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GO TRANSIT DEVELOPMENT CHARGES BY-LAW STATUS UPDATE

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, September 21, 2006, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The Province of Ontario be requested to amend the Development Charges Act such that the GO Transit Growth Capital Plan is fully recovered from development charges.

2. Should the Development Charges Act not be amended, the York Region contribution to the GO Transit Growth Capital Plan be limited to the amount of development charges collected, consistent with the position taken by Peel Region.

3. A copy of this report be forwarded to the Minister of Municipal Affairs and Housing, the Minister of Transportation, the GO Transit Board, the Regions of Durham, Halton and Peel, and the Cities of Toronto and Hamilton.

2. PURPOSE

The purpose of this report is to:

1. Advise Council of the progress of the update to the 2001 GO Transit Development Charge By-law
2. Request the Province to make legislative changes in order to remove the burden of the GO Transit growth capital plan on existing residents

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, 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 development charge by-laws in 2001. All development charge by-laws were drafted such that the by-laws expired on December 31, 2003. To provide time to resolve issues regarding municipal funding of GO Transit infrastructure, in 2004 and 2005, the Province extended the term of the by-laws. The current by-laws expire December 31, 2006.

4. ANALYSIS AND OPTIONS

4.1 Ten Year Capital Plan

The ten year GO Transit growth capital plan that formed the basis of the current development charge 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 2006/2007 GO Transit capital plan which the revised development charge by-law would be based on totals $1.46 billion. This increase of over 40% 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.

Due to the limitations of current development charge legislation, municipalities are required to make a contribution towards the GO Transit Growth Capital Plan costs from non-growth sources, i.e. municipal property taxes. For example, due to a mandatory 10% municipal contribution to growth-related transit costs, and the use of historical service levels in calculating development charge cost recoveries, the Region would be required to contribute $28.0 million (60%) of the $47.6 million share of growth-related capital costs from property taxes.

4.2 Development Charge Act Amendments

In March 2004, Regional Council authorized staff to proceed with a comprehensive review of the joint background study required to support the revised development charge 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 development charge 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. In September 2005, staff advised Council of these issues, which included:

- The significant increase in capital costs and increase in contribution from property taxes
- The requirement for municipalities to negotiate a municipal cost sharing formula, then enter into cost sharing agreements with GO Transit for funding growth-related capital costs
- Gaps in provincial development charge legislation which potentially expose municipalities to appeals of their GO Transit development charge by-laws

Resolution of these issues requires amendments to the Development Charges Act, which the Province has not acted upon as yet. Therefore, staff has not been able to complete the joint background study and enact revised by-laws. Until the Province addresses these issues, municipalities cannot enact revised GO Transit development charge by-laws.

4.3 Non-growth Capital Funding

Despite the request to amend the development charge legislation, these changes would not address some of the municipal funding concerns, particularly the requirement for non-growth funding of growth-related capital.

Peel Region Resolution

A Resolution of Peel Region requested that municipal funding of GO Transit capital be limited to the level of development charges collected, with no funding contributions from the property tax base. Staffs from the Regions of York, Durham, Halton and Peel, and the Cities of Toronto and Hamilton have proposed that one way of achieving this would be to impose a single, uniform GO Transit development charge, which would be collected by the municipalities on behalf of the Province for GO Transit purposes. No property tax contribution would be required from the municipalities, as growth would be paying for the growth-related infrastructure. This would also eliminate the current outstanding issues that have been identified.

However, this or any similar change would require an amendment to development charge legislation. It is recommended that the Province be requested to make the appropriate amendment to the Development Charges Act so that the GO Transit Growth Capital Plan is funded exclusively from Development Charges with no contribution from municipal property taxes.

5. FINANCIAL IMPLICATIONS

Based on the current GO Transit development charge by-law, approximately 60%, or $28.0 million, of the Region’s share of the GO Transit capital plan is to be recovered from property taxes. Assuming no changes to cost sharing percentages or eligible recoveries from development charges, this amount could increase to $35 million to $45 million without changes to provincial legislation. The contribution from taxes for GO Transit growth-related capital in 2007 is estimated at $7.7 million, an increase of $4.9 million from the 2006 provision. This equates to a tax increase of approximately 0.8% for 2007.

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

This report outlines the progress of the update to the 2001 GO Transit Development Charge By-law. As the GO Transit growth capital plan has increased significantly, resulting in a significant increase in the contribution required from municipal property taxes, it is recommended that the Province be requested to amend the Development Charges Act to eliminate the property tax contribution from municipalities, and allow them to collect development charges on behalf of the Province for GO Transit purposes.

The Senior Management Group has reviewed this report.