ul style="list-style-type: none"> - Parcel taxes - User fees (Tolls) 	Existing/ Proposed \$___ \$___	Increase (%)

Total	\$___ \$___	
- Capital Expenditure Charge	\$___ \$___	
If a new bylaw needed, has it been prepared.		
C. Regulatory (Statutory Approvals)		
1. Land Use <ul style="list-style-type: none"> • Regional district, municipality or Islands Trust • Agricultural land reserve • Statutory rights of way/permits - Transportation 		
2. Health Authority <ul style="list-style-type: none"> • Construction permit 		
3. Environmental Authority <ul style="list-style-type: none"> • Water license • Septic permit 		
4. Bylaws <ul style="list-style-type: none"> • Agreements <ul style="list-style-type: none"> - Statutory rights of way • Financial <ul style="list-style-type: none"> - Borrowing - Tax and/or tolls - CEC and/or renewal reserve fund expenditure - CEC establishment or amendment 		
5. Landowner <ul style="list-style-type: none"> • Awareness (consultation) <ul style="list-style-type: none"> - notices, leaflets, newsletters • Presentations <ul style="list-style-type: none"> - Annual general meeting - Special general meeting - Public open house • Approval (support) <ul style="list-style-type: none"> - referendum - petition - alternative approval process - vote at a special general meeting 		

Assessment Roll

_____ DISTRICT
20 ____ ASSESSMENT ROLL

Number on Roll _____

Names and Addresses of Assessed Owners

Description of Land (Reg Plan, District Lot, Block, Lot)

Classification (Group/Grade)

Area of Parcel

Assessment Notice

_____ DISTRICT

ASSESSMENT NOTICE 20____

To: _____ [*property owner*]

CLASSIFICATION OF LAND FOR 20____

The following property has been assessed as owned by you and classified as follows:

Assessment _____ District _____ Classification _____
Roll No. _____ Lot _____ Block _____ Map _____ Lot _____ (Group/Grade)

Assessor [*signature*]

The definitions of the groups as set out in the current Assessment Bylaw are as follows:

COURT OF REVISION

Section 755(2) of the *Local Government Act* provides as follows: "Any person having an interest in assessed land may file with the court of revision a complaint about the assessment of the person's land or other assessed land".

The Court of Revision will be held on the _____ day of _____, 20____, at _____, B. C., from _____ to _____, and if you desire to complain of this assessment, you may file your complaint with the Court of Revision.

Tax Notice

_____DISTRICT

TAX NOTICE 20_____

TAKE NOTICE that under Bylaw No. _____ of the _____ District, the following taxes have been levied for the year 20 _____ against property which has been noted as held in your name:

Property Description	Group	Tax
----------------------	-------	-----

Notes:

- 1) Taxes for the year 20____ will be payable without discount on or before the____ day of _____, 20 ____ .
- 2) A percentage addition of _____ % (_____ percent) will be added to all taxes remaining unpaid after the ____ day of ____ 20 ____ .
- 3) Section 760(1) of the *Local Government Act* provides that the taxes payable to an improvement district bear interest at the rate prescribed by the Lieutenant Governor in Council under section 11(3) of the *Taxation (Rural Area) Act* from March 1 next following the date on which they are levied, until paid or recovered.

Trustee Resolution

_____ DISTRICT

WHEREAS the question of _____ [*appointing an Officer; releasing funds from the Renewal Reserve Fund; whether to reduce the number of trustees from 5 to 3*] was put before the Board of Trustees at a meeting held on the ____ day of _____, 20 ____ :

AND WHEREAS the Trustees deem it advisable to _____ [*appoint (insert name of new Officer); expend the funds of the Renewal Reserve on the attached list of projects; or reduce the number of trustees from 5 to 3*] .

THEREFORE, BE IT RESOLVED that _____ [*(name of person) is appointed Officer of the Improvement District; that the funds in the amount on the attached list be released from the Renewal Reserve Fund; the Minister of Community, Sport and Cultural Development be requested to amend the Letters Patent of the _____ Improvement District to reduce the number of trustees from 5 to 3*].

Trustee

Trustee

Trustee

Trustee

Trustee

Certified a true copy of the resolution adopted by the trustees of the _____
District on the ____ day of _____, 20 ____.

Administrator

[NOTE: this is the form that a trustee resolution would take. This format would also be used where a change to Letters Patent is being requested, for example to delete a function]

Mutual Aid Agreement

This agreement made the ____ day of ____, 20 ____ .

BETWEEN:

____ (hereinafter called ____)

OF THE FIRST PART

AND:

____ (hereinafter called ____)

OF THE SECOND PART

WHEREAS _____ and _____ both maintain their own fire departments;

AND WHEREAS it is possible that the occurrence of a major fire or other incident may require fire fighting facilities beyond those available to each fire department individually;

AND WHEREAS the elected officials of each party consider it to be of mutual benefit to cooperate when additional assistance is required by either fire department;

NOW THEREFORE the parties hereto covenant and agree as follows:

1. In this Agreement, "other incident" includes those assistance response activities authorized under bylaw by the elected officials of each party. Neither fire department will respond to a request for assistance to activities which it does not have authority to respond under said bylaw in its own improvement district.
2. The Fire Chief, or in their absence, the senior officer in charge, may request the assistance of the fire department under the control of the other party where he deems assistance is required to control a major fire or other incident.
3. The Fire Chief, or in their absence, the senior officer in charge, receiving a request for assistance from the other party, may direct this fire department to respond to the request.
4. The Fire Chief who requested the assistance of the other party will remain in charge of the fire or other incident but the Fire Chief of the responding fire department will direct the personnel and equipment under his command.

5. The Fire Chief of the responding fire department retains the authority to recall the personnel or equipment under their command to their own improvement district when they determine it is necessary.

6. No remuneration will be paid to either parties of this agreement.

7. Neither fire department will be liable for any loss, damage or injury occasioned to or by the equipment or personnel of the other fire department.

8. Either party may terminate its rights and responsibilities under this Agreement following ____ days notice delivered in writing by registered mail to the other party.

Signed on behalf of _____ *[party of the first part]* :

[Trustee, Mayor, Chair]

Officer

Signed on behalf of _____ *[party of the second part]* :

[Trustee, Mayor, Chair]

Officer

Latecomer Agreement

[NOTE: It is recommended that legal advice be sought in the completion of this Agreement]

THIS AGREEMENT made this ____ day of _____, 20 ____.

BETWEEN:

_____ (the "Improvement District") OF THE FIRST PART

AND:

_____ (the "Developer") OF THE SECOND PART

WHEREAS:

- A. The Developer proposes to subdivide/develop certain lands within the Improvement District more particularly described in Schedule "A" to this Agreement (the "Land");
- B. The Improvement District requires that the Developer provide a [select one or more of the following according to the objects in your Letters Patent: water, sewage or drainage system] "the Service" to service the Land, and a portion of the Service will serve land other than the Land being subdivided or developed as set out in Schedule "B" hereto and will be excess or extended capacity under section 747.2(1) of the *Local Government Act* (the Excess Capacity);
- C. The Improvement District considers that its costs to provide the Excess Capacity in whole or in part are excessive, and requires the Developer, as owner of the Land, and the owners of any other land that, in the opinion of the Improvement District, will benefit from the Service, to pay the cost of the Excess Capacity;
- D. This Agreement is authorized and provided for under section 747.2 of the *Local Government Act*; and
- E. The Board of Trustees of the Improvement District has by [Latecomer Charge Interest Rate Bylaw No. ____] set the rate of interest referred to in paragraph 6.

NOW THEREFORE in consideration of the mutual covenants and agreements made by each of the parties to the other as set out below, and for other valuable consideration, the receipt and sufficiency of which is acknowledged, the Improvement District and the Developer covenant and agree as follows:

1. The Developer must provide the Service in compliance with the plans and specifications set out in Schedule "B" of this Agreement, to service the proposed subdivision/development of the Land.

2. The Improvement District agrees that a portion of the Service is provided with Excess Capacity as set out in Schedule "B".
3. The proportion of the total cost of providing the Service, as determined by the Improvement District, that constitutes the Excess Capacity of the Service that will benefit the Parcels other than the Land is ____ % (____ percent) or \$ ____ (____ dollars) .
4. The Improvement District will, under section 747.2(4) of the *Local Government Act* impose a Latecomer Charge against each parcel of land that benefits from the Excess Capacity as prescribed in Schedule "C" of this Agreement as a condition of an owner using or connecting to the services provided under the agreement where the Developer has incurred or paid the costs of providing the Excess Capacity.
5. The Improvement District must pay the Developer those charges, collected under paragraph 4, which relate to the costs of providing the Excess Capacity paid by the Developer.
6. Included in the charges imposed by paragraph 4 of this agreement will be interest calculated annually at the rate prescribed by Latecomer Charge Interest Rate Bylaw No. ____, namely, ____ percent, payable for the period commencing when the Service providing the Excess Capacity was completed, as certified under paragraph 7, up to the date that the connection is made or the use commences.
7. No costs for Latecomer Charges under paragraph 4 of this Agreement will be charged beyond a period of 15 years [or another lesser time negotiated with the Developer] commencing on the date of completion of the Service as certified by the Improvement District.
8. Where the Developer constructs the Service:
 - a. construction must be carried out in accordance with the practices standards and specifications prescribed in the Improvement District's Subdivision regulation Bylaw and, where there is no bylaw or the bylaw does not specify a standard, in accordance with the plans, standards and specifications set out in Schedule "D" to the agreement; and
 - b. the Improvement District will be the sole judge of the sufficiency of compliance of the construction of the Service with all standards.
9. The obligation of the Improvement District under this Agreement to pay latecomer's fees is subject to its ability to collect such fees.

Terminology

10. Wherever the singular or the masculine are used in this Agreement, they will be construed as meaning the plural or the feminine or body corporate or politic where the context or the parties require.

Binding Effect

11. This agreement will constitute the entire agreement between these parties and will ensure to the benefit of and be binding upon the parties hereto, their respective heirs, executors and successors and permitted assignees.

12. The headings in this agreement are inserted for convenience only and will not be construed as part of this Agreement for the purpose of interpretation.

IN WITNESS WHEREOF the parties have signed and sealed this Agreement on the day it was made.

SIGNED AND THE CORPORATE SEAL of _____ (the Improvement District)
was affixed in the presence of :

Chair

Officer

SIGNED on behalf of _____ (the Developer):

SCHEDULE "A"

THE LAND TO BE SUBDIVIDED OR DEVELOPED

SCHEDULE "B"

**PLANS AND SPECIFICATIONS OF THE SERVICE SHOWING
THE EXCESS CAPACITY**

SCHEDULE "C"

CHARGES PRESCRIBED FOR EACH BENEFITING PARCEL

[can be a percentage of the excess capacity]

I	II	III
Parcel(s) that will benefit capacity	Percentage of excess capacity apportioned to benefiting parcel(s)	Amount of excess capacity from excess charged to benefiting parcel(s)

SCHEDULE "D"

WORKS AND SERVICES CONSTRUCTION STANDARDS

Hydrant Maintenance Agreement

[NOTE: this is only one option for maintenance and reimbursement of costs for hydrants. For example, the fire department may do the inspection and maintenance.]

This agreement made the ____ day of _____, 20 ____.

BETWEEN:

_____ (hereinafter called the "fire department")

OF THE FIRST PART

AND:

_____ District (hereinafter called the "District")

OF THE SECOND PART

WHEREAS ____ (party of the first part) operates a fire department that services property located within the boundary of the District;

AND WHEREAS the District owns and operates a water distribution system;

AND WHEREAS fire hydrants are and will be installed on the District's water distribution system and will require adequate inspection, maintenance and replacement for the purposes of the District and also for the purposes of the fire department;

AND WHEREAS the fire department wishes to ensure adequate inspection, maintenance and replacement of fire hydrants for their purposes;

NOW THEREFORE the parties hereto covenant and agree as follows:

1. The District hereby agrees to provide clear access to the fire hydrants by the fire department for the purposes of fire fighting, testing equipment, and training.
2. The District agrees to follow the annual inspection and maintenance program for each fire hydrant as outlined in Schedule "A".
3. In consideration of the District performing the annual inspection and maintenance program set out in Schedule "A", the party of the first part shall pay to the District annually the sum of _____ dollars (\$) for each hydrant located on the District's water system as of December 31st of the year previous to each annual payment.

4. The District shall invoice the party of the first part for fire hydrant inspection and maintenance in the month of January each year and the party of the first part shall pay such invoice on or before February 15th in each year.
5. The District shall be solely responsible for all the necessary inspections and maintenance of the hydrants and shall supply the party of the first part with the necessary information concerning the condition of the hydrants and the approximate water pressures available at each one.
6. Should any fire hydrant be damaged or destroyed, the same shall be replaced or repaired by the District as soon as reasonably possible.
7. The District shall not be liable for any damages, expenses or losses occurring by reason of suspension or discontinuation of water to any hydrant where such suspension or discontinuance is caused by circumstances beyond the control of the District.
8. Party of the first part hereby agrees to indemnify the District, its agents or employees from any claims, demands, actions or causes of action which may be made against the District arising out of or in consequence of any loss (including with limitation, loss of life), injury or damage of all and every description to person or property caused in whole or in part or in any way contributed to by any act or omission of the District, its agents or employees, in the performance of this Agreement or in the purported performance of this Agreement or purported provision of water for the purposes listed in Section 1, or in failing to perform this Agreement.
9. This Agreement shall be for a period of one year commencing _____, 20__ and continues until midnight of the date of its anniversary.
10. This Agreement is renewed automatically for further one year terms unless one party notifies the other party in the manner provided herein and prior to September 30th, of its intention to terminate this Agreement.
11. All notices and demands required or permitted to be given hereunder shall be in writing and may be delivered personally, sent by fax or may be sent by first class mail to the address sent forth on page one of this Agreement. Any notice delivered by or sent by fax shall be deemed to have been given and received at the time of delivery. If between the time of mailing and the deemed time of receipt there is any mail strike, slow down or other labour dispute, then such notice shall only be effective when it is actually received by the party.
12. Should any part of this Agreement be declared or held invalid for any reason, such invalidity shall not affect the validity of the remainder which shall continue in force and effect and be

construed as if this Agreement has been executed with the invalid portion.

13. The parties hereto shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement.
14. This Agreement will constitute the entire agreement between these parties and will ensure to the benefit of and be binding upon the parties hereto, their respective heirs, executors and successors and permitted assignees.

IN WITNESS WHEREOF the parties have signed and sealed this Agreement on the day it was made.

SIGNED AND THE CORPORATE SEAL of _____ (the District)
was affixed in the presence of :

Chair

Officer

SIGNED AND THE CORPORATE SEAL of _____ (the fire department)
was affixed in the presence of:

SCHEDULE A

FIRE HYDRANT MAINTENANCE SCHEDULE

The following actions will be undertaken on an annual basis for each fire hydrant:

INSPECTION

1. Check the condition of the thread on the operating spindle and nut.
2. Check the straightness of the operating spindle and 'off-pitch' or twist of the thread on the spindle.
3. Check the thrust collar and bearing surfaces of the operating nut on a compression hydrant.
4. Check all 'O' ring seals and packing in the thrust collar, stuffing box, head assembly, 'O' ring seal plate, seat ring, etc.
5. Check the main valve seat rubber, drain rubbers and drain mechanism.
6. Check the main valve seat ring.
7. Check for proper drainage.
8. Pressure test.

MAINTENANCE

1. Replace any worn or malfunctioning parts.
2. Lubricate threads with appropriate grease.
3. Repaint as required
4. Clear all undergrowth with hinders access to the hydrants.

In addition to the above, the District will keep a maintenance record for each hydrant and note the general condition of each hydrant.