



SUBJECT: Bill 197 process update

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Finance Department

Report Number: F-11-21

Wards Affected: all

File Numbers: 460-01

Date to Committee: April 7, 2021

Date to Council: April 20, 2021

Recommendation:

Receive and file finance department report F-11-21 providing an update on the Bill 197 process.

PURPOSE:

The purpose of this report is to provide Council with an update on the city's process to undertake the following three studies in response to legislative changes brought on by Bill 197 and Bill 108.

- Development Charge By-Law amendment to reflect the changes to the *Development Charges Act* (DCA), as well as updates to the increase in needs and capital cost estimates,
- Community Benefits Strategy and corresponding By-law consistent with changes to the s.37 of the *Planning Act*
- Payment-in-lieu (PIL) of Parkland Study to provide recommended changes to the city's parkland dedication by-law, considering changes to s.42 of the *Planning Act*.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
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Background and Discussion:

On February 24, 2020 Council received F-09-20, highlighting amendments to *Development Charges Act* as a result of the proclaimed portions of Bill 108, *More Homes, More Choices Act*, 2019 (Bill 108) and Bill 138, *Plan to Build Ontario Together Act*, 2019 (Bill 138).

On November 23, 2020 Council received report F-47-20 providing an overview of the amendments resulting from Bill 197, the Covid-19 Economic Recovery Act, 2020 (Bill 197). Bill 197 established a framework in which development charges, community benefits, and parkland dedication work together as funding mechanisms to assist with the principle that growth pays for growth.

Bill 197 provides a transition period for two years from the date of proclamation (September 18, 2020) for each of the funding mechanisms. The sections proceeding will provide an overview of the approach entailed for each study along with the corresponding legislative impact that will be incorporated within each study to meet the provincial deadline of September 18, 2022.

Strategy/process

Consultant

The City has retained Watson & Associates Economists Ltd. (Watson & Associates) to provide professional financial advice, legislation interpretation and guidance for the implementation of the aforementioned studies.

Watson & Associates have an extensive background, broad experience and knowledge of Development Charges, with municipalities across Ontario. Their experience in the development charges field will lend to the new requirements for a community benefits charge by-law.

Watson & Associates participation on the Bill 197 technical committee provides expertise with regulatory changes to be considered for the three updates and additionally they have been involved with the city's previous development charges (DC) studies, the city's fiscal impact studies and other related works whereby the City is able to obtain synergies and efficiencies.

Development Charges By-law Amendment

The approach and methodology related to amending a DC By-law is based on the requirements of the DCA. The city will undertake the following to meet the September 2022 deadline.

- Update the increase in need for service and capital cost estimates based on the 2022 capital budget and forecast, and any updated business/master plans endorsed by Council
- Update the DC calculation to remove the 10% statutory deduction from DC eligible costs (Parks & Recreation, Library, Studies)
- Update the DC by-law policies to reflect statutory exemptions, imposition of the charge, timing of collection, interest provisions, required by Bill 108.
- Review current DC policies and definitions in context of the legislative amendments

The DC amendment will follow a similar public consultation process as prior years, with the DC background study and draft by-law available to the public at least 60 days prior to by-law passage. The DC amendment will not include revised growth forecast assumptions. The Province has established a deadline of July 2022 to bring upper and single tier plans into conformity with the Growth Plan. This timing will not coincide with our need to deliver an updated DC study and by-law. Staff is proceeding with an amendment to comply with legislation and will complete a more fulsome update when updated growth projections are available and further master/business plans come to completion.

Community Benefits Strategy

The approach and methodology to undertake the community benefits strategy outlined below is based on Ontario Regulation 509/20 which sets out a required process in which the Strategy must include. The strategy is very prescriptive and aligns closely with the current development charges background study.

The Community Benefits Charges (CBC) strategy will include estimates with regards to the following in which community benefits charges will be imposed:

- anticipated amount, type and location of (re)/development
- increase in need for facilities, services and matters related to the (re)/development
- identify excess capacity that exists in relation to the facilities, and services
- extent to which an increase in a facility, and service would benefit existing development
- capital costs to provide facilities, and services and any capital grants or subsidies made to the municipality in respect of the capital costs

In consideration of the strategy methodology the assessment will consider the following as it relates to developing the community benefits charge;

- the amount, type and location of growth and determining land value

- document costs that may not be eligible for funding as it exceeds the maximum charge of 4% of land value
- determine share of costs that would be ineligible for funding as it would apply to development types not permissible under the legislation
- note types of development exempt from payment
- options for potential charge structures and the risks and benefits of each
- compare funding under the CBC to existing section 37 agreements and measure the fiscal impacts to the city.

The CBC strategy requires public consultation under the *Planning Act* with persons and public bodies the municipality considers appropriate. In developing the work plan related to the CBC strategy the city will work in consultation with Watson & Associates to develop a consultation process, that is suitable and in consideration of appropriate stakeholders and the public.

Parkland Study

This portion of the update will consider amendments made to s.42 of the *Planning Act*, and its implications to the City's funding as a result. In order to update the city's current alternative parkland dedication by-law, the following work will be undertaken;

- a forecast of costs of parkland or other public recreational needs to be funded from PIL of parkland
- Assess amount of residential and non-residential land area to be developed over the forecast period, based on the growth assumptions included within the DC study and estimate related land value
- options for potential charge structures and the risks and benefits of each

As per the *Planning Act*, the forecast of need will be assessed based on the city's completion of Phase 1 to the update of the Parks Plan. The update is currently underway and is scheduled for completion and endorsement by Council in Q3-2021.

The deliverable will be an update to the PIL of Parkland Study, and an updated alternative parkland dedication by-law.

Timeline

As indicated above Bill 197 provides a transition period for two years from the date of proclamation (September 18, 2020) for each of the funding mechanisms discussed above. As such, the City will require updated development charge, alternative parkland dedication and community benefits charge by-laws prior to September 18, 2022.

The three studies will commence immediately and will be worked on concurrently. Based on the above outline of work involved within each study the DC amendment and

Parkland study are anticipated to come forward by Q1-2022, followed by the CBC strategy in Q2-2022.

Financial Matters:

The funding for the costs associated with the update to the city's development charges, community benefits strategy and parkland study was approved as part of the city's 2020 capital budget in the amount of \$325,000.

Engagement Matters:

All three studies as per legislation require consultation with the public, stakeholders, and/or appropriate bodies in which the municipality sees fit. To gain synergies the city will use the established consultation process and teams in the DC study as described below and apply to the CBC strategy and Parkland Study wherever possible, provided engagement meets the legislated requirements set out for each study.

The Development Charge process involves the establishing of three main committees;

- (1) Technical Team: consisting of City staff from various departments and services that provide technical analysis, identify increase in need for service and related capital costs for the growth-related infrastructure.
- (2) Strategy Committee: consisting of senior staff from Burlington Leadership Team to provide guidance, review analysis proposed by the Technical team and review key policy decisions for the by-law and associated policies.
- (3) Consultation Committee: consisting of representatives from the public and stakeholder groups that provide input to the draft calculation and proposed policy amendments.

Traditionally, the Consultation committee is composed of two members of Council, two members from the Hamilton-Halton Home Builders' Association, a representative from Burlington Economic Development Corporation, two public citizens. For continuity Council members Mayor Meed Ward, and Councilor Sharman will continue to serve as representation on the Consultation committee as they did in the previous DC update. As mentioned above, the committees established above will be used throughout each study as required and where it makes sense to do so in order to take advantage of efficiencies and synergies on the entire project.

As per legislation the DC background study and by-law and CBC strategy and related by-law will be made available to the public for review and comment 60 days prior to

approval by Council. As we initiate the process and clarify clear timelines for public engagement and final approval further update on the process will be provided to Council, as needed.

Conclusion:

This report provides at a high level the key pieces of work that will be involved in each of the Development Charges Amendment, Community Benefits Strategy and Parkland study. The City will be assisted by Watson & Associates to complete the studies within the required timeline and to meet the legislated requirements as a result of Bill 197.

Respectfully submitted,

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Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.