



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2023-F-12
Date: June 13, 2023

Subject:

Establishment of a Debenture Committee

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That a Debenture Committee be established in accordance with the Terms of Reference outlined in Attachment #1 to this report;
- B) That Council delegate to the Debenture Committee the authority to enact by-laws authorizing the issuance of debentures and the entering into of prescribed financial agreements for long-term borrowing where the debt authority for the capital works or classes of capital works to be financed has been approved by Council;
- C) That Council delegate to the Debenture Committee the power to authorize by by-law any one or more officers of The Regional Municipality of Durham ("**Region**") to do all things, including the execution of all debentures, the entering into of financial agreements and all ancillary documents necessary in order to give effect to the issuance of any debentures and the financing pursuant to any financial agreements;
- D) That Council delegate to the Debenture Committee the authority to enact temporary borrowing by-laws for current operations in accordance with section 407 of the Municipal Act, 2001 to authorize short-term borrowing for the purpose of meeting current expenditures in any year until such time as the taxes are collected and other revenues are received and to authorize any one or more members of the Debenture Committee to do all things and execute any loan or other agreements required to give effect to any temporary borrowing;
- E) That any Regional policies on the delegation of the Region's powers and duties and on debt and capital financing reflect the establishment of the Debenture Committee and indicate that the authority to enact debenture, other long-term borrowing and temporary borrowing by-laws has been delegated to the Debenture Committee; and

- F) That the by-law(s) generally in the form contained in Attachment #2 and Attachment #3 to this report be presented to Council for adoption to give effect to these recommendations.
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Report:**1. Purpose**

- 1.1 This report is to authorize the establishment of a Debenture Committee and delegate to it the authority to enact debenture and other long-term borrowing and temporary borrowing by-laws.

2. Background**2.1 Issuance of Debentures**

- a. The authority to issue long-term debt for specific capital projects of the Region and one or more of its lower-tier municipalities is granted by Council each year through the approval of the Region's Capital Budget or authorized through a Council report requesting authority to issue internal and/or external debentures for the Region and/or one or more of its lower-tier municipalities. The Delegation of Authority By-law gives the authority to the Commissioner of Finance/Treasurer to proceed with debenture issues by finalizing the terms and conditions of such issues.
- b. Based on the need for debentures and general market conditions, and in accordance with Delegation of Authority By-law Number [04-2023](#), the Commissioner of Finance/Treasurer may enter into long-term borrowing agreements with investment bankers and with government agencies that contemplate the issuance of debentures during the year.
- c. Before the relevant financial transactions can be closed, Council must enact by-laws to authorize the issuance of debentures in the capital markets and/or the issuance of debentures required by such long-term borrowing agreements, as appropriate.

2.2 Temporary Borrowing By-law

- a. Each year Council enacts a temporary borrowing by-law in accordance with Section 407 of the Municipal Act, 2001 to authorize any short-term borrowings required to meet the current expenditures of the Region for the year. This includes amounts required for principal and interest falling due within the year upon any debt of the Region, and the sums required by law to be provided by the Region for any local board of the Region.

3. Previous Reports and Decisions

n/a

4. Discussion

Limitations of the Current Process & Benefits of a Debenture Committee

- 4.1 The timing of a debenture issue is constrained by the requirement for Council to enact debenture by-laws before the financial transaction can be closed and proceeds can be received. This may result in a delay of two to three weeks between the pricing of a debenture issue and the execution of documents to close the transaction. If delays exceed industry standards, investors may require fees for delayed settlements in the area of \$5,000 to \$10,000 per \$100 million (0.005% to 0.01%).
- 4.2 There are also occasions when other municipal issuers are bringing forward new debenture issues in the capital markets at the same time as the Region and it may be appropriate to adjust the timeline of the Region's debenture issue to avoid competing for a limited number of investors and funds at the same time.
- 4.3 Market conditions for selling and issuing debentures can fluctuate significantly over a very short period and opportunities to obtain attractive interest rates to lower borrowing costs can be missed when timing the enactment of a by-law authorizing a particular financial transaction with a specific scheduled Council date. Completing debenture issues within a shorter time frame may improve the Region's access to opportunities in the capital markets and borrowing partners, potentially lowering debt service costs.
- 4.4 Similarly, for long-term borrowing agreements with government agencies that contemplate the issuance of debentures, the setting of the applicable interest rate can be impacted by market factors. Having the flexibility to enact the required by-laws on relatively short notice may facilitate the finalization of such financing arrangements when market conditions provide rate advantages.
- 4.5 The establishment of a Debenture Committee would improve flexibility for enacting by-laws authorizing debenture issues in the capital markets and long-term borrowing agreements with government agencies, including during those periods when Council is not available such as during an election period and during the summer months. Settlement of these transactions could occur more quickly and efficiently and as a result, staff and the Region's bond syndicate would have the ability to respond more quickly to favourable interest rate opportunities. The Debenture Committee could meet on short notice to enact the required by-laws rather than waiting for the next scheduled Council meeting.

Delegated Authority

- 4.6 Section 23.1 and subsection 23.2 (1) of the Municipal Act, 2001, authorize Council to delegate its powers and duties, including legislative powers to:
 - a) One or more members of its council or a council committee;
 - b) A body having at least two members of whom at least 50 percent are,

- (i) members of its council,
- (ii) individuals appointed by its council,
- (iii) a combination of individuals described in the above two subclauses.

- 4.7 The Debenture Committee would be comprised of the Regional Chair, the Chief Administrative Officer and the Commissioner of Finance/Treasurer, or their designates, all of whom are very familiar with the Region's financial matters. The proposed composition of the Committee would provide sufficient flexibility to allow it to meet in a timelier manner when needed while also satisfying the requirements of the Municipal Act, 2001.
- 4.8 It is recommended that the Debenture Committee be delegated the authority to enact by-laws authorizing the issuance of debentures to the extent that debt authorities have been previously approved by Council in the case of long-term borrowing, annual debt charges are within the debt servicing budget as approved by Council and the terms of the debenture issue and of the financial agreement comply with any regional debt and financing policies.
- 4.9 Given that the approval to long-term borrow has previously been approved by Council and the authority to negotiate and finalize terms and conditions of specific debenture issues has been delegated to the Treasurer, delegating the authority to enact the debenture by-laws to a Debenture Committee would enable the Region to act more quickly to take advantage of favourable capital market situations and potentially reduce costs.
- 4.10 The Debenture Committee will also have the authority to enact by-laws authorizing the entering into of bank loan agreements and the entering into of prescribed financial agreements in connection with long-term borrowing offered through governments and their agencies.
- 4.11 To assure external legal counsel that the decisions taken by the Debenture Committee are binding and final, the delegation remains in full force and effect and exclusive to the Debenture Committee unless Council revokes such delegation.

Temporary Borrowing By-law

- 4.12 In accordance with Section 407 of the Municipal Act, 2001, a municipality may authorize such short-term borrowings for current expenditures in the year as may be required from time to time. The maximum amount of short-term borrowings that may be outstanding at any one time, determined in accordance with subsection 407 (2), shall not, except with the approval of the Ontario Land Tribunal, exceed, from January 1st to September 30th of the year, 50 percent and from October 1st to December 31st, 25 percent of the total amount of the estimated revenues of the Region as set out in the estimates adopted for the year. Annually, Council receives a request to enact a temporary borrowing by-law.

- 4.13 The consolidated cash position for the Region is normally sufficient to finance its usual daily cash requirements as well as to allow cash to be invested in a variety of short-term, liquid investments to optimize investment income. Occasionally, however, unusual or unanticipated cash outflows may result in overdraft positions.
- 4.14 As the Region typically has sufficient cash flow available to meet its operating requirements, the temporary borrowing by-law is administrative in nature which supports the credit arrangements which are in place with the Region's banker, the Royal Bank of Canada. On December 21, 2022, Council enacted By-law Number [53-2022](#), a temporary borrowing by-law, for 2023.
- 4.15 The limits on temporary borrowing are established in the Municipal Act, 2001 and the authority to enact by-laws for temporary borrowing can appropriately be delegated to the Debenture Committee. Delegating authority to enact the temporary borrowing by-laws in the future to the Debenture Committee would remove this administrative requirement from Council's agenda.

Delegation of Authority By-law amendments

- 5. The Delegation of Authority By-law currently provides the Commissioner of Finance/Treasurer with authority to proceed with a debenture issue in accordance with the provisions of that by-law. If the delegation of authority to the Debenture Committee described in this report is authorized by Council, the Delegation of Authority By-law will be amended to authorize debenture by-laws, other long-term borrowing by-laws as well as temporary borrowing by-laws to go to the Debenture Committee for enactment. The exercise of the delegated authority by the Commissioner of Finance/Treasurer and the Debenture Committee will then be reported to Council at the earliest opportunity after the debenture issue and after the entering into of other authorized financial agreements.

6. Relationship to Strategic Plan

- 6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
 - a. Goal 5.4 Service Excellence – This report demonstrates the commitment to effective, responsible financial management and provision of exceptional value to Durham taxpayers by identifying opportunities to drive organizational success through innovation, a skilled workforce, and modernized services.

7. Conclusion

- 7.1 Debenture Committees have been established in other municipalities, including the Cities of Toronto and Ottawa and the Regions of York and Peel, to allow them to quickly respond to the capital market requirements described earlier. With the establishment of a Debenture Committee, the Region's long-term borrowing program would be more efficient and flexible, thereby providing significantly more

opportunities to access the capital markets on a timelier and more cost-effective basis.

- 7.2 Approving the recommendations will improve marketability when issuing debt without diminishing the guidelines provided in the Long-Term Financial Planning Framework, any debt and financing policies and the Delegation of Authority By-law 04-2023, authorizing the Regional Treasurer to proceed with debenture issues and the entering into of other authorized financial agreements.
- 7.3 Although there is no quantifiable financial impact at this time, the flexibility and efficiency offered through the establishment of the Debenture Committee could save the Region up to \$10,000 in lower delay fees annually per \$100 million borrowed due to shorter settlement periods. In addition, more flexible and timelier debenture issuances may provide opportunities to access lower borrowing rates in the market.
- 7.4 Lower-tier municipalities participating in future debenture issues would realize the same benefits as outlined in this report.
- 7.5 For additional information, please contact: investmentportfolio@durham.ca.

8. Attachments

Attachment #1: Debenture Committee Terms of Reference

Attachment #2: Debenture Committee By-law

Attachment #3: Amending By-law to Delegation of Authority By-law

Respectfully submitted,

Original Signed By

Nancy Taylor
Commissioner of Finance/Treasurer

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer



Debenture Committee Terms of Reference

June 2023

1. Goal

- 1.1 To enact debenture by-laws and other long-term borrowing and temporary borrowing by-laws.

2. Mandate

- 2.1 The Debenture Committee is established by Regional Council in accordance with these Terms of Reference. Committee members are guided by these Terms of Reference.
- 2.2 The Terms of Reference provide for the flexibility for the Debenture Committee to enact debenture, other long-term borrowing and temporary borrowing by-laws in a timely manner while satisfying the requirements of the Municipal Act, 2001.

3. Scope of Activities/Responsibilities

- 3.1 The Debenture Committee has been delegated the authority to enact by-laws authorizing:
- a) the issuance of debentures where the issue of debentures for the capital works and/or the classes of capital works has already been approved by Council.
 - b) the entering into of temporary borrowing agreements with the Region's banker; and
 - c) the entering into of other authorized financial agreements in connection with long-term borrowing offered through governments, their agencies and others.

4. Composition

- 4.1 The Debenture Committee shall be comprised of three members in total, as follows:
- The Regional Chair, or designate.
 - The Chief Administrative Officer, or designate.
 - The Commissioner of Finance, or designate.

4.2 The designate for the Regional Chair shall be an elected member of Council.

5. Membership Selection

5.1 The Regional Chair, Chief Administrative Officer and Commissioner of Finance by virtue of their position, or their selected designate should they choose to appoint one, will form the Debenture Committee.

5.2 The Regional Chair, CAO and/or Commissioner of Finance may appoint their own designate, if required.

5.3 Designations should be formally approved by the Debenture Committee.

6. Officers

6.1 The Regional Chair or their designate, shall be the Chair of the Debenture Committee.

6.2 The Chief Administrative Officer or their designate shall be the vice chair of the Debenture Committee and shall assume the chair if the Chair of the Committee is unavailable.

7. Support Services

7.1 A designate from the Chief Administrative Office shall serve as staff liaison to the Debenture Committee. The staff liaison will provide administrative, procedural and technical support to the Debenture Committee.

7.2 Staff from the Chief Administrative Office will co-ordinate the preparation of meeting agendas and supporting documents and will provide secretarial and other support services to the Debenture Committee.

8. Meetings

8.1 The Debenture Committee shall meet at the call of the Regional Chair or designate.

8.2 The Debenture Committee is subject to the Regional Procedural By-law, unless otherwise specified in these Terms of Reference.

8.3 A quorum for Debenture Committee meetings shall be two members, with one of the two members being the Regional Chair or designate.

8.4 Every by-law enacted by the Debenture Committee shall be signed by the Regional Chair, or designate in their absence, and by the Regional Clerk. The corporate seal shall be affixed to the by-law, and the by-law shall be numbered, dated and deposited in the Regional Clerk's office.

- 8.5 The Debenture Committee shall comply with any debt and/or capital financing policies.

9. Minutes, Agenda & Notice

- 9.1 The minutes of each Debenture Committee meeting will be approved at the following meeting.
- 9.2 The Debenture Committee agendas will be prepared by the staff liaison and provided to members of the Debenture Committee and posted to the Region's website a minimum of 24 hours in advance of the meeting.

10. Committee Resolutions

- 10.1 The Debenture Committee will seek to achieve consensus on decisions. Recommendations are "carried" if supported by a majority. Only resolutions as they appear in the adopted Minutes may be considered as officially representing the position of the Debenture Committee.
- 10.2 The Debenture Committee shall provide an information report to Council regarding the exercise of its delegated authority at the earliest opportunity including after each debenture issuance and/or after the entering into of each authorized borrowing agreement.

By-law Number xx-2023
of The Regional Municipality of Durham

Being a by-law to amend By-law #04-2023 to provide the Debenture Committee with the authority to enact by-laws to authorize debentures, and authorized financial agreements including agreements for temporary borrowing, promissory notes, bankers’ acceptances, bank loan agreements, for long-term borrowing, debentures, and to execute all documents necessary to give effect to the foregoing;

Whereas the Municipal Act, 2001 S.O. 2001, c.25, as amended (the "Act"), provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

And Whereas the Act also provides that subject to limitations contained therein, at any time during a fiscal year, a municipality may authorize temporary borrowing, until the taxes are collected and other revenues are received, of the amounts that the municipality considers necessary to meet the expenses of the municipality for the year;

And Whereas subsection 23.2 of the Act provides that a municipality may delegate certain legislative and quasi-judicial powers to a body having at least two members of whom at least 50 per cent are:

- (i) members of its council;
- (ii) individuals appointed by its council; or
- (iii) a combination of individuals described in (i) and (ii);

And Whereas the Debenture Committee shall consist of the following members:

- a) the Regional Chair;
- b) the Chief Administrative Officer; and
- c) the Commissioner of Finance/Treasurer.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That the table in Schedule “A” to By-law #04-2023 be amended by adding thereto the following:

#	Delegation of Authority	Delegate	Delegation Process	Document	Reporting Existing/Proposed
2.22	The authority to enact by-laws to authorize debentures, and authorized financial agreements including agreements for temporary borrowing, promissory notes, bankers’ acceptances, bank loan agreements, for long-term borrowing, debentures, and to execute all documents necessary to give effect to the foregoing;	Debenture Committee	In accordance with the By-law Establishing the Debenture Committee	Information Report	Reports to Council in accordance with the Debenture Committee Terms of Reference

This By-law Read and Passed on the 28th day of June, 2023.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk

By-law Number **-2023
of The Regional Municipality of Durham

Being a by-law to establish a Debenture Committee.

Whereas the Municipal Act, 2001 S.O. 2001, c.25, as amended (the "Act"), provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

And Whereas the Act also provides that subject to limitations contained therein, at any time during a fiscal year, a municipality may authorize temporary borrowing, until the taxes are collected and other revenues are received, of the amounts that the municipality considers necessary to meet the expenses of the municipality for the year;

AND WHEREAS subsection 23.2 of the Act provides that a municipality may delegate certain legislative and quasi-judicial powers to a body having at least two members of whom at least 50 per cent are:

- (i) members of its council;
- (ii) individuals appointed by its council; or
- (iii) a combination of individuals described in (i) and (ii);

AND WHEREAS Regional Council wishes to establish a Debenture Committee and delegate to the Debenture Committee the authority to enact by-laws to authorize debentures, and authorized financial agreements including agreements for temporary borrowing, promissory notes, bankers' acceptances, bank loan agreements, for long-term borrowing, debentures, and to execute all documents necessary to give effect to the foregoing;

Now therefore, the Council of The Regional Municipality of Durham ("Regional Municipality") hereby enacts as follows:

1. The Debenture Committee is hereby established and shall consist of the following members:
 - a) the Regional Chair, or designate;
 - b) the Chief Administrative Officer, or designate; and
 - c) the Commissioner of Finance/Treasurer, or designate.
2. The Chair of the Debenture Committee shall be the Regional Chair or designate.
3. The Debenture Committee shall provide an information report to Regional Council regarding the exercise of its delegated authority at the earliest opportunity after each debenture issuance and after entering into authorized financial agreements, both for temporary and long-term borrowing.
4. The quorum for the meetings of the Debenture Committee shall be two members, of whom at least one shall be the Regional Chair or designate.
5. Regional Council hereby delegates to the Debenture Committee the authority to enact by-laws authorizing:

- a) temporary borrowing for expenses from time to time by way of promissory notes, bankers' acceptances and loan agreements, to meet the current expenditures of the Region for the year of borrowing in accordance with the limitations set forth in the Act.
 - b) long-term borrowing from time to time by the issuance of debentures and the entering into of financial agreements in accordance with the debt authority previously provided by Regional Council and in accordance with the Act and its Regulations.
 - c) any one or more Regional officers to do all things and execute all debentures and all ancillary documents in order to give effect to the issuance of any debentures and the entering into of the financial agreements described in this section 7.
6. The Debenture Committee is subject to the Regional Procedural By-law, unless otherwise specified in the Terms of Reference for the Committee.
7. Every by-law enacted by the Debenture Committee shall be signed by the Regional Chair or designate and by the Regional Clerk. The corporate seal shall be affixed to the by-law and the by-law shall be numbered, dated and deposited in the Office of the Regional Clerk.
8. Any debenture, financial agreement, financial instrument, promissory note, bankers' acceptance or loan agreement authorized pursuant to this by-law shall be sealed with the seal of the Regional Municipality and signed by the Regional Chair or such other signing officer as may be designated by by-law and the Commissioner of Finance/Treasurer.

This By-law Read and Passed on the 28th day of June, 2023.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk