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2003 DEVELOPMENT CHARGE BY-LAW STATUS UPDATE

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

1. RECOMMENDATIONS

It is recommended that this report be received for information.

2. PURPOSE

The purpose of this report is to provide Council with an update regarding specific development charge issues which have arisen since the enactment of the revised Development Charge By-law in May 2003.

3. BACKGROUND

On May 22, 2003, Regional Council adopted a revised Development Charge ("DC") By-law, with an in force date of June 23, 2003. At that time, Council directed staff to report to Council prior to June 23, 2004 (the effective date of the next phased increase in the DC rate) on DC rates throughout the Greater Toronto Area, and on DC options to support development in regional centres and corridors.

The Region received four appeals against the DC By-law. These appeals covered three main issues:

- Transit DC cost recovery
- Non-residential DC rate calculation
- Residential High-rise DC rate

At the September 18, 2003 Regional Council meeting, staff was authorized to conduct further meetings with the appellants, and report to Council on potential appeal resolution strategies.

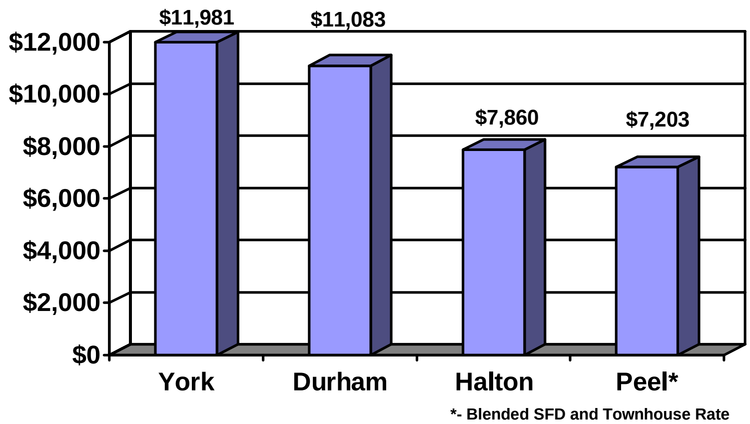
4. ANALYSIS AND OPTIONS

4.1 Comparison of GTA Development Charge Rates

4.1.1 Residential DC Rates

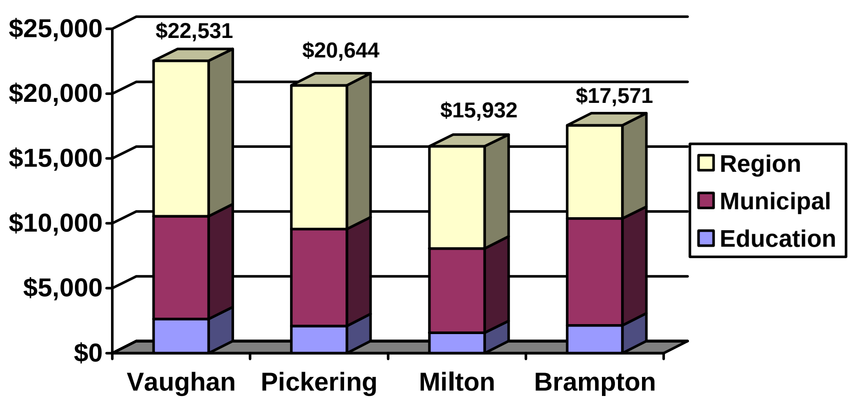
The following graph compares the residential single family dwelling development charge for regional municipalities within the GTA as of April 1, 2004.

Comparison of Regional DC Rates per Single Family Dwelling
As at April 1, 2004



For comparative purposes, the following graph identifies the total regional, area municipal and school board single family dwelling DC rates for sample municipalities within the GTA.

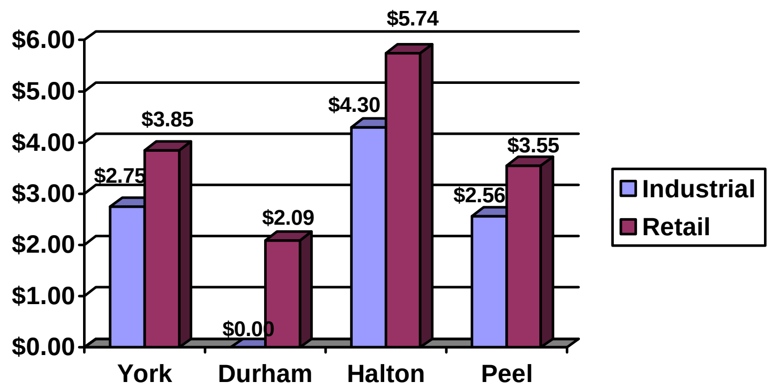
Total Single Family Dwelling DC Rates
As at April 1, 2004



4.1.2 Non-residential DC Rates

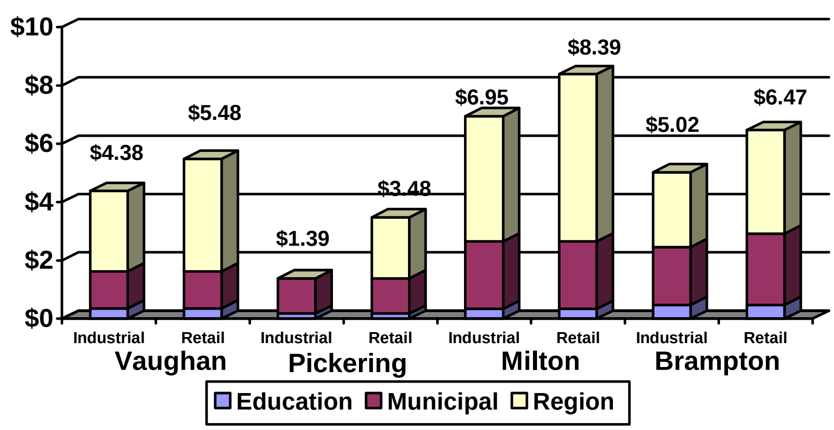
A comparison of non-residential DC rates per square foot of gross floor area throughout the GTA is shown in the following graph.

Comparison of Regional Non-residential DC Rates
Per Square Foot of Gross Floor Area
As at April 1, 2004



For comparative purposes, the following graph identifies the total regional, area municipal and school board non-residential DC rates for sample municipalities within the GTA.

Total Non-residential DC Rates
As at April 1, 2004



4.1.3 June 23, 2004 Transit Rate Phase-in

The approved DC By-law contained provisions for annual increases to the transit development charge quantum and the non-residential DC rates. For the transit development charge, effective June 23, 2004, the single family dwelling rate would increase from the current charge of $775 per unit, by a maximum of $390 per unit. The non-residential DC rates for transit were to increase by $0.02 per square foot for non-retail uses and $0.09 per square foot for retail uses. These increases were all dependent upon the level to which the Region completed its proposed transit capital plan for 2003. If the proposed growth-related capital budget as outlined in the Region's DC Background Study was not spent within the year, the amount of the DC rate increase would be prorated to reflect the percentage of the capital budget actually spent. For the year 2003, the Region spent 46% of the $86 million growth-related capital budget, therefore the actual transit DC rate increases would reflect 46% of the above-noted increases. The following table summarizes the transit DC rates to be in effect as of June 23, 2004.

Table 1
Revised Transit DC Rates
As of June 23, 2004

Category	Current DC Rate	Proposed Increase per DC By-law	Revised DC Rate Increase (46%)	New Transit DC Rate June 23, 2004
Residential:				
Single Family Dwelling	$775	$390	$179	$954
Multiple Unit Dwelling	$629	$316	$145	$774
2+ Bedroom Apt. Unit	$461	$232	$107	$568
<2 Bedroom Apt. Unit	$293	$147	$68	$361
Non-residential:				
Non-retail (sq. ft.)	$0.31	$0.02	$0.01	$0.32
Retail (sq. ft.)	$0.53	$0.09	$0.04	$0.57

4.2 Development Charge Appeals

Subsequent to the adoption of the revised DC By-law, the Region received four appeals from development groups in opposition of the DC By-law. Staff was directed to meet with the appellants regarding potential resolution options to these appeals. All appellants have agreed to hold these meetings before actively proceeding with their appeals to the Ontario Municipal Board. Staff is continuing discussions with the appellants in order to finalize resolutions to these appeals. Details regarding the meetings held to date are summarized below.

4.2.1 Transit DC Cost Recovery

The proposed transit capital program for the next ten years is estimated at $2.2 billion. Based on the provisions of the Development Charges Act, 1997, the Region would be restricted to recovering approximately 5% of its assumed one-third share of these costs from development charges. Further to discussions with the development industry, the adopted DC By-law reflected the provision of a higher cost recovery which would be phased in over the term of the by-law. This phase-in was also tied to performance of the Region's transit capital plan. The DC By-law was appealed based on the treatment of the transit capital costs not complying with the provisions of the Development Charges Act, 1997.

Staff has had several discussions with the appellants to determine a solution which recognizes the unique need in York Region to increase transit service levels to accommodate rapid growth. The appellants have indicated that they are willing to approach the Province with a "York Only" solution that would permit the Region to increase the cost recovery under the DC Act. Discussions are ongoing regarding the methodology to be used to calculate the increased cost recovery amount.

4.2.2 Non-residential DC Rate Calculation

Historically, the Region has not implemented the full non-residential DC rates, choosing to discount the rates as an incentive to non-residential development. The DC collection shortfall created from the rate discounting must be offset from non-DC sources, i.e. tax levy and user rates. Through the DC By-law review process, staff was directed to present options for discounting the retail and non-retail DC rates. In recognition of the benefits of tax assessment growth from non-retail development, and to reduce the amount of non-growth subsidy required by the Region, the DC By-law continued to discount the non-retail DC rate as an incentive to development, and the existing discount applied to retail development was reduced through the term of the DC By-law.

As the retail DC rate was to increase substantially due to the reduced discounting, the calculation of the cost allocation between retail and non-retail uses was appealed. Through discussions with the appellants, there was consensus regarding revised cost allocation methodology for water and sewer services, however discussions regarding methodology for roads and transit were still ongoing. Recognizing that any decrease to the retail rate would result in an increase to the non-retail rate, and that the increase could not be imposed through the Ontario Municipal Board, staff is currently undertaking discussions with the appellants regarding the possibility of withdrawing their appeal and addressing their concerns during the next DC By-law review.

4.2.3 High-rise Residential DC Rate

The DC By-law was appealed by a group of high-rise residential developers, who felt the apartment DC rates were too high in comparison with the single family dwelling DC rate.

The appellants have expressed two concerns in discussions with Regional staff. The immediate concern pertains to development projects that have already been marketed and sold under the previous DC By-law, but may now face the increased DC rate due to delays in the approval process. The DC By-law included a provision that building permits issued prior to December 31, 2003 be "grandfathered" and subject to the DC rates in the previous DC By-law. The appellants have indicated that building permits for their developments are generally not obtained until approximately 60% of their development has been sold. Delays in the approval process have extended the timeframes for marketing and selling their units and acquiring building permits. The appellants have requested an extension of this grandfathering to December 31, 2004, due to delays in acquiring the necessary approvals. A preliminary review of high-rise residential development proposals shows that approximately 600 units may be in a position to take advantage of the extended grandfathering provision.

The broader concern centred on the actual calculation of residential development charges. The appellant group feels that the current methodology of calculating development charges based on unit type and average occupancy per unit unfairly transfers costs to higher density development. They have written the Province to have the Provincial legislation amended to calculate residential development charges on a gross floor area basis. Staff has indicated that the study to be undertaken by the Region on financial strategies for intensification in centres and corridors would address the appropriateness of the current development charge structure. The appellants have expressed an interest in participating in this review.

Staff is seeking a response from the appellants regarding whether they would withdraw their appeal if the grandfathering of the apartment DC rates was extended, and they were given the opportunity to participate in the centres & corridors financial review.

4.3 Regional Centres and Corridors

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.

The first phase of the study, which is currently underway, consists of an analysis development projections and the cost of infrastructure requirements within centres and corridors as compared to greenfields. The next phase of the review will focus on identifying DC, tax and other financial strategies that could be used for promoting centres and corridor intensification. The final phase of the study will assess the viability and potential impacts of these strategies, and identify preferred options.

Area municipal staff and the development industry have requested to be participants in this study. In particular, the development charge by-law appellants have all indicated that they wish to be consulted on a regular basis throughout the study process. Preliminary meetings have been held with area municipal and Regional staff. The timeframe of the financial review has been extended to provide the appellants and the area municipalities adequate opportunity to review and discuss issues throughout the study process. It is anticipated that preliminary findings will be available mid-2004.

5. FINANCIAL IMPLICATIONS

Based on the DC rate phase-in as outlined in the DC By-law, and the adjustment to the transit DC quantum, the following tables summarize the residential and non-residential DC rates to come into effect June 23, 2004.

Table 2
Residential DC Rates
Effective June 23, 2004 to June 22, 2005
(excluding indexing)

Category	Singles/ Semis	Multiples	2+ Bedroom Apartments	<2 Bedroom Apartments
Water	$3,296	$2,825	$2,072	$1,318
Sewer	$3,320	$2,846	$2,087	$1,328
Roads	$3,859	$3,308	$2,426	$1,544
Transit	$954	$774	$568	$361
General Services	$464	$376	$275	$175
GO Transit	$267	$210	$154	$98
Total	**$12,160**	**$10,339**	**$7,582**	**$4,824**

Table 3
Non-residential DC Rates
Effective June 23, 2004 to June 22, 2005
(excluding indexing)

Category	Industrial/Office/ Institutional	Retail
Water	$0.54	$0.79
Sewer	$0.48	$0.70
Roads	$1.56	$2.25
Transit	$0.32	$0.57
General Services	$0.14	$0.19
Total	**$3.04**	**$4.54**

It is important to note that the above-noted rates have not been adjusted to reflect annual indexing as permitted under the DC By-law. These rates will increase on June 23, 2004 in accordance with the Statscan Quarterly Construction Price Index. The first quarter 2004 index has not yet been published, however, the previous year's index has averaged approximately 3.7%.

In terms of the outstanding DC appeals, if the Region is unsuccessful in its defence of the DC By-law, the Ontario Municipal Board could order the Region to refund some portion of the DC collections received under the revised by-law.

6. LOCAL MUNICIPAL IMPACT

Development charges are a major source of financing the growth-related capital infrastructure required to facilitate the buildout of proposed developments and provide required services within the area municipalities.

7. CONCLUSION

Upon enactment of the revised DC By-law, Council directed staff to provide a status of DC rates throughout the GTA prior to the next scheduled increase in the DC rate and an update on the centres and corridors financial strategy review. Subsequent to the enactment of the revised DC By-law, staff was directed to provide an update regarding the status of the four appeals received by the Region against the DC By-law. This report provides an update on the above-noted issues.

The Senior Management Group has reviewed this report.