

Town of Whitby Staff Report

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Report Title: Annual Statement of Development Charge and Parkland Dedication Cash-in-Lieu Reserve Funds as of December 31, 2023

Report to: Committee of the Whole

Date of meeting: June 10, 2024

Report Number: FS 16-24

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner of
Financial Services / Treasurer

**Acknowledged by M. Gaskell, Chief
Administrative Officer**

For additional information, contact:

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1. Recommendation:

1. That Report FS 16-24, the Annual Statement of Development Charge and Parkland Dedication Cash-in-Lieu Reserve Funds as of December 31, 2023, be received for information.

2. Highlights:

- This report provides statutory statements and information related to the Town of Whitby's Development Charge ("DC") Reserve Funds, and Parkland Dedication Cash-in-Lieu ("Parkland") Reserve Fund.
- As detailed in Attachment 1 of this report, the Town of Whitby's overall DC reserve fund balance decreased by \$5,998,431, from \$183,355,972 on January 1, 2023, to \$177,357,541 by December 31, 2023.
 - The December 2023/January 2024 balance of \$177,357,541 in DC Reserve Funds is not sufficient to fund the \$828,098,788 of capital projects approved in the 2024 and past budgets and the projects, approved by Council, in the Town's ten (10)-year capital forecast (details also available in Attachment 1)

- It is anticipated that the funds to pay for project costs, in excess of December 2023 DC reserve fund balances, will come from future DC collections (and property taxes) as the Town continues to grow. Alternatively, the growth-related capital program will be adjusted to reflect the pace of growth/DC collections.
- A detailed listing of growth related capital projects (including the annual debt repayment for capital projects), that were funded in 2023 is provided in Attachment 2 of this report. In 2023, \$32,039,763 of funding was allocated from the Town's reserve funds to growth-related capital projects as follows:
 - \$24,148,058 transferred from DC Reserve Funds; and,
 - \$ 7,891,705 transferred from non-DC reserves, including property tax-based reserves.
- As summarized in Attachment 3 to this report, the Town's Park Reserve Fund (containing cash-in-lieu of parkland dedication revenues) had an opening balance of \$9,149,755 at the start of 2023 and an ending balance of \$11,444,336 million as of December 31, 2023
 - This represents a net increase of \$2,294,581 due to developer contributions and investment income of \$2,400,324, less capital expenditures of \$105,743 in 2023
 - Of the December 2023/January 1 balance, \$9,870,366 (or 86%) has been committed or allocated to ongoing capital projects already approved and projects in the Town's ten (10)-year capital forecast, approved in principle by Town of Whitby Council as part of the Town's 2024 Budget.

3. Background:

Section 43(1) of the *Development Charges Act, S.O. 1997 (DCA)* states that "The treasurer of a municipality shall each year on or before such date as the council of the municipality may direct, give the council a financial statement relating to development charge by-laws and reserve funds established under section 33. 1997, c. 27, s. 43 (1)." This statement must include:

- The opening and closing balances of the reserve funds including the transactions relating to the funds;
- A listing of all assets whose capital costs were funded under a development charge by-law during the year, and for each asset, the costs not funded under the by-law and the source of other funding;
- A statement indicating compliance with subsection 59.1(1) to not impose directly or indirectly a charge related to a development or a requirement to construct a service to development except as permitted by the DCA or another Act.

For cash-in-lieu of parkland dedication funds, the funds are to be held in a special account and used as permitted under Section 42(15) of the *Planning Act*. In addition, Section 42(17) of the *Planning Act* requires "a council of a municipality that passes a by-law under this section shall provide the prescribed reports and information to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed. 2019, c. 9, Sched. 12, s. 12 (9)."

4. Discussion:

This report provides statutory annual reporting in accordance with the DCA related to the Town's development charges and development charge by-law, and statutory annual reporting on cash-in-lieu of parkland dedication reserves in accordance with the *Planning Act*.

Statutory Annual Statement of Development Charge Reserve Funds

Development Charges are collected from developers to pay for infrastructure, such as roads, new recreational parks and facilities, fire, library facilities, etc. to support growth related to additional population and employment.

Once collected, DCs are allocated to specific DC reserve funds for the each of the growth-related infrastructure service areas in accordance with and the proportions outlined in the Town's DC Background Study.

As growth-related capital projects are approved in the Town's budget and capital projects are started, funds are subsequently drawn from the DC reserve funds to pay or partially pay for capital project expenditures.

As detailed in **Attachment 1** of this report, the Town of Whitby's overall Development Charge (DC) reserve fund balance at the beginning of 2023 was \$183,355,972 and decreased (net) by \$5,998,431 to \$177,357,541 at December 31, 2023. A summary of the net decrease is provided below:

Summary of Change in DC Reserve Funds (Details provided in Attachment 1)	Total
Increase in the DC reserve funds is mainly from DCs collected from Developers and Interest Income	\$18,547,710
Decrease in DC reserve funds relating to draws to fund growth-related capital projects, and repayment of the West Whitby Landowners Group Front Funding Agreement through DC credits, net of the expected recovery from MTO for Rossland Road works.	(\$24,546,140)
Net overall decrease to DC reserve funds	(\$5,998,431)

Attachment 1 of this report also shows \$828,098,788 of the \$177,357,541 (or over 100% of the) ending 2023/beginning 2024 balance of DC Reserve Funds has been committed or allocated to ongoing capital projects already approved and projects in the Town's ten (10)-year capital forecast, approved in principle by Town of Whitby Council as part of the Town's 2024 Budget. This means that the December 2023/January 2024 balance of \$177,357,541 in DC Reserve Funds is not sufficient to fund future growth-

related capital projects. It is anticipated that the funds to pay for project costs, in excess of December 2023 DC reserve fund balances, will come from future DC collections (and property taxes) as the Town continues to grow. However, the timing of future growth-related capital projects will be adjusted accordingly based on the pace of growth, uncommitted balance in the DC reserve (i.e. balance less projects already approved but not yet funded), and projected debt servicing costs.

The legislated changes to the DCA that came into effect on January 1, 2020 included Section 26.1 of the Act, which defers the payment of development charges for specific development types until first occupancy, and then permits 6 or 21 equal annual installment payments. Interest is applied on the deferred amount from the date of first building permit issuance until the date development charges are paid in full.

- The reporting and tracking of the balances owed (to the Town) are reflected in Attachment 1.
- At the end of 2023, Town of Whitby development charges totaling \$5,905,527 are to be collected via installments in future years for 4 developments under Section 26.1 of the DCA. The timing of those collections is dependent on their first occupancy.

Attachment 2 provides detailed information on the \$32,039,763 funding transferred to growth-related capital projects. In total, \$32,039,763 of growth-related capital expenditures were funded by \$24,148,058 from development charges and \$7,891,705 from other Non-DC funding sources in 2023.

As per the West Whitby Landowners Front Funding Agreement, for the construction of Des Newman and Rossland Road, DC Credits are tracked and payable (by the Town, to the West Whitby Landowners Group) based on the cost of works completed and up fronted by the landowners group (as reconciled/agreed upon by the Town). The minimum repayment, by the Town, in any given year is 50% of “Roads and Related – Town Wide Infrastructure” development charges collected from the West Whitby Landowners Group that year (to a maximum of the up-fronted costs). In 2023, the Town set aside \$398,082 (related to 50% of Road DC’s collected from the West Whitby Landowners Group) in accordance with the agreement. Additional payments to the landowners group are subject to the Town’s reconciliation of costs.

Legislated change to the DCA from Bill 23 pertaining to Section 35.2 of the Act notes that a municipality shall spend or allocate at least 60% of the monies that are in the reserve fund for priority services (i.e., water, wastewater, and roads). For the Town of Whitby, as a lower tier municipality within Durham, only the roads service is applicable. The commitments include approved capital projects that are currently in progress but were not completed in 2023, and those approved by Council in the Town’s 10-Year capital forecast:

Description	DC – Roads & Related (Townwide + Alternate Route combined)
Total DC Roads & Related funds available as of Dec. 31, 2023	\$ 103,569,658
Commitments for Capital Projects approved but not complete as of Dec. 31, 2023	(\$53,988,559)
Allocated for Capital Projects approved Capital Forecast	(\$544,667,698)
Percentage of DC Funds Allocated/Committed	578%

As shown in the Table above, the Town has allocated more than 100% of DC funds on hand at the end of 2023/beginning of 2024 as part of the 2024 and past budget and the Town's ten (10)-Year capital forecast, which was approved by Council as part of the Town's 2024 budget. It is anticipated that the funds to pay for project costs, in excess of December 2023 DC reserve fund balances, will come from future DC collections (and property taxes) as the Town continues to grow. However, the timing of future growth-related capital projects will be adjusted accordingly based on the pace of growth, uncommitted balance in the DC reserve (i.e. balance less projects already approved but not yet completed/funded), and projected debt servicing costs.

In addition to the information provided in the annual statements attached to this report, the Treasurer must provide a statement each year regarding the Town's compliance with subsection 59.1(1) of the DCA.

The Town of Whitby affirms that it is compliance with subsection 59.1(1) of the DCA for the 2023 reporting period, whereby it has not imposed directly or indirectly a charge related to development or a requirement to construct a service related to development, except as permitted by the DCA or another Act.

Statutory Annual Statement of the Parkland Dedication Cash-in-Lieu Reserve Fund

The *Planning Act* provides for the conveyance of land to a municipality for park or other public recreational purposes as a condition of development or redevelopment of land.

Instead of conveying land, Developers may make a payment known as a cash-in-lieu of parkland dedication payment for the Town to fund a future park or other public recreational projects. These payments are allocated to the Town's Park Reserve Fund.

The Statement for the Park Reserve Fund (Attachment 3) summarizes the cash-in-lieu of parkland dedication funds collected and drawn for capital expenditures during 2023. Overall, the fund increased (net) by \$2,294,581, from \$9,149,755 as of January 1, 2023 to \$11,444,336 as of December 31, 2023.

The legislated change to the *Planning Act* from Bill 23 pertaining to Section 47 requires a municipality to spend or allocate at least 60% of the monies collected as cash-in-lieu of parkland dedication, which are allocated to the Park Reserve Fund. Attachment 3 of this report also shows \$9,870,366 (or 86%) of the \$11,444,336 December 31, 2023 balance/ January 1, 2024 balance has been committed or allocated to ongoing capital projects already approved and projects in the Town's ten (10)-year capital forecast, which were approved in principle by Town of Whitby Council as part of the Town's 2023 Budget.

5. Financial Considerations:

Development Charges collected in 2023 (\$9.5 million as shown in Attachment 1), is significantly lower than DC revenues in recent years (i.e. \$42.8 million in 2022 and \$42.5 million in 2021). Although 2023 represents the first full year following the passage of Bill 23, the *More Homes Built Faster Act*, which introduced significant changes to the DCA and *Planning Act* related to lowering the fees developers pay related to growth/ development, the decline in DC revenues is directly attributable to a decrease in building activity (lower building permits being pulled) in Whitby. The slow down in development activity (and DC collections) results in lower DC reserve balances and may result in the temporary deferral of growth-related projects identified in the Town's DC Background Study. Staff will continue to monitor development charge collections in 2024 and external borrowing rates to prioritize 2025 and future growth-related capital projects.

Bill 23 – Impact on Parkland Dedication

Bill 23, the *More Homes Built Faster Act*, received Royal Assent on November 28, 2022. As reported at the time, Bill 23 introduced a number of the changes to the DCA and *Planning Act*, that would significantly decrease the fees that the Town collects, from developers, for growth-related infrastructure, such as new parks, roads, bridges, fire stations, etc.

To date, the most significant impact of Bill 23 for the Town has been the changes to the *Planning Act* related to parkland dedication. Under Bill 23, developers contribute less land to municipalities for use as parkland / contribute less cash to municipalities in lieu of conveying land.

Based on the Town's tracking of cash-in-lieu of parkland dedication quotes provided to developers in 2023, the Town will be collecting \$5.1 million less funds from developers

for the future purchase of parkland based on Bill 23 (i.e. quotes prepared under Bill 23 total \$6.1 million and would have been \$11.2 million without Bill 23).

Bill 23 Update – Mandatory Phase-in of DC's

Following passage of a new DC Study and By-law, Bill 23 required municipalities to discount the DC rates (required to fund infrastructure projects) by 20% and phase-in to full rates in five (5) years. This meant that Developers pay 80% of the calculated DC rates in the year the new by-law comes into force and effect and for years two (2) to five (5) following the passage of a new DC by-law, Developers will pay 85%, 90%, 95%, and 100% (full charge), respectively.

Of all the legislative DCA changes under Bill 23, the proposed five-year phase-in of new DC rates would have had the greatest negative impact to the Town's ability to deliver infrastructure to support growth as discounts to Developers would need to be funded by taxpayers in order to deliver on the same level of planned infrastructure. In 2021 (the year the Town implemented a new DC by-law), the Town collected over \$40 million in development charges. If the 20% discount was in place in 2021, the Town would have had a DC shortfall of over \$8 million for 2021.

On April 10, 2024, the Province introduced Bill 185, Cutting Red Tape to Build More Homes Act, 2024, which removed the mandatory phase-in of DC's required under Bill 23. Fortunately, from November 2022 (Bill 23) to 2024, the Town of Whitby has not updated its DC Background Study/passed a new DC By-law so the 20% discount and five-year phase has not impacted the Town to-date and is not anticipated to impact the Town.

Bill 185 has not received Royal Assent as of the drafting of this report. Staff will provide a separate memo outlining the other changes to the *Development Charges Act* related to Bill 185.

6. Communication and Public Engagement:

As per O. Reg. 82/98, the Town is required to ensure that the Treasurer's Annual Statement is available to the public, as such a copy of this report and the attachments will be posted on the Town's [Development Charges](#) webpage.

7. Input from Departments/Sources:

N/A

8. Strategic Priorities:

Through the development of Whitby's Community Strategic Plan, a focus on the value for money, financial sustainability as well as transparent reporting were identified as priorities. Under the Government Pillar, timely and transparent reporting was identified as the highest priority with long term financial planning being identified as the third

highest priority. This report supports these priorities identified in the Community Strategic Plan.

9. Attachments:

Attachment 1 – Statement of Development Charge Reserve Funds as at December 31, 2023

Attachment 2 – Growth-Related Capital Projects Funded from Development Charge Reserve Funds and Other Sources in 2023 as at December 31, 2023

Attachment 3 – Statement of the Park Reserve Fund as at December 31, 2023