



Media Release: Friday, December 4, 2015, 4:30 p.m.

Regional Municipality of Waterloo

Administration and Finance Committee

Agenda

Tuesday, December 8, 2015

Approximately 10:30 a.m.

(Immediately following Community Services Committee)

Regional Council Chamber

150 Frederick Street, Kitchener

-
- 1. Declarations of Pecuniary Interest under the “Municipal Conflict Of Interest Act”**
 - 2. Delegation**
 - 2.1 [COR-ITS-15-03](#), South West Integrated Fibre Technology (SWIFT) 4**
(For Information)
 - i. Geoff Hogan, Director of Information Technology, Grey County
 - 2.2 [COR-FSD-15-22](#), Request to Defer Regional Development Charges by 10**
GSP Group

Recommendation:

That the Regional Municipality of Waterloo uphold the existing policy and take no action on the request for the deferral of Regional Development Charges by GSP Group on behalf of Prica Group for the proposed development at Columbia St. and Albert St. in the City of Waterloo, as outlined in report COR-FSD-15-22, dated December 8, 2015.

- i. Hugh Handy, [GSP Group Inc.](#), Re: Request to Defer Regional Development Charges 18

Consent Agenda Items

Items on the Consent Agenda can be approved in one motion of Committee to save time. Prior to the motion being voted on, any member of Committee may request that one or more of the items be removed from the Consent Agenda and voted on separately.

3. Request to Remove Items from Consent Agenda

4. Motion to Approve Items or Receive for Information

- 4.1 Minutes of the [Audit Committee](#) – November 25, 2015 28

Recommendation:

That the minutes of the Audit Committee meeting held November 25, 2015 be approved.

- 4.2 [COR –TRY-15-111](#), Property Tax Capping – Program Changes 31
(For Information)

Regular Agenda Resumes

5. Information/Correspondence

- 5.1 Council Enquiries and Requests for Information [Tracking List](#) 39

6. Other Business

7. Next Meeting – January 12, 2016

8. Motion to go into Closed Session

That a closed meeting of the Administration and Finance Committee, Planning and Works Committee and Licensing and Hearings Committee be held on Tuesday, December 8, 2015 at 11:30 a.m. in the Waterloo County Room in accordance with Section 239 of the “Municipal Act, 2001”, for the purposes of considering the following subject matters:

- a) personal matters about identifiable individuals regarding committee appointments
- b) personal matters about identifiable individuals regarding committee appointments

- c) advice that is subject to solicitor-client privilege related to an agreement
- d) advice that is subject to solicitor-client privilege related to an agreement
- e) advice that is subject to solicitor-client privilege related to an agreement
- f) labour relations related to an investigation
- g) personal matters about identifiable individuals regarding committee appointments
- h) personal matters about identifiable individuals regarding committee appointments
- i) advice that is subject to solicitor-client privilege related to an investigation

9. Adjourn



Report: COR-ITS-15-03

Region of Waterloo
Corporate Services
Information Technology Services

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: December 8, 2015 **File Code:** A02-40

Subject: **South West Integrated Fibre Technology (SWIFT)**

Recommendation:

For Information

Summary:

The Region of Waterloo has been invited to participate in the South West Integrated Fibre Technology (SWIFT) high-speed fibre network for all southwestern Ontario communities as proposed by the Western Ontario Wardens' Caucus.

The goal of SWIFT is to bring affordable, accessible and scalable fibre optic infrastructure across Southwestern Ontario to improve competitiveness for all communities. The lack of affordable, robust and high-speed internet bandwidth within rural communities significantly restricts their ability to compete globally or even locally. Region of Waterloo townships, like most rural areas in Ontario, are the areas most affected by this lack of reliable and affordable internet services. Many urban areas are also affected by poor connectivity mostly due to lack of competition in the marketplace.

Report:

A feasibility study commissioned by the Western Ontario Warden's Caucus (WOWC) has outlined the current internet infrastructure state, and steps needed to create a proposed SWIFT network; a ubiquitous fibre network with a backbone serving over 350 points of presence (POPs) across Southwestern Ontario including the Region of Waterloo and the Region of Niagara.

The intent of SWIFT is to create and install the network infrastructure necessary to provide each home, farm and business in southwestern Ontario with an opportunity for a 1 GB internet service connected to this backbone for under \$100/month within five years. Internet service providers would connect each user to one of these POPs (note that these individual connections are not part of the SWIFT build out). Network architecture and construction will be planned in such a way as to allow all providers (large telecoms – i.e. Bell, Rogers, Telus, Small Independent Local Exchange Carriers (SILEC's) and others) to fairly compete to provide access to users. SWIFT is intended to give consumers more competitive choices and generate more funds for providers to upgrade and expand systems.

SWIFT intends to follow these design principles:

- Standards-based architecture – interoperating with all other systems and easy to support;
- High availability and scalability – continuous availability and infinitely scalable;
- Neutrality and open access – no barriers to entry for users and providers;
- Equitability – equitable access to the network at a reasonable cost;
- Sustainability – fees paid provide the cash flow required to support ongoing operating and capital costs;
- Usability - targeted to enable the provision of 1 Gigabit per second access to all residents and businesses.

Opportunities, Challenges, and Risks

The opportunity for residents, as well as public and private organizations, to have improved, cost-effective, high-capacity internet bandwidth provides real and tangible benefits. In particular, Waterloo Region's four townships would benefit from significant improvements in communications services for residents and businesses, as well as the Townships themselves for potential application and information sharing and service collaboration. The same connection made possible by SWIFT would provide residents with access to e-services and information as well as voice and video conferencing with remote service providers in the healthcare, financial services, and education fields; to name but a few. Urban residents of the Region would have additional, very cost effective, choices for their internet provider.

SWIFT has gained support across the public sector beyond merely the WOWC counties to include First Nations, school boards, colleges, universities and hospitals and a variety of internet providers. Some concerns regarding the SWIFT proposal have been raised by the SILEC's about their existing local networks and broadband projects and the potential to slow planned local fibre optic development by these local smaller carriers. The WOWC has committed to explore opportunities with the SILECs to bridge the gaps that currently exist.

Comparing SWIFT and WREPNET

The Region currently uses the Waterloo Region Education and Public Network (WREPNET) to provide network connections between 73 Regional sites, including Water sites for reliable monitoring and exchange of data from Water SCADA systems. The Region, along with the three cities, two school boards and other local MUSH organizations have leveraged the benefits of being a member of WREPNET for over 15 years. WREPNET's capacity is similar to what is being proposed for SWIFT, but WREPNET connectivity:

- Is only for members of the regional MUSH community vs. all organizations who will have the opportunity to access SWIFT via a provider of their choice;
- Depends on one service provider (currently Rogers under contract until 2021) vs. the open architecture of SWIFT where the infrastructure would be open access;
- Currently costs approximately 7-8 times more per month vs. SWIFT's proposed pricing; and
- Requires high upfront build costs for partners where sites are remote/rural making WREPNET not practical for small remote sites (e.g. – a water site at Branchton, or Wellesley Township's office in Crosshill).

The SWIFT model would provide an opportunity to connect rural Regional sites not currently viable under WREPNET.

Proposed Organizational Structure

The WOWC engaged legal counsel to recommend an organizational structure to administer SWIFT. A not-for-profit, non-share capital organization is proposed, to be governed by a Board of Directors composed of user group representatives, with the majority coming from the public sector, including the Region of Waterloo should it choose to participate. SWIFT was incorporated on November 12, 2015.

Proposed Funding Model

A business and funding model for SWIFT is under development to ensure that the project is not only financially sustainable, but will generate sufficient cash flow to encourage and support private sector partners to build and maintain fibre infrastructure for the SWIFT network. To assist with the development of this model, WOWC engaged BDO Canada as a consultant. The business case for SWIFT has been reviewed by an independent, third party telecom expert through Ryerson University, by PPP Canada, by Infrastructure Canada and by the Ministry of Economic Development, Employment and Infrastructure (MEDEI).

The current budget estimate for start-up SWIFT construction is \$266M, which would cover fiber and infrastructure to build out 350 POPs (Points of Presences) throughout

the SWIFT area to enable “last mile” connections to residents and organizations, and annual operating costs of \$9.5M. The funding model to support SWIFT anticipates 1/3 contributions (approximately \$88.7M) from each of federal, provincial and municipal/private sector sources.

Funding applications have been submitted to the Federal and Provincial Governments through the Building Canada Fund - Small Communities Fund. Receiving the contemplated \$88.7M from each of the federal and provincial sources is integral to SWIFT proceeding. Without this level of commitment by the senior levels of government, SWIFT will not move ahead as planned.

Following an assessment of the experience of other large Regional Area Networks (RANs) and of the infrastructure to be built by SWIFT or contributed to SWIFT, it has been recommended to WOWC that a reasonable funding split for the municipal/private share would be 80% private/20% municipal. Financial modelling has therefore been premised upon a contribution of \$17.7M from benefitting municipalities and \$71M from the private sector, distributed over a five year period.

A number of funding models for the municipal share are under consideration to determine the cost sharing impacts across the 15 WOWC municipalities, the Region of Niagara, and the Region of Waterloo. The Region of Waterloo’s share could be in the range of \$150,000 to \$300,000 annually for 5 years.

Once the SWIFT network becomes operational, it is anticipated that fees generated for the use of the network will be sufficient to finance ongoing operating costs of \$9.5M per year. It is projected that sufficient fees would be generated to potentially return a portion of the original municipal investment back to municipalities.

Next Steps

The WOWC is continuing efforts to secure funding and will update the Region on their progress. Staff will report back to Committee in 2016 with a recommendation regarding the Region’s participation in this initiative and funding implications.

Corporate Strategic Plan:

This initiative supports the 2015-2018 Corporate Strategic Plan Focus Area to support a Thriving Economy, more specifically:

- 1.1 Support existing businesses and attract new employers and investments (to stay, grow, thrive and prosper).
- 1.2 Plan for and provide the infrastructure and services necessary to create the foundation for economic success.

Financial Implications:

Assuming 1/3 federal and 1/3 provincial funding is provided, and the private sector contributes up to 80% of the remaining 1/3, the Region's share could be in the \$150,000 to \$300,000 range annually for 5 years. This amount will be refined as the funding model and participating municipalities are determined.

There are certain financial risks inherent to this project. If the private sector telecom service providers cannot be brought to share the 80% portion of the municipal 1/3 as indicated in the funding model, additional municipal contributions may be required in order to make up the difference. It is noted that in the Eastern Ontario Warden's Caucus (EOWC) Eastern Ontario Regional Network (EORN) project, telecom provider contributions exceeded the 80% threshold. The estimated cost as indicated in the funding model (\$266M) estimate is not certain. Although calculated to be a worst case scenario, the agreement between the municipalities needs to consider the possibility of additional costs and how they would be funded. Participation by separated municipalities, school boards, healthcare networks and businesses would lower these cost estimates for the Region and counties. Most recently the Region of Niagara, Town of Caledon and City of Orillia have joined SWIFT. The business case is assuming moderate uptake of their services within rural communities, but due to several reasons such as non-users, other competitive technologies with lower or equal cost models, etc., uptake could be less than planned.

Other Department Consultations/Concurrence:

Planning, Development and Legislative Services was consulted in the development of this report.

References:

- The SWIFT Network as part of the WOWC Broadband Project:
<http://www.wowc.ca/projects>
- Western Ontario Wardens Council (WOWC) Membership:
<http://www.wowc.ca/contact>
- The SWIFT network:
<http://www.swiftnetwork.ca>

Attachments:

List of participating municipalities

Prepared By: Terry Yantzi, Manager, ITS Infrastructure and Operations

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer

List of Participating Municipalities

Grey County
Bruce County
Simcoe County
Huron County
Dufferin County
Wellington County
Perth County
Oxford County
Brant County
Norfolk County
Elgin County
Middlesex County
Lambton County
Municipality of Chatham-Kent
Essex County
Caledon
Niagara Region
Town of Caledon
City of Orillia

In total there are 406 communities that will be connected during the initial construction phase of SWIFT.



Report: COR-FSD-15-22

Region of Waterloo

Corporate Services

Financial Services & Development Financing

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: December 8, 2015

File Code: F27-40

Subject: Request to Defer Regional Development Charges by GSP Group

Recommendation:

That the Regional Municipality of Waterloo uphold the existing policy and take no action on the request for the deferral of Regional Development Charges by GSP Group on behalf of Prica Group for the proposed development at Columbia St. and Albert St. in the City of Waterloo, as outlined in report COR-FSD-15-22, dated December 8, 2015.

Summary:

On October 27, 2015 GSP Group, on behalf of Prica Group, delegated to the Administration and Finance Committee to request that the Region enter into an agreement to defer Regional Development Charges (RDCs) for their client's proposed development. Committee deferred Report COR-FSD-15-16 which recommended that the Regional Municipality of Waterloo take no action in regards to the request. Committee requested that staff report back with additional information regarding the impacts of RDC deferrals and the provision of development charge deferrals in other municipalities. This report provides the additional information requested by Committee.

The Region's policy, as prescribed by the Region's Development Charge By-law 14-046, is to assess and collect development charges in full prior to the issuance of a building permit.

Staff recommend upholding the established policy of collecting the RDCs at building permit issuance for the following reasons:

- Approving a deferral would provide a benefit to one developer that has not been available to others and could set a precedent

- The deferral of RDCs is effectively a form of financing which is customarily provided by the private financial sector rather than government
- Entering into a deferral agreement for this project would not achieve any specific Regional policy objective
- The Region has issued debentures because of insufficient RDC reserves – a deferral of RDCs (in this case and potentially in other cases should this deferral be granted) would increase the Region's debt, resulting in reduced financial flexibility and put the Region's credit rating at risk if borrowing is significant
- Deferral agreements cannot be registered on title

It is noted that while the Development Charges Act permits the collection of some development charges earlier in the development process (e.g. at the time of consent or subdivision agreement), the Region's policy already provides for RDCs to be collected at a later stage in the development process (i.e. upon building permit issuance), which is of benefit to developers and which is well after much of the growth-related infrastructure has been constructed and paid for.

Regional Council has entered into a deferral agreement with a developer in very few cases. There have only been three deferrals of development charges in previous years, all of which were characterized by special circumstances. Council has recently taken no action on RDC deferral requests from a variety of not-for-profit organizations including, most recently, Haven House.

Report:

Planning consultants GSP Group intend to appear at the Administration and Finance Committee meeting scheduled for December 8, 2015 and previously appeared at the October 27, 2015 Administration and Finance Committee meeting. They are requesting that the Region enter into an agreement to defer Regional Development Charges (RDCs) for their client's proposed development. The purpose of this report is to provide background information relating to the proposed development and to inform Committee of the provisions in the Development Charges Act and the Region's RDC by-law relating to the timing of RDC payments as well as to provide information regarding previous RDC deferral requests. This report also provides additional information requested by Committee with regards to the impacts of RDC deferrals and the provision of development charge deferrals in other municipalities.

Background

GSP Group are the planning consultants for the developer (Prca Group). Prca Group is a property development and construction management firm in the residential and commercial market who have constructed a number of developments in the City of Waterloo.

The project which is the subject of this deferral request is located at Columbia Street and Albert Street in the City of Waterloo. The site is primarily used for student rental housing which will be demolished. The proposed development will consist of five new mixed use buildings with underground parking and a landscape promenade through the middle of the site. The buildings will range in height from 6 to 14 storeys and will contain 431 1-bedroom and 169 2-bedroom units and 2,250 square metres of commercial space. The consultants are in the process of completing the studies required to support their site plan application.

In a letter dated October 22, 2015 GSP Group requested that both the Region and the City of Waterloo defer development charges during the term of construction (which is anticipated to be between 18 and 24 months) or until the first occupancy permit of the development is issued. In accordance with the Region's development charges by-law RDCs are payable upon the issuance of a building permit as discussed in more detail below. The estimated amount of the RDCs for this redevelopment project is \$6.1 million. The actual amount payable will be finalized once the Request for Certification for RDCs is received from the City of Waterloo on behalf of the developer. The total DCs including local and educational are estimated to be approximately \$12 million.

The Development Charges Act and the Region's By-law

The Development Charges Act (the Act) provides the legislative authority for the Region to collect RDCs. Section 26 of the Act specifies that development charges are payable prior to the issuance of a building permit or at the time of entering into a subdivision agreement. Section 27 allows a municipality to enter into an agreement that would require the payment of DCs before or after the time when it is otherwise payable and further allows the municipality to charge interest on deferred payments.

On June 27, 2014 Regional Council approved By-law 14-046 which set new RDCs which came into effect on August 1, 2014. The RDC by-law established that RDCs be collected prior to the issuance of a building permit. This policy ensures that the Region can collect the development charges required to finance growth-related infrastructure and recognizes that the impact of growth on municipal infrastructure is best measured and assessed at or prior to construction of new space, rather than at the point of occupancy or some other time. In fact, many of the growth-related services for which development charges are collected, such as water and wastewater capacity, must be emplaced well before the benefitting development occurs.

Although GSP Group has indicated that their client is willing to register a DC deferral agreement on title, it should be noted that there is no provision in the Act for these agreements to be registered against title to the subject lands. Accordingly deferral agreements are not enforceable as an interest in the lands. A municipality that enters into a deferral agreement is relying solely on the enforceability of the agreement itself and the financial ability of the land developer to honour its future payment obligations under that

agreement. If the land developer defaults, then the municipality would need to incur costs to commence legal action to sue the land developer for payment of the deferred development charges plus interest. (To avoid contravention of the bonusing prohibitions in the Municipal Act, an appropriate rate of interest would be payable with respect to the deferred development charges under the agreement). The land developer might be insolvent or bankrupt and unable to satisfy a court judgment in favour of the municipality. If a municipality decided to enter into such a deferral agreement, to ensure enforceability it would be prudent for the municipality to require financial security, such as a letter of credit, to secure future payment of the entirety of the deferred development charges plus interest. While development charge legislation provides for unpaid development charges to be added to the tax roll, such claims do not have the priority lien status of property taxes, and in fact, can rank after all registered mortgages and other claims against the lands. Hence, this provision does not provide a reliable mechanism for collection of unpaid development charges.

History of RDC Deferrals

Regional Council periodically receives deferral requests from owners and developers. In recent years various not-for-profit groups including cultural organizations (Cambridge Cultural Society), social service agencies (Haven House) and places of worship (Trustees of the Siru Guru) have requested that development charges be deferred, none of which were approved by Council. In very limited cases, Regional Council has entered into deferral agreements. Since the Region's first RDC by-law came into effect in 1989 under the authority of the Development Charges Act, there have only been three approved deferrals of development charges all characterized by special circumstances, as set out below.

- 1) In 2000, the Wings of Butterfly Corporation received a five-year deferral in the amount of \$14,472.48. Designed to house tropical butterflies in a tropical garden environment, the building was to be devoted to education purposes in conjunction with school boards.
- 2) In 2001, Trinity Village proposed construction of a new 120 room facility, which would replace an existing 85 room facility and provide 35 additional rooms. The existing building was considered a "D" facility under the long-term care classification system and as such was deemed a high priority for replacement. Trinity Village was granted up to a two-year deferral in the amount of \$130,900 from the date of issuance of the building permit for the new structure. This deferral was later extended by one year. In effect, the deferral provided for early recognition of the redevelopment allowance which would be recognized when the existing facility was renovated. This renovation could not take place until the residents were re-located to the new facility.

- 3) In 2004, Council approved a four month deferral in the amount of \$167,688 that was secured by a letter of credit in order to provide time for a developer to produce evidence to the Region that development charges had been previously paid for a development at 736 Old Alberta Street, Waterloo. The developer was unable to provide evidence and the development charge was ultimately paid.

Over the past 11 years, Regional Council has not approved any request for deferred payment of development charges.

Current Development Financing Challenges

As set out in Report COR-FSD-15-17 re: “Annual Adequacy of Regional Development Charge Collections Review,” there are some significant challenges in ensuring that RDC reserves are available when needed to fund the growth-related portion of the capital program. Based on current balances and projected RDC collections, the 2016-2025 Capital Budget and Forecast will require the issuance of debentures to fund the growth-related share of several major projects including the Kitchener Wastewater Treatment Plant. Any deferral of development charges will exacerbate an already challenging situation and would likely require the issuance of more debt which, in turn, would reduce the Region’s financial flexibility.

Other Considerations

While the Act allows municipalities to enter into deferral agreements, Regional Council considered the timing of collecting development charges as part of the 2014 Development Charges Background Study. Through that process, payment of RDCs at the time of building permit was approved as the trigger for collecting RDCs.

As indicated above, the Region must provide the hard infrastructure well in advance of the collection of RDCs, often by several years. Effectively, a deferral is a form of financing provided to a developer. It is customary and more appropriate for developers to seek financing for projects from non-government institutions. Providing a loan to a for-profit company would shift the financial risk to Regional taxpayers and could establish a precedent. As indicated above, the Region has very limited history of providing RDC deferrals to development in general. The deferral of development charges may appear to provide Prica Group with a financial advantage that was not available to other development, both past and future. If the proposed development requires the deferral of development charges in order to obtain bank financing, staff may question the financial viability of the project, given current market conditions.

Other Municipalities

As directed by Committee, staff reviewed the development charge deferral policies of the Region’s local municipalities and other similar municipalities. While none of the local municipalities has a formal policy regarding the deferral of development charges, the

Cities of Cambridge and Waterloo have, on occasion, entered into DC deferral agreements. These have been considered on a case-by-case basis.

There is a wide variety of approaches to DC deferrals across the Province. Several regional or single tier municipalities offer DC deferral programs for non-residential development and some occasionally allow deferrals for specific residential development, while others do not provide deferrals under any circumstance. Typically, the utilization of DC deferrals assists municipalities in achieving specific policy objectives. While Toronto and Niagara Region do not offer deferrals, York Region, Halton Region, City of Hamilton, Peel Region and Durham Region offer deferrals in specific circumstances generally based on the type of development (i.e. non-residential, apartments, office buildings, etc).

The Region of Waterloo has several tools in the RDC by-law to achieve specific policy objectives including the Regional Brownfields Development Charge Exemption and the Downtown Core Exemption. There is no policy objective that would be achieved by granting an RDC deferral for this development.

Of the municipalities that provide deferrals, all require the provision of a letter of credit or mortgage against the property for the full value of the DCs and all charge interest. There is wide variation in how long the development charges can be deferred. The terms for the deferral agreements range from short-term deferrals with partial payment for water, wastewater and roads deferred until building permit issuance (rather than at subdivision agreement), to medium term (payment within two years) to some programs which offer deferrals up to 30 years. In addition to charging interest over the term of the deferral, most municipalities charge application and processing fees to develop and administer the agreements.

Memo from Altus Group Economic Consulting

It should be noted that there are inaccuracies in the memorandum addressed to GSP Group from Altus Group Economic Consulting dated November 30, 2015 which is included in the Committee Agenda Package. The memo indicates that the deferral for Prica Group will be revenue-neutral to the Region since the Region could charge interest income. At issue is the impact on the Region's cashflow. If the Region issues debt to fund RDC projects because of the deferral, there will be an impact on the Region to interim fund the debt charges. As well, issuing debt on behalf of development charges uses up debt capacity and reduces the Region's financial flexibility. In the event that this and other deferrals are granted and additional debt financing is required, over time this may restrict the Region's ability to finance non-growth capital works and may ultimately put the Region's credit rating at risk.

The fact that there are no capital projects planned in the vicinity of the proposed development is not relevant as there are a number of RDC-funded projects that will need to proceed in other areas of the Region – RDCs are not charged on an area-specific basis, the charges are for growth-related Regional infrastructure.

The combined balance in the RDC reserves is required to fund the growth-related portion of current and future capital projects and is not a “significant surplus.” Due to the large amount of funding expended for growth-related projects during 2014 the combined RDC reserve fund balance had a shortfall of \$27 million. In 2014 the Region issued \$93 million of debt to fund RDC projects. The combined RDC balance of \$66 million as at December 31, 2014 (after the debt was issued) was still well below the RDC funding required in the 2015 capital budget of \$97 million.

Further “a deferral that allows a development to proceed that could not without the deferral is a “win-win” for both the Region and the developer” suggests that perhaps the project should not proceed if current economic conditions do not allow the project to be financially viable. It should be further noted there are economic benefits generated from all forms of development in terms of construction-related employment, permanent employment, retail spending and assessment growth.

Staff Recommendation

Staff recommend that the existing RDC collection policy be upheld and that no action be taken on the RDC deferral request. The deferral of development charges is effectively a form of financing which is customarily provided by the private financial sector not government and deferral agreements cannot be registered on title which may increase the risk to taxpayers. Approving a deferral would provide a benefit to one developer that was not available to others and this could potentially set a precedent for future development. The Region has historically taken no action on RDC deferral requests with the exception of a few special circumstances. Most recently, the Region has taken no action on deferral requests from various not-for-profit organizations including Haven House. There is no compelling policy objective or strategic action that would be achieved in granting the deferral of the RDCs in this case.

Any deferral of RDCs would increase the need for debenture financing for certain growth-related capital projects and would add complexity to the administration of the development financing program. Given the existing pressures on the RDC reserves and the fact that the Region is already issuing debentures to finance the development related capital program; issuing additional debt as a result of deferral agreements could exacerbate an already challenging situation.

Should Council wish to implement a development charge deferral policy, it should be considered as part of a comprehensive review of RDC rates and policies. Consideration should be given to a minimum dollar amount, interest rates, a maximum term, the type of security required, the type of development that would be eligible and the payment of administration fees.

In the event that Council wishes to provide a deferral of development charges for the Prica Group's proposed development, the deferral agreement should include the following: the term would be two years or the issuance of an occupancy permit (whichever comes first), a letter of credit from a minimum Schedule II bank for the full amount of RDCs including an indexing provision, interest at the Region's cost of borrowing plus 1% as well as payment of all Regional legal costs for preparing and executing a DC deferral agreement.

Finally, it is noted that, in an effort to minimize the existing timing issues between the construction of growth related capital infrastructure and the collection of RDCs, staff will be investigating whether it may be preferential to accelerate the collection of RDCs to the time of subdivision agreement for water, wastewater and roads (as permitted under the Act) rather than at the time of building permit issuance.

Corporate Strategic Plan:

This report supports strategic objectives found in the Corporate Strategic Plan, and particularly Focus Area 1.2: Plan for and provide the infrastructure and services necessary to create the foundation for economic success.

Financial Implications:

Regional Development Charges are an important source of financing for the growth-related capital program. Deferring a significant RDC payment such as the request from GSP Group would create further cash flow challenges for the Region and may require the issuance of additional debentures to finance the growth-related portion of capital projects.

Other Department Consultations/Concurrence:

Input was provided by Planning, Development and Legislative Services staff.

Attachments: Nil

Prepared By: Cathy Deschamps, Director, Financial Services and Development
Financing

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer

November 30, 2015

Memorandum to: Caroline Baker
GSP Group Inc.

From: Daryl Keleher, Director
Dukhee Nam, Senior Analyst
Altus Group Economic Consulting

Subject: Development Charge Deferral Request
Our File: P-5254

The proposed mixed-use development is located at 365 Albert Street & 124-130 Columbia Street West (“the Hub”) in the City of Waterloo, Region of Waterloo, and will include 600 residential units and commercial space at-grade. The request being made is that the payment of Region and City development charges be deferred, with the deferral period of either 24 months or the issuance of an occupancy permit, whichever occurs earlier.

This memo reviews the request for a deferral in terms of precedent in other jurisdictions, the risk to the Region in terms of capital funding, and the economic benefits of the proposed development that may be lost if the development is unable to proceed as currently planned.

Summary

- The *Development Charges Act* allows for the late payment of development charges, and allows municipalities to impose the rate in place at the time payment is received, and interest to be collected on the part of the DC paid after it would have otherwise been payable – therefore, the deferral would be revenue neutral for the Region and City;
- Many other municipalities across the Province offer deferral options within their DC by-laws, but often will require a Letter of Credit to be provided for the full amount being deferred to ensure risk to the municipality is minimized;
- Both the Region and City have each granted DC deferrals in the past;



Development Charge Deferral Request

November 30, 2015

Page 2

- Based on the current DC rates, the proposed development would generate \$6.1 million in DC revenues for the Region of Waterloo and \$3.9 million for the City of Waterloo;
- There are no capital projects planned for the area that would be jeopardized from a delay in receiving DC revenues. In fact, additional DC revenues that may be generated from the deferral could assist the municipalities in funding more capital works throughout the Region and City;
- Both the Region and City have significant surpluses in their respective DC reserve funds (\$66.2 million and \$36.0 million, respectively as of 2014), and would be able to absorb a delay in timing of revenues from the proposed development; and
- The proposed development will generate substantial economic benefits for the Region and City:
 - Approximately 1,000 person-years of employment through the construction of the development;
 - 61 jobs in the retail commercial space provided at grade;
 - The residents of the proposed residential units will bring annual spending of \$28 million on goods and services to help support local retail stores and businesses; and
 - The development would generate \$194 million in property tax assessment value, which would generate \$715,000 in annual property tax revenues for the City, \$1,257,000 in annual property tax revenues for the Region. This additional tax assessment can help to offset (in part, at least) any future tax increases, or help the Region or City expand their program and service offerings with lesser impact on taxes paid by existing residents and businesses.

Development Charge Revenues Being Deferred

Figure 1 shows the amount of development charge revenues that the development would generate based on the current DC rates. In total, the development would generate \$6.1 million for the Region and \$3.9 million for the City, for a total of \$10.0 million.



Development Charge Deferral Request

November 30, 2015

Page 3

Figure 1

Estimated Development Charge Revenues, Current DC Rates, Region of Waterloo and City of Waterloo, The Hub

		DC Rates		DC Revenues		
		Region	City	Region	City	Total
Residential	<i>Units</i>	<i>\$/Unit</i>		<i>Dollars</i>		
1 Bedroom	431	9,787	6,437	4,218,197	2,774,554	6,992,751
2 Bedroom	169	9,787	6,437	1,654,003	1,087,934	2,741,937
Total	600			5,872,200	3,862,488	9,734,688
Commercial	<i>Square Metres</i>	<i>\$/Square Metre</i>		<i>Dollars</i>		
	2,250	105.38	29.27	237,102	65,858	302,960
TOTAL				6,109,302	3,928,346	10,037,648

Source: Altus Group Economic Consulting based on Region and City development charge brochures

Development Charges Act and Regulations

Section 27(1) of the *Development Charges Act* allows for late payment of development charges if agreeable by the municipality:

27. (1) A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

Section 27(2) specifies the amount payable under a late payment agreement:

(2) The total amount of a development charge payable under an agreement under this section is the amount of development charge that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

(a) the time the development charge or any part of it is payable under the agreement;

(b) the time the development charge would have been payable in the absence of the agreement.

Section 27(3) allows municipalities to impose interest on late payments of development charges:

(3) An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable.



Development Charge Deferral Request

November 30, 2015

Page 4

There Would be No Long-Term Cost of the Deferral

While the deferral of development charges for a period of up to 2 years would mean that the Region and City would lose out on interest earnings (given that their DC reserve funds are each in positive positions), it is common practice for the proponent in a DC deferral agreement to include interest costs on the deferred part of the DC payment (but not on the incremental increase via indexing or a review of DC rates). This would mean that, from the cash flow perspective, the Region and City would see no net loss in revenues even if the Region or City decides not to re-open their DC by-laws before the developer's deferral period ends.

The Deferral Would Not Jeopardize Capital Projects in the Area and Would Not Impact Region or City Reserve Funds

No Specific Growth-Related Capital Projects are Required in the Surrounding Area

Region of Waterloo Projects

None of the specified capital projects in the 2014 *Region of Waterloo Development Charges Background Study* are located in the vicinity of the proposed development.

Tables 3-2, 3-3 and 3-4 of *Region of Waterloo Transportation and Transit DC Study*, dated March 1, 2014 identifies capital projects and their timing. None of the capital projects are located in the vicinity of the proposed development.

City of Waterloo Projects

According to the 2012 *City of Waterloo Development Charges Background Study*, there are a handful of road, water and sewer works proposed in the surrounding area. However, for the works that will proceed during the deferral period, the works could be funded through the City's existing DC reserve fund balance until the DC revenues from the deferred payment is received. The deferral payment, by including interest, would offset any lost interest income in the City's DC reserve fund for works funded, making the DC reserve fund whole when the DC payment is made.

These capital works will be required whether The Hub development occurs or not – allowing the deferral improves the chances that the proposed development occurs and adds DC revenues to the City's DC reserve fund, providing additional funding for these works. If the deferral is not given



Development Charge Deferral Request

November 30, 2015

Page 5

and the development does not go forward, the City will not have as much DC funding to pay for these works.

Both Region and City Have Sizable DC Reserve Fund Surpluses

Figure 2 shows historic development charge reserve balances for both the Region and City. Both municipalities have significant surpluses in their DC reserve funds - \$66.2 million in the Region's reserve fund, and \$36.0 million in the City's. Each municipality can utilize these surplus funds to offset the temporary delay in receiving DC revenues from the proposed development. The Region and City should not have to delay proceeding with any capital works from the proposed deferral.

Figure 2

Region of Waterloo and City of Waterloo DC Reserve Fund Balance History

	Opening Balance	Revenue	Expenditure	Closing Balance
<u>Region of Waterloo</u>		<i>Dollars</i>		
2005	85,633,365	35,216,965	30,686,995	90,163,335
2006	90,163,335	30,239,210	44,939,403	75,463,142
2007	75,463,142	n.a.	n.a.	65,600,880
2008	65,600,880	36,614,242	29,074,985	73,140,137
2009	73,140,138	55,494,926	31,818,857	96,816,207
2010	96,816,207	42,114,267	41,644,069	97,286,405
2011	97,286,446	43,961,028	72,851,554	68,395,920
2012	68,395,880	32,169,880	78,903,666	21,662,094
2013	21,662,093	103,379,476	57,151,587	67,889,982
2014	56,324,803	60,753,327	50,809,342	66,268,788
<u>City of Waterloo</u>				
2012	28,397,947	9,016,955	13,799,027	23,615,875
2013	23,615,875	10,953,582	13,058,845	21,510,612
2014	21,510,611	38,428,210	23,932,499	36,006,322

Source: Region of Waterloo Development Charge Transaction Report, City of Waterloo Annual Statement of Development Charges

Several Other Municipalities Offer DC Deferral Option

Many municipalities across Ontario include a provision in their development charges by-law to allow for agreements providing the payment of development charges before or after the issuance of building permits. In some municipalities, certain types of developments explicitly identified as benefitting from DC deferral, such as high-rise development, affordable housing, non-residential development and brownfield redevelopment.



Development Charge Deferral Request

November 30, 2015

Page 6

As an example, we have quoted deferral policies in the DC by-laws of York Region, the Town of Newmarket and the City of Hamilton in the following subsections.

York Region

Section 3.19 of the York Region DC By-law 2012-36 states that:

3.19 ... Regional Council, from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

According to the development charges page on York Region's website:

Deferral Options

Developers can defer payment for some types of development by providing a Letter of Credit for the full amount due. Payment(s) will be deducted from the Letter of Credit. ...

High-Rise Condominium Developments

Payment will be deducted from the Letter of Credit at whichever of the following comes first:

- *18 months after the building permit is issued*
- *When the condominium is registered*

Town of Newmarket

The Town of Newmarket DC By-law 2014-42 states that:

3.11 ..., Council, from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

Section 7.3.7 xiii. of Newmarket Urban Centres Secondary Plan says:

Development that incorporates certain sustainability measures may qualify for deferral of Development Charges in accordance with the Policy for Deferral of Payment of Development Charges and Planning Application Fees in the Yonge/Davis and Regional Healthcare Urban Centres as may be amended from time to time.



Development Charge Deferral Request

November 30, 2015

Page 7

The Town of Newmarket's *Policy for Deferral of Payment of Development Charges and Planning Application Fees in the Yonge/Davis and Regional Healthcare Urban Centres* is "intended to stimulate high-rise mixed-use residential and high-rise office uses that implement the objectives and policies of the Official Plan."

Section 6.1 of the policy sets out that:

6.1 Deferral of Development Charges

- 1. This program provides for the deferral of 100 % of the Town's Development Charges for both high-rise mixed-use residential and high-rise office development.*
- 2. The deferral shall be dependent upon the developer providing a Letter of Credit to the Town at the time of the Building Permit issuance to secure payment of the Town's Development Charges.*
- 3. The deferral is in effect for a period of 18 months from the earlier of the issuance of the Building Permit or registration of the condominium.*
- 4. The Letter of Credit shall be drawn or the Development Charges shall be paid on or before the date that is equivalent to the earlier of the 18 months after the issuance of the Building Permit or registration of the condominium.*

Section 6.2 also sets out DC deferral for development that meets the Development Criteria in section 6.2.1.

City of Hamilton

City of Hamilton DC By-law 14-153 states that:

Prepayment or Deferral Agreements

- 31. (a) Save as otherwise specified in this By-law, and for non-residential development, a residential facility or an apartment development only, the General Manager of Finance and Corporate Services may authorize in writing, in accordance with section 27 of the Act, an agreement with a person to permit, on such terms as the General Manager of Finance and Corporate Service may require, including the payment of interest by such person, and for a term no longer than five (5) years, the payment of the development charge before or after it is otherwise payable under this By-law.*



Development Charge Deferral Request

November 30, 2015

Page 8

The Region and City Have Granted Deferrals in the Past

Region of Waterloo DC Deferrals

A Region of Waterloo staff report, "Request to Defer Regional Development Charges by GSP Group", dated October 27, 2015, noted that the Region has only approved deferrals in the past under special circumstances.

However, a deferral that allows a development to proceed that could not without the deferral is a "win-win" for both the Region and the developer:

- A deferral allows the developer to obtain construction financing and proceed with the development; and
- A deferral, by allowing the project to proceed, provides the Region with significantly more DC funding for their capital plans.

City of Waterloo DC Deferrals

Recent City of Waterloo staff reports dated April 15, 2013 and May 13, 2013, discussed a request made by Alfred Haenchen Co-Operative Homes Inc. and similar requests in the past.

- Alfred Haenchen Co-Operative Homes Inc. (2013): Council approved staff recommendation of DC deferral for the proposed development of five new affordable housing rental units. The deferral was then replaced with a grant equivalent to the amount of the development charges.
- Jameshill Development Ltd. (2010): a private development of an apartment building consisting of 72 units. Staff recommended deferral of development charges, and Council approved staff's recommendation. However, the development did not end up being built.
- Waterloo Synchronized Swimming Club (2010): a not-for-profit organization developing a 13,000 ft² facility to replace their existing 5,000 ft² location. Staff recommended deferral of development charges not exceeding 180 days, and Council approved staff's recommendation.
- Supportive Housing of Waterloo (2009): a non-profit charitable organization developing a 30-unit apartment building. Staff recommended deferral of development charges not exceeding 365 days. Council approved that the City would provide a \$210,030 grant to cover development charges.



Development Charge Deferral Request

November 30, 2015

Page 9

- NEWO Holdings Limited (2009): a private development of a 49-unit seniors apartment. Staff recommended deferral of development charges, and Council approved staff's recommendation.

Economic Benefits of Proposed Development

Construction-Related Employment

Based on modelling by Altus Group Economic Consulting¹, the proposed development would generate 582 person-years of employment directly in the construction of the development.

The construction of the development would also generate significant employment indirectly in businesses and services that provide materials and services to the construction industry. The estimated indirect impact is 419 person-years of employment. Combined, the development would generate 1,001 person-years of employment.

Permanent Employment in Ground Floor Commercial Space

Based on the employee density assumption used in the *City of Waterloo 2012 Development Charge Background Study*, there would be one job for every 400 ft² of retail space, or one job per 37 m². The proposed development with 2,250 m² of ground floor commercial (retail) would accommodate approximately 61 jobs.

Retail Spending by New Households

The residents of the proposed residential units will help support local retail stores and businesses. Annual spending on goods and services by the new residents are estimated to be \$28 million per year upon full occupancy.

Annual Property Taxes

It is estimated that the proposed development would generate approximately \$182.7 million in residential assessment and \$11.1 million in non-residential assessment.

¹ Construction cost estimates are based on Altus Group Cost Guide 2015 for Tri-City (Cambridge, Kitchener, Waterloo). Employment estimates are calculated based on the Ontario Input-Output Provincial Multipliers, 2010, indexed to 2015 using Statistics Canada price indexes.



Development Charge Deferral Request

November 30, 2015

Page 10

At full build-out, the 600 new apartment units and the ground floor commercial space would generate approximately \$715,000 per year in annual tax revenues for the City and approximately \$1,257,000 per year in annual tax revenues for the Region. The development would also generate approximately \$488,000 per year for education purposes.

The Region and City could choose to use this additional assessment value to offset any necessary tax increases, or potential to lower the tax bills of existing residents and businesses. Over the past four years, Regional tax increases have averaged 2.4% per year, while City tax increases have averaged 1.6%. Additional tax assessment being brought to the Region and City can help mitigate future tax increases, or help the Region and City afford the expansion of programs and services without having as significant of an impact on the taxes paid by existing residents and businesses.



Regional Municipality of Waterloo

Audit Committee

Minutes

Wednesday, November 25, 2015

5:32 p.m.

Room 218

150 Frederick Street, Kitchener, Ontario

Present were: Chair S. Strickland, T. Galloway, G. Lorentz, K. Redman* and K. Seiling

Declarations of Pecuniary Interest under the “Municipal Conflict of Interest Act”

None declared.

Reports

CAO-IAU-15-08, Update Regarding Internal Audit and Corporate Performance

Mike Murray, Chief Administrative Officer, introduced the report.

In response to a Committee question about the options for the Region to implement a cashless payment system for licensing, Craig Dyer, Commissioner Corporate Services/Chief Financial Officer, advised that staff can investigate options and report back.

Received for information

COR-FSD-15-21, 2015 Year-End Audit Plan

C. Dyer introduced the report, highlighting the timelines for the audit of the Region's 2015 Financial Statements and the additional series of audits to be undertaken. He confirmed that the Light Rail Transit (LRT) project will be part of the 2015 audit and noted that the audit of the Federal Gas Tax Transfer has been removed from the list as it is no longer required.

2014457

* K. Redman joined the meeting at 5:37 p.m.

Elaine Read, Deloitte LLP, summarized the two LRT audits that will be conducted: a financial audit and a compliance audit.

C. Dyer and M. Murray responded to a Committee question about the reporting process once the audits have been completed.

Received for information

Presentations

E. Read and Adam Cross, Deloitte LLP, presented an overview of the Region of Waterloo 2015 Audit Service Plan.

E. Read summarized the scope and objectives of the audit. She stated that new components of the consolidated audit will include the new PS 3260 Liability for Contaminated Sites standard and the Region of Waterloo Community Housing Inc.

Peter Holling, Manager, Accounting and Supply Services, responded to questions during the Committee's discussion about the new PS 3260 Liability standard as it relates to Regionally-owned contaminated sites. He stated that the liability relates only to sites and properties that are not in active use A. Cross added that landfill sites are exempt from this standard.

A. Cross outlined the areas of audit risk that have been identified and will be reviewed during the audit.

E. Read summarized the risks of fraud and sought feedback from the Committee about any concerns; the Committee expressed no concerns. The members asked questions about the practices, controls and policies related to construction contracts and payroll.

Jane Albright, Commissioner, Human Resources and Citizen Service, responded to Committee questions about Regional policies for staff to report wrongdoing that may be occurring within the organization; a copy of the policy will be included on the next meeting agenda for information.

Next Meeting – April 26, 2016

Adjourn

Moved by G. Lorentz

Seconded by T. Galloway

That the meeting adjourn at 6:06 p.m.

Carried

Committee Chair, S. Strickland

Committee Clerk, S. Natolochny



Report: COR-TRY-15-111

Region of Waterloo

Corporate Services

Treasury Services

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: December 8, 2015

File Code: F22-00

Subject: **Property Tax Capping – Program Changes**

Recommendation:

For Information

Summary:

The Province has recently announced some proposed enhancements to the property tax capping program which, subject to the passing of enabling legislation, will be effective for 2016. The enhancements will provide municipalities with greater flexibility to accelerate progress towards current value assessment level taxes and to exit or phase-out from the capping program under specific conditions. This report outlines the changes and the potential impacts for the Region of Waterloo.

Report:

1.0 Background

Provincial legislation requires upper tier and single tier municipalities to protect Ontario businesses from large property tax increases. The capping program, which was introduced in 1998 as a temporary measure, protects commercial, industrial and multi-residential property classes from tax increases arising from property tax reform through a “cap” or limits on tax increases. Municipal budget increases are in addition to the cap provided certain conditions are met. The legislation provides municipalities with a number of options for setting the annual capping program and funding the limits on tax increases. Program options must be approved annually or a default capping program will apply.

The program options and flexibility provided by the Province assist municipalities in moving properties towards their full current value assessment (CVA) taxes and the Region has taken advantage of these options and made significant progress towards achieving this goal. For 2015, only 5.7% of properties remained in the capping program. Province wide, slightly more than 10% of business properties remained in the capping program.

Many municipalities, including the Region of Waterloo and the Area Municipalities, feel the Province should provide municipalities with options for exiting the capping program particularly in view of the fact that there are currently two mitigation strategies in place, capping and the four year reassessment phase-in, when only one is required. The Region most recently requested the Province to provide municipalities with options for exiting the capping program through its submission to the Ministry of Municipal Affairs and Housing's review of the Municipal Act (Report PDL-LEG-15-71; PDL-CAS-15-10; COR-TRY-15-96 dated October 6, 2015).

2.0 Recent Provincial Developments

On November 19th, the Province announced planned legislative changes relating to the property tax capping system. The changes are a direct result of a government initiated review of the capping program and municipalities' requests for changes to the program. The Province has proposed changes which would "provide the framework for increased municipal flexibility to accelerate progress to CVA level taxes and to exit or phase-out from the program under certain conditions."

The changes, which would begin in 2016, would allow municipalities to increase the annual cap on previous year's CVA taxes from 5% to a new maximum of 10% and to move properties directly to their CVA level taxes if they are within \$500 of the CVA taxes – a doubling of the current \$250 threshold. The proposed changes do not include any modifications to the current 10% cap on previous year capped taxes.

The following table summarizes the proposed changes:

	CVA Taxes	Capped Taxes	Thresholds
Current Maximum	5%	10%	± \$250
Proposed Maximum	10%	10%	± \$500

The Region's chosen capping program for the past several years has established the tax increase or "cap" at the greater of 10% of previous year annualized capped taxes or 5% of previous year CVA taxes and has included thresholds of \$250 applicable to both capped and claw back properties. Under the 2015 capping program, capping costs

were \$486,183 and a total of 490 of 8,367 business class properties were impacted by capping. Had the proposed capping program changes been in place for 2015, capping costs would have been \$429,840 and a total of 376 properties (114 fewer) would have been affected.

The following table summarizes the impacts of the proposed changes had they been in effect for the 2015 capping program:

	2015 Capping Program	2015 Capping Program + Proposed Changes	Change
<u>Multi-Res</u>			
Capping Costs	\$35,231	\$34,476	(\$755)
Clawback %	36.12%	TBD	--
Properties Capped	10	8	(2)
Properties Clawback	25	20	(5)
<u>Commercial</u>			
Capping Costs	\$236,609	\$208,043	(\$28,566)
Clawback %	25.69%	TBD	--
Properties Capped	64	55	(9)
Properties Clawback	194	131	(63)
<u>Industrial</u>			
Capping Costs	\$214,343	\$187,321	(\$27,022)
Clawback %	26.30%	TBD	--
Properties Capped	49	33	(16)
Properties Clawback	148	129	(19)
Total Capping Costs	\$486,183	\$429,840	(\$56,343)
Total Properties Impacted	490	376	(114)

Until the Ontario Property Tax Analysis (OPTA) system is programmed for the proposed changes, it is difficult to determine what the clawback percentages would have been if the proposed program changes had been implemented for 2015. However, it is likely that clawback percentages would increase with a decreasing number of clawback properties.

In addition to the changes noted above, municipalities that meet certain criteria would be given the option to exit or phase-out from the capping program. A municipality would be eligible for a four year phase-out from the capping program once it has no capped properties beyond 50% of CVA level taxes in a property class. Municipalities with no

properties currently remaining in the capping program could exit the program immediately. Similar to other capping program options, the proposed enhancements would apply to any or all of the three business property classes.

Based on the 2015 property data and the proposed changes, the Region would not yet be eligible to phase-out or exit the capping program as 22 properties would still have taxes that are beyond 50% of CVA taxes. The 22 properties include 2 in the multi-residential class and 10 in each of the commercial and industrial property classes.

3.0 Next Steps

The proposed enhancements to the property tax capping program will be enacted through Bill 144, the Budget Measures Act, 2015. While the exact date for the passage of Bill 144 is not yet known, third reading of Bill 144 is scheduled for December 8, 2015 and the Bill amendments and corresponding regulations are proposed to be implemented for the 2016 tax year. Finance staff will analyze the impacts of the proposed changes on 2016 property data and incorporate the changes into the proposed 2016 capping program which will come before Committee next spring.

Corporate Strategic Plan: Nil

Financial Implications:

Under the Region's approved capping program, capping costs are funded by limiting tax decreases for other properties in the same class (commercial, industrial or multi-residential) such that there is no impact on the residential taxpayer and no impact on the total amount of property taxes collected.

Other Department Consultations/Concurrence: Nil

Attachments

Attachment 1 – November 19th Letter from Ministry of Finance

Prepared By: Angela Hinchberger, Director of Treasury Services/Deputy Treasurer

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer

Attachment 1

Ministry of Finance
Provincial-Local
Finance Division
10th Floor
777 Bay Street
Toronto ON M5G 2C8
Tel (416) 327-0264
Fax (416) 325-7644

Ministère des Finances
Division des relations provinciales-
municipales en matière de finances
10^e étage
777, rue Bay
Toronto (Ontario) M5G 2C8
Tél. : 416 327-0264
Télééc. : 416 325-7644



RECEIVED

NOV 24 2015

FINANCE DEPARTMENT

November 19, 2015

Dear Municipal Treasurer/Clerk-Treasurer,

I am writing to advise you of decisions related to municipal flexibility within the property tax system, as well as a number of recent proposed legislative amendments relating to property tax and the Request for Reconsideration process.

Business Property Tax Capping

As you know, the capping program was originally introduced in 1998 as temporary measure to mitigate tax changes resulting from the implementation of current value assessment (CVA). Significant progress has been made in terms of increasing municipal flexibility to accelerate progress towards CVA level taxes under the capping program. However, many stakeholders have continued to raise concerns about the program's ongoing tax inequities, the need for a municipal opt-out, and have criticized it as being redundant given the mitigation provided through the four-year assessment phase-in.

In 2015, slightly more than 10 per cent of business properties province-wide remained in the capping program, compared to nearly 90 per cent in 2004. In light of the continued inequities for some properties, the government initiated a review of the capping program, which included meetings with a Municipal Reference Group and a Business Reference Group. Through this review, many municipal and business stakeholders have requested changes to the capping program that would further enhance fairness and transparency for property owners.

In response to these requests and building on past progress, the Province is now proposing additional enhancements to the capping program through Bill 144, the *Budget Measures Act, 2015*. The proposed enhancements would provide the framework for increased municipal flexibility to accelerate progress to CVA level taxes and to exit or phase-out from the program under certain conditions.

Beginning in 2016, municipalities would be able to increase the annual cap from its current level of 5% of previous year's CVA level taxes up to a new maximum of 10%. In addition, municipalities would be provided the flexibility to move properties directly to

CVA level taxes if they are within \$500 of CVA level taxes - up from the current \$250 threshold. The annual cap of up to 10% of previous year's taxes would be maintained.

Proposed Changes to Capping Program Parameters

	CVA Taxes	Threshold
Current Maximum	5%	±\$250
Proposed Maximum	10%	±\$500

Municipalities that meet certain eligibility criteria established by the Province would also be given the option to exit or phase-out from the capping program, if doing so would have a limited impact on business properties. A municipality would be eligible for a four-year phase-out from the capping program once it has no capped properties beyond 50% of CVA level taxes in a property class. Municipalities with no properties currently remaining in the capping program would be eligible to exit the program immediately.

These new proposed flexibility measures would enable municipalities to adjust the capping program to best suit their local circumstances, and also address the potential for inequities and economic distortions that may result from the program.

Municipalities would be able to apply these options to all business property classes, or limit options to individual business property classes. The adoption of any of these measures is a municipal decision and would be enacted through a municipal by-law. As such, municipal staff would need to be able to explain the implications of their capping program parameter recommendations to their respective Councils. Municipalities would also need to be able to explain any associated tax impacts to individual business taxpayers, just as they have in the past with other municipal tax policy decisions.

As you know, the provincially-funded Online Property Tax Analysis (OPTA) system provides a number of tools and reports to assist municipalities with property-level tax analysis. OPTA will be updated for 2016 to reflect the proposed capping program enhancements, allowing municipalities to analyse the proposed measures in the context of their own local circumstances. Municipal staff are encouraged to use OPTA to examine the potential tax impacts for businesses when considering the proposed measures.

Tax Ratio Flexibility

For 2016, municipalities will continue to be provided with tax ratio flexibility that has been provided in previous reassessment years. This will allow municipalities to avoid tax shifts that may occur between property classes as a result of phased-in reassessment impacts.

Municipalities will continue to have the option to reset their own transition ratios based on the prescribed formula set in regulation. Worksheets for the calculation of new transition ratios are available through the OPTA system, or by contacting the Ministry of Finance. Municipalities must provide ratios and calculations to the Province for verification.

Ministry staff will work with OPTA to ensure that any new ratios calculated within OPTA are consistent with the regulated formula. As a result, ratios submitted through OPTA will be automatically verified.

Modified Levy Restriction

Also for 2016, municipalities with property classes subject to the levy restriction will continue to have the flexibility to apply a municipal tax increase to those classes of up to 50% of any increase applied to the residential class. For instance, a municipality levying a 2 per cent increase in residential taxes could raise taxes on any restricted class by up to 1 per cent.

This will give municipalities the ability to share the burden of any municipal tax increases among all taxpayers while continuing to reduce the municipal taxation gap between business and residential property taxpayers.

Notification will be provided when regulations implementing all of the above property tax policy decisions have been enacted.

Request for Reconsideration Process

In 2016, the Municipal Property Assessment Corporation (MPAC) will begin issuing assessment notices for the province-wide reassessment several months earlier than previous reassessments, and in a staggered fashion, in order to provide early disclosure of assessed values and enable the timely resolution of assessment concerns.

To complement MPAC's plans, through Bill 144, the *Budget Measures Act, 2015*, the Province is also proposing improvements to the Request for Reconsideration (RfR) process to standardize timelines and support the early resolution of assessment issues. Starting with the 2016 province-wide reassessment, the deadline for a property owner to file an RfR with MPAC in a reassessment year would be 120 days after the notice of assessment is issued. In addition, MPAC would be required to respond to the RfR within 180 days of the request being made (with a possible 60-day extension if MPAC notifies the property owner that an extension is necessary).

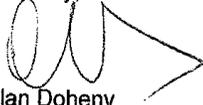
In the context of MPAC's plans to issue assessment notices earlier and in a staggered fashion for the 2016 reassessment, the proposed changes are designed to create a more equitable process, as the amount of time to file RfRs would be standardized at 120 days for all property owners. The proposed changes would also support the earlier resolution of assessment issues, which was a recurring theme during consultations on the implementation of the Special Purpose Business Property Assessment Review recommendations.

Should you have questions or require further information regarding the proposed changes to the RfR process, please contact Carolina Torres, Manager, Assessment Policy Unit at 416-325-4754 or Carolina.Torres@ontario.ca.

If you have any questions related to the capping program, tax ratio flexibility or the modified levy restriction, please contact Andrea Chow, Manager, Property Tax Policy Unit at 416-327-0252 or Andrea.Chow@ontario.ca. Should you have any question concerning the OPTA system, please contact the OPTA help desk at 416-591-1110 or 1-800-998-5739, ext 300.

We look forward to continuing to work in partnership with municipalities to ensure a strong Ontario property tax and assessment system.

Sincerely,



Allan Doheny
Assistant Deputy Minister
Provincial Local Finance Division

Council Enquiries and Requests for Information				
Administration and Finance Committee				
Meeting date	Requestor	Request	Assigned Department(s)	Anticipated Response Date
24-Mar-15	T. Galloway	Report on options and impacts regarding blending Multi-Residential and New Multi-Residential property classes.	PDLS/COR (Finance)	Feb-2016
17-Nov-15	S. Strickland	Report on options related to collaboration between WRTMC and the local private sector, particularly with respect to a destination marketing fee.	PDLS (Cultural Services)	Apr-2016