

**Section 37 Funds – Squirrel’s Nest Day Care Centre**

<b>Date:</b>	November 25, 2009
<b>To:</b>	Budget Committee
<b>From:</b>	Treasurer
<b>Wards:</b>	Ward 37
<b>Reference Number:</b>	P:\2009\Internal Services\Cf\Bc09033cf (AFS #10950)

**SUMMARY**

Residual funds from a Section 37 agreement for the development at 61, 63-77 Town Centre Court which were to be used for the Squirrel’s Nest Day Care Centre were placed in the Subdividers’ Deposits Reserve Fund at amalgamation. In 2008, as a result of significant revamping of the processes involved in the receiving, recording, disbursing and reporting of Section 37 funds, the funds for the Centre were transferred to the Planning Act Reserve Funds. Section 37 funds on hand and available for funding of the capital budget are regularly reported by staff.

**Financial Impact**

There are no financial implications from this report.

**DECISION HISTORY**

At its meeting of November 16, 2009 the Budget Committee ‘requested the Deputy City Manager and Chief Financial Officer and the Treasurer to report on the reason(s) why the balance of Section 37 funds reserved for the Squirrel’s Nest Daycare Centre were not made available’.

<http://www.toronto.ca/legdocs/mmis/2009/bu/decisions/2009-11-16-bu59-dd.htm>

**ISSUE BACKGROUND**

Following amalgamation, lack of a harmonized, integrated system for: (i) ensuring compliance with agreements under Section 37 or 45 of the *Planning Act*; and (ii) tracking the securing, receipt, depositing and expenditure of funds obtained from the development

industry by the City under such agreements, impeded staff's ability to report to City Council on the status of such funds.

To address these concerns, senior management in various Divisions, including the City Solicitor, recognized the high priority need for system improvements and formed a Working Group to carry out a Business Process Review of the existing Section 37/45 funds receipt and expenditure tracking process.

The Working Group found that funds received by the City in accordance with Section 37/45 agreement provisions or Committee of Adjustment conditions of approval were submitted by developers to a variety of locations, and to a variety of different Divisions. There were multiple processes and routes by which such funds were deposited into a variety of types of City accounts, and in the case of Letters of Credit, into a filing system. The type and extent of information recorded when funds were received and deposited or filed varied significantly between and within City Divisions, and the accessibility of such information was severely hindered by stand-alone, unconnected databases.

On January 1, 2008 a new tracking and reporting system became operational. Two new roles were created and assigned to existing staff positions – one in City Planning (Section 37/45 Compliance Officer) and one in Accounting Services (Clearing Officer) - whose responsibilities are to track agreements and funds. A new database was developed to aid in the tracking. The processes involved in the receipt, recording and disbursing of funds were completely revamped. In particular, funds are now only received at the Customer Service counters of the Toronto Building Division. Reports are now provided to staff and Councillors indicating which funds have been received, which funds are available as a source of revenue for budgeted expenditures, which funds are expected to be received, and projects to which funds have been disbursed.

## **COMMENTS**

While the new processes were in place starting in January 2008, much of 2008 was spent linking development agreements to funds on hand. For each agreement significant effort was required to establish:

- funds to be received;
- funds received;
- the amount of funds spent, if any;
- the amount of funds still on hand, if any;
- capital project(s) to which funds were to be applied; and,
- whether funds were committed as a source of funding for a project(s).

With respect to the Squirrel's Nest Day Care Centre, the funding is from a Scarborough Section 37 agreement from before amalgamation. City accounting records show that the former City of Scarborough received \$625,000 in 1989 from a Section 37 agreement from the development at 61, 63-77 Town Centre Court. These funds plus interest were to be spent on the Squirrel's Nest Day Care Centre according to the agreement. From 1989

to 1998 the funds earned \$485,698 in interest, and \$751,080 was spent on the day care facilities, leaving a balance of \$359,618 at the end of 1998.

At amalgamation the funds from the development at 61, 63-77 Town Centre Court were transferred to the Subdividers' Deposits Reserve Fund. The Subdividers' account was only one of the many accounts where Section 37 funds were located. As part of the revamping and repositioning of the Section 37 processes the Squirrel's Nest Day Care Centre funds were moved from the Subdividers' account to a Section 37 Reserve Fund in the Planning Act Reserve Fund Group.

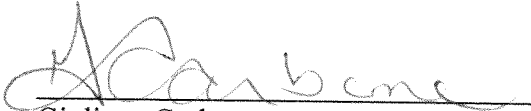
In summary, the funds have always been restricted to the Day Care Centre. The reason that the funds were not used for so long was that they were resident in the Subdividers' Deposits Reserve Fund where they were not easily identified for this purpose. In 2008, as part of a process of linking funds on hand to Section 37 agreements, these funds were identified and moved from the Subdividers' account to the Section 37 Reserve Funds account. In 2009, it was reported that the funds were available; and therefore, the existence of these funds for the intended purpose became better known.

## **CONTACT**

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## **SIGNATURE**



Giuliana Carbone  
Treasurer