



Corporate Services

Prepared for: Council-in-Committee

Report: CS-03-2024

Meeting Date: May 13, 2024

1. Title

2023 Development Charges Reserve Fund Status

2. Recommendations

That: Council receives Report CS-03-2024 regarding the 2023 Development Charges Reserve Fund Status, for information purposes.

3. Relation to Council's Corporate Strategic Plan

Priority: Sustainable and managed growth
Initiative: 3.1.3 and 3.1.4

4. List of Stakeholders

- Town of Fort Erie Ratepayers
- Developers, Niagara Home Builders Association
- Owners of vacant land, pending development

5. Purpose of Report

The purpose of this report is to provide Council with the annual statement reporting transactions affecting the Development Charges Reserve fund as required by the *Development Charges Act* and Ontario Regulation 82/98.

6. Analysis

Development Charges (DC) recover growth-related capital expenditures from new development. The *Development Charges Act* (the "DC Act") is the statutory basis to recover these charges. Bill 73, Smart Growth for Our Communities Act came into effect January 1, 2016 and amended the DC Act and *Planning Act*. The contents of the treasurer's financial statement under section 43 of the DC Act require the following:

- The report be made available to the public;
- Submit the report to the Minister of Municipal Affairs and Housing only when requested

- by the Minister;
- Identify all assets whose capital costs were funded with DC, and for each asset, identify capital costs which were funded by other sources; and
- Include a statement as to the municipality's compliance in not imposing, directly or indirectly, a charge related to a development, except as permitted.

A DC Background Study contains the underlying information supporting DC rates and policies. The Study identifies eligible capital projects and restricts the amount to the proportion related to growth. The Study was completed in 2018 and was adopted March 18, 2019 by By-law No. 47-2019 as amended and approved pursuant to the Order/Decision of the Local Planning Appeal Tribunal issued July 17, 2020 in Case No. DC190006 and repealed By-law No. 43-2014. The existing DC By-law expired March 18, 2024.

On January 29, 2024 Council approved the 2023 DC Background Study, dated November 21, 2023, as amended. Additionally, on March 4, 2024 Council approved the corresponding by-laws. The new DC Study and rates will not have an impact on these reporting results.

7. Financial, Staffing and Accessibility (AODA) Implications

During 2023, the Town collected \$1,735,947 (2022 - \$3,928,429) in DCs. Residential construction includes urban, non-urban, apartments and multiples and contributed 97.64% of this revenue at \$1,695,008 with the remaining \$40,939 from commercial development. The revenues earned are apportioned to each service area in accordance with the technical data contained in the 2018 DC Background Study.

2023 DC collections above were 61% less than the \$4.4 million budget and were 56% lower than the \$3.9 million received in 2022. The decrease in collections is consistent with year end development activity in Report PDS-27-2024 noting permits were issued for 133 new residential units with a total residential build value of \$83.7 million.

The reserve earned \$868,096 in 2023 from bank and investment income. Capital projects funded from the reserve totalled \$0.9 million and included Douglas Park Revitalization, Neighbourhood Parks Enhancement, Sugarbowl Park Splashpad, Albany Street, King Street and Thunder Bay Road upgrades and Townline Road Servicing Study. The reserve also funded growth-related debt service costs for Thompson Rd, Frenchman's Creek and Garrison Rd totalling \$279,105. DCs covered operational library expenses amounting to \$20,000, alongside funding various studies, such as Community Benefit Charges (CBC), DC, Secondary Plan, and Official Plan, totaling \$95,425. The uncommitted balance as at December 31, 2023 was \$17,502,509.

The initial balance in Appendix 1, previously reported as \$19,925,733 in the 2022 DC Reserve Fund Status Report No. CS-03-2023, has been revised to \$19,654,873. This adjustment reflects the transfer of \$157,968 from the Transit DC funds due to the amalgamation of transit services into the Niagara Transit Commission effective January 1, 2023. Moreover, under Bill 197, parking is no longer considered a qualified service for DC collection. However, the CBC permits parking fees to be included as eligible charges. Report PDS-53-2023 approved the establishment of a CBC reserve and the transfer of Parking DC funds into the CBC reserve.

Beginning in 2023, Bill 23 required municipalities to spend or allocate at least 60 per cent of the

monies that are in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. The Town has allocated in excess of 60 per cent of the reserve fund for services related to these services to eligible projects through 2023 and prior year approved commitments as well as the 2024-2033 capital forecast.

Bill 109, the *More Homes for Everyone Act, 2022* introduced the annual requirement of municipalities to review each service for which a DC is collected, and state whether the municipality expects to incur the amount of capital costs that were estimated in the relevant DC Study to be incurred during the term of the DC by-law. If the amount of capital costs is no longer expected, an explanation is required. The Town does expect to incur the capital costs identified for each service in the 2019 DC Study.

Discretionary Exemptions

There are a variety of discretionary exemptions available under section 3.8 of the current DC by-law including industrial purposes, Brownfields Community Improvement Plan (CIP), affordable housing, agricultural uses, and second dwelling units. However, according to section 5(6)3 of the DC Act, "if a DC by-law exempts a certain type of development or implements a lower DC than what is permitted, any resulting shortfall cannot be compensated for by increasing the DC for other types of development". Consequently, any revenue loss resulting from a DC discretionary exemption or phase-in must be funded through non-DC sources such as property taxes. The Town 2023 budget did not allocate funds for discretionary exemptions, and costs have historically been covered by any unbudgeted General Levy surplus in accordance with Budget Policy. This information can be found in Appendix 1 in the "Transfers from Levy" section. The following are the 2023 discretionary exemptions totaling \$1,902,179.

a) Industrial

Council approved an Industrial DC rate of zero through Report No. CDS-24-2014 on March 24, 2014. This was supported again in the 2019 DC Study. Eleven industrial building permits were issued in 2023 that were eligible for DC and a total of \$1,695,777 was forgone based on the commercial rate.

b) Brownfields Community Improvement Plan

Council approved By-law No. 109-10 in 2010 to adopt a Brownfields CIP. Section 5.6 created a Brownfields DC Exemption Program to promote Smart Growth and redevelopment on brownfield sites by providing a major economic catalyst in the form of an upfront reduction of the DCs. The program provides a financial incentive in the form of a 75% reduction of Town DC's payable equal to the cost of environmental remediation approved under the Brownfields Rehabilitation Grant Program. For 2023, there were no forgone DCs related to this program.

c) Other

17 permits were provided with other exemptions totaling \$206,403 as summarized in the table

below:

By-law Section	Type	Permits issued	Exemption Amount
3.8 (c)	Agricultural uses	2	\$77,636
3.8 (d)	Secondary dwelling units	8	\$93,396
3.8 (e)	Institutional	7	\$35,371
Total		17	\$206,403

The exemptions above do not cover the time and effort spent by staff to calculate and monitor the exempted amounts for reporting purposes and to ensure any lost revenue is compensated. Bill 23 introduced several new exemptions, highlighted in Report No. PDS-73-2022. Staff have assessed the cost-benefit analysis of these and other discretionary exemptions to comprehend and mitigate the taxpayer burden of supporting growth. This led to the approval of the recent Industrial DC Grant Program through By-law 24-2024 on February 26, 2024.

The Town does not have any rate freeze permits relating to Section 26.1 & 2 of the DCA as of December 31, 2023.

8. Policies Affecting Proposal

By-law No. 136-2023 adopted Council's 2023-2026 Corporate Strategic Plan.

By-law No. 47-2019, as amended, approved DCs pursuant to the Order/Decision of the Local Planning Appeal Tribunal issued July 17, 2020 in Case No. DC190006.

Development Charges Act, 1997, as amended including Bill 23, More Homes Built Faster Act, 2022

Ontario Regulation 82/98, as amended

By-law No. 109-10 adopted the Brownfields Community Improvement Plan (CIP). The DC reduction requirements are in the Town's DC By-law.

By-law No. 110-2022 adopted the Development Charges Interest Policy, as amended.

By-law No. 111-2022 adopted the Development Charges Payment Deferral Policy, as amended.

Niagara Region DC By-law No. 2022-71 and By-law No. 2022-94 (Transit)

9. Comments from Departments, Community and Corporate Partners

The Treasurer is required to prepare a financial statement on the DC Reserve fund with prescribed information, make the statement available to the public, and to forward the Treasurer's statement to the Minister of Municipal Affairs and Housing upon request.

The Town is in compliance with the requirements of Section 59.1 (1) of the "DC Act" for the year ended December 31, 2023 which states that:

“A municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development, except as permitted by this Act or another Act. 2015, c. 26, s. 8.”

10. Alternatives

This report must be provided annually to meet the requirements of the “DC Act”.

11. Communicating Results

The “DC Act” requires that the statement be made available to the public. The Report is posted on the Town’s website under Government on the “Agendas and Minutes” page.

12. Conclusion

The DC Reserve fund had an uncommitted balance of \$17.5 million as at December 31, 2023. This report provides the annual prescribed information for legislated requirements.

13. Report Approval

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Approved by:
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Chief Administrative Officer

14. Attachments

Appendix 1 – DC Reserve Fund for By-law No. 47-2019, as amended
Appendix 2 – List of assets approved to be funded by Development Charges for 2023
Appendix 3 – Description of services for which fund was established to recover growth-related cost