

|AGENDA Monday, September 21, 2009  
|Informational Sioux Falls City Council  
|  
| 4:00 p.m. at Carnegie  
|  
|Town Hall  
|  
| 235 West 10th Street  
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1. Call To Order
2. City Council Staff Report
  - A. Updates by Debra A. Owen, City Clerk
3. Mayor Munson
4. Audit Committee
5. Fiscal Committee
6. Land Use Committee
7. Public Services Committee
8. City Council Open Discussion
9. Presentations
  - A. Special Assessment Audit Report 09-06 by Rich Oksol, Lead Internal Auditor  
Report
10. Adjournment

Date: 2009-09-21  
SIRE Meeting ID: 920  
Meeting Type: Informational Meeting

YouTube:<https://youtu.be/2nEHizMu72g>  
Agenda Item: Not Assigned  
Item ID: 40090

The following document(s) are public records obtained from the  
City of Sioux Falls.

# **SPECIAL ASSESSMENTS AUDIT**

## **INTERNAL AUDIT REPORT 09-06**

### **INTRODUCTION**

The City of Sioux Falls City Council authorized this audit in the 2009 Annual Audit Program. This is the first internal audit of the special assessments process.

### **BACKGROUND**

The special assessment process allows the City of Sioux Falls (City) to provide certain services to citizens of the City without having to use tax revenue to fund those services. Special assessments are essentially passing on the cost of constructing a street or sidewalk, removing snow, mowing unkempt private property, or clearing debris or hazardous conditions from private property to the property owner who is nearest to the service provided. These are all essential parts of each and every citizen's quality of life and in some cases can even be paramount to a citizen's safety.

The focus of this audit centered on the street construction projects allowed as a part of the special assessments process. The City created a program whereby property owners with property abutting a right-of-way may petition the City to have that right-of-way improved to an urban roadway. The City also has the authority to order the work done without going through the petition process, if the City deems the project necessary. The City considers the majority of the right-of-way prior to successful entry into the petitioned street improvement program to be rural roadway. However, some of the streets constructed have never been a road or street before.

### **OBJECTIVES**

The objectives of this audit were to determine:

1. If the internal controls over special assessments are effective and efficient.
2. If the City is complying with state law and city ordinances on special assessments.
3. If the special assessments are accurate and being handled correctly.

### **SCOPE AND METHODOLOGY**

The audit focused on the special assessments for eight street construction projects completed during the 2008 construction season. Please see Exhibit A for a list of the projects reviewed. Our methodology involved gaining an understanding of the process and associated risks and controls. We reviewed South Dakota Codified Law, City of Sioux Falls Code, and the Mayor's executive orders concerning special assessments. We interviewed Engineering and Finance staff, reviewed documentation on the special assessments, reviewed minutes of City Council meetings, and verified special assessment calculations from the information provided to us from Engineering and Finance staff. We then gathered evidence to determine if the controls were effective.

## **RESULTS INCLUDING AUDIT FINDINGS AND RECOMMENDATIONS**

**We determined for our audit objectives, some controls exist to provide reasonable assurance that special assessments are properly controlled.** We did have audit findings regarding the lack of policies and procedures. We have recommendations to address the audit findings and two recommendations that do not address audit findings but present opportunities for improvement.

### **OBJECTIVE ONE: EFFECTIVE AND EFFICIENT INTERNAL CONTROLS**

We reviewed the internal controls in place over special assessments. We noted controls do exist over this process. They range from action that the City Council must take to Excel spreadsheets and Access databases used to track the allocation of the assessment to each property owner. It appears the internal controls in place function in the way they were designed. However, we did find some areas of the internal control framework that could use some improvements.

### **AUDIT FINDING ONE**

**No policies and procedures manual exist for special assessments.** A policy and procedures manual spells out how to handle certain circumstances such as the assessment of certain costs. Also, the City Engineer's office has not designated a back-up employee to calculate special assessments in the event the primary employee is unable to complete his duties. Finally, no formal management review policy exists to verify the accuracy of the special assessments.

**Recommendation One:** The City Engineer should adopt a policy on how to calculate the allocation of special assessments and how to handle certain situations. In this policy, the City Engineer could also spell out which employee would take over in the event the primary is unable to work because of a temporary or permanent absence. The policy should also address a management review process, and how to implement and document it.

*Public Works Response: Public Works will develop a written policy on how to calculate the allocation of special assessments. The policy will also formalize the review process and identify the primary and secondary responsible parties for the assessment process. The target date for this action is March 1, 2010. The assessment process is guided by State statutes, City Ordinances, Executive Orders, and Engineering Design Standards. Currently, the Project Manager prepares the assessment and it is reviewed and processed by a Civil Engineer.*

### **AUDIT FINDING TWO**

**Excel spreadsheets used to calculate cost allocations to individual property owners can be cumbersome and are not standardized.** Excel spreadsheets are used to allocate the costs of a construction project to the abutting property owners. These spreadsheets do not appear to be linked through formulas; however, they do have similar information on each spreadsheet. If an error is made on one spreadsheet such as an incorrect amount of front footage, the calculations used appear to carry over to other spreadsheets. Those

errors are not easy to locate when they are at the beginning of the calculating process flowing down to the final assessment amount.

One possible problem with large cumbersome spreadsheets has to do with the potential for errors to creep in undetected. One small error can affect the whole calculation leading to several property owners being assessed for amounts larger or smaller than what should have been assessed. Another problem with spreadsheets not being standardized affects the ease in monitoring the accuracy of calculations by management.

Audit organizations throughout the United States have encouraged their customers to avoid using Excel spreadsheets wherever possible. Errors can creep in without detection.

**Recommendation Two:** The City Engineer’s Office should look into purchasing software to calculate special assessments. If no software is found or the software available does not appear to be adaptable to the City’s needs, the Engineer’s Office should standardize how the calculations are compiled. They should also look at simplifying the spreadsheets.

*Public Works Response: Public Works is not aware of specialized software that calculates assessments. Each assessment project usually consists of road construction (grading, gravel, and surfacing), but is unique in the fact that the project may or may not include water mains, water service lines, sanitary sewer main, sanitary sewer service lines, storm sewer, street lights, driveway approaches, and sidewalk. Public Works uses Microsoft Access and Excel to calculate and manage the assessment process. The final assessment report is produced in Access and then imported into Excel for review. Public Works will review its calculation process to determine if items can be simplified and/or standardized. This may not be possible based on the uniqueness of each project.*

#### OBJECTIVE TWO: COMPLIANCE WITH STATE AND LOCAL LAW

We reviewed the special assessment process for compliance with state and local laws. We reviewed the selected projects from the beginning when the City Council voted on them as Resolution of Necessities until the City Council approved the assessment rolls. It appears the City followed the majority of state and local laws. However, one of the projects, North Career Avenue, included costs of incomplete work at the time of the assessment rolls adoption. According to City of Sioux Falls Code referenced below, only “actual” costs are to be assessed. The code reads as follows:

##### City of Sioux Falls Code Section 38-32

“c) Property owners abutting the local or collector street improvement shall be assessed for *actual* costs of the street and utilities as limited to local and collector street standards.” (Emphasis added.)

The definition of *actual* is:

“2 **a:** existing in act and not merely potentially **b:** existing in fact or reality <actual and imagined conditions> **c:** not false or apparent <actual costs>.”  
(<http://www.merriam-webster.com/dictionary/actual>)

### **AUDIT FINDING THREE**

**Anticipated costs assessed against the abutting property owners.** The City Engineer's office included some anticipated costs in the assessed amounts to property owners along the North Career Avenue project. Even though the North Career Avenue project had not been completed, City staff included the project on the assessment list. The costs of the project did include a majority of actual costs, but the total cost of the project also included approximately \$42,000 of construction costs for incomplete work.

**Recommendation Three:** The City Engineer's office should only assess actual costs of construction projects. It is our understanding that by law it is only to be actual costs assessed, not costs billed plus anticipated costs from work yet to be completed.

*Public Works Response: The North Career Avenue project began in 2008 and was completed in 2009. Because of time constraints with the project funding, the assessments were executed prior to the completion of all of the work. The work that was not completed included clean-up and restoration; however, all assessed costs were based on detailed plan quantities that included the necessary scope of work to complete the project. The City and the Contractor agreed in advance the scope of work would not change from the plan quantities and therefore we moved forward with the assessment role.*

### **OBJECTIVE THREE: ACCURATE AND HANDLED PROPERLY**

We verified that the special assessments process was accurate and all parties involved handled the process properly. We reviewed supporting documentation on all eight projects to verify that the assessment rolls named the correct owners, used correct front footage, and assessed the correct costs. It appears that all these items were correct.

We recalculated each of the special assessments to verify whether the original calculations were accurate. Our calculations did not match what Engineering staff had calculated for most assessments. However, after clarifications were made by Engineering staff on what costs were included in an assessment, it appears that the calculations were accurate.

We analyzed the engineering fees that were included in the total costs of the projects. We concluded that the maximum limits were not exceeded. We verified that they matched to the chart in City of Sioux Falls Code Section 38-32. This portion of city code lays out how much is allowed to be charged for engineering costs as a percentage of the total construction costs. This section of code reads as follows:

#### **City of Sioux Falls Code Section 38-32**

“(a) When the city council deems it necessary to construct or improve a local or collector street by special assessment where the streets are not improved or do not meet city design standards, the total cost of the improvements shall include, but not be limited to, the cost of acquisition of right-of-way and easements, grading, paving, curb and gutter, intersection improvements, utilities, utility relocation, engineering and testing, inspection, publication, and legal expenses. Engineering,

testing, and inspection expenses shall not exceed the amounts shown in the following table:

Construction Contract Value	Professional Fee
Under \$500,000	Actual cost up to 20%
\$500,001 to \$1,000,000	Actual cost up to 18%
\$1,000,001 to 5,000,000	Actual cost up to 16%
\$5,000,001 and Greater	Actual cost up to 14%

(b)..."

We reviewed the journal entries made by Finance staff to record the costs and subsequent liability owed by the abutting property owners. We used journal entries from assessment rolls adopted in 2008, since the special assessments reviewed for the majority of this audit were not adopted at the time of the completion of the audit fieldwork. We believe the journal entries reviewed were a representative sample of the special assessments process as a whole. The journal entries reviewed appeared to be accurate and done in a timely manner.

**OPPORTUNITIES FOR IMPROVEMENT**

- 1) It is our recommendation that the Engineer’s office consider revising how it assesses projects where the abutting property owner does not have immediate access (front driveway access onto street) to the construction project. In a recent court case in Pierre, the City of Pierre lost a lawsuit filed against them by citizens who stated that a curb and gutter assessment did not provide a special benefit to their property. This case focused on what it meant to receive a special benefit. Citizens could argue that anyone assessed for a street construction project or sidewalk installation along the backside of his or her property does not receive any more benefit from the project than the community at large.

*Public Works Response: Public Works is aware of the court case in Pierre. The City Attorney’s Office will monitor the rulings to see if any modifications to our assessment policies need to be made. The assessment policies used follow current State statutes and City ordinances. The City of Sioux Falls does not assess for similar repairs to existing infrastructure as was contested in Pierre. The burden to the City and its taxpayers would be colossal and impractical if they would be expected to pay for infrastructure improvements to all backside or side lots throughout the city. One chooses to develop and/or live on a corner lot or a double frontage lot and should be expected to pay for infrastructure improvements as required by City ordinances and design standards.*

- 2) It is our recommendation that the City assess all project costs unless prevented by state law or city ordinance. One example of the City picking up costs of a project when state law or city ordinance did not preclude them from assessing costs was on the South Valley View Road project. In the assessment for this project, the abutting property owners were not assessed the majority of the construction costs.

It was stated by the City Engineer's staff that a realignment of the street occurred which cut directly across the majority abutting property owner's, Friessen Construction, property. No restitution appears to have been paid to Friessen Construction for the realignment of this street. However, in documentation received from the City's project manager for this project, Friessen Construction appears to have wanted the realignment and also told the City Engineer's staff that Friessen personnel even met with the other abutting property owners and they also wanted the street realigned. The public at large could argue that abutting property owners received more benefit than the general public because of the realignment.

Another cost not usually assessed is for oversized utilities. The City has an Executive Order detailing what sizes of utilities will be reimbursed if required to be installed. The general public could argue that oversized utilities in a specific area benefit only the abutting property owners and not the public at large.

This illustrates the need to have a written policy on how to handle these situations. If it is deemed necessary for the City to pick up some of the costs, it needs to be uniform throughout the City. Please refer to Exhibit A for further information.

*Public Works Response: Public Works assesses all allowable costs. On South Valley View Road, the City agreed to contribute to the project because the realignment improved the safety of the roadway for the traveling public, not just the abutting property owners. A cost analysis completed by Public Works determined that the realignment would result in the traveling public saving approximately \$13,000 per year because of reduced travel time and a reduction in accidents.*

*Oversized utilities are not assessed because the public receives the benefit of the larger utility. For example, if the City determines a 16-inch water main is required to be installed instead of a 12-inch water main, the abutting properties will be assessed for the pipe installation costs and the material costs of a 12-inch pipe. The City will reimburse or pay the differential material cost between the 16-inch pipe and the 12-inch pipe. The City installs a minimum of a 16-inch water main in a one-mile grid pattern, a minimum of a 12-inch water main in a one-half mile grid pattern, and a minimum of an 8-inch water main on local or neighborhood streets. This is done to meet demands, provide adequate fire flows, and provide redundancy for the City.*

## **NOTES**

- 1) There has been a revision to Section 38-32 since the majority of the reviewed projects were completed, but the version that would have been in place at the time of the construction of the reviewed projects is referenced in this document.



- 2) Friessen Construction, the contractor awarded the bid for the South Valley View Road project, had the majority of the abutting property along this project. Also, the majority of the costs of this project were not assessed. The City Engineer's office stated that the City paid for a large portion of the project because the City realigned the street. No state laws or city ordinances appear to have been violated because of this action.

### **AUDIT CONCLUSION**

The City Staff involved with special assessments are knowledgeable and experienced in administering special assessments and are very competent in the different roles each hold in the special assessments process. The City Engineer informed Internal Audit staff that management has made changes to policies with the goal of reducing special assessments. It does not appear; however, that special assessments will be eliminated, so reviews of the process will be needed to keep special assessment policies and procedures up-to-date.

We would like to thank the City administration and staff for their cooperation and assistance during this audit.

SPECIAL ASSESSMENT AUDIT  
EXHIBIT A

CONTRACT #	PROJECT DESCRIPTION	CONSTRCTN COSTS	ENGINRNG COSTS	TOTAL COSTS	AMOUNT ASSESSED	PERCENT ASSESSED
08-1081	N. Career Ave. from W. Tickman St. to W. Benson Rd	1,092,719.11	174,835.06	1,267,554.17	1,017,057.96	80.24%
08-1065	N. Bahnson Ave. from E. Madison St. to 1,300' north	453,829.92	90,765.99	544,595.91	278,002.25	51.05%
08-1031	N. Hillcrest Ave. from E. 54th St. N to E. 57th St. N	252,007.27	50,401.45	302,408.72	302,408.72	100.00%
08-1032	N. Van Eps Ave. from E. Benson Road to 300' south	95,189.92	19,037.98	114,227.90	114,227.90	100.00%
08-1052	S. Bahnson Ave. from E. 57th St. to E. Mission St.	315,842.35	63,168.47	379,010.82	261,712.85	69.05%
08-1017	S. Meredith from W. Bitterroot St. to 900' north	156,674.62	29,934.03	186,608.65	106,040.54	56.83%
08-1037	S. Valley View Road from W. 12th St. to W. 16th St.	361,226.85	72,245.37	433,472.22	168,322.14	38.83%
08-1090	N. Galaxy Lane from W. Aruba St. to 600' south	227,979.78	23,317.20	251,296.98	114,407.21	45.53%

NOTE: This information does not include costs that were to be collected through a cost recovery.