



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	May 19, 2022
SUBJECT/REPORT NO:	Development Charges Reserves Status Report as of December 31, 2021 (FCS22040) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shivon Azwim (905) 546-2424 Ext. 2790
SUBMITTED BY:	Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Report FCS22040, “Development Charges Reserves Status Report as of December 31, 2021”, be received and made available to the public;
- (b) That Report FCS22040, “Development Charges Reserves Status Report as of December 31, 2021”, be forwarded, if requested, to the Ministry of Municipal Affairs and Housing.

EXECUTIVE SUMMARY

As per the requirements of the *Development Charges Act, 1997*, as amended (DC Act), an annual report of Development Charge (DC) reserves activity must be provided to Council. The DC Reserves Status Report is the “Treasurer’s Statement” as outlined in the DC Act, as amended, which must be made available to the public and forwarded to the Ministry of Municipal Affairs and Housing, at their request.

The accounting balance of the DC Reserves as of December 21, 2021 is \$373.59 M, which has increased by \$88.18 M since 2020. The increase is primarily due to in-year collections exceeding in-year capital financing. The balance of \$373.59 M reflects Public Sector Accounting Board (PSAB) standards which requires that any DC funds remain in (or are returned to) the DC reserves until the eligible capital project has expended the funds. A summary is provided in Table 1 and details by DC Service are provided in Appendix “A” to Report FCS22040.

There are a few DC services in Appendix “A” to Report FCS22040 which have negative balances. Per the City’s Development Charges Reserve Policy (Report FCS13035), as long as the consolidated balance remains in excess of the outstanding DC Deferral Agreements (2021 - \$25.91 M), service specific DC Reserves may incur a negative balance with staff working on financing strategies to remedy said negative balance for the future. Municipalities require most growth infrastructure to be constructed prior to the development being completed (e.g. subdivision, industrial park) and, therefore, expenditures precede the collection of DCs. Significant negative balances can usually be mitigated by financing large projects over longer periods of time through debt financing.

If all approved direct capital funding were allocated to the approved projects totalling \$129.97 M and approved debt funding were to be cash funded from the DC reserves totalling \$369.67 M, the 2021 DC reserves adjusted balance would be in a deficit balance of \$126.05 M which represents an increase of \$55.24 M from 2020. A summary is provided in Table 2.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The consolidated DC reserve balance in 2021 reflects the application of PSAB reporting requirements for obligatory reserve funds whereby funds collected remain in the DC reserves and are not transferred to capital projects until expenditures are incurred. The year-end consolidated DC reserve balance is \$373.59 M, as outlined in Appendix “A” to Report FCS22040. Summary information on the DC reserves is provided in Tables 1 and 2.

Staffing: None.

Legal: The DC Act, requires the Treasurer to report annually on the opening and closing balances of the DC reserve funds and the transactions related to the funds. Report FCS22040 addresses this legal requirement.

HISTORICAL BACKGROUND

As per the requirements of the DC Act, an annual report of DC reserves activity must be provided to Council. The DC Reserves Status Report is the “Treasurer’s Statement” as outlined in the DC Act, which must be made available to the public and forwarded to the Ministry of Municipal Affairs and Housing, at their request.

Appendix “A” to Report FCS22040 summarizes the 2021 activity for each DC reserve. The DC revenues were collected through authorization of Municipal DC By-law 19-142,

as amended, which was passed by Council in June 2019 and was amended in March 2021. Collections under DC By-laws are deposited into DC reserves.

Appendix “B” to Report FCS22040 provides a summary of the development charge funding to capital projects and Appendix “C” to Report FCS22040 provides a summary of the development charge funding to capital projects by reserve.

City By-law 11-174 – GO Transit Development Charges will remain in effect. The Province passed amending Ontario Regulation 528/06 on December 19, 2019, which permits municipalities to collect GO Transit charges until December 31, 2022. During the extension period, the Ministry of Transportation is to undertake a broader review of the framework governing municipal contributions to GO Transit. To date, the City has not received communications regarding the future of GO Transit as it relates to DC collections.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The DC Reserves Status Report is the “Treasurer’s Statement” as required in Section 43 of the DC Act, which must be made available to the public and sent to the Ministry of Municipal Affairs and Housing, if requested.

Hamilton Conservation Authority (HCA)

The Region of Halton DC By-law for 2012 was appealed by the Hamilton-Halton Home Builders’ Association (HHHBA) on the grounds that the Region of Halton did not have the authority to include conservation authority capital costs in its DC By-law. The Ontario Municipal Board, now the Local Planning Appeal Tribunal (LPAT), rendered a decision of the HHHBA’s appeal to the Region of Halton and the decision allowed HHHBA’s appeal. This issue was also appealed by HHHBA on the same grounds for the 2014 City of Hamilton DC By-law. Refunds of HCA DCs collected by the City will be issued from the HCA DC Reserves once the settlement minutes have been executed by all parties. Once all refunds are complete, the HCA DC Reserves will be submitted for closure.

RELEVANT CONSULTATION

Staff from the City’s Planning and Economic Development Department confirmed that the City is in compliance with s.s. 59.1(1) of the DC Act, as amended, 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”.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

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As per the requirements of the DC Act, an annual report of DC reserves activity must be provided to Council. The report must be made available to the public and provided to the Minister of Municipal Affairs and Housing, if requested.

Appendices “A”, “B”, “C” and “E” to Report FCS22040 contain the financial information required to meet the disclosure requirements as set out in Section 43 of the DC Act, as amended. Appendix “D” to Report FCS22040 is provided in addition to the legislated requirements as described below.

In addition to disclosing financial information, a municipality is required to confirm compliance with s.s. 59.1(1) of the DC Act, as amended, 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”. The City of Hamilton is in compliance with this requirement.

The 2021 year-end consolidated DC reserve balance is \$373.59 M, as outlined in Appendix “A” to Report FCS22040.

The DC reserves balance as at December 31, 2021 reflects the application of PSAB reporting requirements for obligatory reserve funds.

The PSAB reporting requirements require the City to only recognize DC revenue in capital projects once the expenses have been incurred. Therefore, the DC reserve balances are based on actual expenses, to date, and not the Council approved budgeted amounts. Table 2 shows the adjusted DC reserve balances if all Council approved budgeted amounts were to be cash funded.

Since project funding from DC reserves can only be allocated to capital projects after the expenses have been incurred, there is often a timing difference between when current budget contribution, other source funding and DC funding are allocated to the projects. For this reason, the current year funding to each project often does not reflect the funding ratios identified in the DC background studies. Staff included Appendix “D” to Report FCS22040 to show the DC funded projects closed in the year and their final revenue funding from all sources. Appendix “D” to Report FCS22040 includes closed projects from October 1, 2020 to September 30, 2021. The projects closed during the period October 1, 2021 to December 31, 2021 have not yet been approved by Council as of the date of Report FCS22040. As such, the closed projects from October 1, 2021 to December 31, 2021 will be included on next year’s Development Charges Reserves Status Report.

There are a few DC services in Appendix “A” to Report FCS22040 which have negative balances. This occurs either because (1) capital infrastructure has been developed at a pace which exceeds the actual growth realized or (2) expenses for growth related studies must be incurred prior to the growth occurring and debt financing is not an

option. Where debt financing is an option, it would have been possible to avoid the negative balances but that would have resulted in additional debt financing costs which would ultimately be passed on to the developer through the calculation of the DC.

DC reserves are permitted to borrow from each other and, therefore, a negative balance in one service can be offset with a surplus balance in another service. In order to minimize the overall debt financing costs to be charged through the calculation of the DC, it is prudent to allow DC services to go into a deficit position with a controlled plan for the overall forecast for each service.

Table 1 provides a continuity of DC Reserves with a summary of inflows and outflows in 2021 resulting in a consolidated PSAB balance of \$373.59 M at December 31, 2021.

Table 1 - DC Reserves Continuity (\$Millions)

Balance as of January 1, 2021	\$ 285.42
Funding Inflows	
Interest	\$ 6.08
Collections	\$ 114.79
DC Exemption Funding	\$ 35.22
Other Transfers	\$ 0.14
Internal Borrowing Repayment	\$ 5.48
Subtotal of Inflows	\$ 161.71
Funding Outflows	
External Debt Payments	\$ 9.54
Direct Capital Funding	\$ 63.99
Subtotal of Outflows	\$ 73.53
Balance as of December 31, 2021	\$ 373.59

Note: Differences may exist due to rounding

DC collections in 2021 totalled \$114.79 M, a \$3.61 M increase compared to 2020. Residential DC collections increased to \$104.58 M in 2021 from \$79.72 M in 2020 and non-residential DC collections decreased to \$10.21 M in 2021 from \$31.46 M in 2020. Collections reflect higher residential development, as well as, fewer large scale non-residential developments in 2021 compared to 2020.

Any DC exemptions authorized by Council through DC By-law 19-142 (e.g. reduced industrial rate) or through a Council meeting (i.e. exemptions for non-profits) are required to be recovered through other sources. Council has approved amounts in the

Rates and Tax Capital Budgets to enable staff to recover a portion of these exemptions. A nine-year (2013-2021) summary of the exemptions is included as Appendix “E” to Report FCS22040. Appendix “E” to Report FCS22040 shows that the total exemptions provided in 2021 has slightly decreased by \$1.90 M from \$41.31 M in 2020 to \$39.41 M in 2021.

The City’s backlog of unfunded DC exemptions is highlighted in Appendix “E” to Report FCS22040, as of December 31, 2021. The City has \$66.84 M in unfunded discretionary DC exemptions. Through Report FCS21070(b), Council approved the transfer of \$12.9 M from the 2021 year-end surplus to fund 2021 discretionary exemptions. The Capital Financing Plan presented through Report FCS21096 has been updated with a strategy to address the remaining funding shortfall in historical discretionary Development Charges (DC) exemptions.

Beginning in 2023, the Capital Financing Plan incorporates an additional \$6.5 M per year over an eight-year period (ending in 2030) as dedicated funding for DC exemptions. Reductions in the discretionary exemptions provided through the approval of DC By-law 19-142 and increases in the annual budgeted funding will move towards the in-year budgeted exemption funding balancing to the in-year exemptions provided. It will take time to see the effect of the revised discretionary exemption policies.

The reason that it will take time to see the effects of reduced exemption policies is due to (1) the City’s transition policy which states the DC rate payable is the rate in effect on the date that a complete building permit application is received and accepted by the City, provided that the building permit is issued within six months of the DC rate increase following the application and (2) changes to the legislation by the Province. As of January 1, 2020, DC rates and exemptions applicable to a development are based on the complete application date of a Site Plan Application or a Site-specific Zoning Amendment, only where such application is applied for on or after January 1, 2020 and where the building permit is issued within two years following the approval of said application. This rate freeze has been legislated by the Province and is found within section 26.2 of the DC Act.

While interest is applicable to the locked-in DC rated from the date of the related planning application to the date of building permit issuance, it means that the Downtown Hamilton CIPA exemption, in effect at planning application date, will continue to apply potentially years later when the building permit is issued. Therefore, this legislated change will further increase the amount of time to balance in-year budgeted DC exemption funding with in-year exemptions provided.

Additionally, if all approved direct capital funding were allocated to the approved projects of \$129.97 M and approved debt funding were to be cash funded from the DC reserves of \$369.67 M, the 2021 DC reserves adjusted balance would be a deficit

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balance of \$126.05 M which represents an increase of \$55.24 M from 2020. A summary is provided in Table 2.

Table 2 provides the accounting DC reserve balance at December 31, 2021, the approved funding that has not yet been transferred to projects, the debt funding that has not yet been incurred and the adjusted DC reserve balances.

Of note, the funding commitments (including debt) are only included in the Capital Budgets to the extent that current (and future) DC collections can be expected to fund the commitments. Should development activity vary from the existing development forecasts, staff would ensure that future years' collections can meet existing commitments or undertake a review to determine which growth projects can be deferred.

DC Service	Dec. 31/21 Balance (\$)	Adjustments		Adjusted Balance (\$)
		Direct Capital Funding (\$)	DC Debt (\$)	
Water Services	63,742,809	(32,836,203)	(62,633,000)	(31,726,395)
Wastewater Services	101,530,887	(1,439,351)	(17,193,000)	82,898,536
LinearWastewater	34,990,463	(12,621,194)	(137,969,285)	(115,600,017)
Storm Water Drainage	43,986,221	(30,402,106)	(25,310,000)	(11,725,885)
Roads	51,690,154	(32,155,249)	(34,479,940)	(14,945,035)
Public Wks&Roll Stock	6,331,393	(308,694)	-	6,022,699
Transit Services	7,428,023	(1,079,347)	(39,460,000)	(33,111,324)
Airport	4,767,296	-	-	4,767,296
Fire Protection	4,133,015	(584,915)	(8,773,000)	(5,224,900)
Police Services	3,165,093	(43,520)	(11,000,000)	(7,878,426)
Ambulance Services	(88,548)	-	(243,000)	(331,548)
Outdoor Recreation	616,995	(3,043,008)	(8,100,000)	(10,526,012)
Indoor Recreation	19,552,913	(8,084,578)	(6,219,500)	5,248,835
Library Services	3,274,665	-	(5,310,500)	(2,035,835)
Admin Studies	(3,576,154)	(5,536,456)	(90,000)	(9,202,610)
Burlington Roads SAC	5,343,950	-	(10,760,000)	(5,416,050)
Homes for Aged	6,745,954	(1,743,152)	-	5,002,803
Health	861,412	-	-	861,412
Social&Child	936,163	-	-	936,163
Housing	11,784,390	-	-	11,784,390
Parking	7,842,576	-	-	7,842,576
Provincial Offences Act	(93,308)	-	-	(93,308)
Hamilton Conservation Authority	247,379	-	-	247,379
Waste Diversion	3,565,817	(95,347)	(2,124,000)	1,346,470
Dundas/Waterdown SAC	(5,251,300)	-	-	(5,251,300)
Go Transit	62,455	-	-	62,455
TOTAL	373,590,713	(129,973,119)	(369,665,225)	(126,047,631)

Note: The DC Reserve Policy (Report FCS13035) permits the General Manager of Finance and Corporate Services to change approved DC funding from debt funded to reserve funded in order to maintain the sustainability of the DC reserves. Table 2 reflects current estimates under this authority by showing some reserve funding from the rates (water, linear wastewater, storm water) reserves. Differences may exist due to rounding.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS22040 – Development Charges Reserve Funds for the period of January 1, 2021 to December 31, 2021

Appendix “B” to Report FCS22040 – Development Charges Funded Projects for the year ended December 31, 2021

Appendix “C” to Report FCS22040 – Development Charges Project Funding by Reserve, December 31, 2021

Appendix “D” to Report FCS22040 – Development Charges Capital Projects’ Closing Summary for the year ended December 31, 2021

Appendix “E” to Report FCS22040 – Nine Year Development Charges Exemption Summary, Nine Year History