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## **Development Charge Review Staff Report to Council**

Report Number: 2019-59

Department(s): Innovation and Strategic Initiatives, Corporate Services, Financial Services

Author(s): Kevin Yaraskavitch

Meeting Date: July 18, 2019

### **Recommendations**

1. That the report entitled Development Charge Review dated July 18, 2019 be received; and,
2. That Council receive the draft 2019 Development Charge Background Study and proposed draft Development Charge By-laws; and,
3. That the draft Development Charge By-laws be adopted; and,
4. That Staff be authorized and directed to do all things necessary to give notice of the enactment of the 2019 Development Charge By-laws and implement and administer the new rates.

### **Purpose**

The purpose of this report is to recommend the adoption of the 2019 Development Charge By-laws.

### **Background**

The Town's current Development Charge By-laws will expire on July 21, 2019. Council is required to adopt a new by-law prior to the expiry of the current by-law to ensure the uninterrupted collection of development charges.

## **Background Study**

The Town has undertaken its legislated review of its Development Charges (DC) By-law as prescribed by the *Development Charges Act, 1997 (DC Act)*. The Town has met all statutory requirements with respect to the review in accordance with the *DC Act*.

The background study was completed with the assistance of an internal staff task force. The task force comprised of members from Financial Services, Planning Services, Legal and Procurement Services, Public Works Services, Recreation and Culture, Engineering Services, Central York Fire Services and Asset Management.

The theme of the study was to capture as accurately as possible the Town's historic service levels to assist with the Town's asset management as well as to engage staff in a deeper exercise that ties into long-term financial planning. The 2019 DC Background Study and By-law have been prepared with the objective of recovering the maximum allowable amount of growth-related costs as prescribed by the *DC Act*.

Staff provided several updates Council throughout the process. Members of Council were presented updates on March 18<sup>th</sup> at the Council Workshop, April 30<sup>th</sup> at the Committee of the Whole, and May 21<sup>st</sup> at the Committee of the Whole. Council was advised of the potential impact of Bill 108 with the report titled Implications of Bill 108 More Homes More Choices Act, 2019-62.

## **Consultation**

Once the study was nearly complete, staff engaged in a public consultation process.

To go above and beyond the regulatory requirements, staff hosted a developer information session on April 18<sup>th</sup> to get feedback on the proposed calculated rates. The session was attended by a dozen members of the development community or their representatives. At the meeting it was expressed that the development community would like to receive information about the study earlier.

To meet regulatory requirements, a Notice of the Public Meeting was given in accordance with Ontario Regulation 82/98 on April 26<sup>th</sup>, 2019 in the Era Banner, meeting the 20-day requirement under the *DC Act* for notice prior to holding a Public Meeting.

The proposed 2019 DC By-law was made available to the public on May 7<sup>th</sup>, 2019 in accordance with the 14-day requirement in the *DC Act* for by-laws to be available to the public prior to the Public Meeting being held.

A statutory Public Meeting was held on May 21, 2019 at a meeting of Council to provide the public with the opportunity to review and comment on the Town's proposed 2019 DC Study and DC By-laws, as required by the *DC Act*. No deputations were submitted.

A communication was received from BILD (the Building Industry and Land Development Association) dated May 22<sup>nd</sup>, 2019. A communication was received from Altus Group on

behalf of group landowners in the Town on from June 5<sup>th</sup>, 2019. The details of the communications and Town's response are discussed under the Response to Development Community subheading.

To respond to the development community's request of more consultation at the initial developer information session, staff hosted a second developer information session on June 6<sup>th</sup>, 2019. Staff communicated that it was too early to comment on the Altus communications as it had been received the day prior.

## **Legislative Changes**

Staff also communicated at the developer information session on June 6<sup>th</sup> that the potential changes of Bill 108 were significant and wide ranging. Staff's focus was to ensure that the new by-laws would be compliant with the changes to legislations governing how municipalities collect funds to recover growth related costs. The impact of the draft legislation was not fully understood by internal and external municipal finance experts.

Bill 108 received Royal Assent on June 6<sup>th</sup> to become the *More Homes, More Choice Act*. On June 7<sup>th</sup>, Heads of Council received a letter from the Minister of Municipal Affairs and Housing in an attempt to clarify the implications Act.

Despite the clarification from the Minister, municipal finance experts still had differing opinions on how to comply with the legislation while fully exercising municipalities' authority to collect development charges. To ensure compliance, staff communicated on June 14<sup>th</sup>, 2019 to developers that the planned adoption of the development charge by-law was to be moved from June 24<sup>th</sup>, 2019 to August 26<sup>th</sup>, 2019 to enable staff to seek clarity around changes imposed under the *More Homes, More Choice Act*.

## **Special Council Meeting**

To obtain greater clarity the Town obtained advice regarding the legislative changes. During that process, staff found that the decision to defer the adoption of the 2019 By-laws to August 26<sup>th</sup>, 2019 may have unintentionally created a gap between the expiry of our current 2014 development charge by-law and the date of the proposed adoption of the new by-law (the "Gap").

Options were explored such as extending the expiring date of the current by-law or entering into agreement with potential developers to lock in their rates. It was determined the only feasible option to protect the Town from potentially losing development charge collections is to adopt the new Development Charge by-law before the current ones (2014-41 and 2014-42) expire.

## **Discussion**

### **Interim Rates**

Throughout the development charge background study process, the development community has been advised that the new rates come into effect in early September. Therefore, in order to honour this commitment and at the same time protect the Town from loss of development charge collections arising from the potential Gap, the by-laws include interim rates from July 21<sup>st</sup> to August 31<sup>st</sup> to ensure that the rates are maintained at the current level.

## Separate by-laws

The *More Homes, More Choice Act* is replacing the development charge regime with the community benefits charge regime for soft services (soft services comprise of half the services by dollar value collected for under the current development charge regime). The details of the transition are yet to be determined by the province. What is known is that the Town's soft services by-law will expire by law by January 1, 2021.

In order to avoid issues with the severability of a combined by-law in 2021, it is proposed separate by-laws be adopted which will enable the repeal of soft services by-law once the community benefits charge replaces the development charge for soft services.

## Standardization

Staff reviewed opportunities to provide greater consistency between the Region's and the Town's development charges. The definition of a large and small apartment was redefined to match that of the Region's. This change increases the standardization of the development charges, which provides greater clarity to developers and eases administration for staff.

## Response to Development Community

As mentioned above, the Town received two letters from the development community flagging items that in their view could be non-compliant with the *Development Charges Act* and requested phasing in the increase of the rates. Staff considered every item raised by the development community with the assistance of Hemson Consulting. The full responses are attached to this report. The samples of the impact of the adjustment are shown in the table below.

**Table 1:**

Rate Comparison	Single Detached Unit	Large Apartment Unit	Non-Residential Rate per Sq.M.
<b>Discounted Services</b>			
Background Study (April 24, 2019)	\$17,499	\$10,387	\$3.77
Revised	\$16,109	\$9,563	\$3.71
Difference (\$)	-\$1,390	-\$824	-\$0.06

Difference (%)	-9%	-9%	-2%
<b>Non-Discounted Services</b>			
Background Study (April 24, 2019)	\$16,067	\$9,538	\$83.19
Revised	\$12,793	\$7,595	\$66.09
Difference (\$)	-\$3,274	-\$1,943	-\$17.10
Difference (%)	-26%	-26%	-26%
<b>Total</b>			
Background Study (April 24, 2019)	\$33,566	\$19,925	\$86.96
Revised	\$28,902	\$17,158	\$69.80
Difference (\$)	-\$4,664	-\$2,767	-\$17.16
Difference (%)	-16%	-16%	-25%

## Conclusion

The *Development Charges Act, 1997* requires that municipalities pass a DC by-law every five years at a minimum in order to continue collecting DC revenues. As outlined in this report, all legislated requirements have been met.

It is advisable the Town continues to collect Development Charges to help fund the costs that the Town incurs to build growth-related infrastructure. The collection of these revenues is vital to construct new infrastructure in the Town to maintain services levels that residents and business have come to expect.

## Business Plan and Strategic Plan Linkages

This report aligns with Council's Strategic Priorities in that it is promoting Newmarket's Long Term Financial Sustainability by ensuring that development pays for development related infrastructure to the extent authorized under provincial legislation.

## Consultation

The background study was completed with the assistance of an internal staff task force. The task force comprised of members from Financial Services, Planning services, Legal and Procurement Services, Public Works Services, Recreation and Culture, Engineering Services, Central York Fire Services and Asset Management.

Hemson Consulting was retained to prepare the background based on staff input. Wood Bull was retained to provide an external legal opinion on matters relating to the adoption of the by-law. The development community was consulted and amendments were made to the recommended rates.

## **Human Resource Considerations**

None.

## **Budget Impact**

The revenues from DCs form an important component of the Town's capital budget for the construction of growth-related infrastructure. The DC By-laws are expected to recover \$85 million over the ten-year period (2019-2028) based on the growth forecasted in the 2019 Development Charge Background Study.

Once these assets have been constructed, their eventual replacement or rehabilitation will require funding from the tax base to maintain and deliver the necessary services for those who live and/or work in the Town.

## **Attachments**

**Attachment A:** Development Charge Background Study

**Attachment B:** Response Letter to BILD

**Attachment C:** Response Letter to Altus

**Attachment D:** Development Charge By-law (Town-Wide Excluding Northwest Quadrant Area Non-Discounted)

**Attachment E:** Development Charge By-law (Town-Wide Discounted)

**Attachment F:** Development Charge By-law (Northwest Quadrant Development Area Non-discounted)

## **Approval**

Susan Chase, Director, Innovation and Strategic Initiatives

Mike Mayes, Director, Financial Services

Esther Armchuk, Commissioner, Corporate Services

## **Contact**

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