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Item No. 2
Halifax Regional Council
December 14, 2021

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Caroline Blair-Smith, Acting Chief Administrative Officer

DATE: November 26, 2021

SUBJECT: Infrastructure Charges Report Update

INFORMATION REPORT

ORIGIN

This report originates from staff.

LEGISLATIVE AUTHORITY

Please see Attachment 1 for a full list of the legislative authority.

BACKGROUND

Infrastructure charges are collected from developers and are intended to recover the growth-related share of the capital cost of assets needed to support growth. The Municipality is enabled through the Halifax Regional Municipality (HRM) *Charter* to collect Infrastructure Charges with respect to the capital cost of a broad range of services that includes; transportation and transit assets, parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres, fire department assets, and public libraries.

In 2002, a policy framework to collect area-based infrastructure charges was adopted. Known as Capital Cost Contributions (CCCs), these infrastructure charges help fund infrastructure needed, in whole or in part to support the planned growth, within or alongside of master plan greenfield areas. The approach of levying charges in discrete areas at the time of subdivision approval was based on a system previously put in place by Halifax Water in respect to water systems. This methodology was familiar to the development industry, and the principles were tested before the NS Utility and Review Board.

Regional Council subsequently indicated a desire to collect charges across the region for a broader range of services, and from a broader range of development which did not rely of the subdivision of land.

In July 2014, Council agreed on an approach for new infrastructure charges for transit and transportation services and directed staff to consult with the development industry.

In November 2014, the Province passed an amendment to the *HRM Charter* which significantly broadened the range of services for which the Municipality could collect Infrastructure Charges, including parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres, fire department assets, and public libraries. Subsequently, in January 2015, Council deferred adopting new charges for transit and transportation related services and directed staff to develop an approach to collect infrastructure charges that considers all services that qualify under the *HRM Charter*.

In 2016, Regional Council adopted a 3-phased approach to review and rationalize all planning and development related fees and charges.

Phase 1 was a two-step process to rationalize permit fees, completed in 2019.

Phase 2 was to expand the Density Bonusing Provisions in the Regional Centre, pursuant to policy direction included in Package "A" and Package "B" of the Centre Plan. Phase 2 was partially completed with the adoption of the Incentive or Bonus Zoning Reserve and related administrative orders in September 2020. Phase 2 will be completed with the adoption of the amendments to these administrative orders, which as of the date of this report, are scheduled for Council today.

The third phase is a review of the Infrastructure Charges Program.

DISCUSSION

The Municipality is continuously experiencing development which places pressure on existing infrastructure, triggering the need for both upgrades as well as new infrastructure required to provide municipal services.

Infrastructure charges paid by developers are used to offset the growth-related capital costs of new assets. A key principle emphasized across Canadian municipalities is that infrastructure and facilities required by new development should not place a financial burden on existing taxpayers.

Key considerations for Council in adopting charges include the following:

- whether the amount of the charge is significant enough to drive pace, location, or mix of development;
- whether it will materially affect household budgets;
- whether the charge can disrupt the market in the short term, particularly when considered in conjunction with other impacts such as HST, standards, fee rationalization; and
- strategies to soften impacts and allow for the market to adjust, such as phased implementation, planning process improvements, and being flexible with the timing of collection.

Regional Capital Cost Charges are likely to be the most significant of the new costs imposed on development. In a briefing note prepared by staff during the 2020 budget debate, staff indicated a report would be forthcoming in 2021 which would deal with a methodology to determine the amount of the charges, an approach to collecting the charges, evaluate the impacts of collecting charges for the entire range of services that are enabled by the *HRM Charter*, and recommend a schedule for implementation.

A draft report has been completed by Turner Drake and Partners (TDP) to address the considerations described above. The increase in development approvals, escalation of construction costs since March 2020, as well as the public health measures imposed during the COVID-19 pandemic has prevented staff from returning to Regional Council in 2021. Changing market conditions necessitate an update to the TDP study, which itself will not be possible prior to end of March 2022. Given these considerations, staff anticipate that a report on the matter will be tabled prior to the end of June 2022.

FINANCIAL IMPLICATIONS

There are no financial implications at this time.

COMMUNITY ENGAGEMENT

No community engagement was required.

ATTACHMENTS

Attachment 1 – Legislative Authority

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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ATTACHMENT 1 – LEGISLATIVE AUTHORITY

HALIFAX REGIONAL MUNICIPALITY CHARTER

PART IX SUBDIVISION

Infrastructure charges

284 (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision by-law.

(2) Infrastructure charges for

(a) new or expanded water systems;

(b) new or expanded wastewater facilities;

(c) new or expanded stormwater systems;

(d) new or expanded streets;

(e) new or expanded solid-waste management facilities;

(f) new traffic signs and signals and new or expanded

transit facilities;

(g) new or expanded parks, playgrounds, trails, bicycle

paths, swimming pools, ice arenas, recreation centres and other recreational facilities;

(h) new or expanded fire departments and other fire facilities;

(i) new or expanded public libraries and other library

facilities,

may be imposed in a subdivision by-law to recover all, or part, of the capital costs

incurred, or anticipated to be incurred, by the Municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning,

studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision by-law must set out the infrastructure charge

areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each

infrastructure charge.

(4) Infrastructure charges may be set at different levels related to

the proposed land use, zoning, lot size and number of lots in a subdivision and the

anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure

charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the Municipality.

(6) An infrastructure charge may only be used for the purpose for which it is collected.

(7) Final approval of a subdivision may not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the Municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A by-law in effect on the date this Act comes into force that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a by-law made pursuant to this Section.

(10) Notwithstanding the Public Utilities Act and for greater certainty, any by-law made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board. 2008, c. 39, s. 284; 2014, c. 16, s. 8.

Infrastructure charges agreement

285 (1) An applicant and the Municipality may enter into an infrastructure charges agreement that may

(a) provide for the payment of infrastructure charges in instalments;

(b) permit the applicant to provide certain services or extended services in lieu of the payment of all, or part, of the charge;

(c) provide for security to ensure that the infrastructure charges are paid when due;

(d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision by-law may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement shall contain. 2008, c. 39, s. 285.

Effect of infrastructure charges agreement

286 An infrastructure charges agreement

(a) is binding on the land that is subdivided;

(b) must be registered in the registry or, in the case of land registered pursuant to the land Registration Act, must be recorded in the land registration office in the register of each parcel created or altered by the sub-division, and shall be indexed as a conveyance to and from the owner of the land that is subdivided; and

(c) is binding on each individual lot in a subdivision, to the extent specified in the agreement. 2008, c. 39, s. 286

PART IV FINANCE

By-law regarding payment of charges

104 (1) The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

(a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems;

(aa) expenditures incurred for the district energy system within the Cogswell District Energy Boundary;

(b) expenditures incurred for the wastewater management system in a wastewater management district;

(c) solid-waste management facilities;

(d) transit facilities;

(e) the municipal portion of the capital cost of installing a water system;

(f) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the Municipality directly or by, or pursuant to, an agreement with Her Majesty in right of the Province, the Minister of Public Works or any person;

(g) laying out, opening, constructing, repairing, improving associated with private roads, where the cost is incurred

(i) by the Municipality, or

(ii) under an agreement between the Municipality and a person;

(h) the municipal portion of the cost of a major tree

Removal program or the cost of removing trees from a private property;

(i) the municipal portion of the capital cost of placing the

wiring and other parts of an electrical distribution system underground;

(j) depositing in a special purpose tax account to provide

for future expenditures for wastewater facilities, stormwater systems, water systems, transit facilities or other anticipated capital requirement;

(k) new or expanded parks, playgrounds, trails, bicycle

paths, swimming pools, ice arenas, recreation centres and other recreational facilities;

(l) new or expanded fire departments and other fire facilities;

(m) new or expanded public libraries and other library

facilities, and costs for studies and engineering, surveying and legal costs incurred with respect to any of them.

(2) The Council may, by by-law

(a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of the Council, the buildings impose or may impose on the sewer system or wastewater facility and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity or additional wastewater facility capacity required to accommodate the effluent from the buildings;

(b) impose a one-time oversized sewer charge on each property determined by the Council to benefit from a sewer in the future to recover the cost of making the sewer an oversized sewer and provide that the oversized sewer charge is not payable until the property is serviced by a sanitary sewer or a storm sewer;

(c) levy a one-time storm drainage charge on the owner of each lot of land in a drainage management area for which an application is made for a development permit to allow, on the lot, a development of a class designated by the Council in the by-law.

(3) A by-law passed pursuant to this Section may provide

(a) that the charges fixed by, or determined pursuant to, the by-law may be chargeable in proportion to frontage, in proportion to area, in proportion to the assessment of the respective properties fronting on the street or according to another plan or method set out in the by-law;

(b) that the charges may be made and collected only where

(i) the persons owning more than fifty per cent of the frontage of the real property fronting on the street or the portion of a street on which the work is performed, or

(ii) the persons as determined by the method set out in the by-law, have filed with the Clerk a petition requesting that the work be performed;

(c) that the charges may be different for different classes of development and maybe different in different areas of the Municipality;

(d) when the charges are payable;

(e) for the total or partial exemption of persons and land from the charge and for adjustments to be made with respect to lots of land or developments where the proposals or applications change in order to reflect the changing nature of lots or developments;

(f) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(g) that the charges be collectable in the same manner as taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes;

(h) a means of determining when the lien becomes effective or when the charges become due and payable;

(i) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the by-law and, upon default of payment of any instalment, the balance becomes due and payable; and

(j) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the by-law.

(4) For greater certainty, no property is exempt from a charge levied pursuant to this Section except property of Her Majesty in right of the Province.

(5) The Municipality may install the wastewater facilities, stormwater system, water system and system for the supply or distribution of gas, steam or other source of energy of the Municipality outside its boundaries and may enter into contracts to provide the services.

(6) The Municipality may charge for services provided outside the Municipality in the same manner in which the service is charged for within the Municipality, if rates that are subject to the approval of the Board are approved by the Board.

(7) Notwithstanding the Public Utilities Act and for greater certainty, any by-law made pursuant to this Section and any charge imposed or fixed pursuant to this Section do not require approval by the Board.

(8) Subsection (7) does not apply in respect of any by-law made and any charge imposed or fixed pursuant to clause 104(1)(aa). 2008, c. 39, s. 104; 2014, c. 49, s. 1; 2018, c. 9, s. 2; O.I.C. 2021-56; O.I.C. 2021-209