2
2006 DEVELOPMENT CHARGE BY-LAW REVIEW

The following report, April 7, 2006, from the Commissioner of Finance, is submitted to Council without a committee recommendation:

1. RECOMMENDATIONS

It is recommended that:

1. Staff be directed to proceed with the comprehensive review of the Development Charge ("DC") By-law, including holding at least one public meeting as required under the Development Charges Act, 1997, based on the schedule outlined in this report.

2. Staff be authorized to prepare a proposal and justification to phase out or reduce the discount on the non-residential DC rates for review, as part of the DC By-law update process.

3. Staff be authorized to retain the firms of C. N. Watson and Associates as DC technical advisors, and McCarthy Tetrault as legal advisors, at a total cost not to exceed $75,000, to be funded from the DC reserve for growth-related studies.

2. PURPOSE

The purpose of this report is to update Council on the proposed comprehensive Development Charge ("DC") By-law review process and timetable. The report also seeks authorization to retain consulting and legal firms to provide specific input and advice to the DC By-law review process.

3. BACKGROUND

On May 22, 2003, Regional Council approved a revised DC By-law, to be effective for a four year term from June 22, 2003 to June 22, 2007. In accordance with the DC Act, 1997, anyone opposed to the DC By-law had until July 2, 2003 to file an appeal to the OMB. Four appeals were filed in opposition of the Region's DC By-law, of which three have been successfully resolved. One appeal pertaining to high rise residential development remains outstanding.

On June 22, 2005, Regional Council adopted an amendment to the 2003 DC By-law, which incorporated significant cost increases associated with some key water and wastewater projects. These cost increases were the result of changes due to Provincial requirements for increased environmental mitigation, financing costs associated with accelerated capital plans, and significant cost increases being experienced in the construction industry. Two appeals were filed in opposition of the amendment. One appeal has been resolved, and one appeal regarding high rise residential development remains outstanding.

As part of the 2006 DC By-law review, some key issues that could impact the DC calculation require further examination. They include:

- Population/employment projections
- Capital cost updates
- Discounting of the non-residential DC rate
- Transit DC calculation
- Centres and Corridors financial review
- DC calculation assumptions/methodologies

These issues are discussed in more detail in the following section.

4. ANALYSIS AND OPTIONS

4.1 Population and Employment Projections

In determining a development charge that may be imposed under the DC Act, the DC Background Study must use approved population and employment projections. The current DC By-law uses projections included in the Regional Official Plan to the year 2026, which have been approved by Regional Council. The Province has recently issued its population and employment projections to the year 2031, which are higher than the Region's current projections. Although these figures have been endorsed by the Province, the Region has not approved or adopted the revised Provincial figures. In order to complete the background study, a determination of which forecasts are the most defensible if challenged through an appeal of the DC By-law must be undertaken. Once this is done, a detailed forecast must be completed and incorporated into the study.

4.2 Capital Cost Updates

Approximately 90% of the costs included in the current DC By-law pertain to roads, water, sewer and transit infrastructure. These costs were based on completed master plan reviews approved by Regional Council. Since the completion of these master plans, the Region's capital program has experienced significant cost pressures that have not been captured in the DC By-law. The Region has commenced updates to the master plans, however, they are not scheduled to be completed until late 2007/early 2008, past the expiry date of the current DC By-law. In lieu of the completed master plan results, Regional staff is in the process of providing updated cost estimates required to complete the DC background study.

4.3 Non-residential DC Rate Discounting

The current non-residential development charge is split into two categories: retail development and industrial/office/institutional ("non-retail") development. The average full cost recovery development charge rate for non-residential development is $8.20 per square foot of gross floor area (in 2003 dollars). As an economic incentive to development, in 2003 Council reduced the non-residential charge, with retail development being charged at $3.85 per square foot, and non-retail development being charged at $2.75 per square foot. These rates would be increased annually throughout the term of the by-law, but would not reach the full cost recovery rates. In accordance with the DC Act, the revenue shortfall resulting from these reduced rates must be recovered through non-DC sources, i.e. tax levy and user rates. As a result, a project that would normally be eligible for 100% funding from DC would only receive approximately 80% funding from DC; the balance would be funded from tax levy or user rates.

The 2006 ten year capital plans estimate that an average of approximately $17 million per year will be required from the Regional tax levy to fund the shortfall of roads DCs resulting from the non-residential DC rate discount. Similarly, an average of approximately $30 million per year will be required from water and sewer user rates to fund the DC rate discount.

DC Discount ($M)									
	Historical				**Forecast**				
	2003	**2004**	**2005**	**Sub-Total**	**2006**	**2007**	**2008**	**2009**	**Total**
Roads	$17.6	$23.6	$24.4	$65.6	$19.8	$21.3	$20.8	$23.1	**$150.6**
Water	$4.9	$6.1	$13.8	$24.8	$21.6	$23.5	$23.0	$20.1	**$113.0**
Sewer	$13.2	$3.4	$5.3	$21.9	$18.2	$32.8	$16.2	$16.8	**$105.9**
Total	**$35.7**	**$33.1**	**$43.5**	**$112.3**	**$59.6**	**$77.6**	**$60.0**	**$60.0**	**$369.5**

This table illustrates the pressures on the tax levy and user rates to support the DC discount currently in effect for Roads, Water and Sewer programs. A total of $112.3 million over the last 3 years was required to support the cost of growth in these services. This is an average annual input of $37 million for growth not being self sufficient. 2006-2009 forecasts reflect higher costs if the discount remains without any consideration to reduction or phase-out.

As these discounts place a significant pressure on the Regional tax levy and user rate requirements, it is recommended that staff review the impact of the non-residential discount on promoting development within York Region, and to propose options to phase out or reduce the DC discount to reduce the resulting increases on property taxes and utility rates that continued discounting will require.

4.4 Transit DC Calculation

The ten year transit capital program included in the 2003 DC By-law review totalled $2.2 billion, with approximately two-thirds of the cost assumed to be recovered from senior levels of government. The Development Charges Act, 1997 states that costs eligible to be recovered from DC must be calculated using a service level based on the average of the previous ten years. This penalizes municipalities like York Region that are introducing new services, as there is a minimal historic service level, which results in a smaller component of future costs that can be recovered from DC. As well, transit services under the DC Act are treated differently from roads in two significant ways. First, unlike road capital expenditures, a mandatory 10% reduction in costs eligible for recovery from development charges must be applied to transit capital expenditures. Second, although municipalities plan roads and transit services as an integrated transportation system, a separate calculation of historical service levels must be undertaken for transit services. This further reduces the total transit capital expenditures eligible for recovery from DC.

Based on average historical service levels as prescribed by the Development Charges Act, 1997, approximately 5% of the Region’s $796 million share of total capital costs included in the 2003 DC by-law would be eligible for recovery from development charges at the beginning of the ten year period, increasing to 33% by the end of the ten year period. The single family dwelling DC rate for transit calculated under the development charge legislation would be less than $400 per unit.

During the 2003 DC By-law review process, numerous discussions with key development stakeholders were held. As a result of the review process, instead of using the historical ten year average service level standard for determining DC rates, the transit DC rate has been calculated using a projected ten year average service level standard based on year 2012, which assumes all works included in the Region’s ten year capital plan have been completed. The DC By-law also included a phase-in of the transit component of the DC rate from $775 to $1,945 per single family dwelling (SFD), to reach a 25% cost recovery of the Region’s net capital costs by the end of the four year term of the by-law. The amount of each step of the transit rate phase-in would be dependent upon the percentage of the annual budgeted transit expenditures spent.

Despite the consultation with stakeholders, the Region received an appeal of the by-law regarding the transit DC calculation. This appeal has since been resolved. The Region must now review the methodology for calculating the transit DC rate as part of the 2006 DC by-law process. The Region has also requested the Province to amend the current DC legislation to ensure the costs of growth as it relates to transit services are borne by the development creating the need for these costs. Discussions with provincial staff have indicated that a review of legislative changes will not be undertaken at this time. This results in additional pressures to York Region’s tax levy and user rates. Until the Province enacts changes to the DC Act regarding transit (and GO Transit) services, the Region will continue to bear the majority of the growth-related costs of providing transit, to a point where these costs become unsustainable for the Region.

4.5 Centres and Corridors Financial Review

The Region's Centres and Corridors Strategy identified several potential financial initiatives that could be undertaken to promote development in Regional centres and corridors. These initiatives included the review of the current development charge structure. The firm of Hemson Consulting Ltd. has been retained to undertake a review of financial strategies and options for encouraging intensification in Regional centres and corridors. One area of focus of the study will be development charges, and the possible restructuring or differentiation of the current DC rates within centres and corridors. Preliminary findings from this review indicate that there may be a cost justification to examine a differentiated Regional development charge within centres and corridors, as opposed to other urban and greenfield development. This would require a change to the uniform Region-wide DC rate methodology, resulting in a lower charge within centres and corridors for certain services, and a higher charge outside of these areas. Staff will be reviewing the findings of the study and determining the impact on the Regional DC rate. This will be brought forward as part of the DC by-law review. It is recommended that C. N. Watson and Associates be retained to ensure any recommendations from this review meet the guidelines of the DC Act.

4.6 DC Calculation Methodology

During the 2003 DC by-law review process, the Region consulted extensively with key stakeholders regarding various DC rate calculation assumptions and methodologies. The Region did, however, receive appeals of the 2003 by-law and the 2005 amendment to the by-law based on methodologies used to calculate components of the Regional DC. The Region has agreed to consult with the stakeholders throughout the 2006 DC by-law review process regarding methodologies to be used. Some key issues to be discussed are outlined below.

4.6.1 Retail/Non-retail Cost Split

The non-residential DC rate is split into two categories: retail development and industrial/office/institutional ("non-retail") development. Non-residential capital costs are allocated to these categories based on an assessment of the consumption of each service by retail and non-retail uses. Since non-residential costs cannot be shifted to residential development, any shift in non-residential cost allocation must be borne by the other non-residential use (i.e. a reduction in non-retail costs must be absorbed by retail development). The Region was appealed on the cost allocation methodology used in the 2003 DC by-law. As part of the resolution of the appeal, staff has agreed to re-examine the methodology used, and consult with key stakeholders.

4.6.2 Excess Capacity

The DC Act states that capital costs to be recovered from development charges must be reduced by the costs associated with a municipality's excess capacity in that particular service. As some of the water and sewer infrastructure included in the Region's master plans have capacity to service population beyond the timeframe of the DC by-law forecast (25 years), a portion of these costs must be excluded from the current DC by-law, but can be recovered in future DC by-laws. Some development proponents have challenged the Region's methodology for calculating the cost of excess capacity. The Region has agreed to review this methodology with these proponents as part of the DC by-law review.

4.7 Proposed Timetable

Based on discussions with Regional staff regarding the completion of various key deliverables required for completion of the DC review, Attachment 1 outlines the proposed DC By-law review timetable, with a targeted date of February 2007 to enact a revised DC By-law.

Consistent with past practice, it is proposed that the Region retain the firm of C. N. Watson and Associates to provide technical and process assistance during the DC By-law review process, and the legal firm of McCarthy Tetrault to provide legal assistance and draft the DC By-law.

5. FINANCIAL IMPLICATIONS

Through the 2003 DC By-law review process, over $8 billion of growth-related capital infrastructure was identified as being required by the year 2026. Development charges are responsible for funding approximately 70% of these expenditures. Through the completion of various infrastructure master plans and other regional initiatives, new infrastructure requirements will be identified. As development charges are a key source of funding growth-related capital expenditures, the completion of the DC By-law review will ensure that the capital costs associated with growth occurring within the Region will be borne by development creating the need for these works.

The costs associated with the retention of consultants as outlined in this report, is estimated at $75,000. Funds from the DC reserve for growth-related studies have been included in the 2006 Business Plan and Budget for this purpose.

6. LOCAL MUNICIPAL IMPACT

The DC By-law revision will help ensure capital infrastructure is provided in a timely and financially responsible manner, which will facilitate the co-ordinated buildout of proposed developments within the area municipalities.

7. CONCLUSION

It is proposed that Regional staff be authorized to proceed with the review of the development charge by-law, including holding a statutory public meeting, in order to enact a revised DC by-law prior to its expiration in June 2007. It is also recommended that staff be authorized to retain consulting and legal support at a cost not to exceed $75,000, to be funded from the DC reserve for growth-related studies.

It is also recommended that staff review the impact of the non-residential discount on promoting development within York Region, and to propose options to phase out or reduce the DC discount to reduce the financial impact to the Region.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)