

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 24, 2014

Item 11, Report No. 8, of the Finance, Administration and Audit Committee, which was adopted, as amended, by the Council of the City of Vaughan on June 24, 2014, as follows:

By approving the recommendation contained in the report Commissioner of Finance & City Treasurer and Director of Development Finance & Investments, dated June 16, 2014; and

By receiving Confidential Communication C10 from the Director of Legal Services and the Director of Development Finance & Investments, dated June 24, 2014.

**11 DEVELOPMENT CHARGES PREPAYMENT AGREEMENT: REQUEST FOR SPECIAL
CONSIDERATION**

The Finance, Administration and Audit Committee recommends:

- 1) That consideration of this matter be deferred to the Council meeting of June 24, 2014, to enable staff to provide a further report on the issues raised by Committee;
- 2) That the deputation by Mr. Jeff Solly, The Sorbara Group, Steeles Avenue, Vaughan, be received; and
- 3) That Communication C1, from Mr. Edward Sorbara, dated May 26, 2014, be received.

Recommendation

The Commissioner of Finance & City Treasurer and Director of Development Finance & Investments in consultation with the Commissioner of Planning and Director of Legal Services recommend:

1. That Council not approve the request for special consideration received from: Smith Farm Property Holding Inc.

Contribution to Sustainability

N/A

Economic Impact

In accordance with their Development Charge (DC) Prepayment Agreement, Smith Farm Property Holding Inc. ("the proponent") prepaid DCs at the rate in effect prior to the effective date of the new DC By-law of September 21, 2013. The total DCs prepaid amounted to \$409,281.

Should the special consideration request be denied then the proponent would be immediately refunded the prepaid DCs. They would then be required to pay the DC rate in effect at the time of Building Permit issuance. They would still be permitted to take advantage of the phased-in rates approved by Council as a part of the approved transition measures. Therefore, if for example, they achieved Building Permit issuance by March 20, 2015 then they would pay \$855,969. If they do not achieve Building Permit issuance by March 20, 2015 then they would be required to pay at the full rate, which would equate to approximately \$1,050,852.

Communications Plan

N/A

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Purpose

This report seeks City Council approval to deny the requests from a proponent for special consideration pertaining to a Development Charge Prepayment Agreement approved by City Council on May 14, 2013.

Background - Analysis and Options

Transition Measures were approved as part of the adoption of the 2013 DC By-law

On May 14, 2013 City Council adopted the 2013 DC By-law with an effective date of September 21, 2013. As part of the passing of the 2013 DC By-law, Council approved various transition measures to help mitigate the impact of the substantial increase in DCs to the development industry and the new home/commercial owner or business tenant. The following transition measures were approved and implemented:

1. Delay of the By-law effective date to September 21, 2013
2. Freeze of the "Engineering Top-up" practice for a two year period
3. Phasing-in of the DC rates over an 18 month period beginning on September 21, 2013
4. Option to enter a DC Prepayment Agreement

The onus was on the Developer/Landowner to meet criteria in the DC Prepayment Agreement

DC Prepayment Agreements were approved by Council whereby developers prepaid DCs at the rates in effect prior to September 21, 2013. These options were designed to deal with those developers that would be affected by the transition to the proposed 2013 DC rates and would have been unable to plan for the increased rates. They were established to benefit those developers whose projects were "in the pipe" and would come to fruition in 2014.

While other projects may have also been in various stages of the planning process, many developers did not take advantage of the prepayment agreement option as they were cognizant of the many criteria that would have to be met in order to maintain their status under the agreement. Namely, they were required to execute/register Site Plan, Subdivision or Letter of Undertaking Agreement by June 20, 2014 and achieve Building Permit issuance by September 20, 2014. Those developers that did not feel confident they could achieve these criteria chose not to enter DC Prepayment Agreements and instead took advantage of the phased-in rates.

The City worked collaboratively with the Landowners/Developers on meeting the Agreement Criteria

All Landowners/Developers who entered in to DC Prepayment Agreements with the City were communicated with on a regular basis regarding their upcoming deadlines in accordance with the Agreements. City Planning, Engineering and Finance staff made every effort to work collaboratively with the industry to ensure that the deadlines would/will be met.

The City entered in to 21 DC Prepayment Agreements: 5 Residential Subdivisions, 4 Residential Site Plans, 8 Non-Residential Site Plan/Letter of Undertaking and 4 High Density Residential or Office Site Plans.

Of these Agreements it is estimated that only 2 Landowners/Developers will not meet their Site Plan Agreement deadline and Building Permit issuance criteria under their agreements: 1 Residential by Site Plan, and the proponent (Smith Farms Holding Inc.: Non-Residential by Site Plan).

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The other Landowner/Developer who will not be meeting their criteria has not approached the City for special consideration.

Staff recommends that the request for special consideration not be granted

City staff has administered the Prepayment Agreements in a manner consistent with the policies approved by Council. Staff do not have the flexibility to alter the terms of the Prepayment

Agreements. For the proponent who did not satisfy the criteria and is seeking a deadline extension, the Prepayment Agreement was a contract between the City and the Developer. Since the proponent did not satisfy the terms of the agreement; the agreement will be considered terminated on June 20, 2014. Although the proponent had unfortunate circumstances, process issues are not unusual in the approval process. Notice of the DC rate increase and prepayment options was widely distributed through the City's website, at the Building and Development Finance counters, through the Building Industry and Land Development Association (BILD) and other industry stakeholders. There was sufficient communication that developers already engaged in the approval process should have been aware of the impending rate increase and prepayment options.

In staff's opinion, the request received is not considered to be exceptional circumstances given the complex nature that the planning process often entails. The specific issues surrounding the proponent's development (e.g. adjacency to other lands of other authority bodies) were known at the time of entering in to the Prepayment Agreement and were not completely unforeseeable impediments in the planning process.

A number of other developers have paid DCs at the increased rates. Providing special consideration for the proponent identified in this report could result in others coming back to the City to request special consideration, particularly those that have subsequently paid the increased DC rates. In addition, 19 other Landowners/Developers have worked diligently and collaboratively with the City towards meeting the deadlines as outlined in their agreements. Providing an extension to one developer undermines the efforts and good faith work that has gone in to bringing these other developments to fruition under the Council approved transition policies.

Relationship to Vaughan Vision 2020/Strategic Plan

The above recommendations are consistent with the City's goal of organization excellence, and more specifically, to ensure financial sustainability.

Regional Implications

While Regional DCs are unaffected by the DC Prepayment Agreements, it should be noted that Regional Council faced similar requests for special consideration regarding their 2012 DC Prepayment Agreements. At its meeting of June 27, 2012, Regional Council opted to deny all requests for special consideration based on many of the same arguments provided in this report.

Conclusion

A request for special consideration has been received by Smith Farm Holdings Inc. with regard to a DC Prepayment Agreement that was entered in to with the City. The proponent is asking for an extension to deadlines found within that agreement based on their position that they are extenuating circumstances applicable to their development. Staff are recommending against providing any special consideration given that the planning process is known to be complex and consideration should be given to equity amongst those other developers that have and will be paying the higher DC rate going forward.

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Attachments

N/A

Report prepared by:

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