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REQUESTS TO PAY DEVELOPMENT CHARGES AT THE RATES PRIOR TO JUNE 18, 2008

The Finance and Administration Committee recommends:

1. **receipt of the communication (August 15, 2008) from Vinod Patel, President, Vaughan Mills Hotels Inc. and the deputation from Robert D. Preston, Ricketts, Harris LLP and Mr. Patel;**
2. **receipt of the communication from Mark Malinowicz, Project Manager, Joseph and Wolf Lebovic Jewish Community Centre and the deputation from David M. Sadowski, CEO, Jewish Community Properties of Greater Toronto and Mr. Malinowicz;**
3. **receipt of the report (August 8, 2008) from the Commissioner of Finance and the Regional Solicitor;**
4. **referral of the deputation and request from Vaughan Mills Hotels Inc. to the Regional Solicitor for a further report; and**
5. **referral of the deputation and request from the Jewish Community Centre to the Commissioner of Finance for a further report in November, 2008.**

1. RECOMMENDATIONS

It is recommended that:

1. The two requests for consideration to pay development charges at the rate in effect prior to June 18, 2008, received by Regional Council on June 19, 2008, be denied.

2. The Regional Solicitor be authorized to execute any minutes of settlement approved by Regional Staff to settle this matter, and, if necessary, to attend the Ontario Municipal Board in support of the Region's position in this matter.

2. PURPOSE

The purpose of this report is to provide information on the development charges received and the timing of payment of development charges for the two requests received by Council, and to receive instruction from Council regarding the Regional response to the requests received by Council.

3. BACKGROUND

Regional Development Charges Increase on June 18, 2008

On May 24, 2007 Regional Council approved the 2007 Development Charges (DC) By-law, with an enactment date of June 18, 2007. This process required a review of all costs to be included in the DC By-law and shift toward full cost recovery of all growth related infrastructure costs. Due to the substantial increase in the non-residential portion of the Regional DC, Council approved a phase in of the non-residential development charge rate over the term of the DC By-law.

On June 18, 2008 the Regional DC rates increased by 7.2% and the non-residential rate underwent an increase in the phasing toward full cost recovery. This resulted in an increase in the Industrial/Office/Institutional rate increasing from $4.74 per sq. ft. to $7.42 per sq. ft. and the retail rate increasing from $11.16 per sq. ft. to $23.13 per sq. ft.

4. ANALYSIS AND OPTIONS

Deputations received by Regional Council on June 19, 2008

The Region received two written requests to appear as deputants at the Regional Council meeting of June 19, 2008. The requestors were Vaughan Mills Hotel Inc. and the United Jewish Appeal (“UJA”) – Lebovic Community Campus (the “Requestors”). The requests were for Regional Council to authorize staff to accept payment of the development charges at the rates in effect prior to June 18, 2008. As directed by Council, these matters were deferred, and to be considered at the September 4, 2008 Finance and Administration Committee meeting.

The basis of the Vaughan Mills Hotel Inc.’s request (see Attachment 1) is for Regional Council’s consideration that a City of Vaughan’s council meeting was to be held on June 23, 2008 to remove the Holding symbol “H” from their lands. The holding provision prevented the applicant from receiving a building permit from the City of Vaughan and therefore the applicant was not able to pay the applicable development charges at the rate in effect prior to June 18, 2008. While the holding symbol “H” was subsequently removed at the City of Vaughan’s Council meeting of June 23, the building permit is yet to be issued.

A second request came from a registered Canadian charity, the UJA – Joseph & Wolf Lebovic Jewish Community Campus in the City of Vaughan (see Attachment 2), who are proposing to construct phase 2 of the Community Services Block. The City of Vaughan and the Region will review the application and provide for a deferral/exemption of development charges for a portion of their development, based on the services being provided by a portion of the development. Their request for additional consideration is on the balance of the development, based on the increase in the Regional institutional rate resulting in an increased financial burden to the project. A building permit for this project has not yet been issued.

The *Development Charges Act* gives the payer of development charges the right to pursue a complaint to the Ontario Municipal Board ("OMB") on a number of grounds, including whether the development charge was incorrectly determined, or whether the municipality made an error in applying its development charge by-law. The Requestors may pursue this remedy to the OMB if their requests are denied.

Regional Development Charge implications

Currently, building permits have not yet been issued for either the Vaughan Mills Hotel or the Lebovic Community Campus and therefore they have not paid any Regional development charges. However, the details of the applications, the development charges that would be collected at the old and new rates and the difference in potential development charges related to the two requests are listed below in Table 1.

Table 1
Applicable Development Charges related to the two requests received

DC Payment Period	Total Sq. ft.	Development Charges ($000s)		
		Rate prior to June 18/08	Rate as of June 18/08	Difference
Vaughan Mills Hotel Inc	70,279	$784	$1,626	$841
UJA Lebovic Community Campus	191,038	$906	$ 1,418	$512
Total applicable DC's		$1,690	$3,043	$1,353

5. FINANCIAL IMPLICATIONS

Development charges received by the Region from January 1, 2008 to August 25, 2008 total approximately $103.3 million and are detailed below in Table 2.

Table 2
Development Charges Received to August 25, 2008

DC Payment Period	# of permits	DC's Received
January to May 2008	3,509	$ 39.3 M
30 Days prior to June Increase	992	$ 54.7 M
DC's Paid post June 18 to August 25, 2008	991	$ 9.3 M
Total DC's Collected to August 25, 2008	5,492	$103.3 M

The June 2008 rate increase was clearly identified when the new Development Charge By-law was approved in May, 2007. Staff are not aware of any delays caused by the Region that would have created a delay in being able to obtain permits prior to June 17, 2008 and thus receive the lower rate. Accordingly, staff recommends that these applications pay the rates in effect at the time building permits are issued.

Development charges finance the major portion of growth-related capital infrastructure. Any foregoing of Regional development charges would have a negative impact on the funding of these growth-related capital projects and would result in the burden being borne by either the tax levy or water and wastewater user rates.

6. LOCAL MUNICIPAL IMPACT

The developments for which the payment of DCs at rates prior to June 18, 2008 is being considered are located within the City of Vaughan.

7. CONCLUSION

On June 19, 2008, Regional Council received two deputations requesting that staff be authorized to accept payment of their developments at the rates in effect prior to June 18, 2008. The reason for the requests is a result of the increases in the Regional non-residential development charge moving toward full cost recovery. The applicant for the Vaughan Mills Hotel was not in a position to pay the applicable development charges, as the subject lands could not remove a holding symbol prior to June 18, 2008. The second request by the UJA Federation was because of the financial burden the increase in the rate has on their development. Reviews completed by Regional staff have determined that currently the two deputants have not received building permit issuance and therefore have not paid any Regional development charges.

For more information on this report, please contact Kelly Strueby, Director Business Planning & Budgets at ext. 1611 or Fabrizio Filippazzo at ext. 1696.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause were included with the September 4, 2008 Committee agenda.)