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GO TRANSIT DEVELOPMENT CHARGE STATUS REPORT

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report, August 24, 2005, from the Commissioner of Finance:

1. RECOMMENDATION

It is recommended that:

1. The Province be requested to approve a further extension to the GO Transit Development Charge Bylaw for one additional year, to December 31, 2006.

2. PURPOSE

The purpose of this report is to advise Council of the progress and outstanding issues pertaining to the enactment of a revised GO Transit development charge by-law.

3. BACKGROUND

The Regions of York, Durham, Halton and Peel, and the Cities of Toronto and Hamilton are currently responsible for funding one-third of the cost of the GO Transit growth and expansion capital plan. A cost sharing formula was developed under the auspices of the Greater Toronto Services Board ("GTSB") to apportion capital costs to each funding municipality, which was to be reviewed in 2003. In November 2001, the Region of York enacted a GO Transit Development Charge By-law ("DC By-law"), in order to recover a portion of the GO Transit growth-related capital costs from the development causing the need for the service. The Regions of Durham, Halton and Peel also enacted GO Transit DC By-laws in 2001. All DC by-laws were drafted such that the by-laws expired on December 31, 2003. In recognition of issues outlined below, the Province has extended these by-laws twice, now to expire December 31, 2005.

4. ANALYSIS AND OPTIONS

4.1 Outstanding Issues

Subsequent to enactment of the GO Transit DC By-law in 2001, several issues arose which would have prevented the existing GO Transit DC By-laws from being revised prior to their expiration. The Province enacted legislation extending existing GO Transit DC By-laws to December 31, 2004. In March 2004, Regional Council authorized staff to proceed with a comprehensive review of the joint background study required to support the revised DC By-law, in conjunction with the Regions of York, Durham, Halton and

Peel, and the Cities of Toronto and Hamilton. The firm of C. N. Watson and Associates was retained to work with the municipal representatives and develop the joint background study to support the DC by-laws for each municipality. Through this review process, several issues were identified which had the effect of delaying the completion of the background study. As a result, the participating municipalities requested, and received, a further extension of the DC by-laws to December 31, 2005. These issues are outlined below.

4.1.1 Ten Year Capital Plan

The ten year GO Transit growth capital plan that formed the basis of the current DC By-law totalled $1.03 billion. Based on the negotiated cost sharing formula developed under the GTSB, York Region's share of these capital costs totalled $47.6 million or 13.8% of the one-third municipal share of the program. The approved 2005/2006 GO Transit capital plan, which the revised DC By-law would be based on, totals $1.54 billion. This 50% increase results in an increased burden on all funding municipalities. Although revised cost sharing formulas have not yet been updated, York Region's share of costs could range from approximately $60 million to $75 million.

4.1.2 Non-recoverable Capital Costs

In accordance with development charge legislation, municipalities imposing a transit charge must make a mandatory 10% contribution towards the growth-related transit capital costs. Thus, municipalities are required to fund a portion of the cost of GO Transit from the tax levy.

In addition, restrictions placed on capital costs eligible for recovery from development charges have resulted in the majority of the growth-related capital costs to be funded from the tax levy. For example, from the $47.6 million in growth-related capital costs assigned to York Region, the current DC By-law only provides for $19.6 million (40%) to be recovered from development charges. The result is that a significant burden is placed on existing York Region residents because of costs incurred due to growth for a service that is the responsibility of the Province. It has been proposed that legislation be amended to remove the 10 % mandatory contribution, and to reduce or eliminate the amount of non-DC eligible capital costs, such that the burden on the municipal tax base is mitigated.

4.1.3 Cost Sharing Agreements

The cost sharing formula used for the current DC By-law to apportion costs between municipalities was developed in 2000 under the GTSB. This formula was agreed to for a three year term, and was to be revised in 2003. Due to the significant increase in the ten year capital program and its impact on municipalities' tax levy, a revised cost sharing formula has not yet been determined. The GO Transit Act, 2001 now requires funding municipalities to enter into agreements with GO Transit for funding the one-third share of the growth capital plan. These agreements will be delayed until consensus can be reached on a revised formula.

4.1.4 Exposure to Appeals

Under the Development Charges Act, 1997, in order to be eligible to recover costs from development charges, the municipality must have Council state its intention to carry out the capital program for that service. As GO Transit is a provincial responsibility, there is a risk that the criteria could not be met by municipalities, as they do not carry out the capital program, and the municipalities would be open to appeals. Municipalities have requested the Province to amend the legislation to recognize the funding of GO Transit services as Council's intention to carry out the program.

4.2 Timing of Completion of By-law

Since the commencement of the DC By-law review process, municipal and provincial representatives have met to discuss issues regarding the completion of the joint GO Transit background study, and implementation of revised municipal DC By-laws. Municipal staff have made requests to the Province for amendments to the development charge legislation to address issues noted above and facilitate the completion of the study, and to reduce the impact of the capital plan costs on the municipalities. To date, no action has been taken by the Province to address these issues. The joint background study has been worked on to a point where a response from the Province is required to complete the study. Recognizing that without a response from the Province at this time, municipalities will not have enough time to hold public meetings and enact by-laws before December 31, 2005, it has been suggested to the Province that a further extension is required. However, even if an extension of the existing by-law is approved, no progress can be made towards completing the revised DC By-law until the Province provides a timely and favourable resolution to municipal concerns. The Region may wish to consider submitting a request to the Province to expedite the resolution of these issues.

5. FINANCIAL IMPLICATIONS

As indicated earlier, the ten year GO Transit growth capital plan that formed the basis of the current DC By-law totalled $1.03 billion. Based on the negotiated cost sharing formula developed under the GTSB, York Region's share of these capital costs totalled $47.6 million or 13.8% of the one-third municipal share of the program. Of this $47.6 million, only 40%, or $19.6 million, is recoverable from development charges. The balance, $28.0 million, must be recovered from the tax levy. The approved 2005/2006 GO Transit capital plan, which the revised DC By-law would be based on, totals $1.54 billion. A cost sharing formula has not been agreed to, however, based on preliminary cost sharing formula discussions, York Region's share of costs could range from $60 million to $75 million. This would result in approximately $33 million being recoverable from development charges (45% to 55%), with $27 million to $42 million being funded from the tax levy. The actual cost attributable to York Region and resulting DC rate will be based on a revised cost sharing formula, and the updated development charge background study.

6. LOCAL MUNICIPAL IMPACT

Development charges imposed for GO Transit services provide funding for growth-related capital projects that will improve service to York Region residents. Development charges also help to impose growth-related costs to the new development creating the need for these services.

7. CONCLUSION

The GO Transit DC By-law review is currently ongoing. Municipalities have identified issues that are required to be resolved by the Province in order to complete the review. As no action has been taken by the Province on these issues, it is unlikely that municipalities will be able to hold public meetings and enact by-laws prior to the expiry of the existing DC by-laws in December 2005. It has been suggested to the Province that an extension of all GO Transit DC By-laws be provided, to allow time to resolve these issues.

The Senior Management Group has reviewed this report.