OAKVILLE

REPORT

Council

Meeting Date: May 29, 2023

FROM:	Finance Department
DATE:	May 16, 2023
SUBJECT:	**2022 Development Charges, Cash in Lieu of Parkland, Bonus Zoning and Community Benefits Charge Reserve Fund Statements**
LOCATION:	
WARD:	Town-wide

RECOMMENDATION:

That the information in the staff report dated May 16, 2023, entitled *2022 Development Charges, Cash in Lieu of Parkland, Bonus Zoning and Community Benefits Charge Reserve Fund Statements* from the Finance department, be received.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The development charges, cash in lieu of parkland, bonus zoning, and community benefits charge reserve funds are obligatory reserve funds that may only be used for capital costs set out in the *Development Charges Act, 1997* (DCA), its regulations, and specified costs set out in the *Planning Act*.
- To comply with reporting requirements the treasurer of the municipality must provide annual financial statements to Council relating to by-laws and reserve funds established for the purposes of development charges, cash in lieu of parkland, bonus zoning and community benefits charges.
- These statements must contain prescribed information with respect to the sources and uses of the funds received from developers and be made available to the public and upon request, the Ministry of Municipal Affairs and Housing (MMAH).
- In 2022, the town passed new by-laws for development charges, parkland dedication, and community benefits charges.

- Section 37 of the *Planning Act*, previously bonus zoning for increased height or density, was repealed and a new community benefits charge was added. In order to utilize the new section 37, the town passed a community benefits charge by-law.
- Bill 23, More Homes Built Faster Act, 2022, was introduced by the province on October 25, 2022 with a series of proposed changes to the Development Charges Act (DCA), Planning Act, and Conservation Authorities Act, received Royal Assent on November 28, 2022. The purpose of Bill 23 is to address the housing crisis in Ontario by building 1.5 million homes over the next 10 years. Bill 23 immediately impacted how development charges, parkland dedication and community benefits charges are collected.

BACKGROUND:

The purpose of this report is to present the required 2022 development charges, cash in lieu of parkland, bonus zoning and community benefits charge reserve fund statements to Council and provide information on financial transactions, which occurred during the year in relation to these reserve funds.

Development Charges

Development charges (DCs) are collected under the authority of the DCA and the town's DC by-law to pay for increased land and infrastructure needs of the community driven by growth. DCs are typically collected at the time of building permit issuance on a per unit basis for residential dwellings and on a square metre basis for non-residential buildings. Collections and interest provide the main sources of revenue for the fund.

Section 43 of the DCA and O. Reg. 82/98 require that financial statements relating to the municipality's DC by-laws and reserve funds established under section 33 of the DCA be provided annually to council, the public and, upon request, the MMAH. They also set out the prescribed information to be contained in the statements, including but not limited to requirements such as, opening and closing balances, transactions relating to the funds and the provision of all other sources of funding for any projects funded by DCs.

Cash in Lieu of Parkland

Cash in lieu of parkland is collected and utilized in accordance with the *Planning Act*, and town by-law 2022-108, which permits a municipality to require, as a condition of development, that land be conveyed to the municipality for park or other public recreational purposes. Alternatively, there may be required a payment in lieu, to the value of the land otherwise required to be conveyed.

Parkland funds collected are held in a segregated reserve fund, established for this purpose, and spent only on acquisition of land for a park or other ancillary park purposes such as the acquisition of machinery and the erection, improvement or repair of buildings.

Bonus Zoning and Community Benefits Charge

Bonusing is a tool previously provided by section 37 of the *Planning Act* that allows municipalities to secure public benefits through bonusing agreements in exchange for permitting additional height and density in a development through the re-zoning process. Its use is contingent on there being enabling bonusing policies/provisions in place in the municipality's official plan and zoning by-law. Funds collected are held in a segregated reserve fund, established for this purpose, and spent only for facilities, services and other matters specified in accordance with provisions of the legislation. The town's Livable Oakville Plan, North Oakville Secondary Plans, zoning by-law and bonusing procedure contain the required policy statements along with guidance on where and how the benefit should be provided. Section 37 of the *Planning Act* was repealed and a new Community Benefits Charge (CBC) was added. Municipalities had until September 18, 2022 to transition to the new regime. Bonusing is no longer a tool the municipality can employ; however, there are bonusing funds that have been collected and will be utilized in the future in accordance with bonusing agreements and the bonusing procedure. There will also continue to be bonus zoning collections over the coming years associated with zoning by-laws that included bonusing provisions prior to the passage of the CBC by-law.

On September 6, 2022, the town passed a CBC by-law in order to continue to utilize section 37 of the *Planning Act*. The new CBC replaced bonus zoning and is a way to fund growth-related capital costs of facilities, services and matters that are not being collected for under development charges or parkland dedication. The CBC Strategy approved by Council includes capital projects for municipal parking, public art and cultural and entertainment space.

COMMENT/OPTIONS:

Development Charges

DC reserve fund balances increased in 2022 by $52.8 million from an opening balance of $158.6 million to a closing balance of $211.4 million. Appendix A provides a summary of opening and closing balances and financial transactions relating to all DC reserve funds held by the town for the period ended December 31, 2022. It should be noted that transfers from DC reserve funds to finance capital works can only be made once spending has occurred, in accordance with PSAB principles. When outstanding commitments from approved projects are taken into account, the uncommitted balance at year-end was $80.1 million.

While some DC services are in a negative position, the overall DC reserve fund balance at the end of 2022 is positive. Fluctuations in reserve fund balances by service are expected, as capital projects required due to growth are usually expensive, generally large in scale and complex in nature (for example, building new community centres and parks or widening roadways). As such, they typically span multiple years and provide significant additional capacity to services. The following sections provide further details on DC activity for the year.

Collections

In 2022, $76 million in DCs were collected from 3,157 new residential units and 85,838 square metres of non-residential growth in the town. DC rates changed three times in 2022, as follows:

- The town indexes its DC rates annually on April 1st in accordance with the year over year change in the non-residential construction price index for Toronto, which resulted in an increase of 14.9 per cent on April 1, 2022.

- A development charge background study was completed May 13, 2022, providing an updated growth forecast, project costing and calculation of development charge rates. This study resulted in the passage of DC by-law 2022-068, effective July 13, 2022. DC rates were calculated for each eligible service so that collections from development will provide the funding needed to deliver growth-related capital projects.

- Upon the passage of Bill 23 on November 28, 2022, municipalities that passed by-laws after January 1, 2022 are required to phase in new development charge rates. This resulted in the following rate phase-in schedule:

From	To	Discount
July 13, 2022	July 12, 2023	20%
July 13, 2023	July 12, 2024	15%
July 13, 2024	July 12, 2025	10%
July 13, 2025	July 12, 2026	5%

Developments that meet the definition of rental housing and institutional housing are able to defer the payment of development charges to occupancy rather than building permit issuance. These development types may pay in six annual instalment payments over five years. The balance in DCs that have been deferred and are outstanding increased from $3 million to $7.3 million at the end of 2022, as there were two developments that were able to defer DCs in 2022. As none of the developments that deferred DCs have reached occupancy, no instalment payments were payable in 2022.

Developments with planning applications submitted since 2020 are eligible for a DC rate freeze at the time of the planning application. For these developments, the DC rate is set at the time of the planning application, and the rate freeze expires two years after the approval of the planning application. Prior to the rate freeze being added to the DCA, all developments paid DCs at the rate in place at the time of building permit. As a result of the change in legislation, an increasing number of developments are paying DCs at previous DC rates rather than current rates.

In order to cover the costs associated with the deferral of DC payments and DC rate freeze, the town has the ability to charge interest in accordance with the DC interest policy and procedure. Deferrals may result in cash flow pressures which could increase the need for debt financing, and the rate freeze adds risk that collection rates do not keep pace with growth-related costs and needs.

Legislative changes from Bill 23 introduced an interest rate maximum to be applied to development charges payable after June 1, 2022. A base interest rate is set four times annually, based on the average prime rate of Canada's five largest banks. Municipalities are permitted to charge the base interest rate plus one per cent. An update to the town's DC interest policy and procedure was approved by Council on January 30, 2023, enabling the town to charge the maximum interest rate prescribed by the DCA. This maximum interest rate will be applied to development charge rate freeze and installment permits. In 2022, $1.46 million of rate freeze interest was collected, and $0.2 million in interest related to outstanding deferrals has accrued.

The town's DC by-law provides for credits against the applicable service component of the charge when a developer enters into a financing arrangement with the town for a DC financed project or provides services in lieu of DCs. Credits may then be applied towards DCs as they become due (i.e. building permit issuance or in accordance with the terms of the applicable development agreement). For the year 2022, the town does not have any outstanding DC credits of this nature. Demolition credits exist when a demolition permit is issued for a building or structure on a site. This credit can be applied towards future DCs owing on the same site, provided a permit for the new construction is issued within five years of the issuance date of the demolition permit. Demolition credits of $236,163 were recognized in 2022.

Investment and interest income are allocated to DC reserve funds in accordance with the town's approved reserves/reserve funds procedure based on the proportionate share of the service component to the total reserve fund balance. DC reserve funds with positive balances are allocated interest and DC services with negative balances are charged interest. The earnings rate of the town's investment portfolio dictates the percentage of interest earned or charged. In 2022, $4.2 million in investment and interest income was allocated to DC reserve funds.

Financing Activity

In 2022, DCs provided for $28.9 million in capital funding to growth projects and $172,456 in debt financing recoveries. Financing activity from DC reserve funds is detailed in Appendix B by capital project. In addition, this appendix provides information on other sources of funding utilized for each project. Operating costs reflected in this appendix that received DC funding are solely for the repayment of principal and interest on debt issued to fund capital projects. The debt financing recovery relates to the new Sixteen Mile Community Centre and Library. Those projects requiring financing outside of the budget process were funded in accordance with council approved financing policies.

As required by Bill 23, beginning in 2023, municipalities are required to spend or allocate at least 60 per cent of the monies in water, wastewater, and services related to a highway reserve funds at the beginning of the year. As a lower tier municipality, the town collects DCs for services related to a highway. The town has allocated in excess of 60 per cent of the reserve fund for services related to a highway to eligible projects. The ending balance in services related to a highway is $206.2 million, and $569 million is allocated to capital projects through 2023 and prior year approved commitments and the 2024-2032 capital forecast.

Bill 109, the *More Homes for Everyone Act, 2022* introduced the annual requirement of municipalities to review each service for which a DC is collected, and state whether the municipality expects to incur the amount of capital costs that were estimated, in the relevant DC background study, to be incurred during the term of the DC by-law. If the amount of capital costs are no longer expected, an explanation is required. The town does expect to incur the capital costs identified for each service in the 2022 development DC background study, further information is included in Appendix C.

Exemptions

The DCA and town's DC by-law provide for mandatory and discretionary exemptions from DCs, including but not limited to, municipally-owned lands, certain agricultural structures, hospitals, areas of worship, secondary units, expansions less than 50 per cent of the size of existing industrial buildings, etc. The following table details exemptions as well as demolition/conversion credits applied to development or redevelopment in 2022. DC exemptions are funded by capital reserve, for which funding is carried in separate DC exemption reserves by service, with transfers to fund capital works shown in Appendix B. The following exemptions and credits occurred in 2022:

EXEMPTIONS				
Category	Authority	Sq. Metres	# of units	$
Municipal/Provincial/ School Board	DCA, 1997	660		$88,879
Industrial Expansion	DCA, 1997	312		$40,249
Secondary Units	DCA, 1997		121	$1,860,538
Total Exemptions		**972**	**121**	**$1,989,665**
School Board - Temporary Structures	DCA, 1997	2,500		$341,337
Demolition Credits	By-law	1,430	1	$236,163
Total Exemptions and Credits		**4,902**	**122**	**$2,567,165**

Bill 23 includes additional statutory exemptions and discounts that the town must provide, some of which are pending further regulation:

- Rental apartments are now eligible for discounted DC rates. Rental apartments with three or more bedrooms will receive a 25 per cent discount, with a 20 per cent discount given to two bedroom units and a 15 per cent discount to units with one bedroom or less
- Exemptions for non-profit housing units, inclusionary zoning units, and third residential units are in force
- Exemptions for affordable and attainable residential units are pending further regulation

In 2022, there were no exemptions or discounts related to Bill 23 for these types of development. The impact of these exemptions and discounts will be reported on in future annual reports.

Annual Statement

Appendices C and D provide supplemental information required by O. Reg. 82/98 and Sec. 43 of the DCA including descriptions of the DC service categories, specific transaction types, and a statement of compliance with section 59.1 (1) of the DCA.

The annual statement of DC reserve funds as presented herein to council satisfies the requirements of the DCA, O. Reg. 82/98, and the town’s DC by-law. Subsequent to Council’s approval, this report will be made available to the public on the town’s web site and, upon request, to MMAH.

Cash-in-lieu of Parkland, Bonus Zoning and Community Benefits Charge

To comply with provisions of the *Planning Act*, the 2022 annual statement of the cash in lieu of parkland, bonus zoning and community benefit charge reserve funds must include the following for the preceding year;

- (a) The opening and closing balances of the reserve fund and transactions relating to the account;
- (b) Information pertaining to,
  - (i) Identification of land, facilities, services or other matters specified in the authorizing by-laws for which funds from the reserve funds have been spent during the year,
  - (ii) Details of the amounts spent, and
  - (iii) The manner in which any capital cost not funded from the special account was or will be funded; and
- (c) Any other information that is or becomes prescribed.

Appendix E details 2022 activity in these reserve funds in compliance with the reporting requirements of the *Planning Act*.

Cash-in-lieu of Parkland

Cash in lieu of parkland is collected in accordance with the *Planning Act* and the town's by-law 2022-108. The town passed by-law 2022-108 on September 12, 2022 along with a new parkland dedication policy and procedure. Funds received are deposited to the segregated reserve fund for parkland purposes and interest applied in accordance with town policy and procedures. Eligible disbursements from the fund are in accordance with the provisions of legislation, town policy, and approved budgets.

The parkland reserve fund balance decreased in 2022 by $13.6 million from an opening balance of $78.2 million to a closing balance of $68.4 million. In 2022, $7.9 million was collected in cash in lieu and $1.8 million in interest was earned. There were three major land purchases in 2022 with a total of $19.5 million transferred to finance capital works.

Bill 23 included the requirement that annually, beginning in 2023, municipalities are required to spend or allocate at least 60 per cent of the monies in reserve funds for parkland dedication at the beginning of the year. The town has allocated in excess of 60 per cent of the reserve fund for parkland to eligible projects, with an ending balance of $68.4 million in the reserve fund, and $74.3 million allocated to capital projects through 2023 and prior year approved commitments and the 2024-2032 capital forecast.

Bonus Zoning and Community Benefits Charge

Bonus zoning and CBC reserve fund balances increased in 2022 by $3.3 million from an opening balance of $2.9 million to a closing balance of $6.2 million.

For 2022, $2.3 million was collected in bonus zoning payments and $81,000 in interest was earned, with no transfers to capital funding. There will continue to be bonus zoning payments over the coming years associated with zoning by-laws that included bonusing provisions prior to the passage of the CBC by-law. These funds will be used for the public benefits provided for in associated bonusing agreements.

For 2022, with the passage of the CBC by-law in September, $902,600 in CBCs were collected, with $63,322 used to fund the CBC strategy.

In accordance with the Planning Act, municipalities are required to spend or allocate at least 60 per cent of the monies in reserve funds for CBCs. The town has allocated in excess of 60 per cent of the reserve fund for CBCs to eligible projects, with an ending balance of $0.9 million, and $6.7 million allocated to capital projects through 2023 and prior year approved commitments and the 2024-2032 capital forecast.

CONSIDERATIONS:

(A) PUBLIC

DCs provide a non-tax source of revenue to finance growth-related municipal land and infrastructure. The DCA requires the treasurer to report to Council annually on the activity in the development charge reserve funds.

The *Planning Act* requires the treasurer to report to Council annually on activity in the cash in lieu of parkland, bonus zoning, and community benefit charge reserve funds.

The treasurer is further required to make a copy of these documents available to the public and if requested, the Ministry of Municipal Affairs & Housing.

(B) FINANCIAL

Development charges are the main source of funding for growth-related land and infrastructure. Funding received through the provisions of the *Planning Act* provide additional non-tax levy revenue streams to finance growth-related land and infrastructure needs.

(C) IMPACT ON OTHER DEPARTMENTS & USERS
N/A

(D) CORPORATE STRATEGIC GOALS
This report addresses the corporate strategic goal(s) to:
Be accountable in everything we do
Be fiscally sustainable

(E) CLIMATE CHANGE/ACTION
N/A

APPENDICES:
Appendix A: Development Charge reserve fund statement
Appendix B: Projects funded from Development Charges
Appendix C: Treasurer's Statement – Development Charges
Appendix D: Statement of Compliance – Development Charges
Appendix E: Statement of Reserve Funds – Cash in Lieu of Parkland, Bonus Zoning and Community Benefits Charge

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