



Council Report

Report Number: CA2024-004

Meeting Date: October 22, 2024

Title: Development Charges Update

Description: This report updates Council on the City's development charges regime and makes related recommendations.

Author and Title: Dr. Adam Found, Manager of Corporate Assets

Recommendation(s):

That Report CA2024-004, **Development Charges Update**, be received;

That the timeframe for special project 921204601 (Development Charges Background Study) be extended to December 31, 2026;

That a by-law to amend By-law 2019-184 (A By-law to Impose Development Charges in the City of Kawartha Lakes), attached as Appendix A to Report CA2024-004, be presented to Council for adoption; and

That the terms of reference for the Development Charges Task Force be replaced by those contained in Appendix B to Report CA2024-004.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Staff last updated Council on the City's development charges (DC) regime on September 1, 2020 via report CA2020-001. Since then, the context of this regime has shifted, and substantially so in certain respects.

Appeals of the City's 2014, 2015 and 2019 DC by-laws remain ongoing at the Ontario Land Tribunal (OLT), which is currently adjudicating the appeals in sequence. For these cases, only a single common appellant remains, as all other appellants have withdrawn their applications.

Due to the substantial case backlog at the OLT, a hearing for the 2014 appeal was not held until September of 2023. Part of the 2014 appeal has been settled by an OLT decision, which was rendered in January of 2024 but remains abeyant while the balance of the appeal continues through ongoing mediation between the City and the appellant. Staff expects this mediation to reach a conclusion before 2024 year-end. Any recommended settlement arising from it will be brought to Council for consideration in closed session. Once the 2014 appeal is concluded, staff understands that the OLT will then proceed to the 2015 and 2019 appeals, and staff is hopeful that these will be concluded before 2025 year-end.

In 2019, the City undertook a Development Charges Background Study (DC Study), resulting in the City's existing DC by-law, which took effect on April 1, 2020. For the purpose of advising staff in respect of that study, Council established the DC Task Force on January 15, 2019. After enactment of the 2019 DC by-law on December 10, 2019, the DC Task Force remained in place to advise staff on the then-anticipated Community Benefits Charges Study (CBC Study), which would have unfolded in the course of establishing a CBC by-law under the Planning Act.

As Council was made aware by report CA2020-001, however, amendments made to the Planning Act in 2020 effectively rendered the CBC tool of no use to the City, as it now applies only to sufficiently dense development. Furthermore, as report CA2020-001 noted, the City would have to amend or replace its 2019 DC by-law by July 21, 2022 to align that by-law with amendments made to the DC Act in 2020. As a result of these developments, Council approved staff's recommendation to convert the CBC Study special project into a DC Study special project, with the intention of having a new DC by-law enacted in Q2 of 2022. As noted by report CA2020-001, staff had planned to leverage the DC Task Force for that purpose.

After report CA2020-001 was presented to Council on September 1, 2020, however, the municipal sector was disrupted by an extensive series of rapid, numerous and often

conflicting changes to the DC Act and related provincial policy. The latest among these is Bill 185 (Cutting Red Tape to Build More Homes Act), which received Royal Assent on June 6, 2024. Incidentally, these developments alleviated the City from having to amend or replace its DC by-law by the aforementioned deadline of July 21, 2022, and they enable the City to now extend the expiry of its DC by-law without undertaking a DC Study. Concurrently, the City was subjected to several Minister's Zoning Orders, which dramatically reconfigured the City's growth-related planning and servicing needs.

Due to the extensive uncertainty arising from the foregoing developments, staff prudently paused the DC Study as part of a wait-and-see strategy for managing the uncertainty. Whereas the legislative landscape for DCs appears to have settled, whereas the City's DC by-law is set to expire on April 1, 2025 but can be extended with administrative ease by up to five years, whereas the City's DC rates need to be updated to reflect revised growth-related servicing needs, and whereas the DC Task Force's terms of reference are outdated, staff is bringing forward this report to Council.

Rationale:

The recommendations of this report are based on two sets of rationales.

Timeframe of DC Study Special Project and Expiry of DC By-Law

As Council is aware, the City is presently undertaking two key master plans which constitute critical inputs for the DC Study: (i) Transportation Master Plan and (ii) Water-Wastewater Master Plan. As roads and water-wastewater services account for approximately 90% of the City's DC rates, these two master plans are essential for the appropriate resetting of those DC rates. As mentioned, part of the rationale for pausing the DC Study was to enable reflection of these master plans in that study. As staff expects these master plans to be finalized in Q1, 2025, and as the DC Study process requires roughly one year to complete, extensions of the DC Study special project timeframe and DC by-law expiry are necessary.

Having considered the City's needs as well as projected staff workloads and resources, staff recommends that the lives of the DC Study special project and the DC by-law each be extended to December 31, 2026. This reflects a realistic yet prudent approach to the DC Study, as staff is now working toward a DC by-law replacement date of January 1, 2026, recognizing the potential for unanticipated delays such as those arising from further consequential legislative changes. With this buffer, staff expects to manage any reasonable unanticipated delays during 2025-2026 without having to request further extensions from Council.

Terms of Reference of DC Task Force

The DC Task Force is comprised of seven members as follows: Sal Polito (Chair), Karl Repka (Vice-Chair), Councillor Eric Smeaton, Carmine Nigro, Jeff Solly, Mark Wilson, and Bernard Finney. Under the current term of Council, and in line with staff's preparations during 2024 to resume the DC Study in early 2025, the DC Task Force has met twice. At its March 28, 2024 meeting, the DC Task Force was provided background information relating to DC legislation and the City's DC by-law. At its July 11, 2024 meeting, the DC Task Force welcomed three new members, reviewed its terms of reference, and was updated with respect to the expected process and revised timeline for the DC Study. At that time, the DC Task Force expressed concern over its terms of reference having become outdated due to legislative changes and the resulting pause of the DC Study, and staff shares that concern.

Revisions to the DC Task Force's terms of reference are needed to effectuate the following recommended changes: (i) remove dependence of the termination date on adoption of a CBC by-law, as such a trigger will not occur under existing legislation; (ii) render the termination date consistent with the proposed extension of the expiry of the DC by-law, ensuring termination occurs automatically at an appropriate time; (iii) clarify function and scope of work, ensuring a focus on replacement of the DC by-law with a view toward the best interest of the City; and (iv) clarify assignment of various duties, such as those of the recording secretary. In accordance with that need, staff is recommending new terms of reference, which are attached hereto as Appendix B.

Other Alternatives Considered:

Whereas the City's DC by-law is set to expire April 1, 2025, whereas the DC Study is expected to commence in Q1, 2025 to ensure reflection of the above-noted key master plans, and whereas the DC Task Force's terms of reference should be revised, staff is not advancing any alternatives to the recommendations of this report at this time.

Alignment to Strategic Priorities

The recommendations of this report support asset management, growth and the housing pledge, and hence align with the strategic priorities of Good Government and a Vibrant and Growing Economy identified in the City's 2024-2027 Strategic Plan.

Financial/Operation Impacts:

If the DC by-law lapses, the City will be exposed to significant financial loss, as in that case the City will be unable to make issuance of building permits conditional upon payment of DCs.

Consultations:

CAO

Director of Corporate Services

Director of Engineering and Corporate Assets

City Clerk

Attachments:

Appendix A: A By-Law to Amend By-Law 2019-184



2024-XXX A By-Law
to Amend By-Law 201

Appendix B: Revised Terms of Reference for Development Charges Task Force



20241022 Terms of
Reference for Develop

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Department Head: Juan Rojas, Director of Engineering and Corporate Assets