

Municipality of Lakeshore – Report to Council

Finance

Financial Planning & Analysis



To: Mayor & Members of Council

From: Justin Rousseau, Corporate Leader- Chief Financial Officer
Tammie Ryall, Corporate Leader- Growth and Sustainability

Date: April 28, 2023

Subject: Removal of Development Charges for Sanitary Sewers on Belle River Road

Recommendation

This report is for information only.

Background

During the process of updating the Development Charge By-Law for the increased cost to the construction of the Dennis St Pierre Water Pollution Control Plant, at the May 31st, 2022, Council Meeting Lakeshore Council passed Resolution #211-05-2022:

Direct Administration to prepare a report setting out the steps required to remove the sanitary sewer portion of the Development Charges for Belle River Road and West Belle River Road south of County Road 42.

The resolution was out of residents' and Council's concerns and questions as to why new residences along this area are required to pay sewer Development Charges in advance of sanitary sewage services being provided. In the interim, landowners must build a private septic system to service their dwellings. Paying for both appears to create inequity in urban vs rural development areas.

As a result of the motion of Council, Administration engaged Watson & Associates to prepare a memo to help understand the implication of such a policy change, as well as the legislation at play and the logic behind Lakeshore's current practices.

One of the key factors in the time it has taken to prepare the report to Council is that Administration was aware of pending legislative changes through Bill 109, and later Bill 23. On November 28, 2022, Bill 23 received Royal Assent. This Bill amends a number of pieces of legislation including the Planning Act and the Development Charges Act (D.C.A.) which all had impacts on what the outcome would be for the removal of this

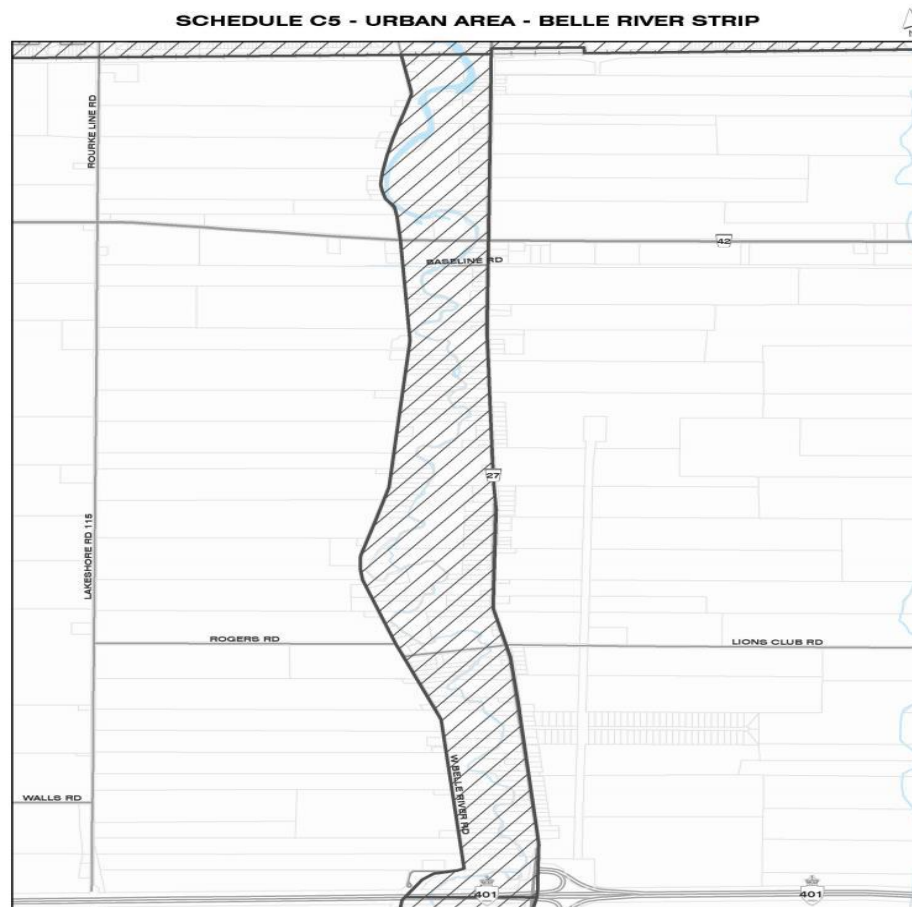
section of the primary settlement area in the Lakeshore Development Charge Study. Those impacts also must be considered when making a decision on the matter.

Attached in Appendix A is the detailed memo from Watson & Associates for Council's consideration. The Memo has detailed information on the following:

- Overview of the municipal planning framework and the utilization of development charges (D.C.) in that framework;
- Overview of the D.C. calculation methodology;
- Process for amending a D.C. by-law under the Development Charges Act (D.C.A.);
- Impacts of removing a project from the D.C. by-law;
- Impacts of Bill 23, More Homes Built Faster Act; and
- Options for Council's consideration

Comments

The area in question for removal is outlined in Schedule C5 of the Development Charge Study. The Area boundary extends from the Canadian Pacific Railway on the north to Highway 401 on the south, and from the east side of W Belle River Rd to the west side Belle River Rd. (It is not on both sides, please see below.)



The same area is designated in the Lakeshore and County of Essex Official Plans as a Settlement Area.

The Lakeshore Official Plan states that: “Full municipal sanitary sewage, stormwater management and potable water services are the preferred means of servicing within the Waterfront Area.” ... “For Waterfront Areas where full municipal services do not exist, development will only be permitted on partial services within the existing Waterfront Area to:

- i) address failed individual on-site sewage and individual on-site water services within existing development;
- ii) allow for infilling and rounding out of existing development provided that the development is within the reserve sewage system and/or reserve water system capacity; and
- iii) provided site conditions are suitable for the long-term provision of such services.”

Section 7.3 of the Official Plan (OP) clearly states that municipal sewage and water are required to service Waterfront Areas in the long term. This includes the: “Belle River Strip; Ruscom River Strip; Puce River Strip; and various un-named Settlement Areas along the Lake St. Clair shoreline”.

Administration has also completed a detailed review of the area with GIS Mapping (Appendix B) and can confirm that there are currently 194 address points in this settlement area and 3 vacant lots.

From a desktop exercise, there are approximately 24 vacant or potentially severable properties in the area described. This is in addition to the 194 address points that already exist. So, there could potentially be approximately 24 residences added in this area, through infilling of new severed lots.

The capital needs required to accommodate development in the Belle River Strip are identified as project 6 – Belle River Rd/N Woodslee/S Woodslee Conveyance. The gross capital cost of this project (in 2020\$) is \$10.2 million with \$2.04 million being attributed to post-period benefit, leaving a net amount of \$8.16 million which is shared 65%/35% between residential and non-residential development.

If Project 6 was removed from the D.C. calculations, this would result in the removal of \$5.30 million from the residential D.C. calculation and \$2.86 million from the non-residential D.C. calculation. However, without the quantum of development to be removed, the actual impact on the D.C. calculation is not known at this time.

To remove this project, the calculations would need to be modified to remove the development anticipated to occur in the Belle River Strip. Since the D.C. calculations for wastewater are based on the total costs to service the total development anticipated in the Municipality, this may result in a change in the wastewater D.C. for all other areas.

Note that the growth anticipated in this area was not separately identified in the Municipality's D.C. growth forecast (Appendix A to the background study).

The removal of this development will also impact the calculations for the Denis St. Pierre Water Pollution Control Plant Expansion as this project was sized to accommodate growth in the Belle River Strip. This would result in more of the costs of the plant expansion to be considered Post-period Benefit, which would need to be cash flowed by the Municipality until such time that the development was included in the D.C. forecast.

Because of the significant changes to the calculation that would be required, it will trigger the need for a new development charge study that would now fall into the new requirements of Bill 23. Any amendments to the By-law will need to consider the impact of Bill 23, More Homes Built Faster Act, 2022. Bill 23 introduced a number of changes to the Development Charges Act (D.C.A.), along with nine other Acts including the Planning Act, which seek to increase the supply of housing. The changes to the D.C.A. that would impact the Municipality upon amending or passing a new D.C. By-law are as follows:

- Mandatory Phase-in; and
- Removal of growth-related studies

Mandatory Phase-in

For all D.C. By-laws passed the charge must be phased in annually over the first five (5) years the By-law is in force as follows:

- Year 1 – 80% of the maximum charge;
- Year 2 – 85% of the maximum charge;
- Year 3 – 90% of the maximum charge;
- Year 4 – 95% of the maximum charge; and
- Year 5 to expiry – 100% of the maximum charge.

As a result, if the Municipality amended the D.C. By-law to reduce the charge, the reduced charge would need to be phased in as per the above. For example, if the new charge was calculated at \$10,000 per single detached unit, the maximum the Municipality could impose in the first year would be \$8,000. Note that this would apply to **all services** in the By-law, not just wastewater services.

Removal of Growth-related Studies

The definition of eligible capital costs has been revised to remove the costs of studies, including the preparation of the D.C. Background Study. This applies to by-laws passed after November 28, 2022. As a result, any amendment to the existing By-law or new By-law may result in the removal of growth-related studies from the Lakeshore D.C. By-law.

Lakeshore Considerations not dealt with in the Memo:

Lakeshore's vast land mass and our unique rural communities in our Official Plan create some unique issues when it comes to servicing sanitary sewers. Lakeshore has a mix of lands that are serviced by the Denis St. Pierre pollution control plant, the Stoney

Point and Comber sanitary lagoon systems, smaller plants for North and South Woodslee and areas where private septic systems exist where, should future growth occur in those settlement areas, upgrades to the system will be needed, as set out in the Official Plan. The settlement areas in the Official Plan are mirrored in the Development Charges Study.

The area identified by Council in the resolution of the Belle River Road and West Belle River Road is just one of those areas where private septic systems are used with future development expansion plans to be funded by Development Charges. The areas in the Development Charges Schedules C2- Lighthouse Cove, C7 Essex Fringe and C11 Shoreline all have implications in the development charge study.

Options for Council Consideration

1) Recommended Option- Status Quo

Council may elect to keep the D.C. calculations as-is. Although development is proceeding in advance of the servicing, the Municipality has the ability to impose the D.C. The By-law has clear rules regarding who will pay a D.C. and who is exempt (wholly or partially), and in this situation, these rules do not exempt these properties. The services these areas will be required to contribute towards include fire, police, library, parks and recreation, growth studies, roads/public works, sanitary sewer and water. All of these services, except water and sewer, are imposed by the By-law, on development occurring anywhere within the Municipal boundaries. The Municipality has determined that the anticipated development over the planning period will increase the needs for these services and that all development should pay a D.C. As these services are, and will be, of benefit to these proposed development areas, a D.C. should be paid. In regard to sewer services, although development in some areas may need to build septic systems for their developments, the area where the development will be built is within the urban boundary and the services will be built by the Municipality over the forecast period. The owners of these properties have chosen to build in advance of those services and hence, would be required to build interim servicing for their properties as well as pay the D.C.

When servicing is available, the existing properties **will not have to pay** to hook into the system as they will have already paid their D.C. This is of great benefit to the landowner in the future, but understandably is of concern to the current landowner.

As mentioned above, Administration has identified that 194 addresses and 3 current vacant lots exist, with the possibility of approximately 24 more vacant lots to be created. Presumably most of the 194 addresses have already paid the Development Charge. If municipal sanitary services are extended into this area in

the future, there could be additional lots created due to the smaller lot sizes that could be supported on municipal services.

2) Not Recommended – Removal of Project and Anticipated Development from the D.C.

If Council elects to remove the anticipated development and capital costs from the D.C. study, there may also be planning implications to consider. The O.P. identifies the Belle River Strip as an urban area. If Council removes the projects and development from the D.C., they may no longer be planning for urban development in this area which is contrary to the Municipality's O.P. However, should Council choose this approach, there will be no D.C. funding identified for the conveyance works when the Municipality plans to service the area. As a result, the Municipality may have to utilize Part XII of the Municipal Act to impose capital charges on the existing and new development in the area. Those properties that have developed and have not paid a D.C. may be required by the Municipality to connect to the system and pay the capital charge.

This approach would result in the removal of growth studies from the Lakeshore By-law, as well as trigger a review of the level of service calculations on a 15-year period and trigger the mandatory phase-in required by Bill 23.

This is not recommended as triggering a mandatory phase-in will cost the Municipality Development Charge Funds not just in this area but also across the entire Municipality the potential impacts are outlined in financial matters.

It would also create a tracking of who has and has not paid for Development charges with no dedicated or defined business process in place to do so administratively. The development and administration of which would come with a need for increased service levels and potential staffing.

Administration has identified that all 194 addresses and 3 current vacant lots exist with the possibility of approximately 24 more vacant lots to be created.

3) Not Recommended- Utilizing Delayed Payment Agreements

If the number of developments proceeding in advance of the servicing may be limited, the Municipality may consider utilizing section 27 of the D.C.A. to enter into delayed payment agreements with the property owners. This would allow the Municipality to maintain the D.C. calculations and allow the property owners to pay their D.C.s at a later date. This can be a specific date determined through the agreement (e.g., the date servicing is available). This approach does come with additional administrative burden however, as staff will be responsible for creating the agreements and monitoring the agreements until the D.C.s are paid for this area.

This would also create a tracking of who has and has not paid for Development charges with no dedicated or defined business process in place to do so administratively. The development and administration of which would come at a need for increased service levels and potentially staffing. Administration has identified that all existing addresses have paid a Development Charge in this area. However, vacant or lots created in the future would not pay a Development Charge for sewer connection. This could create an issue where residents who had to pay in advance would come and seek a refund and deferral agreement. It also may come with the same concern from other areas of Lakeshore that have paid D.C. in advance of servicing.

There is also the matter of who would bear the legal cost to create and register on title all these agreements and at which point they are triggered.

It could create a situation where developers build a home without paying the D.C. and then sell the home. A number of years later, when municipal sewage systems are installed, the homeowners are hit with what they may see as a surprise bill for Development Charges as it is an uncommon practice and may not be reviewed by lawyers on change of title.

4) Not Recommended- Updating the D.C. Forecast Periods

There is no required time horizon to include in the D.C. when planning for development. The Municipality may also consider updating the D.C. study to utilize a smaller time horizon for conveyance services. Since the conveyance project for the Belle River Strip is not anticipated for a number of years, Council may consider using a shorter time horizon which would exclude this project and the development from the calculations. As the Municipality gets closer to the date of servicing, this area and the capital needs can be added into the calculations. However, if the forecast period for sanitary sewers is shortened, the charges for treatment would still be payable, unless that forecast was shortened as well. If the forecast for treatment was shortened as well, the share of the costs for the Denis St. Pierre plant (and potentially other projects) would be increased, increasing the amount that would have to be financed with wastewater rates.

This approach would result in the removal of growth studies from the Lakeshore By-law, as well as trigger a review of the level of service calculations on a 15-year period and trigger the mandatory phase-in required by Bill 23.

This is not recommended as triggering a mandatory phase-in will cost the Municipality Development Charge Funds, not just in this area, but also across the entire Municipality. The potential impacts are outlined in financial matters.

Others Consulted

Watson & Associates Economists Ltd.

Financial Impacts

Regarding options 2 & 4 and the triggering of a new development charge study the following would require a Development Charge Background study at a cost of \$50,000-\$75,000 in professional fees and the diversion of resources of staff to review the study.

The removal of growth-related studies would eliminate the Municipality's ability to collect D.C. to fund \$1,384,571 (2020 dollars) of studies because of Bill 23 implications.

It would also require a phase-in of Development Charges. By using the 2023 Rates and a CPI of 3% going forward and assuming 200 homes built in a year the following table would illustrate the potential loss of D.C. over the proposed phase-in.

	Single and Semi-Detached Development Charge Rate Total	Number of Homes	Total without Phase-In	Phase-In %	Loss because of Phase-In
Year 1	\$34,581	200	\$6,916,200	80%	\$(1,383,240)
Year 2	\$35,618	200	\$7,123,600	85%	\$(1,068,540)
Year 3	\$36,686	200	\$7,337,200	90%	\$(733,720)
Year 4	\$37,786	200	\$7,557,200	95%	\$(377,860)
Year 5 and after	\$38,920	200		100%	Nil
Total Loss Because of Phase-In					\$(3,563,360)

The estimated total for the loss of D.C. should the study be opened up to phase in applications in the scenario above is \$3.56 million dollars but could very well exceed

that calculation should house build increase and non-residential construction CPI keep with current trends.

Regarding option 3, the new business process and tracking of properties to this level would possibly require more staffing in revenue and building departments as well as custom software development in both accounting and building department software. Additional legal service support may be needed as well as tracking of connections to the sanitary system in the operations department. At this time the business case has not been completed and should Council consider this option it would need to be done and brought back before Council and would also require some commitment of internal resources to complete.

At the end of 2021, the Development Charge reserve sits at the following balances.

Development Charge Reserve	Balance
Services Related to a Highway	\$5,241,313
Water	\$(4,576,483)
Wastewater	\$4,275,345
Protection	\$2,055,089
Parks and Recreation	\$(2,013,672)
Administration	\$(101,067)
Total	\$4,880,525

It should also be noted that \$15,905,696 of the municipalities long-term debt at the end of 2021 is tied to past Development Charge related projects in which repayment of the debt is partially funded by the annual collections of Development Charges.

As well as the future Council approved Debt for the Dennis St Pierre expansion is to be 90% funded by the annual collections of Development Charges.

A deviation from the status quo when looking at the current balances in Development Charges Reserves when combined with the future debt allocations as well as growth-related capital projects would cause significant fiscal constraints for the Municipality of Lakeshore and is not advised at this time.

Attachments

Appendix A- Watson & Associates Memo on Removal of Belle River and West Belle River Road.

Appendix B- Map of Belle River Road and West Belle River Road Addresses and Homes.

Appendix C – Current Development Charges Rates

Report Approval Details

Document Title:	Removal of Development Charges for Sanitary Sewers on Belle River Road.docx
Attachments:	- Lakeshore DC Memo - Final.pdf - Capture.PNG - Appendix C - Current DC Rates -By-law-CPI-2023.pdf
Final Approval Date:	May 24, 2023

This report and all of its attachments were approved and signed as outlined below:

Prepared by Justin Rousseau and Tammie Ryall

Approved by Truper McBride