

Report from Financial Management Services, Director

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Subject: Development Charges Background Study and Bill 108 – Community Benefit Charge

Recommendation

That the Budget Standing Committee approve the use of an additional \$175,000 up to a maximum of \$200,000 to fund an RFP for an External Consultant; and

That the consultant be required to complete a Development Charges Background Study, which would include the implications of Bill 108 for a Community Benefit Charge Study, and Inclusionary Zoning; and

That the additional monies of \$175,000 be taken from the Civic Project Fund (CPF).

Summary

In June 2019, the Province approved Bill 108 – the *More Homes, More Choices Act*, in an effort to implement their Housing Supply Action Plan. Bill 108 introduced a consolidation of payments developers often pay to a municipality when seeking development approvals – mainly cash-in-lieu of parkland, section 37 community benefits, and certain eligible soft development charges into a single, more predictable Community Benefit Charge.

In order for a municipality to receive these funds, the municipality must have a Community Benefit Charge (CBC) by-law in place by January 1, 2021. In order to have to a CBC in place by this date, a defensible Development Charge Background Study and a Community Benefit Charge Study must be completed. A Background Study is also a requirement for the City to collect Development Charges (DC). Therefore, staff have determined that the most reasonable approach to meet these two objectives would be to engage an external expert through an RFP process to complete a full Development Charges Background Study and Community Benefit Charge Study with recommendations coming forward to Council by September 30, 2020.

Another item that is tightly linked to Bill 108 and the City's Housing Action Plan is exploring the implementation of Inclusionary Zoning. Therefore, Staff are recommending that this item also be included in the work of the external consultant selected.

Staff are requesting an additional \$175,000, from the CPF which provides a maximum of \$200,000, as there is \$25,000 available in the 2019 operating budget for a preliminary study. The \$200,000 should be sufficient to engage an external expert to complete these three projects. By completing these projects together certain economies of scale should be realized.

Background

The City of St. Catharines previously collected development charges in the 1950's and 1970's which are intended to be used for the benefit of the lands from which they are collected. Lands in this context refer to the entire City or specific geographic defined area. Most recently, DCs had been collected starting in 1985 related to West St. Catharines Servicing Study. In 1995, collection of non-residential DCs was discontinued in order to improve economic competitiveness to improve job creation and preservation. Effective June 21, 2009, Council enacted By-law 2009-157 which discontinued the collection of City Development Charges for West St. Catharines. By-law 2009-157 stated that all monies previously collected shall continue to be applied for the purposes for which they were collected. Therefore, the City of St. Catharines has not collected residential or non-residential DCs since 2009.

With the introduction of Bill 108 by the Province of Ontario, which received royal assent and became law on June 6, 2019, municipalities will only be entitled to obtain parkland dedication or cash-in-lieu under an existing parkland dedication by-law, but no funds in respect of other community benefits, unless the municipality has a Community Benefits Charge (CBC) by-law in place by January 1, 2021. Furthermore, municipalities will not be able to collect community benefits for increases in height and / or density without an enacted Community Benefit Charge by-law. It has been determined by staff that in order to meet this timeline to collect CBC and DCs, that a background study should begin before the end of 2019. Under Bill 108, in a "use it or lose it" approach, municipalities are effectively given 18 months to establish their CBC regime. The CBC regime is intended to replace the current regime of Section 37 contributions, parkland dedication, and development charges for certain soft services. Where a municipality chooses not to have a CBC regime, it may continue to have a "basic" parkland dedication regime, but would forego Section 37 contributions and development charges for certain soft services. The draft regulation also provides for ongoing reporting requirements for municipalities that continue with a parkland dedication-only regime. The CBC Regulation was open for comments until August 21, 2019; therefore, changes may still occur to these regulations now that the commenting period is closed and the Province considers the comments.

Report

Similar to many other municipalities across the province and the country, the City of St. Catharines has an infrastructure deficit that has been extremely challenging for the municipality in recent years to reduce due to rising construction costs and improved

information due to asset management planning. The City owns, operates and maintains varied and complex infrastructure with an estimated replacement value of \$4.7 billion. The City's infrastructure deficit is estimated at \$406 million, representing approximately 9% of the replacement value of its total assets. One method to assist with paying for new infrastructure costs required to service new developments or upsize infrastructure is through Development Charges (DC). DCs are a revenue tool for a municipality that are charged to developers in order for the municipality to recover the capital costs associated with residential and non-residential growth within a municipality. The capital costs are in addition to what costs would normally be constructed as part of a subdivision (i.e. internal roads, sewers, watermains, roads, sidewalks, streetlights, etc.) Municipalities are empowered to impose these charges via the Development Charges Act (D.C.A.)

The City of St. Catharines future growth is constrained by geography – Lake Ontario, the Niagara Escarpment, the Welland Canal, and the Specialty Crop areas of the Greenbelt which support the wine and tender fruit industries. As such, almost all future growth, as mandated by the Province through the Provincial Policy Statement, the Growth Plan, the Regional Official Plan and the City's Garden City Official Plan, will take place through infill and intensification development. As the built form changes over time to higher density development, it is critical to ensure neighbourhoods and communities retain qualities that are valued and provide high quality of life. DCs and CBC's serve to fund upgrades to communities and neighbourhoods evolving as a result of infill and intensification development.

The *Development Charges Act* sets out the mandatory process of calculating development charges, summarized in Appendix 1. The process can take up anywhere from 8 to 18 months to complete. Since the City is not currently charging DCs, a new policy will need to be developed and accordingly the timeline is anticipated to be on the mid to long end of the range. With the Provincial requirement that municipalities need to have a CBC in place by January 1, 2021, timing is critical for the City to begin the RFP process, select a consultant and begin the DC Background Study as soon as possible.

The creation of the Study is specialized and most often completed by external consultants. The External Consultants work with the D.C.A. legislation on a regular basis and prepare several DC background studies a year. They are also familiar with municipal best practices in this area.

Preliminary Timeline DC Background Study including Bill 108 CBC

Meetings with Staff
Growth Forecast Development
Policy Review / Development
Council Workshop
Stakeholder Meeting

Draft Background Study and By-law
Public Meeting of Council
Council Consideration and By-law Approval

Since the Study including Bill 108 CBC has the tightest timeframe, this item will be completed first. The Inclusionary Zoning work will be completed as much as possible parallel with the DC work; however, its conclusion may extend beyond the January 1, 2021 deadline. Staff's expectation would be that all work is completed by the end of 2020 in time for the January 1, 2021 deadline; although it is understood that the Inclusionary Zoning work does not have the same deadline of January 1, 2021.

Corporate Resources

Preparation of the DC Study represents a significant undertaking by staff in late 2019 and 2020. Transportation and Environmental Services, Fire and Emergency Services, Parks, Recreation and Culture Services, Planning and Building Services, Municipal Works, Financial Management Services and St. Catharines Transit Commission staff collectively provide time and resources to this background study. There is a large data collection portion which the External Consultant will rely heavily on obtaining from City Staff. In order for the City to meet the due date before January 1, 2021, this work will need to be a priority for departments and included in their 2020 workplans. For example, past 10 years of asset inventories, capital budget projections and future capital requirements, long term debt, identification of existing facility oversizing, historical service standard information from each applicable department and review of existing reserve fund balances.

Development Charges Background Study

The D.C.A. provides the legislative framework for municipal development charges. The Development Charges Background Study (the Study) will include background information on how DCs have been collected in the past. The purpose of Study is to determine the potential revenue that the City may generate with DCs and recommended DCs amounts that the City should charge including residential and / or non-residential classified properties. The Study will also include policies on exemptions and impact of exemptions. As indicated in the timeline above, the Study process includes Public and Stakeholder meetings. The By-law and Study will be available for stakeholders to review.

Impact of Bill 108 and Related Regulations

Provincial Bill 108 received Royal Assent on June 6, 2019 with some amendments coming into force and effect immediately. A key component of Bill 108 is the formula for calculating a Community Benefit Charge (CBC) has not yet been released. It is the subject of further consultation. The proposed CBC implementation date is January 1, 2021. Soft service development charges can no longer be charged after that date. The changes proposed with Bill 108 will influence the amount of development-related charges that may be collected. The proposed regulations have not identified the formula

for calculating CBC. Therefore, it is important that as the City of St. Catharines explores the creation of DCs as a funding source for growth related infrastructure it is important to consider the impact that Bill 108 may have on the soft service / CBC component and to ensure that DCs are developed in such a manner to cover both of these items adequately.

Inclusionary Zoning

Closely tied to the Study is Inclusionary Zoning. Inclusionary Zoning is a tool authorized under the *Planning Act* that gives municipalities the authority to require the provision of affordable housing units as a condition to development approvals for residential housing at open market price points, *providing* the municipality has completed the background study to justify that condition. A study must be completed to determine a variety of factors relating to the local land development environment, real estate investment landscape, and local market conditions prior to the implementation of an Inclusionary Zoning policy.

Without a defensible Inclusionary Zoning policy in place, Council does not have the authority to impose conditions of development requiring affordable housing units. For example, the Local Planning Appeals Tribunal recently ruled that Council did not have the authority to require affordable housing units for development proposal at 75 Oliver Lane. Had the affordable housing condition been implemented under the authority of Inclusionary Zoning under the *Planning Act*, and the necessary background study been completed, the affordable housing condition would have been a legitimate condition of development and likely able to withstand an appeal.

The City's Housing Action Plan 2017 recommended exploring Inclusionary Zoning as a method of creating additional affordable housing supply. At the time, Inclusionary Zoning could have been applied City-wide. Under the Province's revised *Planning Act* and Provincial Plan reforms, Inclusionary Zoning may now only be required by a municipality in areas 800m surrounding Major Transit Station Areas, which, in the City of St. Catharines, include the GO station and the downtown bus terminal.

Financial Implications

The creation of DC Background Study, including Bill 108 CBC and Inclusionary Zoning utilizing the expertise of an external consultant is anticipated to be completed at an estimated cost of \$200,000. There is \$25,000 in the 2019 operating budget for this work and the additional \$175,000 would be funded from the CPF.

Existing City Staff resources will also be required to work with the External Consultant to provide historical and background information, vet assumptions and review preliminary documents.

The establishment of DCs provide a funding source for growth related infrastructure to meet growth and development expectations. Failure to establish adequate funding for

growth means that key infrastructure will not be built in a timely manner, whether related to growth or not. Furthermore, the taxpayer will be required to pay for growth related infrastructure costs, rather than the development community. This will further contribute to the current cycle of reacting to critical infrastructure deficient priorities, rather than building the quality of life infrastructure that citizens continue to expect.

Relationship to Strategic Plan

The usage of funds from the CPF to cover the majority of the anticipated costs of a DC Background Study, including implications of Bill 108 and Inclusionary Zoning supports two of the four pillars of the City's Strategic Plan.

- Economic Prosperity Pillar – DCs are a funding source which support financial sustainability, 10-year capital infrastructure plan and debt management
- Social Wellbeing Pillar – DCs and Bill 108 support area specific plans, community connectedness, recreation, capital investments and renewal and community benefits strategy

Conclusion

Staff recommend that the BSC approve that City Staff commence an RFP for DC Study, including Bill 108 implications of CBC and Inclusionary Zoning. In addition, that the additional funding of \$175,000 come from the CPF. The Study has the potential to be a substantial funding source that facilitates growth and development in the City.

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APPENDIX 1

PROCESS of Calculating a Development Charge under the Development Charges Act that must be followed.

1. Anticipated Growth
2. Ineligible Services – Tax Base, User Rates, etc.
3. Estimated Increase in Need for Service
 - a. Ceiling re: Increased Need
 - i. Non-Transit Services, Historical Service Standard
 - ii. Transit Services, Forward-looking Service Standard
 - b. Needs That Will Be Met
 - c. Examination of the Long-Term Capital and Operating Costs for Capital Infrastructure
 - d. Asset Management Plan for All Capital Projects to Be Funded by DCs
 - i. Non-Transit Services “Financial Sustainable”
 - ii. Transit Services “Detailed Requirements”
4. Specified Local Services – Subdivision Agreements and Consent Provisions
5. DC Needs By Service
 - a. Less: Uncommitted Excess Capacity
 - b. Less: Benefit to Existing Development
 - c. Less: Grants, Subsidies and Other Contributions
 - d. Less: 10% Where Applicable
6. DC Net Capital Costs – Costs for new developments vs. existing development for the term of the by-law and the balance of the period
7. Financing, Inflation and Investment Considerations
8. DC By-law(s) Spatial Applicability
9. Amount of the Charge By Type of Development (including apportionment of costs – residential and non-residential)
 - a. Consideration of exemptions, phase-ins, etc.