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Region of Peel
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REPORT
Meeting Date: September 27, 2012

For Information

DATE: September 19, 2012

REPORT TITLE: **PRE-PAYMENT OF DEVELOPMENT CHARGES**

FROM: Norma Trim, Chief Financial Officer and Commissioner of Corporate Services

OBJECTIVE

To inform Council and obtain comment concerning appropriate criteria for entering into certain development charges (DCs) pre-payment agreements. The pre-payment agreements would allow payment of DCs prior to building permit issuance at the lower rate applicable until the expiration of the current DC By-law (115-2007) on October 3, 2012.

REPORT HIGHLIGHTS

- Council at its meeting of September 13, 2012 chose not to support a more extensive transition of the DC rates beyond that recommended by the Chief Financial Officer (CFO) and Commissioner of Corporate Serivces.
- Some members of Council expressed support for a limited application, in extenuating circumstances, of the option in the current DC By-law (115-2007) that allows the CFO, at her discretion, to accept pre-payment of DCs at the current rates.
- To guide the exercise of her discretion to enter into pre-payment agreements the CFO intends to consider the following criteria:
  - complete site plan application of long standing (filed on or before October 3, 2011) was made and remains in process;
  - the application has been significantly delayed by reason of unusual delays in the public land use planning process not attributable to the applicant; and
  - the application is close to receiving a building permit (to be issued by January 18, 2013).

DISCUSSION

1. Background

The report of the Chief Financial Officer and Commissioner of Corporate Services, dated September 10, 2012, titled "Final 2012 Development Charges By-law", recommended that given the Region's growing debt, transition assistance should be strategically applied to two categories.

It was recommended that the change to industrial rates effective October 4, 2012 be limited to one-third of the proposed increase until December 15, 2013 to allow time to conduct an employment data review.

It was further recommended that the increase in office rates be phased-in with one-third of the increase starting October 4, 2012, an additional one-third on February 1, 2013 and the final third on August 1, 2013.

During Council's meeting on September 13, 2012 an amending motion was made to extend transition assistance to the non-residential categories including no increase to the industrial and office rates from the period October 4, 2012 to January 31, 2013 and limiting the increase to one-third for the non-residential other category that includes retail. After modifying the amending motion to remove transition assistance to the non-residential other category, Council also chose not to support the revised amending motion that provided additional transition assistance to the industrial and office categories.

Some members of Council expressed an interest in supporting only those few non-residential applications that have encountered planning process delays beyond their control and that as a result had delayed their approval, which is now anticipated shortly after the effective date of the new by-law.

The Regional Solicitor drew Council's attention to two provincial acts that provide the Region with some discretion in such a situation as follows:

(i) The *Municipal Act, 2001* permits Council to provide grants but prohibits this from being used for bonusing. The Regional Solicitor suggested that this would best be used where a clear public benefit was evident.

(ii) In addition, where under the *Development Charges Act, 1997* the DC By-law (115-2007) permits the CFO at her discretion to enter into agreements to accept pre-payment of DCs at the current rate. In order to avoid the application of the DC rate increase, the Regional Solicitor noted the agreement would need to be entered into prior to October 4, 2012 when the current by-law expires. This option has not been applied at the Region of Peel.

2. Proposed Direction

The CFO did not recommend and Council did not endorse broad support for additional transition assistance. The CFO is willing to consider entering into pre-payment arrangements for those very few applications that meet all the following criteria:

a) Non-residential category

The application is in one of the industrial, office or non-residential - other categories, and for the non-residential portion of any mixed-use application.

b) The site plan application was made at least one year prior to the expiry of the DC By-law

It is viewed that a complete site plan application made one year prior to the expiry of the current By-law (October 3, 2011) is an appropriate criterion because this would reasonably have been expected to permit sufficient time to process the site plan application through to approval.

c) The application has been significantly delayed by reason of unusual delays in the public land use planning process not attributable to the applicant

As noted above, Council did not support an extension to broad transition assistance but some members of Council were looking to support those few applicants that had encountered unusual delays beyond their control that had made it not possible to obtain their building permit before October 4, 2012.

The applicant will therefore need to provide an *affidavit/declaration* clearly outlining the specific issues encountered and how the criterion is met. Business conditions, such as the loss of a tenant, are not considered relevant to this criterion.

d) The application is close to being able to receive a building permit

Again, as noted above, the support of some members of Council was for those applications which, after all the delays, were almost but not quite ready to pull their building permit before October 4, 2012. Successful applicants will therefore need to obtain their building permit on or before January 18, 2013 after which they will be required to top-up their payments to the prevailing DC rates.

e) Administrative Issues

In addition to an application fee of $500 for each agreement, the agreement will include procedures to deal with changes between the pre-payment plan and the building permits issued, including any changes to the gross floor area and changes in use which will attract DCs at the prevailing higher rate.

It is expected that the pre-payment of DCs will not need to be revisited in future DC By-law updates as Council adopted two important conditions which limit the extent of increases in future DC rates and provide guidance to the timing of the new By-law. These include an annual DC threshold of 20 per cent which if exceeded would trigger a formal DC update and the notification to the development industry that such an update will come before Council in one year's time.

3. Process

Final criteria will be posted to the Regional website on or after September 27, 2012. Interested parties can submit applications to **CFO@peelregion.ca** on or before October 1, 2012.

CONCLUSION

The DC By-law (115-2007) delegates authority to the CFO to, at her discretion, to accept pre-payment of DCs at the current rates. Some members of Council have expressed support for the CFO to utilize this authority to provide support to those few development applications who have faced abnormal delays in the public land use planning process and while close to building permit stage will not be able to obtain their building permit by October 3, 2012.

The CFO now indicates to Council that the criteria as outlined in the report will apply in determining whether an applicant may enter into an agreement with the Region of Peel prior to October 4, 2012 to pre-pay their development charges at current rates.

Norma Trim
Chief Financial Officer
and Commissioner of Corporate Services

Approved for Submission:

D. Szwarc, Chief Administrative Officer

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c. Legislative Services