

**TOWN OF INGERSOLL
Clerk's Report**

Development Charges Appeal

December 14, 2009
Report No. C-13/10

Background

As indicated to Council earlier, the 2009 Development Charges By-law No. 09-4489 has been appealed by Sifton Properties Limited.

In accordance with the regulations of the Ontario Municipal Board, Council shall give consideration to the appeal

Based on the appeal by Sifton Properties, Mr. Stefan Krzeczunowicz, Hemson, provided the following information:

1. "Service levels – we have not undertaken a historic service level analysis for the roads and related service as it is current engineering standards that for the most part determine capital requirements. In this respect the regulation to the *Development Charges Act* (O.Reg. 82/98 4. (3)) state that "If the average level of service determined is lower than the standard level of service required under another Act, the standard level of service required under the Act may be deemed...to be the average level of service". It is highly unlikely that current levels of service in the Town would pose any restriction on the Town's ability to fund the roads program that is being contemplated: this can easily be demonstrated to Mr. Card and Sifton Homes.
2. Need for projects – there is no requirement under the Act, beyond the expression of Council's intention to undertake the works, to provide master plans in support of the projects. That said, all of the projects, with the exception of the King Street West, the Clark Road Reconstruction, and the Fuller Drive extension projects, have been contemplated by the Town for some time as they all appear in the Town's 2004 Development Charges Background Study. Moreover, the King Street West and Clark Road Reconstruction projects are projects for which the Town has submitted, and secured, infrastructure stimulus funding.
3. Timing of projects – p.87 of the background study reads: "As the timing of the roads program is unknown no cashflow analysis has been undertaken for the roads and related development charge". It should be noted that most, if not all of the projects, would likely be contemplated within a ten year timeframe. Accounting for the financing costs required to implement such a front-end loaded program, which is permitted by the Act, would result in a higher charge

- than was brought forward in the study. Development in the Town has therefore benefitted from not cashflowing the roads charge.
4. Growth/non-growth allocations – where new infrastructure is adding capacity to the current road network (Project 3) or being installed as the result of increased traffic (Projects 5 and 8) the costs of the project are considered 100% growth-related. For other road reconstruction projects, where a significant portion of the total cost relates to work that would have been required in the absence of any growth in the Town, a non-growth share has been identified. The non-growth share has been determined based on discussions with Town staff. In most cases, the non-growth share has remained unchanged since the 2004 Background Study.
 5. Allocation of cost/benefit to residential/non-residential sectors – For all services except parks and recreation, growth-related costs have been allocated based on changes in population and employment over the planning periods (i.e. 56 per cent residential and 44 per cent non-residential for the 10 year services and 62 per cent residential and 38 per cent non-residential for the roads and related service for which the capital plan extends to 2031). The growth-related costs associated with parks and recreation services have been allocated 100 per cent to residential because the need for these services is driven by residential development only.
 6. Other issues – In the absence of more detail I cannot speak to some of the other issues raised in the appeal letter, specifically that existing levels of service have not been correctly calculated, that there is an inconsistency about the use of ppus in new units to set the rates, that certain study costs have been assigned only to residential growth, that the level of service for recreation is being increased in a manner that contravenes the Development Charges Act, and that the benefit to existing shares for recreation and public works costs have not been calculated correctly. However, we are prepared to defend our calculations and method, including our interpretation of the Act, if required.

One other thing. Mr. Card and Sifton Homes may not be aware that the growth-related capital program in the Background Study was reviewed by Council on a number of occasions between April and August. Indeed, the roads charge was amended in August at the direction of Council. I've attached the schedule showing the changes. The total DC-eligible roads costs were reduced from \$3.9 million in the Background Study to \$2.9 million. These changes would not be reflected in the Background Study.”

Recommendation:

That Council receive the appeal of the Development Charges By-law submitted by Sifton Properties and authorize the Clerk to forward the file to the Ontario Municipal Board and the law office of Patton, Cormier & Associates.

Respectfully submitted

Elaine Clark
Clerk