TOWN OF LADYSMITH

GOVERNMENT SERVICES COMMITTEE

Mandate –To advise Council on a broad spectrum of issues related to departmental matters

Monday, November 30, 2009 at 5:00 p.m.
Council Chambers, City Hall

AGENDA

Pages

Chairperson: Councillor D. Paterson

1. CALL TO ORDER

2. AGENDA APPROVAL

3. OVERVIEW OF DEVELOPMENT COST CHARGES (DCC'S)
Sherry Hurst, Left Side Partners Inc, Neilson-Welch

4. STAFF REPORTS

4.1 Development Cost Charge (DCC) Bylaw Review **1 - 10**

5. NEW BUSINESS

6. QUESTIONS

7. EXECUTIVE SESSION
(Immediately Following the Regular Session of the Government Services Committee)

In accordance with Section 90(1) of the *Community Charter*, the first section of the meeting will be held in Camera to consider the following items:

- the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- labour relations or other employee relations;

8. RISE AND REPORT

ADJOURNMENT

Town of Ladysmith

STAFF REPORT

LADYSMITH

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: November 10, 2009
File No:

Re: DEVELOPMENT COST CHARGE (DCC) BYLAW REVIEW

RECOMMENDATION(S):

That Government Services Committee recommend to Council:

1. Direction on Option 1, 2 or 3 as outlined in the November 10, 2009 Memo prepared by the DCC consultants; and
2. Proceeding with the Development Cost Charge (DCC) Bylaw Review stakeholder consultation to present the revised rates, including rebates for developments with low environmental impact.

PURPOSE:

The purpose of this report is to present proposed Development Cost Charge (DCC) rate options and a rebate option for developments with low environmental impact (reduced water use and sewer flow) and to seek Council direction on undertaking stakeholder review.

INTRODUCTION/BACKGROUND:

At its meeting held November 17, 2008, Council provided direction on proposed new DCC rates, including maintaining the 1% assist factor on all DCCs, including Waterfront DCC projects and the introduction of reduced DCC rates for downtown development (a "green" option). Since that time, project cost lists have been updated and the consultant has further examined "green" options for DCC rebates, based on new approaches introduced by the Province in Bill 27.

A memo prepared by the DCC Consultants regarding the revised rate options and a rebate option for developments with low environmental impact is attached to this report. The current DCC Bylaw was adopted in 2000; current rates are at the end of this report. Project costs have doubled since that time.

SCOPE OF WORK:

Two bylaws would be prepared. The first bylaw would establish the DCC rates; it requires approval by the Province (Inspector of Municipalities). The specific terms of the rebate related to a reduction in current water use/sewer flow standard would be outlined in a separate bylaw. The next steps in the bylaw review process are:

- Stakeholder consultation
- Bylaw preparation and readings
- Provincial approval.

The consultants' memo presents three options. In summary, they are:

- Option 1: Includes all Waterfront DCC projects (parks, roads, sanitary sewer, water, storm).
- Option 2: Includes only Waterfront DCC parks projects.
- Option 3: Includes Waterfront DCC parks and roads costs – access to this "public amenity".

ALTERNATIVES:
That Council provide additional direction on the new DCC rates and "green" rebate options.

FINANCIAL IMPLICATIONS:
The collection of DCCs based on current project costs is an important element of the Town's wise financial management (Strategic Direction A). Rates were last updated in 2000.

Current rates are shown in the table below. Rates for communities that have recently updated their DCC programs are useful comparisons from the perspective of a developer's interests. The City of Nanaimo updated its rates in the last year or so, and its new single family rate is currently just under $16,500. The proposed DCC rates are below both Parksville and Qualicum Beach.

Land Use		Roads	Sanitary Serer	Water	Storm Drainage	Parks	Total
Single Family	Per dwelling unit	$3460.36	503.56	2694.96	467.73	1758.15	$8884.77
Small lot Single Family	Per dwelling unit	$3114.32	453.20	2425.47	420.96	1758.15	$8172.11
Multi Family Residential	Per dwelling unit	$2768.29	402.85	2155.97	280.64	1406.52	$7014.27
Commercial	Per m2 of gross floor area	$17.30	1.06	5.66	0.98		$25.00
Industrial	Per m2 of gross floor area	$5.19	0.50	2.69	0.47		$8.86

LEGAL IMPLICATIONS:
The adoption of the new DCC Bylaw establishing rates requires approval of the Inspector of Municipalities.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:
The stakeholder review process would include notice to the development community and an advertisement in the local newspaper and on the Town's website.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:
All departments have been involved in the development of the proposal.

RESOURCE IMPLICATIONS:
The cost of the DCC Bylaw Review project is included in the Financial Plan for 2009.

ALIGNMENT WITH STRATEGIC PRIORITIES:
Effective land use planning and community design is Strategic Direction B, including developing green initiatives such as including green incentives in the DCC bylaw.

The completion of the DCC Review is one of Council's Top 25 strategic priorities for 2009.

SUMMARY:
One of Council's Top 25 strategic directions is the DCC Bylaw review. This report provides and update on DCC rates given previous Council direction, updated project costs and the introduction of additional "green" options.

I concur with the recommendation.

RMall.

Ruth Malli, City Manager

ATTACHMENTS:
Memo dated November 10, 2009 regarding DCCs for Developments with Low Environmental Impact, prepared by Sherry Hurst, Leftside Partners Inc., and Allan Neilson-Welch, Neilson-Welch Consulting Inc.

MEMO

TO: FELICITY ADAMS, MANAGER OF DEVELOPMENT SERVICES

FROM: SHERRY HURST, LEFTSIDE PARTNERS INC.
ALLAN NEILSON-WELCH, NEILSON-WELCH CONSULTING INC.

DATE: NOVEMBER 10, 2009

RE: DCCS FOR DEVELOPMENTS WITH LOW ENVIRONMENTAL IMPACT

The Town of Ladysmith's review of its DCC program and the corresponding rates has always had, as one of its primary objectives, the goal of ensuring that costs are allocated fairly among land uses, and that inherent in the rates is recognition of the lower infrastructure costs and impacts of higher density developments. The proposed approach, already endorsed by Council, is therefore based upon the following "green" principles, which are consistent with the Ladysmith community vision as articulated through its recent vision process:

- Rates that vary not only by land use, but by density – the use of various residential lot types (single-family, small lot, multi-family) encourages more compact, and higher density projects through lower per unit costs for higher density projects (commensurate with the lower infrastructure impacts of higher density development).

- Area specific policy for the downtown core – consistent with the Town's OCP, the DCC recognizes the reduced impact of development in the downtown area, due to a combination of the higher densities permitted, the walkability of the downtown core, the trolley service, and the mix of land uses and services available in the downtown that eliminate the need for multiple vehicle trips.

During the DCC review process, the Province passed new legislation – Bill 27 – that amended the *Local Government Act,* enabling municipalities to waive or reduce development cost charges for developments that are designed to have a "low environmental impact."

The ability to waive or reduce development cost charges introduces a wrinkle into the relationship created when DCCs are established. Ideally, developments that have lower impacts on infrastructure should already be paying lower development charges. The reason this is not always the case is because even though one development uses less water, or eliminates all stormwater run-off, the infrastructure planned for the Town has already been sized and designed to deal with average anticipated loads, flows or volumes. Two or three developments opting for a greener approach do not necessarily affect the cost of the works of the infrastructure needed by the greater community. So in many cases, only if the standards of the works planned by the City – the width of roads, the size of trunk sewer and water, etc. – are changed, will cost savings be realized by the Town. Accordingly, any waiving of the applicable DCC for a development with a lower environmental impact, would in fact be unrelated to the actual cost of the infrastructure for which the Town is levying the DCC. In other words, waiving or further reducing the development cost charge related to any one particular development due to its green approach, simply requires the waived amount to be recovered through other means by the Town. This scenario shifts the burden from the developer onto existing taxpayers. All

leftside partners inc.

NEILSON-WELCH
CONSULTANTS TO GOVERNMENT

DCCs are supported in part by existing taxpayers through the "municipal assist" factor. However, in the past it has been the Town's policy to keep the assist factor to the minimum contribution allowable in the legislation, which is 1%.

There are, however, specific components of the Town's DCC program where a development with a low environmental impact is more likely to have a corresponding reduction in the cost to the Town. The Town of Ladysmith's DCC program includes upgrades to water storage capacity, as well as sanitary sewer treatment. In both these instances, if individual developments use significantly less water than the anticipated average, and generate significantly less sewer flows, this will make more efficient use of the existing infrastructure, and delay the need for upgrades. Put differently, this will allow for a greater number of developments to be accommodated, and the associated DCCs collected, before the capacity upgrades are required. A reduction of the DCC to those developments that can demonstrate a significant reduction in water use or sewer flows, should therefore be entitled to reductions in the cost of that portion of the DCC program. The cost or burden of such reductions would not be borne by existing taxpayers, but instead are offset by cost savings in the system. These types of reductions are therefore in keeping with the fairness, relative impact and user pay principles upon which the DCCs are based, and represent an opportunity to provide some incentives for developers to build greener projects without shifting the burden to taxpayers.

PROPOSED APPROACH

DCCs are based upon averages, and by definition, averages take into account the fact that some users will have a higher impact, and others lower. Accordingly, minimal reductions in water usage will likely be offset by others who use slightly more than the average. Reduced DCC rates should therefore only apply to projects that achieve significant reductions in water usage and sewer flows, so that they have a meaningful impact on the average. A 50% reduction from the current water usage standard for any given land use has been selected through discussions with the Town's staff. By reducing water consumption by 50%, this should also have a significant impact on the resulting sewage flows, although not necessarily to a corresponding amount (i.e. staff estimate that a 50% water reduction would translate into a 30% reduction in sewage flows). This percentage reduction could be altered based on review of the bylaw at a later date to determine whether the target was achievable, and the reward of sufficient incentive, for developers within the Town. Furthermore, the Town can obtain feedback on the reduction target during its stakeholder DCC review meeting planned as the next step in the DCC review process.

It is anticipated that the reduced rates would be provided at the time of building permit for most uses, or at the subdivision approval stage for single family uses. Applicants would submit engineering reports that calculate and provide details of anticipated water savings through a variety of measures planned in the development, including (but not limited to) low-flow fixtures, greywater recycling, use of rain barrels, or other innovative approaches. Single family subdivisions will have to provide assurances, such as covenants, that the resulting homes and homeowners will comply with the water reduction strategy in order to receive the discounted DCC rates.

The following rates therefore encompass the approach and land use categories already endorsed by Council, combined with the sewer/water reductions referenced above. In addition, although already brought before Council at a previous date, the option of removing the waterfront costs that are a part of the current DCC program, is once again provided, due to the significance of changes since the last time Council reviewed the rates.

Option 1

The rates resulting from the approach explained above are as follows. This option includes waterfront infrastructure costs in the DCC program.

Land Use	Unit	Roads	Sanitary	Water	Storm	Parks	Total
Single Family Residential	per dwelling unit	$3,837	$3,352	$3,935	$1,038	$4,942	$17,104
Small Lot Single Family	per dwelling unit	$3,453	$2,095	$2,459	$467	$4,448	$12,923
Multi-Family Residential	per dwelling unit	$2,348	$1,862	$2,186	$281	$3,954	$10,631
Downtown Multi-Family	per dwelling unit	$1,645	$1,862	$2,186	$225	$3,954	$9,872
Commercial	per m^2 of gross floor area	$81.39	$5.59	$6.56	$3.89	$0.00	$97.42
Downtown Commercial	per m^2 of gross floor area	$46.51	$3.35	$3.93	$2.33	$0.00	$56.13
Industrial	per m^2 of gross floor area	$27.03	$4.79	$5.62	$3.34	$0.00	$40.77
Institutional - Care Facility	per bed	$862	$1,164	$1,366	$138	$2,471	$6,002
Institutional	per m^2 of gross floor area	$56.29	$12.65	$14.85	$8.17	$0.00	$91.95

The reduced rates for developments that use 50% less than water than the Town's design standards are as follows:

Land Use	Unit	Proposed DCC Rate	Rebate	Reduced Rates
Single Family Residential	per dwelling unit	$17,104	$2,094	$15,010
Small Lot Single Family	per dwelling unit	$12,923	$1,308	$11,614
Multi-Family Residential	per dwelling unit	$10,631	$1,163	$9,468
Downtown Multi-Family	per dwelling unit	$9,872	$1,163	$8,709
Commercial	per m^2 of gross floor area	$97.42	$3.49	$93.94
Downtown Commercial	per m^2 of gross floor area	$56.13	$2.09	$54.04
Industrial	per m^2 of gross floor area	$40.77	$2.99	$37.78
Institutional - Care Facility	per bed	$6,002	$727	$5,275
Institutional	per m^2 of gross floor area	$91.95	$7.90	$84.05

Option 2

Option 2 is based on the same rationale as referenced above, but excludes costs associated with infrastructure for the waterfront. The total combined cost of these projects is $5,025,000. The following explanation of the rationale for including and for excluding the waterfront costs was provided to Council in July of last year, but given the subsequent changes, staff felt it was prudent to confirm Council's approach.

Pros/Cons

A reasonable argument can be made on both sides of the issue on whether to include or remove the waterfront infrastructure costs. There is no "right" or "wrong" approach. The rationale for excluding these costs can be summarized as follows:

- The waterfront represents a distinct area where the extension of services serve primarily the developers, and not the greater public. The costs should therefore be borne directly by the benefiting developers, and not growth in general;

- As a comparison, the extension of trunk services for the Holland Creek development are not included in the current or proposed DCC program due to the limited benefit to residents other than the immediate neighbourhood. The same policy can apply to the waterfront;

- It is anticipated that a developer would front-end the service extensions/upgrades to facilitate development in the waterfront area, and recover the costs from adjacent developers through latecomer agreement;

- Given the uncertainty about the development that will ultimately occur here, a new land use scheme is likely to emerge, necessitating new servicing estimates as well as an associated comprehensive financing strategy. If DCCs are to be collected, they should be based on updated estimates, land uses and financing mechanisms determined at that time.

To elaborate, the waterfront can be viewed as essentially a "greenfield" (or in this case brownfield) development. In a greenfield situation, often the services are required prior to the development occurring, so that there is rarely sufficient DCC revenue from the associated development to finance the service extension. The local government often resorts to borrowing to pay for the project, and only in limited situations can they recover the interest charges through the DCC. Therefore developers are often expected to front end the cost of extending services and recover funds through a latecomer's agreement that requires other developers to pay their share as they proceed. As a comparison, it is notable that the Town's DCC program does not include extensions of trunk services through the Holland Creek neighbourhood – another greenfield development. The requirement that an owner/developer front end the costs and recover them through a latecomer agreement is a common approach in an area where it is anticipated that there are one or two major landowners/developers that have the financial resources to front-end the costs, that the profit in developing that area is substantial enough to warrant the front end costs, and lastly, where there is realistic expectation of recuperating some of the costs from other developers/landowners.

Another argument in favour of removing these costs is the idea that when a new plan and agreement comes forward with the key players involved in the waterfront lands (Town, Province, etc.), the services planned for the area will have to be re-evaluated in that context, and a comprehensive strategy for financing completed. A combination of approaches – latecomer agreements, development works agreements, DCCs, etc. may be used to facilitate the required services. If changes are needed to the Development Charges program to reflect any new strategy, they could be made at that time.

Some of the arguments for the flip side – to keep the waterfront infrastructure costs in the DCC are summarized as follows:

- Consistency – these costs have been included in the DCC since 2000, and developers have been paying toward these projects. Nothing has changed at this point, so it is equitable to treat new growth the same as growth has been treated since 2000. The projects can always be removed when new information comes available, and alternate servicing needs and/or financing strategies are clear;

- Including the costs in the DCC program, despite the uncertainty, provides flexibility for the Town should they want or need to proceed with these projects prior to significant development occurring in this area (e.g. to encourage development or access/develop Town lands), particularly if no developers are willing or able to front end the costs due to other cost uncertainties (environmental clean-up), financial resources, or the risk of recovering the cost from other developers;

- An example of this type of project currently included in the DCC program is the cost to extend services up to the proposed business park in South Ladysmith. The idea is that the Town wants to encourage economic development, and to effectively market the land a basic level of services (and an associated timeline to develop) is expected. A similar argument could be made for the waterfront;

- Including the costs does not preclude a developer from front-ending the cost and receiving a rebate. The rebate typically only forms a small portion of the full cost;

- The waterfront, unlike a typical greenfield development, is a public place and a public amenity, and the costs to provide access and to develop should be shared by growth on a larger scale than just the immediate developers.

Given the uncertainty regarding the costs and land uses, and the appropriate financing approach for the area, it may be better to continue collecting DCCs for the waterfront projects (as the Town currently does), providing flexibility to the Town by having some funds in place in the event that infrastructure upgrades are required. Again, this would be consistent with the past practice. The current situation could remain status quo until an alternate plan is clear or proposed, at which time the DCC could be amended (to either increase the cost accordingly, or remove them altogether if some other financial arrangement is made). In the meantime, the Town has been collecting funds in the event that it is necessary for the Town to construct any of the services identified in the DCC.

Council should be aware that excluding the costs from the DCC may limit the use of the Town's land or other properties on the waterfront where the Town may want to encourage development, particularly if no developer is willing or able to front end the servicing costs. This is why, as part of the DCC program, the Town has included the costs of extending services to (but not within) the proposed business park in South Ladysmith.

If waterfront infrastructure costs are included in the DCC program and a developer does front end some of the costs, that developer would be eligible for a rebate of some but not all associated costs. Rebates can only be extended to the maximum that would apply to the specific development proposed by a developer. An example would be if a developer paid the $1,700,000 costs to upgrade the road in the waterfront area, and was planning to build 200 multi-family units. The only rebate the developer would be eligible for would be the road DCC that applies to the property – which is proposed at approximately $1,500 per unit, or $300,000.

The last point is that it can be argued that the waterfront development is not a typical greenfield development. It is not a residential enclave that benefits only the local neighbourhood. The waterfront is intended as a much more public place, and indeed, a public amenity. In this sense, access to and development of this area is of a wider benefit, and the costs should therefore be shared accordingly.

The DCC rates that would result if $5,025,000 of waterfront infrastructure was removed from the DCC program are as follows:

Land Use	Unit	Roads	Sanitary	Water	Storm	Parks	Total
Single Family Residential	per dwelling unit	$3,182	$2,896	$3,237	$349	$4,942	**$14,606**
Small Lot Single Family	per dwelling unit	$2,864	$1,810	$2,023	$157	$4,448	**$11,302**
Multi-Family Residential	per dwelling unit	$1,947	$1,609	$1,798	$95	$3,954	**$9,403**
Downtown Multi-Family	per dwelling unit	$1,364	$1,609	$1,798	$76	$3,954	**$8,801**
Commercial	per m^2 of gross floor area	$67.50	$4.83	$5.39	$1.31	$0.00	**$79.03**
Downtown Commercial	per m^2 of gross floor area	$38.57	$2.90	$3.24	$0.79	$0.00	**$45.49**
Industrial	per m^2 of gross floor area	$22.41	$4.14	$4.62	$1.12	$0.00	**$32.30**
Institutional - Care Facility	per bed	$715	$1,006	$1,124	$47	$2,471	**$5,362**
Institutional	per m^2 of gross floor area	$46.68	$10.93	$12.21	$2.75	$0.00	**$72.57**

Based on the above rates, the following reduced rates would be in effect for developments that could demonstrate 50% or greater reduction in water consumption over the Town's design standards:

Land Use	Unit	Proposed DCC Rate	Rebate	Reduced Rates
Single Family Residential	per dwelling unit	$14,606	$2,094	$12,513
Small Lot Single Family	per dwelling unit	$11,302	$1,308	$9,994
Multi-Family Residential	per dwelling unit	$9,403	$1,163	$8,240
Downtown Multi-Family	per dwelling unit	$8,801	$1,163	$7,638
Commercial	per m^2 of gross floor area	$79.03	$3.49	$75.54
Downtown Commercial	per m^2 of gross floor area	$45.49	$2.09	$43.40
Industrial	per m^2 of gross floor area	$32.30	$2.99	$29.31
Institutional - Care Facility	per bed	$5,362	$727	$4,635
Institutional	per m^2 of gross floor area	$72.57	$7.90	$64.67

Option 3

Option 3 provides an option that includes some of the waterfront costs. All options include parkland in the waterfront area. However, based on the argument made above that the waterfront is intended as a more public place than the typical development, then the road costs – access to this "public amenity" – should also be included in the DCC program. Accordingly, storm water, sanitary sewer and water costs are left to be borne by the developers who will benefit directly from the provision of these services. This option results in the following rates:

Land Use	Unit	Roads	Sanitary	Water	Storm	Parks	Total
Single Family Residential	per dwelling unit	$3,837	$2,896	$3,237	$349	$4,942	**$15,261**
Small Lot Single Family	per dwelling unit	$3,453	$1,810	$2,023	$157	$4,448	**$11,891**
Multi-Family Residential	per dwelling unit	$2,348	$1,609	$1,798	$95	$3,954	**$9,804**
Downtown Multi-Family	per dwelling unit	$1,645	$1,609	$1,798	$76	$3,954	**$9,081**
Commercial	per m^2 of gross floor area	$81.39	$4.83	$5.39	$1.31	$0.00	**$92.92**
Downtown Commercial	per m^2 of gross floor area	$46.51	$2.90	$3.24	$0.79	$0.00	**$53.43**
Industrial	per m^2 of gross floor area	$27.03	$4.14	$4.62	$1.12	$0.00	**$36.91**
Institutional - Care Facility	per bed	$862	$1,006	$1,124	$47	$2,471	**$5,509**
Institutional	per m^2 of gross floor area	$56.29	$10.93	$12.21	$2.75	$0.00	**$82.18**

The reduced rates for projects with 50% water consumption reductions, based on Option 3, would therefore be as follows:

Land Use	Unit	Proposed DCC Rate	Rebate	Reduced Rates
Single Family Residential	per dwelling unit	$15,261	$2,094	$13,168
Small Lot Single Family	per dwelling unit	$11,891	$1,308	$10,583
Multi-Family Residential	per dwelling unit	$9,804	$1,163	$8,641
Downtown Multi-Family	per dwelling unit	$9,081	$1,163	$7,918
Commercial	per m^2 of gross floor area	$92.92	$3.49	$89.43
Downtown Commercial	per m^2 of gross floor area	$53.43	$2.09	$51.33
Industrial	per m^2 of gross floor area	$36.91	$2.99	$33.92
Institutional - Care Facility	per bed	$5,509	$727	$4,782
Institutional	per m^2 of gross floor area	$82.18	$7.90	$74.28

CONCLUSION

The approach to low environmental impact DCC rates referenced in this memo is based on the guiding principles of benefiter pays, fairness and equity that guide the DCC best practices. Council may still choose to reduce DCCs further, recognizing that doing so shifts a portion of the infrastructure cost to the existing tax base. This may be a commitment Council is willing to make in order to encourage some greener developments, or a way of supporting some pilot projects, consistent with other objectives or Town policies. However, if Council wants to pursue this option, it is suggested that Council consider such reductions in the context of a larger strategy that also evaluates some other complementary tools, such as revitalization tax exemptions, that can be used (and indeed may be more flexible) to encourage green infrastructure and behaviour. Notably bylaws to waive or reduce DCCs can be considered and passed independently of the main DCC bylaw that sets the rates, and can therefore be done at any time without triggering reconsideration of the underlying bylaw, or the Ministry and Inspector of Municipalities review and approval process. This provides Council with greater flexibility to review and adjust these reductions.