

NO: R087

COUNCIL DATE: May 7, 2018

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **May 2, 2018**

FROM: **General Manager, Engineering** FILE: **5250-00**
3150-01

SUBJECT: **20-Year Terms for Qualifying Development Cost Charge
Front-Ending Agreements and Development Works Agreement in the
Anniedale-Tynehead Neighbourhood Concept Plan Area**

RECOMMENDATION

The Engineering Department recommends that Council:

1. Support the principles and eligibility requirements for the implementation of a 20-year term in place of the current 15-year term for recoveries for both Development Cost Charge Front Ending Agreements and Development Works Agreements for engineering infrastructure that have a value greater than \$15 million in the Anniedale-Tynehead Neighbourhood Concept Plan area; and
2. Authorize the City Clerk to bring forward, for the required readings, the *Surrey Subdivision and Development Bylaw, 1986, No. 8830* to include an area specific financial administration fee for Development Cost Charge Front-Ending Agreements and Development Works Agreements infrastructure in the Anniedale-Tynehead Neighbourhood Concept Plan area that satisfy the principles and eligibility criteria outlined in this report following third reading of the Rezoning Bylaw related to the associated Development Application.

INTENT

The purpose of this report is to obtain approval for the principle and eligibility requirements to increase the maximum term of cost recoveries through Development Cost Charge Front-Ending Agreements (“DCCFEA”s) and Development Works Agreements (“DWA”s) for engineering infrastructure completed in the Anniedale-Tynehead Neighbourhood Concept Plan (“NCP”) area from 15-years to 20-years.

BACKGROUND

Until 2007, the general term for cost recoveries through various infrastructure financing agreements was 10 years. At the expiry of the 10-year term, the front-ending developer was no longer able to recover costs from other landowners that benefited from engineering infrastructure that was installed. The 10-year limit on these Agreements in some cases resulted in the “front-ending” developer not being able to recover the costs of the engineering infrastructure that benefitted the other lands. In fact, some adjacent benefiting owners waited out the 10-year term

in order to avoid paying what would otherwise be their fair share of the costs of the engineering infrastructure that was installed by the front-ending developer.

Following changes in the Provincial legislation that permitted the extension of the term for these forms of agreements from 10-years to 15-years, Council at its Regular Council Meeting on November 24, 2008, as part of Corporate Report R224; 2008, a copy of which is attached as Appendix "1", authorized staff to approve amendments to Policy H-25 "Frontage Latecomers" and Policy H-43 "Area Latecomers". These changes extended the term during which cost recoveries can be made under Latecomer Agreements from 10 years to 15 years.

While not regulated under the Provincial legislation, Council at its Regular Council Meeting on November 24, 2008, as part of Corporate Report R224; 2008 also authorized the implementation of a 15-year term in place of the current 10-year term for recoveries under each of DCCFEA and DWA.

Council at its Regular Council Meeting on April 23, 2012, as part of Corporate Report R087; 2012, approved the NCP for Anniedale-Tynehead.

DISCUSSION

The DWA has been an effective tool to reimburse developers for the construction of infrastructure. Since 1998, the City has entered in to 14 DWAs with developers. A total of 2 out of 8 (25%) DWAs have been paid back in full. The 6 DWAs that were not paid back in full had a recovery term of 10-years. The City currently has 6 DWAs still active and staff expect that based on the amount owing and the amount of term remaining on these agreements, all 6 will be paid back in full. Therefore; overall, 8 of 14 (57%) DWAs have been or are likely to be paid back in full.

The total value of the 14 DWAs is \$20.0 million. The average value of each DWA is \$1.4 million and only one DWA has a value over \$3 million (\$4.0 million). The \$4.0 million DWA was one of the 6 agreements that was not paid back in full (92% recovery).

The DCCFEA has also been an effective tool to reimburse developers for the construction of DCC eligible infrastructure to support growth. Since 1998, the City has entered in to 30 DCCFEAs with developers. Of these, 20 out of 26 (77%) DCCFEAs have been paid back in full. The 6 DCCFEAs that were not paid back in full had a recovery term of 10-years. The City currently has 4 DCCFEAs still active and staff expect that based on the amount owing and the amount of term remaining on these agreements, 3 of the 4 will likely be paid back in full. Therefore; overall, 23 out of 30 (77%) DCCFEAs have been or are likely to be paid back in full.

The total value of the 30 DCCFEAs is \$46.8 million. The average value of these DCCFEAs is \$1.6 million and only three DCCFEAs have had a value over \$3 million, with the highest value being \$10.7 million. The \$10.7 million DCCFEA was one of the 4 agreements that was not paid back in full (89% recovery).

Development in the Anniedale-Tynehead NCP area

Since adoption of the Anniedale-Tynehead NCP, there has been little to no development interest in the NCP area. The development community has advised that a significant amount of engineering infrastructure is required to support any form of development in the NCP area and that the full development of the NCP area could potentially take over 15 years to complete given

its size; therefore, there is some uncertainty as to whether the substantial initial engineering infrastructure investment required by the front-ending developer in the NCP area will be recovered.

Staff are currently working with a developer who is planning to initiate a number of DCCFEAs to support the development of the Anniedale-Tynehead NCP area. These works will provide the initial backbone of infrastructure required to support the development of 425 hectares (1,050 acres) in the NCP area. The estimated total value of these DCCFEAs is \$37.5 million.

Principles and Eligibility Requirements for an extended DWA and DCCFEA Term

While the current 15-year term for both DWAs and DCCFEAs has resulted, or will likely, in the developers being paid back in full, the value of the agreements and the benefiting area from these agreements is significantly smaller than what is currently being proposed to support the development of the Anniedale-Tynehead NCP area.

In an effort to address the recovery uncertainty for front-ending developers of significant infrastructure in this NCP, given that the amount of investment that will be recovered from the initial DCCFEAs to initiate the development of this NCP is approaching the total value of DCCFEAs that City has completed since 1998. The buildout of the NCP could potentially take over 15 years to complete given its size. To ensure that each benefiting owner pays their fair share of the costs of the engineering infrastructure, staff recommend that the term for both DCCFEAs and DWAs be increased from 15-years to 20-years for agreements that:

1. Are related to supporting development in the Anniedale-Tynehead NCP area; and
2. Have a value of greater than \$15 million.

Financial Administration

With the proposed increase of term for eligible DCCFEAs and DWAs, staff will also be required to administer these contracts for a longer period of time (33% longer). As such, it is also recommended that a specific financial administration fee be established in *Surrey Subdivision and Development Bylaw, 1986, No. 8830* for both DCCFEAs and DWAs, that satisfy the principles and eligibility requirements described above, in the Anniedale-Tynehead NCP and that this fee be set at 33% higher than the current fee. Therefore, the financial administration fees based on the 2018 fees would be as follows:

Financial Administration Fee Type	City Wide excluding those in the Anniedale-Tynehead NCP Area with a 20-year term	Anniedale-Tynehead NCP Area with a 20-year term
Each DCC Front Ender and Development Works Agreements	\$6,135.00	\$8,180.00

As the City has no active development applications in the Anniedale-Tynehead NCP, it is recommended that the amendments to the *Surrey Subdivision and Development Bylaw, 1986, No. 8830* be only brought forward, for the required readings following the third reading of the Rezoning Bylaw related to the first eligible associated Development Application in the Anniedale-Tynehead NCP area.

Legal Services and Finance Review

This report has been reviewed by the Finance Department and the Legal Services Division and there are no concerns.

SUSTAINABILITY CONSIDERATIONS

A properly developed and adequately funded Servicing Plan funded through DCCFEAs and DWAs helps to ensure continued, planned and orderly development in Surrey, which supports the objectives of the City's Sustainability Charter 2.0. In particular, the Plan supports the Sustainability Charter 2.0 themes of Infrastructure as a properly developed and adequately funded Servicing Plan supports the following Desired Outcomes (DO):

- All Infrastructure DO1: City facilities and infrastructure systems are well managed, adaptable and long lasting, and are effectively integrated into regional systems.

CONCLUSION

Based on the above discussion, it is recommended that Council:

1. Support the principles and eligibility requirements for the implementation of a 20-year term in place of the current 15-year term for recoveries for both Development Cost Charge Front Ending Agreements and Development Works Agreements for engineering infrastructure in the Anniedale-Tynehead Neighbourhood Concept Plan area; and
2. Authorize the City Clerk to bring forward, for the required readings, the *Surrey Subdivision and Development Bylaw, 1986, No. 8830* to include an area specific financial administration fee for Development Cost Charge Front-Ending Agreements and Development Works Agreements infrastructure in the Anniedale-Tynehead Neighbourhood Concept Plan area that satisfy the principles and eligibility criteria outlined in this report following third reading of the Rezoning Bylaw related to the associated Development Application.

Fraser Smith, P.Eng., MBA
General Manager, Engineering

Appendix "I" Corporate Report R224; 2008

JB/JA/SSL/am/jma/ggg



Corporate Report

CITY MANAGER'S
DEPARTMENT

APPENDIX "I"

NO: R 224

COUNCIL DATE: Nov. 24/08

REGULAR COUNCIL

TO: Mayor & Council
FROM: General Manager, Engineering
SUBJECT: Revision to City Policies and Practices Related to Latecomer Agreements, Development Cost Charge Front-Ending Agreements, and Development Works Agreements – Length of Cost Recovery Term

DATE: November 19, 2008
FILE: 5250-00

RECOMMENDATION

The Engineering Department recommends that Council:

- 1) approve amendments to Policy H-25 "Frontage Latecomers" and Policy H-43 "Area Latecomers" as documented in Appendix I that will act to extend the term during which cost recoveries will be made under Latecomer Agreements from 10 years to 15 years and will incorporate other minor housekeeping amendments in these policies; and
- 2) approve the implementation of a 15-year term in place of the current 10-year term for recoveries under each of Development Cost Charge (DCC) Front-Ending Agreements and Development Works Agreements.

INTENT

Provincial legislation governing each of Latecomer, DCC Front-Ending, and Development Works Agreements was amended in 2007 to increase the maximum term for cost recoveries to be made under these types of agreements from 10 years to 15 years. This report seeks Council approval to extend the term from 10 years to 15 years as contained in Surrey policies in relation to each of these types of agreements and for other minor amendments to the Latecomer Policies.

DISCUSSION

Latecomer, DCC Front-Ending, and Development Works Agreements are used extensively in Surrey to allow developers to recover the costs of engineering servicing infrastructure from other lands that benefit from the engineering infrastructure that has

been installed by the developer when these other lands are developed. Council has delegated the administration and approval of Latecomer Agreements to staff through Policy H-25 "Frontage Latecomers" and Policy H-43 "Area Latecomers". Council must approve DCC Front-Ending Agreements and Development Works Agreements on a project-by-project basis, as they are generally larger in scope.

Currently, Surrey policies and practices Latecomer Agreements, DCC Front-Ending Agreements and Development Works Agreements all have a maximum term for cost recovery of 10 years, which was the maximum allowed under previous Provincial legislation. At the expiry of the 10-year term, the front-ending developer is no longer able to recover costs from other benefiting land of engineering services that have been installed that benefit that other land. This 10-year limit on these agreements in some cases results in the "front-ending" developer not being able to recover the costs of engineering services that benefit other lands. In fact, some adjacent benefiting owners are prepared to wait out the 10-year term so as to avoid paying what would otherwise be their fair share of the costs of the engineering services that have been installed by the front-ending developer.

Given a recent change in Provincial legislation allowing for a 15-year maximum term for cost recovery under the noted types of Agreements, staff consider it reasonable for the City to amend the City's policies and practices to allow for a 15-year cost recovery term. However, if Council approves such an increase in the length of the term for cost recovery, it would not apply to Agreements that the City has already executed with developers, which would remain limited to a 10-year term for cost recovery.

Policy H-25 "Frontage Latecomers" and Policy H-43 "Area Latecomers", are attached as Appendix I complete with amendments that revise the cost recovery term for these types of Latecomer Agreements to 15 years from 10 years and that address some other minor clarification/housekeeping issues in these policies.

The proposed term extension to 15 years for these types of Agreements was discussed with the Development Advisory Committee (DAC). The DAC strongly supports this change as being beneficial to the development industry since it enhances the potential for more complete cost recovery by "front-ending" developers. This amendment has only limited impact to the City in that it will extend the period of time during which the staff must actively administer "cost recovery" Agreements for individual developers. The City collects a fee from each "front-ending" developer at the time of execution of each of these types of Agreements to cover the City's costs of preparing and administering the Agreement.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve amendments to Policy H-25 "Frontage Latecomers" and Policy H-43 "Area Latecomers" as documented in Appendix I that will act to extend the term during which cost recoveries will be made under Latecomer Agreements from 10 years to 15 years and will incorporate other minor housekeeping amendments in these policies; and

- Approve the implementation of a 15-year term in place of the current 10-year term for recoveries under each of Development Cost Charge (DCC) Front-Ending Agreements and Development Works Agreements.



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General Manager, Engineering

VL/RAW/brb

Appendix I – Policies H25 and H43 with recommended amendments highlighted

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Note: Appendices to CR224; 2008 are available upon Request