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The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2023-F-2
Date: January 17, 2023

Subject:

Public process for the passage of a new Regional Development Charge By-law, along with the proposed amendments to both the Regional Transit and GO Transit Development Charge By-laws

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That Statutory Public Meetings of Regional Council, as required by the Development Charges Act, 1997 (DCA), be held at the beginning of the regular Regional Council meeting on March 29, 2023 to consider the passage of a new Regional Development Charge (DC) By-law, along with proposed amendments to both the Regional Transit and GO Transit DC By-laws;
- B) That the proposed Regional, Regional Transit, and GO Transit DC By-laws and Background Studies, as required by the DCA, be released to the public at no charge upon request to the Regional Clerk's Department and posted on the Region's website, commencing March 14, 2023; and
- C) That staff be authorized to place appropriate notification in newspapers of sufficient general circulation in Durham Region and the Regional website setting forth the date, time, location and purpose of the Statutory Public Meetings and the date and contact for the release of the proposed by-laws and background studies.

Report:**1. Purpose**

- 1.1 The purpose of this report is to advise Regional Council of the public process necessary to pass a new Regional DC By-law, along with amendments to both the Regional Transit and GO Transit DC By-laws.

2. Background

- 2.1 The current Regional DC by-law (#28-2018) expires on June 30, 2023. In 2022, Regional Council authorized the Regional DC By-law review which involves an extensive amount of work by an interdisciplinary staff team. However, in late 2022, the Province unexpectedly, and significantly, modified the DCA through the More Homes Built Faster Act (Bill 23). These changes included extending the maximum duration of a DC by-law from five to ten years; however, it did not address any transition matters for municipalities with by-laws expiring in the near term. The Regional CAO and Solicitor are seeking clarifications from the Ministry. In the meantime, staff are seeking the necessary authorizations from Council to ensure that the new DC by-law could be approved before the expiry of the existing by-law, should that remain necessary.
- 2.2 As part of the Regional DC review process, several new policies are being considered for the new by-law. These proposed policy changes will be identified in the DC Background Study released to the Public on March 14, 2023. Staff recommend proceeding with the public process to amend the policies of the Regional Transit and GO Transit DC By-laws to ensure the new policies align with the proposed Regional DC By-law.
- 2.3 In addition to any policy changes stemming from the proposed new Regional DC By-law, other changes have occurred with respect to Regional transit service that will need to be reflected in the Regional Transit DC By-law. These changes surround the electrification of the transit fleet. Included in the Regional Transit DC amendment will be the added costs of electric vehicles and the associated infrastructure required for electrification.
- 2.4 This report seeks authorization to place the notification necessary to advise all interested parties of the recommended March 29, 2023 Statutory Public Meetings of Council and the pending release of the proposed DC By-laws and Background Studies, as required by the DCA and associated regulations in order to have the new and amended by-laws in place by July 1, 2023.

3. Previous Reports and Decisions

- 3.1 Regional Council approved Report #2022-F-9 which provided staff authorization to undertake the comprehensive review and renewal of the Regional DC By-law.

- 3.2 Regional Council approved the current Regional Transit DC By-law (#39-2022) through Report #2022-F-15.
- 3.3 Regional Council approved a GO Transit DC By-law in 2001, which has subsequently been amended four times. The most recent amendment occurred on June 23, 2021 through Report #2021-F-17.

4. Requirements of DCA and Associated Regulations Regarding Public Process

Public Process

- 4.1 The DCA and associated regulations require that Regional Council hold at least one public meeting to receive public representation on a proposed new by-law (including an amendment) and corresponding background study.
- 4.2 The required public meetings for the proposed new Regional DC By-law, along with the proposed amendments to both the Regional Transit and GO Transit DC By-laws, will be held at the beginning of the Regional Council meeting on March 29, 2023. The final by-laws will be considered by Regional Council at the Regional Council Meeting scheduled for May 24, 2023.

Notice of Public Meeting

- 4.3 Regional Council is required to give at least 20 days notice of a public meeting. Therefore, the Regional Clerk will, by March 8, 2023, advertise a notice in newspapers of sufficient general circulation in Durham Region and on the Regional website, the date, time, location and purpose of the Statutory Public Meetings and the date and contact for the release of the proposed by-laws and background studies.

Release of Proposed By-laws and Background Studies

- 4.4 The DCA and associated regulations require that proposed new by-laws (including amendments) and background studies be made available to the public at least two weeks prior to the public meeting and 60 days prior to the passing of the DC By-law. Accordingly, the background studies and proposed Regional, Regional Transit, and GO Transit DC by-laws will be available on the Regional website and from the Regional Clerk's office at no charge upon request as of March 14, 2023.

Public Input

- 4.5 The statutory public meeting of Council, scheduled for March 29, 2023, allows for public representations related to the proposed by-laws and background studies from any person who attends the meeting (both virtually or in-person), as required under the DCA and associated regulations. Interested parties can also submit written correspondence via email or post directly to the Regional Clerk.

- 4.6 The public submissions resulting from the public meetings, along with all other comments received in writing by April 21, 2023, will be considered by staff in preparing the final by-laws, which will be presented to Regional Council on May 24, 2023.
- 4.7 Staff will contact the local development industry (local and GTA chapters of the Building and Land Development Associations and the Durham Region Home Builders' Association), local Chambers of Commerce / Business Associations and the area municipalities prior to the Public Meetings to offer consultations to discuss the proposed Regional DC by-law. Staff have already been providing status reports at regular industry liaison meetings and working with the local area municipalities

5. Time Frame for Development Charge By-law Reviews

- 5.1 Figure 1 provides the timing of the necessary actions to renew the Regional DC By-law and amend the Regional Transit and GO Transit DC By-laws:

Figure 1
Schedule of Dates for the Region of Durham
DC By-law Process

1.	Public Meeting Notice placed in newspapers (20 days prior to Public Meetings)	By March 8, 2023
2.	Release of Background studies and proposed by-laws (60 days prior to passing of DC By-Law and 14 days prior to Public Meetings)	March 14, 2023
3.	Public Meetings of Council	March 29, 2023
4.	Final Date for Public Comment	April 21, 2023 5:00 pm
5.	Committee of the Whole Consideration of Final DC By-laws	May 10, 2023
5.	Regional Council Consideration of Final DC By-laws	May 24, 2023
6.	Implementation of DC By-laws	July 1, 2023
7.	Newspaper and other notice given of by-law passage	By 20 days after passage of by-law
8.	Last day for by-law appeal	40 days after passage of by-law
9.	Region makes available pamphlet (where by-law not appealed)	By 60 days after in-force date

6. Implications of Bill 23, More Homes Built Faster Act

- 6.1 The More Homes Built Faster Act, 2022 (Bill 23) received Royal Assent on November 28, 2022. This Act includes several amendments to the DCA, including a provision that extends the maximum term of a DC by-law from five to ten years.
- 6.2 Although this provision became effective on the date the Act came into force (November 28, 2022), it is unclear whether this provision applies to existing by-laws that were already in force prior to the passage of the Act (and have not yet expired) or if it applies only to new by-laws that will be enacted in the future.
- 6.3 The Region's current Regional DC by-law expires on June 30, 2023 and the approval of a new by-law requires a lengthy public consultation period as set out in the DCA. Accordingly, staff are recommending that the necessary steps for the new by-law be approved while senior staff seek clarification on how this new 10-year provision is to be applied. Staff are also seeking clarification on the process and implications of extending the term of the existing by-law for an additional five years. If the More Homes Built Faster Act allows existing DC by-laws to be extended to ten years, Regional Council may be required to approve an amendment to the DC By-law to change the expiry date.
- 6.4 At this point, it is unclear as to whether an amendment to update the current expiry date would trigger the new five-year phase-in of the DC rates. If the new phase-in provision is triggered, the Region's current rates, both residential and non-residential, would drop by 20 per cent as the Region would only be able to collect 80 per cent of the calculated rate during the first year of the by-law. Collection will increase to 85, 90, and 95 per cent over the subsequent three years, before finally hitting 100 per cent in year five.
- 6.5 In the event, that the Regional DC by-law is not automatically extended, Regional Council may wish to implement the newly calculated DC rates in order to offset some of the loss from the new phase-in. However, the finalization of the Regional DC Background Study will be difficult without Provincial direction on several newly ineligible capital costs, including studies and land. The Act suggests that certain land costs will become ineligible through future regulation. In addition, although eligible costs for studies have been defined, the definition is broad and staff are seeking clarity.
- 6.6 In addition, the newly developable lands that have been removed from Greenbelt protection and are to be developed quickly have no Regional servicing plans. This means that those lands would be absent from the proposed 2023 Regional DC by-law.
- 6.7 Should the Region's current Regional DC by-law receive the additional five-year extension without any additional implications or requirements, the timeline provided above (for both the new by-law and amendments) could be modified. Staff will report back to Committee and Council once a definitive answer has been obtained.

7. Relationship to Strategic Plan

- 7.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Ensuring the Region's DC By-law is in conformity with the DCA, supporting Goal 5 (Service Excellence).

8. Conclusion

- 8.1 This report provides Regional Council with an overview of the necessary tasks to ensure that the Region is able to undertake the public process to pass a new Regional DC By-law and amendments to the Regional Transit and GO Transit DC By-laws. Staff will report back with further information regarding the options that may be available should transition provisions be provided by the Province.
- 8.2 This report has been reviewed by staff of the Planning & Economic Development, Works, and Corporate Services - Legal departments who concur with the recommendations.

Respectfully submitted,

Original Signed By

N. Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
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