



Regional Municipality of Waterloo

Administration and Finance Committee

Minutes

Tuesday, January 12, 2016

11:01 a.m.

Regional Council Chamber

150 Frederick Street, Kitchener

Present were: Chair S. Strickland, L. Armstrong, E. Clarke, D. Craig, S. Foxton, T. Galloway, D. Jaworsky, K. Kiefer, G. Lorentz, J. Mitchell, J. Nowak, K. Redman, K. Seiling, S. Shantz and B. Vrbanovic

Members absent: H. Jowett

Motion to go into Closed Session

Moved by K. Redman

Seconded by K. Kiefer

That a closed meeting of the Planning and Works and Administration and Finance Committees be held on Tuesday, January 12, 2016 at 9:00 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) receiving of advice subject to solicitor-client privilege related to an agreement
- b) potential litigation and receiving of advice that is subject to solicitor-client privilege related to an agreement
- c) receiving of advice subject to solicitor-client privilege and proposed or pending acquisition of land in the Township of Woolwich
- d) receiving of advice subject to solicitor-client privilege related to an agreement and labour relations regarding a collective agreement
- e) receiving of advice subject to solicitor-client privilege related to a contract

- f) personal matters about identifiable individuals regarding committee appointments
- g) receiving of advice that is subject to solicitor-client privilege related to a contract
- h) potential litigation and receiving of advice that is subject to solicitor-client privilege related to a contract
- i) personal matters about identifiable individuals regarding committee appointments
- j) personal matters about identifiable individuals regarding committee appointments

Carried

Motion to Reconvene into Open Session

Moved by K. Kiefer

Seconded by E. Clarke

That the Committee reconvene into Open Session.

Carried

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

None declared.

Public Hearing of Development Charges Complaint under Subsection 20(4) of the “Development Charges Act”, 1997

COR-FSD-16-01, Development Charges Complaint – 3S Realty Inc. – 14 Donway Crt., Elmira, Township of Woolwich

Opening Address – Region of Waterloo

Cathy Deschamps, Director, Financial Services and Development Financing, provided opening remarks.

Richard Brookes, Solicitor, provided an overview of the process related to development charges complaints per the provincial legislation. He outlined the residential and non-residential rates and the special category of ‘non-residential – industrial’, noting the reasons for establishing the special category when the Regional Development Charges (RDCs) by-law was approved in August 2014.

R. Brookes summarized the details of the complaint received from 3S Realty Inc. and noted that the RDC rate for one unit, leased to Shelf Shop, fell within the Region’s by-2046959

law definition for 'industrial'. He advised that the RDCs were re-calculated for that unit based on review of the lease provided by the complainant. He outlined the complainant's view that if a portion of the building is industrial, all units should be calculated at the industrial rate. He advised that the Region's position is that the onus is on the complainant to satisfy that all units are industrial; he summarized the staff interpretation and response to the complainant. He added that the Region has the ability to apportion a part of the building and that Shelf Shop is clearly industrial but the other two (2) units are not.

Opening Address – 3S Realty Inc.

Chane Ballantyne, President, 3S Realty Inc., outlined his position on the RDCs calculated, noting that he was unable to find a reference in the RDC by-law related to the apportion option. He stated that he believes the whole building should be classified as industrial and added that Woolwich Township staff agreed with his position. He advised that if he is not successful with his complaint, he will appeal to the Ontario Municipal Board (OMB).

The Committee discussed the challenges of determining the appropriate RDC rate when a landlord is involved and when the use of the building is not clear at the time of applying for a building permit. The Committee also noted the potential for confusion when the Region and Area Municipalities (AMs) use differing definitions.

Mr. Ballantyne advised that his building is located in Zone M6 and that the Township charges him industrial rates. He also stated that his building has a 51/49 split with industrial use.

Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer, stated that there is no mechanism to re-calculate RDC rates if the building use changes after the permit has been issued. He noted that when permits are applied for, the onus is on the applicant to show the use of a building. He added that prior to August 2014, there wasn't a different rate for industrial use. He also clarified that development charges are not related to property taxes; the Municipal Property Assessment Corporation (MPAC) determines the rate based on the activity and the Region and local AMs assess tax rates accordingly.

In response to Mr. Ballantyne's concern that there is no reference to how the portion is split or calculated in the RDC by-law, R. Brookes stated that the word 'portion' is in the by-law but the discussion is dealing with the definition of 'portion' and not the calculations. He added that the by-law calculates by square footage and deals with mixed use for RDCs.

C. Dyer responded to Committee questions about the Region's history with mixed use rates and the definition differences between the Region and the AMs. He reaffirmed that the intent of the industrial category is to attract development in the Region. He also responded to a Committee question about a mechanism to re-calculate the RDC if the first lease is for industrial use.

Debra Arnold, Director, Legal Services/Regional Solicitor, responded to a Committee question about the legal requirements to establish a re-calculation mechanism.

The Committee continued its discussion about the ability to make adjustments for re-calculation, clarity of issues for future RDC by-law review and the potential for greater alignment of zoning definitions by the Region and the AMs.

Closing Address – Region of Waterloo

R. Brookes stated that the RDC by-law is a taxing by-law and that the onus is on the complainant to take the appropriate actions when an application is made for the building permit. He reminded the Committee that the zoning issue is irrelevant in the review of this RDC complaint.

Closing Address – 3S Realty Inc.

C. Ballantyne summarized his position by stating that he has to conform to the Township's industrial zoning definition, and as such, he feels that the RDC calculations should be at the industrial rate for his entire building.

Chair Strickland reminded the Committee that the issue at hand today is whether the RDC by-law has been applied correctly.

Moved by T. Galloway

Seconded by E. Clarke

That the Regional Municipality of Waterloo dismiss the Complaint of 3S Realty Inc., dated November 13, 2015, attached as Appendix "B," in regards to the Regional Certification of Development Charges WOO-0014-15, pursuant to Report COR-FSD-16-01, dated January 12, 2016.

Carried

Chair Strickland advised Mr. Ballantyne that he will receive a Notice of Decision and that he has the right to appeal to the OMB.

Request to Remove Items from Consent Agenda

No requests were received to remove items from the Consent Agenda.

2046959

Motion to Approve Items or Receive for Information

Moved by K. Redman

Seconded by J. Mitchell

That the following item be received for information:

- **HRC-CIT-16-01**, Region of Waterloo Accessibility Plan 2015 Status Report

Carried

Regular Agenda Resumes**Reports – Corporate Services****COR-FSD-16-02**, Development Charges Act Amendments and Proposed Next Steps

C. Dyer summarized the options as noted in the report and highlighted the preferred option of a scoped Background Study to deal with transit and waste diversion. He added that Hemson Consulting Limited can complete the Background Study work and that an amended by-law could be prepared for passage in September 2016.

The Committee expressed its disappointment with the legislation and the additional reporting requirements. There was agreement that opportunities for providing feedback to the Province should be sought out. The Committee agreed that a new by-law is unnecessary at this time.

Moved by T. Galloway

Seconded by K. Seiling

That staff be directed to undertake a Development Charges Background Study for Transit and Waste Diversion as set out in Report COR-FSD-16-02;

And That the 2016 capital budget for the Regional Development Charges By-law Review be increased by \$75,000 to be funded from Regional Development Charges Reserve Funds (90%; \$67,500) and the Capital Levy Reserve Fund (10%; \$7,500) and that this recommendation be forwarded to Budget Committee;

And Further That the Regional Municipality of Waterloo appoint the chairs and vice-chairs of both the Administration & Finance Committee and the Planning & Works Committee to the 2016 Regional Development Charges Steering Committee.

Carried

Information/Correspondence

Council Enquiries and Requests for Information Tracking List was received for information.

Other Business

K. Redman requested that attention be given to ensuring that the RDC by-law has clear language when the next by-law review takes place.

Next Meeting – February 2, 2016**Adjourn**

Moved by K. Kiefer

Seconded by S. Foxton

That the meeting adjourn at 12:05 p.m.

Carried

Committee Chair, S. Strickland

Committee Clerk, S. Natolochny