Minutes – Executive Policy Committee – October 19, 2016

REPORTS

Item No. 5 Implementation of an Impact Fee

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee recommended to Council that the Implementation of an Impact Fee report (the "Report"), as considered by Executive Policy Committee on September 21, 2016, be concurred in, subject to the following amendments and recommendations:

1. That an Impact Fee Working Group be established as per the "Impact Fee Working Group Terms of Reference" to ensure long-term, ongoing collaboration and consultation with industry and community stakeholders which will review market trends, exemption options and provide recommendations to the Ad Hoc Committee on Development Standards and the "Impact Fee Working Group Terms of Reference" (draft attached) be included in the report and attached as Appendix E.

2. That the "Phase One: Impact Fee Implementation Plan" (attached) be attached to the report as Appendix D.

3. That the recommendations set out in the Report be replaced with the following:

    "1. That the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) be received as information.

    2. That the Impact Fee By-law (draft attached as Appendix C) which will apply an impact fee effective May 1, 2017, for residential development in New Communities and Emerging Communities as set forth in Our Winnipeg and Complete Communities, outlined in bold in Appendix D be enacted, and that for the purposes of the Impact Fee By-law, the following be established:

        A. that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer;

        B. an administration fee for refunds in the amount of $100.00;

        C. an application fee for Director review in the amount of $100.00; and

        D. an appeal fee in the amount of $250.00.

3. That the following be established as Phase One of the Impact Fee Implementation Plan: effective May1, 2017 as fee amounts per square meter of gross floor space in the following five categories for residential development in New and Emerging Communities, as identified in OurWinnipeg and outlined in bold in Appendix D:

    A. Residential: $54.73 per m2
    B. Office: $0.00 per m2 -
    C. Commercial: $0.00 per m2
    D. Industrial: $0.00 per m2
    E. Public and Institutional: $0.00 per m2

4. That Council, with recommendations from the Working Group, may consider rates for implementation for the following:

    A. non-residential uses in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D no earlier than November 1, 2018 – Phase 2

    B. All uses in all other areas of the City no earlier than November 1, 2019- Phase 3

5. That the Impact Fee Reserve Fund be established as follows:

    A. All funds generated by the impact fee are to be deposited into the Fund;

    B. The purposes of the Fund are:

        i. to fund capital projects approved by Council recommended by the Chief Financial Officer with consideration given to the input provided by the Working Group;

        ii. to pay the costs of administering the Impact Fee By-law and Reserve Fund.

6. That the Winnipeg Public Service report to Council every 24 months with the results of a review of the impact fee, which must include consideration of recommendations provided by the Working Group and alignment of the impact fee with OurWinnipeg."

4. That the draft Impact Fee By-law (Appendix C to the Report) be changed:

    A. To reflect the content of the altered Report recommendations set out above

    B. To exempt from application of the fee building or development permits issued within 6 months of receipt of application made prior to May 1, 2017, at the discretion of the Director of Property and Development, where construction begins or conversion takes place by November 1, 2018.

5. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

WHEREAS for more than a decade the City of Winnipeg has reviewed, analyzed, consulted and discussed options to create and implement ways to pay for increasing demands due to growth, without placing complete reliance for funding solely on property tax revenues;

AND WHEREAS during the planning of the 2016 Budget, the City contemplated growth-related fees and through discussion with Winnipeg's local development and homebuilder industry, a one-year delay was determined to be required to study the relationship between growth-related costs in Winnipeg and funds were allocated in the 2016 Budget to conduct this study externally;

AND WHEREAS the results of the study conducted and completed by Hemson Consulting Inc, published September 1, 2016, concluded that growth in Winnipeg is not funding its fair share of growth related costs;

AND WHEREAS the Winnipeg Public Service presented its report Implementation of an Impact Fee to Executive Policy Committee September 21, 2016, at which time the Executive Policy Committee laid the matter over for additional consultation with Council and industry stakeholders to be led by the Chair of Property and Development, Heritage and Downtown Development, Councillor Orlikow;

AND WHEREAS meetings with more than 40 stakeholders have been held by the Chair of Property, Development, Heritage and Downtown Development over the past weeks;

AND WHEREAS through consultation and collaboration with industry and Council members, no fees will be applied to building permits for 6 months, a phased-in approach of reduced rates, based on categories, along with developing a process to build-in ongoing, meaningful consultation with industry stakeholders has been determined;

THEREFORE BE IT RESOLVED that the Executive Policy Committee recommend that Council concur with the Implementation of an Impact Fee report (the "Report"), as considered by Executive Policy Committee on September 21, 2016, subject to the following amendments and Recommendations:

DECISION MAKING HISTORY (continued):

1. That an Impact Fee Working Group be established as per the "Impact Fee Working Group Terms of Reference" to ensure long-term, ongoing collaboration and consultation with industry and community stakeholders which will review market trends, exemption options and provide recommendations to the Ad Hoc Committee on Development Standards and the "Impact Fee Working Group Terms of Reference" (draft attached) be included in the report and attached as Appendix E.

2. That the "Phase One: Impact Fee Implementation Plan" (attached) be attached to the report as Appendix D.

3. Replacing the recommendations set out in the Report with the following:

    "1. That Council receive the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) as information.

    2. That the Impact Fee By-law (draft attached as Appendix C) which will apply an impact fee effective May 1, 2017, for residential development in New Communities and Emerging Communities as set forth in Our Winnipeg and Complete Communities, outlined in bold in Appendix D be enacted, and that for the purposes of the Impact Fee By-law, the following be established:

        A. that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer;

        B. an administration fee for refunds in the amount of $100.00;

        C. an application fee for Director review in the amount of $100.00; and

        D. an appeal fee in the amount of $250.00.

    3. That Council establish the following as Phase One of the Impact Fee Implementation Plan: effective May1, 2017 as fee amounts per square meter of gross floor space in the following five categories for residential development in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D:

DECISION MAKING HISTORY (continued):

A. Residential: $54.73 per m2
B. Office: $0.00 per m2 -
C. Commercial: $0.00 per m2
D. Industrial: $0.00 per m2
E. Public and Institutional: $0.00 per m2

4. That Council, with recommendations from the Working Group, may consider rates for implementation for the following:

   A. non-residential uses in New and Emerging Communities as identified in OurWinnipeg and outlined in bold in Appendix D no earlier than November 1, 2018 – Phase 2

   B. All uses in all other areas of the City no earlier than November 1, 2019- Phase 3

5. That Council establish the Impact Fee Reserve Fund as follows:

   A. All funds generated by the impact fee are to be deposited into the Fund;

   B. The purposes of the Fund are:

      i. to fund capital projects approved by Council recommended by the Chief Financial Officer with consideration given to the input provided by the Working Group;

      ii. to pay the costs of administering the Impact Fee By-law and Reserve Fund.

6. That the Winnipeg Public Service report to Council every 24 months with the results of a review of the impact fee, which must include consideration of recommendations provided by the Working Group and alignment of the impact fee with OurWinnipeg."

4. Changing the draft Impact Fee By-law (Appendix C to the Report):

   A. To reflect the content of the altered Report recommendations set out above

DECISION MAKING HISTORY (continued):

B. To exempt from application of the fee building or development permits issued within 6 months of receipt of application made prior to May 1, 2017, at the discretion of the Director of Property and Development, where construction begins or conversion takes place by November 1, 2018.

5. That the proper officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

Carried

Councillor Browaty and Councillor Lukes asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

Justin Swandel, Terracon Development Limited, submitted a PowerPoint Presentation titled "Questions All Councillors Should Be Able to Answer", in opposition to the matter.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2016, the Executive Policy Committee laid over the matter to allow Councillor Orlikow to proceed with further discussions with stakeholders, including Members of Council, industry, and the Winnipeg Public Service.

The Executive Policy Committee received submissions with respect to the matter from the following:

- Tom Thiessen, Executive Director, BOMA Manitoba, submitted a communication dated September 20, 2016
- Tim Comack, Ventura Land Company Inc., Ventura Developments Inc., submitted a value listing of 369 Stradbrook, and a copy of a communication dated September 13, 2016 from Tacium Vincent & Associates in relation to the proposed fee
- Justin Swandel, submitted Taxed Supported Summaries of the 2008 – 2016 Adopted Operating Budgets, a comparison of Annual Capital Spending across Eight Canadian Municipalities, a page of the Capital Project Summary of the 2014 Adopted Capital Budget, and a copy of City of Toronto's 2014 – 2023 Capital Budget and Plan.

ADMINISTRATIVE REPORT

Title: Implementation of an impact fee

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
Georges Chartier	Mike Ruta	Mike Ruta	Doug McNeil

RECOMMENDATIONS

1) That Council receive the reports prepared by Hemson Consulting Ltd., Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report, dated August 31, 2016 (attached as Appendices A and B) as information.

2) That Council enact the Impact Fee By-law (draft attached as Appendix C), which will impose an impact fee and will take effect on January 1, 2017.

3) That, for the purposes of the Impact Fee By-law, Council establish the following :

   a) fee amounts per square meter of gross floor space for the following five fee categories:

	Non-Residential Uses				**Residential Uses**
	Office	Commercial and Retail	Public and Institutional	Industrial	
Fee Amount (per m^2)	$226.51	$152.91	$94.08	$61.16	$109.45

   and that the fee amounts increase on January 1 of each year by the rate of construction inflation for the previous year as determined by the Chief Financial Officer;

   b) an administration fee for refunds in the amount of $100.00;

   c) an application fee for Director review in the amount of $100.00; and

   d) an appeal fee in the amount of $250.00.

4) That Council establish the impact fee Reserve Fund, as follows:

   a) All funds generated by the impact fee are to be deposited into the Fund;

   b) The purposes of the Fund are:

      i) to fund capital projects to the extent that they are determined by the Chief Financial Officer to be growth-related; and

      ii) to pay the costs of administering the impact fee By-law and Reserve Fund;

   c) The Chief Financial Officer is the manager of the Fund; and

   d) The purpose of the fund may only be changed by a 2/3 majority vote of Council.

5) That the Winnipeg Public Service report to Council within 24 months of implementation to provide an update on the impact of the impact fee which will include a review evaluating the alignment of the impact fee to the *OurWinnipeg* policy.

6) That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

The City of Winnipeg's 2016 Budget authorized an expenditure of $250,000 to "study and review smart growth funding options, including a regulatory growth fee." Following a request for proposals process, Hemson Consulting Ltd. (Hemson) was awarded a contract to conduct the growth study for the City. Hemson prepared two reports entitled Review Of Municipal Growth Financing Mechanisms and Determination Of Regulatory Fees To Finance Growth: Technical Report (Hemson's Reports), copies of which are attached as Appendices A and B, respectively, for Council's information.

Based on the analysis provided by Hemson's Reports, a by-law creating a new financial mechanism to fund growth is being proposed (draft attached as Appendix C), which requires enactment by Council before it can be implemented. In addition, a new reserve fund is being proposed, which only Council can approve.

EXECUTIVE SUMMARY

Over the last decade, the City of Winnipeg (Winnipeg) has experienced significant growth in population, which in turn has resulted in new housing, businesses, jobs and a vibrant community with many opportunities. In the next decade, Winnipeg is expected to continue experiencing robust growth, which will require significant investment in community services, transit, transportation, police and protection services, water and waste, and other areas.

The City of Winnipeg Charter identifies the purposes of the City of Winnipeg as including the development and maintenance of safe, orderly, viable and sustainable communities, and the promotion and maintenance of the health, safety, and welfare of the inhabitants. *OurWinnipeg* establishes a vision for Winnipeg that promotes a socially, economically and environmentally

sustainable city that offers a high quality of life that current citizens expect and that prospective citizens will value. The proposed impact fee will help position Winnipeg to achieve this vision and ensure that future growth and change is supported by adequate investment in the required infrastructure. Some key findings from Hemson's Reports include:

- In Winnipeg "Growth does not pay for growth";
- Winnipeg is one of the few cities in Canada that has not implemented an infrastructure-related growth charge of some nature;
- New development could be assessed the fee at the time a building permit is issued; and
- There are examples of municipalities who have implemented exemptions or discounts in some form.

Unlike most major Canadian cities, the City of Winnipeg (the City) does not currently impose any fee designed to recover the costs of infrastructure external to new development from developers, builders or property owners who are engaged in development. The City's legislative authority to impose fees under Part 6 of *The City of Winnipeg Charter* (the Charter) differs from that of most other major Canadian cities and other Manitoba municipalities who have been given specific legislative authority in their planning legislation to impose development cost charges or "DCCs".

However, under the *Charter*, the City has broad authority to impose fees for a variety of purposes, including applications, permits, licenses, consents, approvals, and other matters in respect of the administration of the Charter and the affairs of the City. Furthermore, the *Charter* states that the powers of the City are stated in general terms to give broad authority to Council to govern the city in whatever way Council considers appropriate within the jurisdiction given to it under the Charter or other legislation, and to enhance the ability of Council to respond to present and future issues in the city.

The Winnipeg Public Service has concluded that these and other empowering provisions in the *Charter* grant Council the authority it requires to enact the Impact Fee By-law (the By-law) proposed in this Report, a draft of which is attached to this report as Appendix C. The goal of the impact fee (the Fee) which would be imposed by the By-law is to assist the City in paying for the costs associated with managing and accommodating growth in Winnipeg thereby reducing the need for these costs to be paid for by taxpayers.

In this regard, the City has prepared the By-law which includes the following:

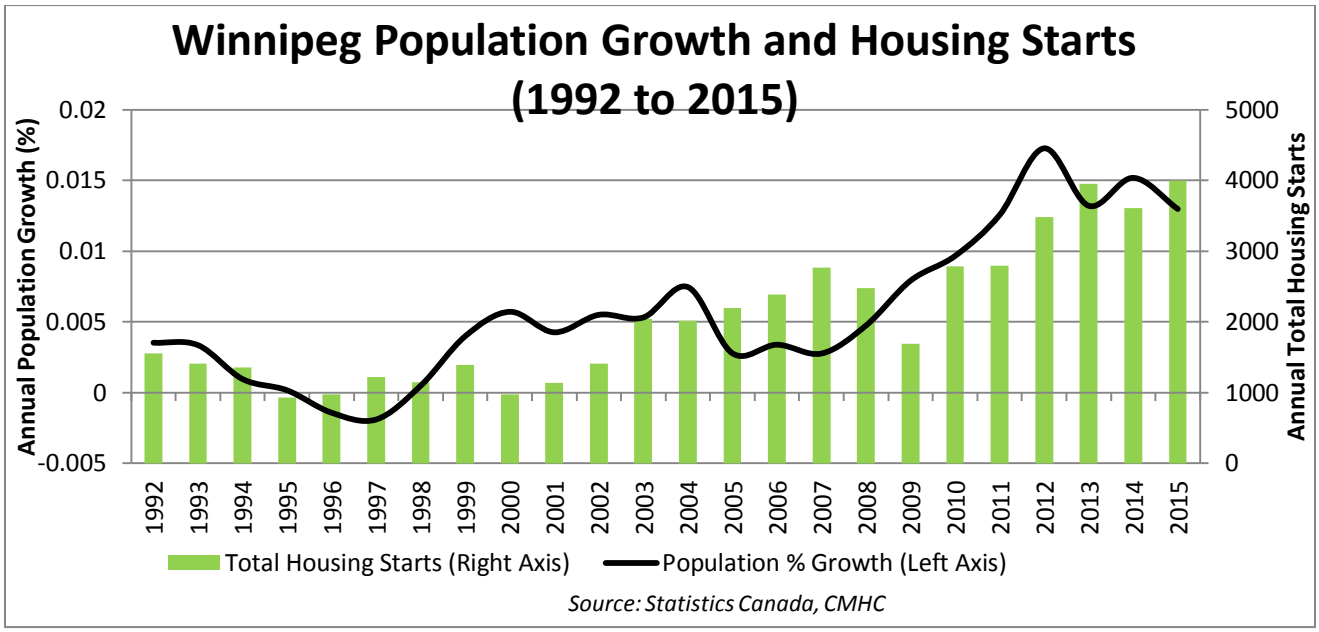
- Fee collected at the time a building or development permit is issued;
- Fee calculated per square metre on all residential and non-residential new construction. The fee amount will vary based on the following 5 categories:
  (i) Residential: $109.45
  (ii) Office: $226.51
  (iii) Commercial/Retail: $152.91
  (iv) Industrial: $61.16
  (v) Institutional: $94.08;
- Exemptions relating to affordable housing and home renovations;
- Hearing body for appeals; and
- In force and effect January 1, 2017.

To provide some context in respect of the above, the residential square metre fee amount proposed above calculated for an 1,800 square foot home (167 square metres) (representing the average new build dwelling size) would result in an impact fee of $18,303.

The impact fee revenue collected will be deposited into the impact fee Reserve Fund and used to fund capital projects to the extent to which the Chief Financial Officer (CFO) has determined that they are related to growth. A 2/3 majority vote of Council would be required to change the purpose of the Reserve Fund.

IMPLICATIONS OF THE RECOMMENDATIONS

Since 2005, the population of the City of Winnipeg has grown by more than 70,000 people, which has translated into more than 30,000 new housing starts. According to the Conference Board of Canada, this strong growth is anticipated to continue over the next several decades, with the City's population anticipated to increase from 718,000 in 2015 to 923,000 in 2040. Growth provides many benefits to our community but also has a significant impact on the City's operating and capital costs and revenues.



If the recommendations of this report are concurred in, the Public Service will operationalize the impact fee program. This program will better position City Council to invest in services and infrastructure to accommodate growth and change. More specifically, a number of benefits include:

- Fairness and Equity – the burden of paying general infrastructure shifts from the general public to those who require, benefit from and use the infrastructure.
- City Building – the impact fee program is rooted in the City's existing policy framework, including *OurWinnipeg* – our city's long-range development plan – and will support the efficient allocation of scarce resources and encourage infrastructure investment consistent with the City's goals and objectives for community building and sustainability.

- Sustainability – the impact fee program builds on the concept of the 3 pillars of sustainability (social, economic and environment) and the belief that current generations should capitalize on existing and future assets without placing a burden on, or impacting future generations, or the environment.
- Diversification – the impact fee program provides for a more diversified stream of revenues for the City and reduces the reliance on property taxes. Reliable alternative funding sources promote fiscal stability and the orderly provision of infrastructure.

HISTORY/DISCUSSION

Background

Winnipeg has gone through a period of growth that has impacted the City's operating and capital costs and revenues. Annual population growth rates in Winnipeg have increased from an average of approximately 0.5 per cent between 2002 and 2005 to approximately 1.5 per cent between 2012 and 2015. Population growth is expected to remain relatively strong over the coming decades, with Winnipeg's population anticipated to increase from 718,400 in 2015 to 922,600 in 2040.

Recent population growth is also reflected in housing development, with annual growth rates reaching nearly 3 per cent in recent years. In 2015, there was a total of 291,900 households in Winnipeg. This number is expected to grow to 391,900 by 2040.

This growth requires significant capital and operating investment. The City's planning policy framework recognizes the need to plan for this growth while supporting sustainability and economic growth. Currently, the majority of city-wide capital costs are funded through property taxes. Further, the City has frequently frozen or reduced property tax rates since the late 1990s, resulting in tax rates that are significantly lower than comparable Canadian municipalities.

As a result of limited revenues and competing capital funding priorities, the City is experiencing a deterioration of existing infrastructure and a growing city-wide infrastructure deficit. The infrastructure deficit is expected to reach a total of $7.4 billion by 2018, including $3.6 billion in development-related infrastructure deficit. The majority of the development-related deficit relates to transportation infrastructure.

As illustrated, growth is placing pressure on public infrastructure and services and on City Council to invest in additional capacity to accommodate growth. With relatively strong population growth and development expected to continue well into the future, funding new infrastructure for expanded City services will continue to be a challenge.

Studying Growth

For more than a decade, the Public Service has studied innovative financial mechanisms to support growth management, without raising property taxes. In 2005, the City completed the Financing Infrastructure Related to Land Development study and in 2013 the City conducted a study on Growth Development Charges.

On May 27, 2016 Hemson was awarded a contract to conduct a growth study for the City. The general scope of the work undertaken by Hemson includes the following:

- Determination of growth-related costs and revenues:
    - Define best practice methodology to assess growth-related City of Winnipeg costs and revenues;
    - Compare past growth-related cost and revenue reviews conducted on the City of Winnipeg against best practice methodology; and
    - Following best practice methodology, carry out a new analysis to determine City of Winnipeg growth-related costs (operating and capital expenditure; current and expected) and growth-related revenues.

- Determination of a growth financing implementation framework:
    - Define best practice by researching growth finance models used in other Canadian or international cities;
    - Apply those best practices to the City of Winnipeg and prepare recommendations for the implementation of a model for financing growth including rules and procedures for administration.

Hemson conducted industry consultations as part of its process on July 19, 2016 and August 18, 2016.

Hemson's Reports

The chart above illustrates actual population growth which has a direct correlation to new construction. Winnipeg has experienced continued population growth which results in increased demand for new construction and increases pressure for new and improved infrastructure. Other jurisdictions across Canada have found that the introduction of legislative charges has not impacted growth.

Currently the City depends on property taxes and fees to pay for infrastructure improvements. However, property taxes and fees have not kept pace with demand for services as noted above in reference to the significant infrastructure deficit that Winnipeg faces.

Hemson prepared two reports which are attached in Appendices A and B. A summary of the contents of Hemson's Reports follows:

(i) Use of funds

- Reserve funds or accounts should be established for each service adopted under a regulatory fee by-law.
- It is recommended that Council adopt the development-related capital forecast included in this study, subject to annual review through the City's normal capital budget process. Projects may be removed, added or substituted as long as they are development-related.

(ii) Timing of payment

- It is proposed that the regulatory fee be collected at building permit issuance or development permit issuance. These are common collection points in other municipalities.

(iii) Indexing of fees

- It is recommended that the City establish a by-law policy for the indexing of fees once they are established.
- Indexing is commonly done annually (and in some cases semi-annually) in other communities using construction cost indices.

(iv) Updating of by-law

- It is recommended that Council update the by-law as needed for changes relating to the application of charges, definitions, exemptions and discounts.
- The regulatory fees may be commonly updated at three to five year intervals or when there are significant changes to the capital plan or development forecast.

(v) Public Communication

- It is recommended that City advertise the adoption of the regulatory fee by-law including the applicable fees.
- The regulatory fees and rules should be included within a pamphlet that can be posted on the City's website and made available at Planning, Property and Development offices.

(vi) Discounts and exemptions

- This section includes examples of exemptions and discounts that Council may wish to consider. Exemptions and discounts result in revenue losses that are typically recovered through tax or utility rates. It is expected that the City may refine its discount and exemption policy over time following the initial adoption of a regulatory fee.
- The most common land-use exemptions used across Canada are for government buildings. This may include

    - Federal, provincial and municipal buildings, including agencies, boards and commissions;
    - Public schools; or
    - Exemptions for universities and colleges

- Other land-use exemptions or discounts that could be considered are:
    - for non-profit organizations. This may include land uses such as places of worship and affordable housing.
    - economic development incentives. Some municipalities reduce fees within a defined area to encourage investment. Typically, this may include the downtown area of a community where growth has been slow to occur.
    - some municipalities also choose to reduce charges for industrial development, the rationale being that it is more of a "footloose" sector than residential, office and retail uses, making it thereby more sensitive to fees and charges.

(vii) Phase-ins

- The phase-in of regulatory fees is commonly advocated by the building industry when significant increases in charges are proposed.
- As with other discounts, phase-ins result in revenue losses that have to be made up through other revenue sources.

In consideration of the above observations the Public Service is recommending the following:

The Impact Fee By-law

1. Legal Authority

For Winnipeg, the function of managing and accommodating growth and development is fundamental. Section 5 of the Charter specifies that the purposes of the City include developing and maintaining safe, orderly, viable and sustainable communities, and promoting and maintaining the health, safety, and welfare of the inhabitants. The function of managing and accommodating growth and development is integral to fulfilling these purposes.

In order to ensure that new development takes place in a way that is orderly, viable and sustainable within the broader municipality, the City, like other cities throughout Canada, creates, applies and enforces rules in its zoning by-laws governing the uses to which various properties may be put as well as dimensional restrictions on development taking place on properties (e.g. restrictions on the size of buildings, mandatory setbacks and building heights). In order to ensure that the construction that is a necessary part of development results in buildings that promote and maintain the safety, health and welfare of occupants, the City enforces building codes, another type of regulation. The City also acts in other ways in order to accommodate and manage growth and development. The City engages in the planning and construction of infrastructure to support the new residents and businesses in the new developments – streets, roads, alleys, sewer and water, libraries, recreation facilities, police and fire stations, etc. – both on and off-site. This infrastructure is also necessary to create safe, orderly, viable and sustainable communities and to promote and maintain the health, safety, and welfare of the inhabitants. Together, all of these elements constitute a comprehensive regulatory regime or system to manage and accommodate growth to ensure that it is safe, orderly, viable and sustainable.

Obviously, this regulatory regime or system is expensive. Some of the costs of managing and accommodating growth are currently recovered by the City, through various permit and approval fees as well as through development and zoning agreements. For example, developers typically pay for most of the costs of infrastructure within a development and sometimes boundary roads through development agreements and zoning agreements. Fees for permits and approvals are designed to recover the costs of providing administration and enforcement of that aspect of this system.

However, as Hemson's Reports make clear, not all of the costs of this regulatory system are currently being recovered by the City from the developers, builders or residents/occupants who most directly benefit from the new growth or development. In particular, the costs of off-site infrastructure necessary to support growth are not being recovered by the City.

As noted above, the authority given to the City in its planning legislation differs from that enjoyed by other municipalities in Canada and in Manitoba. Other municipalities have the authority to impose charges, often referred to as Development Cost Charges (DCCs), as part of the development process to recover the costs of managing and accommodating growth. When Council previously requested legislative changes from the Province of Manitoba (the Province), the Province advised that the City had sufficient existing statutory authority to recover the costs of growth.

Since then, the Public Service has reviewed existing City powers – other than Development Cost Charges – that could be used to recover the costs of managing and accommodating growth to the extent that they are currently tax-supported. One such power is the City's authority to impose fees. More recent judicial interpretation of the powers of governments to impose fees has demonstrated a greater willingness to recognize the legitimacy of fees to defray the costs of comprehensive regulatory systems, broadly defined.

As a result, the Public Service has concluded the powers currently available to the City in Part 5 of Charter to impose fees, and especially sections 209 and 210, can be used to support the proposed By-law to manage and accommodate growth. This authority is separate and distinct from any power to impose Development Cost Charges through planning legislation, which would be contained in Part Six of the Charter, and it does not depend on the Province to make any legislative changes or to provide any approvals. A Fee imposed under Part 5 would allow the City to recover more of the costs of managing and accommodating growth and development incurred by the City. And it would do so without the need to resort to increased taxes on Winnipeggers in general. In other words, the Public Service's opinion is that, if Council wants to do so, it has the legal authority to impose a regulatory fee of the kind proposed in this Report to ensure that growth more fully pays for the costs of growth.

2. impact fee

This Report recommends the introduction of an impact fee through a new by-law (draft attached as Appendix C). The specifics of the impact fee set out in the attached draft By-law are as follows:

(a) Framework of the fee

- The fee would be imposed on the basis of the gross floor area of buildings;
- A different charge per square metre would be imposed in each of five fee categories – residential, office, retail and commercial, public and institutional, and industrial;

- For the purposes of the By-law, garages, decks, porches, 3-season sun rooms, gazebos, and basements would be excluded when calculating the fee for residential development;
- The fee would be imposed on any development, including construction and/or a conversion from one of the five fee categories to another because of a change in the building's use under one of the City's two zoning by-laws.

(b) Replacements, expansions and conversions of buildings

- If a new building replaces a building that was demolished within the previous 5 years no fee would be imposed except to the extent that the new building extends the square footage or involves a conversion to a different, higher priced fee category. Similarly, if part of a building is demolished and rebuilt within 5 years, so long as both are in the same fee category, no fee would be imposed except to the extent that the rebuilt floor space exceeds the floor space it is replacing.
- As a general rule, if a building is expanded, the fee is only payable on the floor area being added. However, the fee would not be applicable at all to an expansion of a residential building unless additional dwelling units are being added
- If all or part of a building is converted to a new fee category, the fee would only be charged to the extent that the new fee category results in a higher fee (ie. the notional fee that would be applied to the existing building or part thereof is subtracted from the fee applicable to the new build or conversion)
- Where a mixed use building is being built or converted, the floor area of the common areas will be assigned to each fee category in proportion to that fee category's share of the entire building. (e.g. if a building is 20% retail and 80% residential, the common areas will be treated as 20% retail and 80% residential.)

(c) Discounts and exemptions

- An exemption would be provided to the following organizations in respect of dwelling units that they agree to provide as affordable housing for at least 10 years.
  - Winnipeg Housing Rehabilitation Corporation;
  - The Manitoba Housing and Renewal Corporation;
  - any level of Government; or
  - any organization who has been approved to receive funding from the Government of Canada or the Province of Manitoba under an affordable housing program.

(d) Time of payment

- The fee is imposed – and must be paid – before a building permit or development permit can be issued (but not at time of application).
- If a building or development permit is amended after it has been issued, an additional fee must be paid to reflect additional square footage or a higher fee category that the amended permit is allowing. Again, this must be paid before the permit is issued.

(e) Refunds

- If a permit is voluntarily withdrawn by the permit holder before it expires (e.g. if the project doesn't proceed), the entire fee is refunded less an administrative fee set by Council.

(f) Penalties for non-compliance

- A monetary penalty in the amount of the impact fee applicable to that development is imposed for a failure to pay the fee prior to beginning the development. Effectively, this means that the person then has to pay twice the fee – once for the fee and once for the monetary penalty.
- In addition, the City could prosecute the offender for violating the By-law. The fine for proceeding with construction or conversion of a building without paying the fee is twice the amount of the applicable fee.

(g) Reviews and Appeals

- Anyone subject to the fee can have the actions or decisions of City employees applying the By-law reviewed by the Director of PP&D upon payment of a refundable fee set by Council
- Any appeal specified in the *Charter* would be heard by Executive Policy Committee. Again, a refundable fee set by Council would apply.

In large part, the structure of the impact fee proposed in this Report corresponds to the recommendations of the Hemson Report. In addition, the fee categories set out in the By-law and the amount of the proposed fee in each category have been determined on the basis of the data supplied in Hemson's Reports.

The recommended fees per square metre for the five fees effective January 1, 2017 are as follows:

Residential	$109.45
Office	$226.51
Commercial/Retail:	$152.91
Industrial:	$ 61.16
Institutional	$ 94.08

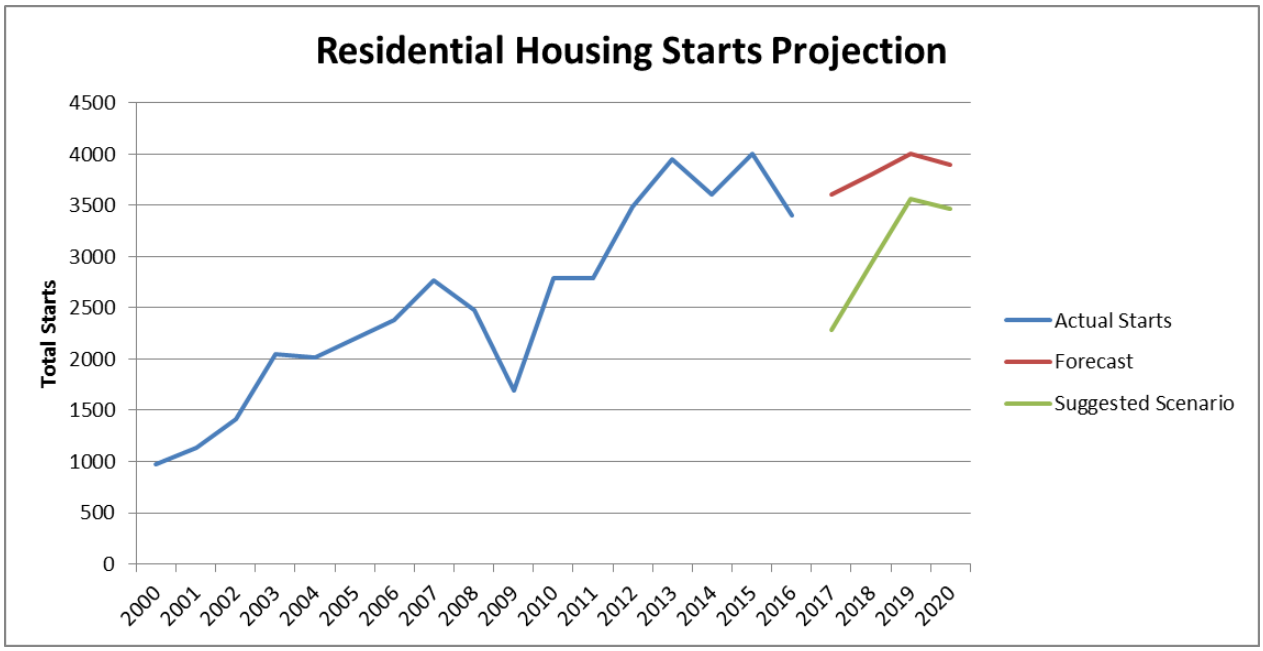
These fees would rise by the rate of construction inflation, as determined by the Chief Financial Officer. This increase would take place on January 1 of each year, unless Council had established a new fee within the previous 12 months.

The proposed fees for refunds, applications for review by the Director, and appeals to Executive Policy Committee, are based on the estimated costs of administration of each of these functions.

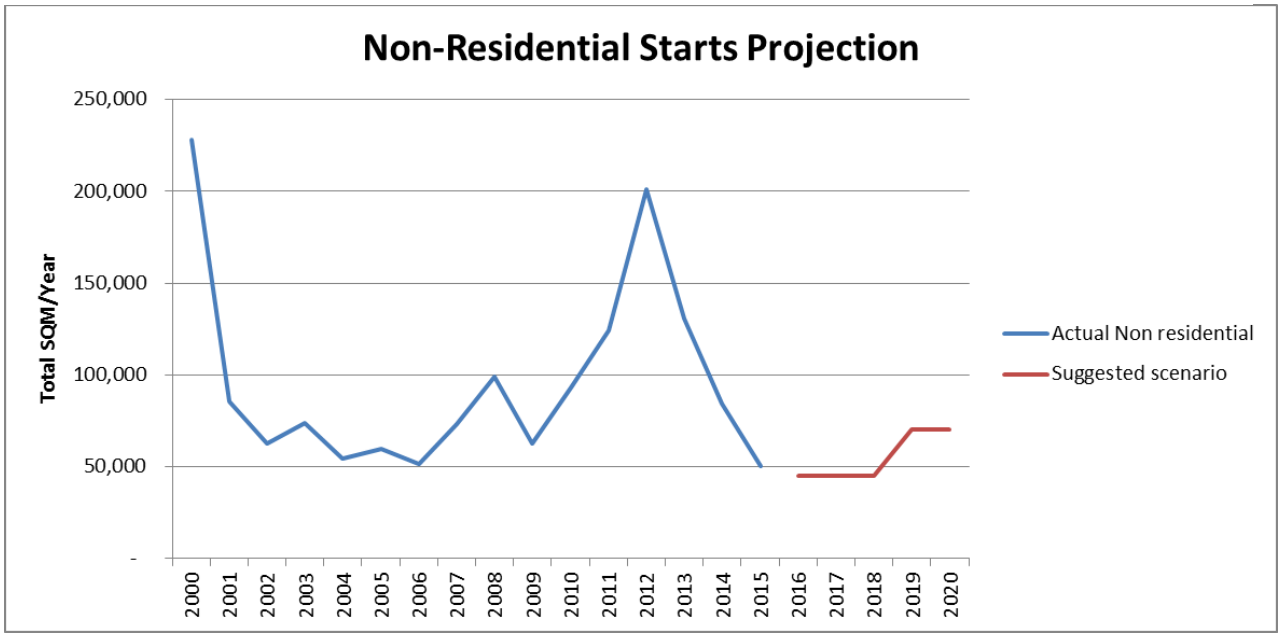
Financial Implications

As noted above, the Public Service recommends adopting the above impact fees to be charged commencing on January 1, 2017. Projected revenue is a function of expected development and the charge per unit. Proceeds will vary year by year depending on development activity.

Revenue Assumptions



- Based on the above chart setting out past and projected residential starts, on a conservative basis the Public Service estimates it will collect $30.7m of residential fee revenue in 2017. Based on 2015 actual results, residential fee revenue would have been $49.7m.



- The above chart sets out past and projected non-residential starts. On a conservative basis the Public Service estimates it will collect $4.4m of fee revenue in 2017. Using 2015 actual results, fee revenue on non-residential starts would have been $4.9m.

Using the estimates above total residential and non-residential revenue on a conservative basis may be in the range of $35.1m. Of this total, $6.8m would relate to Utility capital and the balance or approximately $28.3m would apply to tax-supported capital.

impact fee Reserve

This Report recommends that all funds generated through the impact fee should be deposited into the proposed impact fee Reserve Fund. The purpose of this reserve fund is twofold:

- to fund capital projects to the extent that they are determined by the Chief Financial Officer to be growth-related and
- to pay the costs of administering the impact fee By-law and reserve fund.

It is also recommended that the Chief Financial Officer be appointed as manager of the reserve fund.

The primary purpose of the reserve fund is to pay all costs of eligible capital works, including financing charges. As manager of the reserve fund, the Chief Financial Officer would determine which, and to what extent, capital works were eligible for funding. Infrastructure would be eligible only to the extent that the work is determined by the Chief Financial Officer to be growth-related (e.g. aligned with the management and accommodation of growth and development). There are well-developed formulae and analysis tools for making this determination.

Funds from the Reserve Fund would also be used to pay the costs of administration of the impact fee By-law and the impact fee Reserve Fund, including the funding required for new full-time equivalent positions.

It should be noted that the establishment of a reserve fund for funds generated by the impact fee is not required by law, as it is for development cost charges in some other Canadian cities and municipalities. It is being proposed in this Report to provide transparency as to the use of funds generated by the impact fee.

This recommendation differs from the recommendations of the Hemson Reports in that it proposes the creation of a single reserve fund rather than the creation of individual reserve funds for each type of infrastructure. This is being done to make administration of the reserve fund more efficient, flexible and straightforward. If, at the review in 24 months' time, individual reserve funds are determined to be preferable, the change can be made at that time.

Resources

Additional staff will be required to administer the program. An estimate of FTE's required for this purpose both in Property Planning and Development and Corporate Finance will be included in deliberations concerning the 2017 budget process if this report is adopted by Council.

Other

It should be noted that exemptions or discounts added beyond those included in this report will reduce the amount of City revenue available by assessment of the Fee.

In reference to the City's debt strategy, improved Revenue will allow the City to increase its borrowing capacity for future capital projects.

Review Period

As with any new initiative, issues and problems are likely to arise which were not anticipated at the outset. A 24 month review period will give the Public Service a reasonable opportunity to observe the operation of the impact fee and to identify opportunities for improvement.

In addition, a 24 month period will give the public, Council and the Public Service an opportunity to consider how to integrate policy priorities into the By-law.

Summary

Adoption of the impact fee will be transformative and will provide a significant opportunity to ensure that growth does pay for growth without affecting existing property owners. It recognizes the principal that growth creates the need for new infrastructure throughout Winnipeg.

FINANCIAL IMPACT

Financial Impact Statement — Date: September 2, 2016

Project Name: Implementation of an impact fee

COMMENTS:

Collection of the impact fees will be accounted for through the impact fee Reserve. Expenditures from the reserve will be identified by Corporate Finance and publicly disclosed on an annual basis. Additional staff will be required to administer this program and these FTE's will be identified in the 2017 budget process.

(Original signed by R. Hodges)
Ramona Hodges
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

Consultation with:

a) Legal Services (as to legal issues)
b) Property Planning and Development
c) Hemson Consulting Ltd,
d) Fire/Ambulance
e) Community Services
f) Public Works
g) Water and Waste
h) Corporate Finance

OURWINNIPEG POLICY ALIGNMENT

The impact fee program is rooted in the City's existing policy framework, advancing policy directions in *OurWinnipeg* (By-Law 67/2010) and its four direction strategies (*Complete Communities* [By-Law 68/2010], *A Sustainable Winnipeg*, *Sustainable Water and Waste*, and *Sustainable Transportation*) along with the *Transportation Master Plan*.
OurWinnipeg policy directions are reflected through some of the impact fee program's key principles:

Fairness and equity – *OurWinnipeg* commits to providing equitable access to municipal programs, services and facilities. One way to achieve this is for everyone to pay their "fair share" of the costs of new infrastructure and services (03-1, p.74).

City Building – To build "A City that works", *OurWinnipeg* commits to growth management objectives, ensuring "land use, transportation and infrastructure planning efforts are aligned to identify where growth will be accommodated and how it will be serviced" (*OurWinnipeg* p.27*)*. Other key directions for the entire city involve sustainable asset management, integrating transportation with land use, developing more complete communities, and providing sustainable wastewater management.

Sustainability – Direction related to the three sustainability pillars (social, economic and environmental) are found throughout *OurWinnipeg* and its direction strategies. *OurWinnipeg* also provides specific direction to develop and implement tools to support sustainability (02-1, p. 67).

Diversification – *OurWinnipeg* notes that the City must re-think regulation and taxation from the viewpoint of fostering economic growth (01-3, p.50). The 'basics' matter; public safety, water quality, wastewater and transportation infrastructure and public amenities are essential, but attractiveness and better-than-average services are integral to achieving a high quality of life and attracting economic development at a global scale. Diversification of City income streams is an important way to increase quality of services and add to the general attractiveness of the City.

In its section on prosperity, *OurWinnipeg* calls the City to provide efficient and focused civic administration and governance (Direction 1), and demonstrate visionary civic leadership and commitment to sustainable long-term planning (Direction 5). Policy decisions, programs and services, budget allocation and development activity must all be monitored and evaluated from a long-term sustainability perspective (01-3, p.51). The proposed program responds to this call for visionary leadership that considers current realities but plans for a prosperous future.

SUBMITTED BY

Department:
Division:
Prepared by: Tyler Markowsky
Date: September 1, 2016
File No.

Attachments:
Appendix A - Review of Municipal Growth Financing Mechanisms
Appendix B - Regulatory Fee to Finance Growth – Background Study
Appendix C - Impact Fee By-Law



Appendix A -Comparative Practice



Appendix B - Hemson - Winnipeg Regulator


Appendix C - Impact Fee By-law - 2016 09