

Development Charges Task Force

Meeting held July 29, 2024

A meeting of the Development Charges Task Force is held this day commencing at 11:00 o'clock a.m. in Room 204, 350 City Hall Square West, there being present the following members:

Councillor Kieran McKenzie, Chair
Councillor Angelo Marignani
Councillor Ed Sleiman
Councillor Gary Kaschak
Councillor Jim Morrison
John Miller
Evangelos Kalmantis
Tony Rosati
Settimo Vilardi
Frazier Fathers

Hemson Consultants in attendance:

Craig Binning, Project Manager and Courtney King, Senior Analyst

Also present are the following resource personnel:

Tony Ardochini, Deputy Treasurer, Financial Planning
Emilie Dunnigan, Manager Development Review & Financial Administration
Janice Guthrie, Commissioner & City Treasurer
David Simpson, Infrastructure Services
Jelena Payne, Commissioner Economic Development
Wira Vendrasco, City Solicitor
Aaron Farough, Senior Legal Counsel
Karen Kadour, Committee Coordinator

Members of the Technical Working Committee are also present.

1. Call to Order

The Committee Coordinator calls the meeting to order at 11:02 o'clock a.m.

2. Election

The Committee Coordinator calls for nominations from the floor for the position of Chair. Councillor Ed Sleiman nominates Councillor Kieran McKenzie, seconded by

Councillor Gary Kaschak. The Committee Coordinator asks if there are further nominations from the floor for the position of Chair. Seeing none, the Committee Coordinator asks Councillor Kieran McKenzie if he accepts. Councillor Kieran McKenzie accepts and assumes the Chair.

3. Conflict of Interest

None disclosed.

4. Business Items

The Presentation entitled “Development Charges Study, CBC Strategy, Parkland Dedication/Cash-In-Lieu & Related By-laws” is **attached** as Appendix “A”. Craig Binning, Project Manager provides the salient points of the Presentation as follows:

- **The New Framework for “Growth-Related” Capital** includes the Development Charges Act, the Planning Act: Community Benefits Charges and the Planning Act: Parkland Acquisition
- **What are Development Charges?** Fees imposed on development to fund “growth-related” capital costs
- Development Charges (DCs) pay for new infrastructure and facilities to maintain service levels
- Principle is “growth pays for growth”
- **Tools given to Municipalities to Fund Capital include:**
 - **Growth Funding Tools** - Fund a share of broader cost to expand community infrastructure
 - **Direct Developer Contributions** – Fund costs that would normally be required as part of a subdivision agreement (i.e. internal roads, sidewalks, streetlights, intersections, park elements).
- **Development Charges Act Requirements (DCs)**
- DCs imposed by by-law
- Maximum life of a DC by-law is now 10 years after the day it comes into force.
- Prior to passing a by-law municipality must:
 - Undertake a background study
 - Hold at least one public meeting.
- **Eligible Capital Costs**
 - Costs to acquire and improve land
 - Building and structure costs
 - Rolling stock with a useful life of 7 years or more
 - Furniture and equipment, excluding computer equipment
 - Library materials
 - Interest and financing costs
 - Development related studies

- **DC Legislation has Changed Since 2019**
- Housing Supply Action Plan and subsequent legislation:
 - *Bill 108, the More Homes, More Choice Act*
 - *Bill 197, the COVID-19 Economic Recovery Act*
- Report on the Ontario Housing Affordability Taskforce (February 2022)
- June 2022 election mandate:
 - Affordability (house sales/rents are outpacing incomes)
 - Goal of 1.5 million new homes constructed y 2031
- *Bill 23, the More Homes Built Faster Act*
- *Bill 185, Cutting Red Tape to Build More Homes Act*

The Chair asks if there are any questions at this time.

Councillor Angelo Marignani refers to the Affordable Housing Thresholds in Windsor and states that the Affordable Purchase Price (all units) is \$301,800 and adds that the average price in the City of Windsor is approximately \$525,000. He asks if this is based on new housing coming into the market and the charges that will be applied to them if they reach that price point. Craig Binning responds that the home has to be sold initially at or below that price to get the exemption from the payment of the development charges and there needs to be an agreement that it remains at or below the published affordable rate for a period not less than 25 years.

Frasier Fathers refers to rental thresholds and asks if there is any wiggle room for a municipality to set a higher number and discount a portion of a charge. Craig Binning responds that municipalities always have discretion to implement additional exemptions or discounting and adds there is currently statutory discounting for example, a three bedroom rental will get a 25% discount already.

The Chair advises that in looking at different municipalities and the levels that have been set for affordable housing, are there municipalities that might be having greater success with raising those opportunities for incentives through some of these discounts and where they are actually seeing the private sector get into the affordable space. Craig Binning responds that there are a number of municipalities that have gone with more comprehensive programs either through a CIP or other mechanisms that look at the delivery of affordable housing and collectively with the private sector that involves not just exemption discounts but also looking at tax increment financing together with planning objectives, land issues. He adds those tend to be more successful when part of a whole comprehensive package.

Councillor Ed Sleiman expresses concern that municipalities compete for investment in housing and asks if there is a limit or incentives in terms of the development charges. Craig Binning responds that they will look at the Development Charges Act and will establish the rates that are consistent with the provisions of the legislation. There is no requirement for a municipality to use development charges at all. The municipality

can choose not to levy the charge or can choose to discount the charge, however there are consequences associated with that.

Councillor Gary Kaschak refers to the rates in the affordable thresholds which are low at this time and asks if this is amended in six months or yearly; does it go to the 30% of gross income and asks how is this calculated. Craig Binning responds that there are very detailed tables that support these numbers but there is no indication on the frequency when the numbers will be updated.

Settimo Vilardi asks for clarification on the affordable purchase price (all units) of \$301,800 and states that this means that a unit is built for that amount and are then exempt from the development charge, but if the house is being resold within a 25 year period, do they have to resell it at that rate in order to avoid paying development charges and if they do not, they have to pay the development charges retroactively. Craig Binning responds that the affordable test will be by year. By the 10th year, presumably the house will not be at \$301,800 but at \$350,000 or \$400,000, whatever the current published affordable rate is for the City of Windsor.

Craig Binning continues with the Development Charges Presentation as follows:

- **Overview of what do development charges fund in the City of Windsor** – City-Wide Residential Charges per Unit and City-Wide Non-Residential Charges per Square Metre.
- **Sandwich South Fiscal Impact Analysis** – Hemson currently working with the city on a fiscal impact analysis of two of the Sandwich South secondary plan areas:
 - East Pelton
 - County Road 42
- **Development Charges Study Process**
- **Step 1 – Development Forecast**
 - Forecast amount, type and location of development
 - Establish areas to which DCs apply (municipal-wide-/area specific)
 - Establish planning period(s)
 - Types of Development – Residential and Non-residential
- **Step 2 -Historical Services Level Analysis**
 - Cannot use DCs to increase level of service above 15-year historical average
 - Average service level sets limit on eligible DC funding or “maximum allowable funding envelope”.
 - Both quantity and quality of service must be considered.
 - Typically, no service level limitation for water and sewer.
- **Step 3- Development Related Capital Program**
 - Future capital costs must be identified through budget.
 - Council must express intent to undertake capital works
 - Costs must be reduced by:
 - Grants, subsidies and contributions
 - Benefits test (benefit to existing; replacement
 - Uncommitted DC reserve funds

- “ Post-period” benefit

- **What Should be Included in the Capital Program**
- Tie-in with **capital forecast and master plans**
 - Water and Wastewater Master Plan
 - Transportation Master Plan/Roads Needs Study
 - Parks & Recreation Master Plan
 - Library Master Plan
 - Fire Master Plan
- Step 4 – Rate Calculation
- Allocate costs between residential and non-residential sectors
- Calculate charge using cash flow analysis
- Charge typically levied as follows:
 - Residential – per unit-by-unit type
 - Non-residential – per square foot of gross floor area
- Step 5 – Asset Management Plan & Impacts
 - Long term capital and operating impact analysis
 - Background Study must include an Asset Management Plan (AMP)
 - Deals with all assets that are proposed to be funded in whole or part by DCs
 - Demonstrates that all assets are “financially sustainable’ over their useful life
- **Key Steps in Passing a DC By-law**
- Release background study 60 days prior to by-law passage (including on website)
- Advertise public meeting
- Release DC study and proposed by-law
- Hold statutory public meeting
- Receive feedback and amend proposed changes and by-law if warranted
- Determine if additional public meeting is required
- By-law passage
- **Current DC By-law Policies**
- Statutory and Discretionary Exemptions

A question and answer session is held.

Councillor Ed Sleiman asks as it relates to development charges for industrial, commercial and residential, can the City utilize the funds collected for development charges to build parks, or for another use. Craig Binning responds that under the Development Charges Act, there are very strict rules about the collections and the reserves of development charge monies. Monies can only be spent for the purposes for which they were collected and effectively a development charge reserve needs to be established for each service. For example, if there is a library development charge, a portion of the reserve is restricted to only funding library infrastructure. You cannot use library money to pay for parks and you cannot use parks money to pay for roads as they

are all segmented into silos and the City has to report back annually on the reserve in terms of what has been collected and what has been spent for each service.

Councillor Angelo Marignani refers to the exemption of infill noted on page 29 of the Presentation and asks for further clarification on why we would reconsider that charge. Craig Binning responds that he did not suggest that it be discontinued as in the past they have been directed to look at it again and report back on it to make sure that the delineation is correct and is still achieving the objectives of Council.

Councillor Angelo Marignani asks for the number of projects that are currently being constructed with Community Incentive Programs being put forward that possibly could be challenging our infrastructure once completed. Tony Ardochini responds that he will report back on this matter.

Frasier Fathers asks in terms of the growth and development forecast is there space for sensitivity analysis in the projections. Craig Binning responds that they will report back with the projections but ultimately, they will pick a forecast to do the rate calculations.

The Chair advises that the colleges and universities are currently now included in the Statutory exemptions and assumes that the municipality can no longer collect any DCs from those institutions. Craig Binning responds that the exemption is not in the *Development Charges Act*, but is now in the *College and Universities Act*.

In response to a question asked by Tony Rosati regarding how does the City of Windsor compare with the last forecast, Craig Binning responds that he will report back.

The Chair notes that the lack of requirement once development charges have been collected for a particular project for those funds to be dedicated specifically to the area in which the development is actually occurring. He refers to the example of a sanitary sewer geographically far downstream from where the development is actually occurring but need to increase capacity as a result of the development that is happening. But in other instances where one cannot make that impact argument, is it in the legislation, or are there municipalities that have any policy framework around a requirement to invest the DCs in the places that are directly impacted by a development going forward. Craig Binning responds that he is not aware of this policy framework for a municipality that employs a municipal wide charge and has not seen a policy that directs the spending of that money in a more localized geographic area based on the collection.

The Chair asks about Sandwich South as it is a specific area, so if the city is collecting DCs for that area and it has a specific charge attached to it, he questions if that has a geographic component to it. Craig Binning responds that those monies can only be spent in that area collected under those charges.

Frazier Fathers asks how finite could we make those boundary adjustments even; if we chopped the city up into ten wards and each ward has its own development charge

section, there would be challenges with that but would allow in theory a much more microlevel of costing of the charge based on the service needs. For example, if a developer is building in Ward 2, and you are trying to build a lower cost home, you could charge related to your neighbourhood and not being dragged up by an average of a larger South Windsor home. Craig Binning responds that legislation wants them to look at area rating and adds that part of the difficulty comes with something like roads and the Transportation Network which is a complete network that allows for the flow of people across the city. For example, in Ward 2 there may not be as much road infrastructure needed, however, those people are still going to leave and go to other parts of the city for education, places of employment, etc. so they are contributing to the overall road infrastructure need.

John Miller asks if any of the new rates take into account the *Excessive Soil Act* (removing soil on site which places more cost on the developer) and questions how does that affect the development charges fees. Craig Binning does not see how this can be incorporated into the development charge rate calculation and will put this under policy issues review and will report back with some analysis on this matter.

Craig Binning continues with the Development Charges Presentation as follows:

- **Planning Act: Community Benefits Charges (CBCs)**
- Height/density “bonusing” under s.37 of Planning Act now gone
- Replaced by CBC for growth-related capital -can overlap with DCs
- In-kind contributions permitted
- Can only be levied against higher density development
- 5 or more storeys, and 10 or more residential units
- Regulation sets cap at 4% of land value the day before a building permit is issued
- **What Can CBC’s Fund?**
- More flexible than DCs, can recover any “growth related” capital cost
- Parking
- Studies
- Parkland development
- Active transportation
- Eligible DC services
- Parkland acquisition
- Other services (Public Art & Culture, Affordable housing etc.)
- **CBC Implementation and Administration**
- Requirements of CBC By-law adoption process:
- Consultation required but no defined
- Only one CBC By-law allowed
- Notice of passage
- Right of appeal to OLT
- **Administration and Reporting**
- Must establish CBC “special account” (reserve fund)

- In each calendar year, a municipality shall spend or allocate at least 60% of the monies that are in the special account at the beginning of the year
- List of (at least 3) appraisers under agreement with the municipality must be maintained. Annual report showing opening and closing balances of special account and all transactions.

A question and answer session is held.

Evangelo Kalmantis expresses concern regarding parking as part of a dwelling unit and suggests in tandem with the study to look at what goes into a dwelling or a townhouse in order to create efficiencies to reduce parking minimums (or the requirement for parking). Councillor Jim Morrison responds that the parking issue is discussed at the Development and Heritage Standing Committee primarily when rezonings are being done. He adds that the Planning Department will work with any developer as it relates to affordable housing.

Settimo Vilardi asks if there will be exemptions related to climate energy retrofits and development that reduces load on municipal systems, thereby reducing their development charges. Craig Binning responds that the City of Toronto has a Green Building Program Exemption and adds that he will report back.

Frazier Fathers alludes to the Development Charges in Windsor table on page 16 of the Presentation and asks that it be broken out individually to include 1 – 2 bedrooms, 3 -4 bedrooms, single detached homes, other multiple dwelling units to be able to see the projections. Craig Binning advises he is not aware of any jurisdiction where the single detached are broken down by size.

Councillor Ed Sleiman comments on the cost of traffic calming and asks if it can be included for cost recovery. Craig Binning responds that there are studies that include a broad traffic management provision which can include traffic calming measures. He adds he will report back on this matter.

5. Next Steps

The Chair advises that an update of the following subject matters will be provided at the next meeting:

- Calculated DC Rates
- Projection analysis
- Future growth and Economic Development
- Disincentivizing investment projections
- Raising development charges for residential
- Projections that will happen if move one way or another
- Potential industrial investment

Craig Binning remarks that their retainer does not include a formal quantification of changes in the growth funding tool rates on development. In terms of the City of Windsor, this is not built into their workplan.

The Chair asks if there will be comparators to comparable municipalities at the different rates and even regional municipalities as well, as would like to see what is going on in Essex County, what is happening in South Western Ontario and the Provincial average as well. Craig Binning responds that a wide range of comparables will be provided from other single tier cities, and, there will be geographic comparisons with similar cities including the City of Ottawa, Hamilton and London.

The Chair asks what is the extent to which Administration might offer insight or analysis with respect to where we could land in the spectrum of options that are presented to the Task Force through the process and what those impacts might be. Tony Ardovini responds that they will be able to provide the calculation of the maximum DC charges required to recover the growth related infrastructure costs, along with any revenue that will need to be recovered through property taxes and utility charges should the maximum calculated DC rates not be recommended.

6. Date of Next Meeting

The next meeting will be held on a date and time to be determined in October 2024.

7. Adjournment

There being no further business, the meeting is adjourned at 12:40 o'clock p.m.