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REPORT
Meeting Date: 2020-04-23
Regional Council

REPORT TITLE: **Region of Peel's Comments on the Second Round of Proposed Regulations to the New Community Benefits Charge**

FROM: Stephen Van Ofwegen, Commissioner of Finance and Chief Financial Officer

RECOMMENDATION

That the comments submitted to the Province on its second round of proposed Community Benefits Charge regulations, as outlined in the report of the Commissioner of Finance and Chief Financial Officer, titled "Region of Peel's Comments on the Second Round of Proposed Regulations to the New Community Benefits Charge", be endorsed.

REPORT HIGHLIGHTS

- On February 28, 2020, the Ministry of Municipal Affairs and Housing (MMAH) released proposed regulatory changes to the *Development Charges Act* (DC Act) and the yet to be implemented Community Benefit Charges under the *Planning Act.*
- The Region of Peel submitted comments, subject to Council endorsement, on the proposed Community Benefit Charges regulations to the Province in advance of the April 20, 2020 deadline.
- Community Benefit Charges were introduced to replace some existing growth financing processes including soft service components of the DC Act. Regional staff appreciate the Province's attempts to address the concerns of municipalities regarding Bill 108, such as restoring Long-Term Care and Public Health to the DC regime, removing the 10 per cent mandatory deduction from DCs, and altering the Community Benefit Charges transition timeline to be one year from the date the proposed regulations are enacted.
- Community Benefit Charges collections under the Community Benefit Charges' five per cent cap may not match allowed DC Act collections, reducing the funding available for social housing and shelter services.

DISCUSSION

1. Background

On February 28, 2020, the Ministry of Municipal Affairs and Housing (MMAH) released proposed regulatory changes to the *Development Charges Act, 1997* and the yet to be implemented Community Benefit Charges under the *Planning Act*. This was the second posting related to the Community Benefit Charges, the first was released on June 21, 2019.

The regulations relate back to the *Bill 108: More Homes, More Choice Act, 2019*, the stated goal of which was to increase supply of affordable housing in Ontario. The Region submitted comments, subject to Council endorsement, on the proposed Community Benefit Charges regulations, in advance of the provincial April 20, 2020, consultation deadline (See Appendix I).

The Region has previously submitted the following, related to the Community Benefit Charges:

- June 1, 2019 Comments on *Bill 108: More Homes, More Choice Act, 2019 amendments to the Planning Act, the Development Charges Act* and proposed modifications to regulations attached to the *Places to Grow Act;*
- July 15, 2019 Comments on Proposed Regulation Pertaining to the *Development Charges Act; and*
- August 21, 2019 Comments on the Proposed Regulation Pertaining to the Community Benefits Authority Under the *Planning Act.*

The Region is supportive of the Province's goal of increasing the housing supply and making housing more affordable for the residents of Ontario, through its new Housing Master Plan and significant Regional spending on Affordable Housing. For this reason, it is concerned the Community Benefit Charges would reduce the funding available for social housing and shelter services, and negatively impact the supply of affordable housing, as the Region would need to find alternative funding for its program; potentially through additional property taxes which are a limited resource.

Community Benefits Charges

Community Benefit Charges were introduced to replace some existing growth financing processes including soft service components of the DC Act. The Community Benefit Charges is meant to separate out "hard" and "soft" services, into the DC and Community Benefit Charges regimes, respectively.

Based on the current legislation and draft regulations, the following summarizes the main Regional service areas that remain in the DC regime and those included in Community Benefit Charges:

DC Regime – Regional Growth Costs	Community Benefit Charges Regime – Regional Growth Costs
• Water and Wastewater • Transportation (TransHelp) • Police Services • Long-term Care • Public Health • Paramedics	• Social Housing and Shelter Services • Childcare

Regional staff appreciate the efforts by the Province to address the concerns of municipalities that are contained in the current proposals, specifically noting the following:

- Restoration of Long-Term Care and Public Health to the DC regime;
- Removal of the 10 per cent mandatory DC deduction, an action that would represent approximately $7.5 million (2015-2020) as calculated in the 2015 DC Background Study; and
- Altering the time to transition to the Community Benefit Charges to one year from the date the proposed regulations are filed.

While the current report focuses on financial impacts, staff are also concerned about the elimination of *Planning Act* Section 37 height and density bonusing and replacing *Planning Act* parkland dedication provisions, a concern that was expressed previously by the local municipalities. While these tools are implemented at the local municipal level, they support planning for compete communities more broadly - an important Regional objective.

2. Risks Associated with the Community Benefit Charges Land Value-Based Cap

Continued inclusion of Social Housing and Shelter Services in the Community Benefit Charges regime may reduce capital funding for these services.

The Province has proposed the following land value-based caps on the amount that municipalities may charge under the Community Benefit Charges, at the time of building permit:

Lower Tier Municipalities	10 per cent
Upper Tier Municipalities	5 per cent
Single Tier Municipalities	15 per cent

For upper-tier municipalities, the provincial direction to fund Social Housing and Shelter Services through the land-value-based cap appears problematic, for the following reasons:

- Growth costs, such as increased service need or the price of building materials, change at a different pace and for different reasons than land values do.

- Initial staff modelling indicates Community Benefit Charges collections under the five per cent cap would likely result in significantly less dollars for funding Social Housing and Shelters than if the Region collected what it is entitled to under the DC Act.

- Community Benefit Charges caps should be defined based on the services levels required by the strategy, not in advance of the strategy, to ensure quality and level of services adequately addresses the pressures created by new growth.

Recommendation:

The Province should restore Social Housing and Shelter Services to the DC regime; or, allow added flexibility for a larger Community Benefit Charges cap percentage that recognizes greater need.

3. Risks of Keeping Social Housing/Shelter Services in the Community Benefit Charges

Should Social Housing/Shelter Services remain in the Community Benefit Charges, some anticipated risks include:

<u>A lack of clarity around transition measures.</u>

- Transition rules are required to clarify if the Region may collect for "soft services" under its upcoming 2020 DC by-law, after the Community Benefit Charges regulations are filed, for the year before the regulations come into effect.

- Should this not be the case, the Region will not have sufficient time to prepare a new Community Benefit Charges strategy, complete the required consultation process and enact a new Community Benefit Charges by-law in time to avoid a loss in revenues.

Recommendation:

The Province should provide transition rules for migrating soft services.

Higher administrative costs and fees for municipalities and developers.

- For the Region, having a Community Benefit Charges by-law enacted solely for social services creates an unnecessary administrative and resource burden. Conducting the DC Background Study and passing a new by-law currently takes 18 months.

- With the Community Benefit Charges in place Municipalities will be required to complete two separate background studies, with an increasing number of appraisals, and two separate sets of reporting requirements. Administrative burden could lead to higher upfront fees, as the cost of this burden is rolled forward into future charges**.**

Recommendation:

The Province should extend the Community Benefit Charges implementation process to 18 months from the date regulations are filed (a similar timeline to the DC process).

Land value cap complexities and disputes over land value

- Collecting Community Benefit Charges based on a percentage of land value does not fully address cost variations between development sites. This may result in additional risks for municipalities seeking to recover the costs associated with growth.

- The uniform five per cent Community Benefit Charges cap rate may shift the costs burden for soft services from residential to non-residential developments. Such a shift would have a negative impact on commercial/industrial development, relied upon to support job growth.

- There are many factors that affect land values (i.e. location, density, zoning, access to amenities, etc.) which may lead to disputes over land value appraisals. This creates additional risk to the predictability of total costs recoverable under the Community Benefit Charges.

Recommendation:

The Province should consider varying land values between different locations and densities, as part of the Community Benefit Charges cap.

FINANCIAL IMPLICATIONS

1. Growth in the capital requirements of new Regional service commitments such as increased investment in affordable housing, could render Community Benefit Charges cap limits insufficient.

2. Additional risks, such as a potential loss of revenue during the transition, the administrative burden of implementing the Community Benefit Charges, and the potential for disputes with developers over land values increase the risk of revenue loss.

3. Any loss in previously guaranteed revenues creates a service level risk for the Region. Such losses would necessarily need to be funded through the property tax, user fees, or else lead to a reduction in services.

CONCLUSION

The proposed Community Benefits Charge regulations indicate that the Province is willing to listen to municipalities as it attempts to increase the supply of housing. The Region continues to engage the Province on this shared goal, most recently through the attached consultation submission**.** Staff will continue to refine their understanding of the potential financial impacts of the Bill 108 legislation and its accompanying regulations and will monitor provincial announcements for new developments.

APPENDICES

Appendix I – April 20, 2020 Comments on the Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*

For further information regarding this report, please contact Stephanie Nagel, Treasurer and Director of Corporate Services, stephanie.nagel@peelregion.ca, 905-791-7800 ext. 7105.

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Reviewed and/or approved in workflow by:

Department Commissioner and Division Director.

Final approval is by the Chief Administrative Officer.

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