

Revisions to Payment-in-Lieu of Parking Policies to Permit Funding of Transit and Cycling Capital Improvements

Date: January 19, 2017
To: Budget Committee
From: Deputy City Manager, Cluster B, Deputy City Manager and Chief Financial Officer and the Interim City Solicitor, Legal Services
Wards: All

SUMMARY

This report responds to Council's request of December, 2016 that staff report on options to establish a cash payment-in-lieu of parking policy for new residential developments which do not meet the City's parking standards, with the funds to be held in a reserve account dedicated to funding transit and cycling capital improvements.

Section 40 of the *Planning Act* provides the legislative authority for the City to enter into an agreement with the owner or occupant of a building, exempting the owner or the occupant from the requirement of providing or maintaining parking in exchange for the payment of money. The money must be paid into a special account and the money in that account shall be applied for the same purposes as a reserve fund established under the *City of Toronto Act (COTA)* or *Municipal Act, 2001*. Neither section 40, nor any relevant provisions of the COTA and *Municipal Act*, specify how this account or reserve fund should be spent. Rather, the City's current practice is established under the Toronto Municipal Code and related policies.

In July 2004, Council approved a Payment-in-Lieu of Parking Policy for funds collected under Section 40 of the *Planning Act*, which provided that payments received by the municipality would be placed in the City Parking Payment-in-lieu Reserve Fund (XR1016) administered by the Toronto Parking Authority exclusively for the acquisition, development and improvement of municipal parking facilities. The policy outlines the process of an application for payment in lieu of parking and specifies a fee schedule. Currently, the Payment-in-Lieu policy is applied only to new non-residential developments.

The development of options for City Council to establish a revised cash payment-in-lieu of parking policy that would now apply to new residential developments which do not meet the City's parking standards, requires further consideration of the legislative authority to amend the Payment-in-Lieu of Parking Policy such that the funds collected from these payments could be redirected towards transit and cycling priorities. In addition, prior to being able to provide viable options to change the existing policy, a policy framework will need to be developed which takes into consideration issues including: implementing fees and/or formulas; the administration of the fund; and where the reserve fund can be utilized.

RECOMMENDATIONS

The Deputy City Manager, Cluster B, Deputy City Manager and Chief Financial Officer and Interim City Solicitor recommend that:

1. The Deputy City Manager, Cluster B be directed in consultation with Strategic and Corporate Policy, City Planning, Transportation Services, the Deputy City Manager & Chief Financial Officer, the City Solicitor and the Toronto Parking Authority to develop a policy framework with respect to the development of a revised payment-in-lieu of parking policy including a proposed implementation framework and report back to Executive Committee by the end of 2017.

FINANCIAL IMPACT

There are no direct financial implications arising from the recommendations in this report. Any financial implications associated with changes to the City Parking Payment-In-Lieu reserve account beneficiary programs will be reported by the Chief Planner & Executive Director, City Planning Division, in consultation with the Deputy City Manager & Chief Financial Officer, in future reports to City Council related to implementing any new authority or expanding an existing authority where required.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on December 13, 14 and 15, 2016, as part of its deliberations with respect to the City of Toronto's Immediate and Longer-term Revenue Strategy Direction, City Council adopted the following recommendation:
(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.2>)

17. City Council direct the City Manager, in consultation with the Chief Planner and Executive Director, City Planning and the City Solicitor, as part of the 2017 Budget Process, to report on options for City Council to establish a cash payment-in-lieu of parking policy for new residential developments which do not meet the City's parking standards, with the funds to be held in a reserve account dedicated to funding transit and cycling capital improvements.

BACKGROUND INFORMATION

Under current City policies, payment-in-lieu of parking for new non-residential developments are deposited in a reserve account for the acquisition, establishment or improvement of existing or additional parking facilities.

Section 40 of the *Planning Act* allows a municipality to accept cash payments from owners or occupants of buildings in lieu of providing parking which otherwise would be required by the applicable Zoning By-law. Section 40 of the Act reads, in part, as follows:

40(1) "Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, from the requirement of providing or maintaining the parking facilities."

40(2) "An agreement entered into under sub-section (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated."

40(3)(a) " All money received by a municipality under an agreement entered into under this section shall be paid into a special account and ... the money in that account shall be applied for the same purposes as a reserve fund established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be."

In July 2004, Council adopted a Payment-in-Lieu of Parking Policy, which provided that payments received by the municipality would be placed in a Parking Reserve Fund administered by the Toronto Parking Authority exclusively for the acquisition, development and improvement of municipal parking facilities. The funds are intended to be used in areas of the City where, in the opinion of the Toronto Parking Authority, its use is most appropriate and cost effective.

Under the Policy adopted by Council, payment-in-lieu of parking is currently only considered for non-residential developments or the non-residential component of mixed use developments. Historically, the payment-in-lieu option has been used in situations where the City is prepared to reduce or eliminate the parking requirement on a given site in order to apply the funds obtained towards developing and maintaining municipal parking facilities in areas of the City where municipal parking exists, or is reasonably expected to exist, sometime in the future. In practice, reserve fund contributions from developers have only been received in 2008 and 2011 over the past ten years. Since 2001, the average annual contribution has been approximately \$138,000. A summary of contributions and draws to/from the City Parking Payment-in-Lieu Reserve Fund between 2001-2016 is summarized in Attachment 1. Attachment 1 identified funds received prior to the establishment of the City-wide Payment-in-Lieu of parking policy in 2004 and funds collected since Council's adoption of a harmonized fee schedule.

There have been residential development applications where parking has been reduced below the staff recommended level. The absence of a payment-in-lieu of parking option for residential developments presents a lost opportunity to achieve broader planning objectives. The proposed review will provide the opportunity to assess the appropriate rate that would be applied from a city-wide perspective to ensure city-wide planning objectives are addressed.

Payment-in-lieu of parking is not intended to be an automatic right of the proponent, rather it is applied at the discretion of Council only after having considered the planning and transportation impacts of amending the zoning by-law to permit an on-site reduction in the number of required parking spaces and the feasibility of applying the funds obtained to the provision of municipal parking facilities. Payment-in-lieu of parking may be considered as an option only if the applicant is unable to satisfy the parking requirements of a development.

COMMENTS

Staff undertook an analysis to determine the feasibility of developing options to establish a new cash payment-in-lieu of parking policy for residential developments per Council's request of December 2016. In order to advance this framework a number of policy and administrative matters must be further considered and answered before staff is able to report on options. These include:

- Section 40 of the *Planning Act* requires that money be paid into a special account and the money in that account be applied for the same purposes as a reserve fund established under the COTA or *Municipal Act, 2001*. Neither section 40, nor any relevant provisions of the COTA and Municipal Act, specify how this account or reserve fund should be spent. Rather, the use of the funds is outlined under the Toronto Municipal Code and related policies.

- The use of the City Parking Payment-in-lieu Reserve Fund is governed by Toronto Municipal Code, Chapter 227, Reserves and Reserve Funds. This fund is considered an "obligatory" reserve fund, with specified uses: monies are to be used for the benefit of the City of Toronto's Parking Authority, and are to be applied first, to principal and interest on debentures; second, to new facilities; and third, to general purposes as determined by Council.
- In order for the City to use the reserve fund for a purpose other than parking, Chapter 227 of the Toronto Municipal Code, in particular Schedule No. 17, Appendix C, will need to be amended. Section 227-2 outlines the requirements for establishing an obligatory reserve fund or an account group within an obligatory reserve fund, including specifying the requirement that a report be prepared by the Deputy City Manager & Chief Financial Officer to address the specific conditions (e.g. purpose, beneficiary program, contribution and withdrawal policies, review cycle) applicable to the reserve.
- Several issues must be considered in the development of new policies and practices for payment-in-lieu of parking for residential developments. Some of the key issues are summarized below:
 - Confirmation that there are no legislative impediments that would permit the payment-in-lieu of parking for purposes other than parking facilities;
 - Whether there be a uniform or area-specific fee or other formula for determining the required payment;
 - If the fee or formula be based on the type or size of development, or as a function of the land values in the area for which the application has been made;
 - Should the funds from payment-in-lieu be earmarked for the area in which the funds are collected or placed in a general fund;
 - Who administers the funds and how should they be used;
 - Who processes the payment-in-lieu applications, how should they be processed, and should there be any public consultation in dealing with these applications; and
 - Review of any financial impact on the Toronto Parking Authority.

These issues, as well as others, shall be addressed as part of a work plan for the development of the proposed payment-in-lieu policies and practices for the City in order to ensure there is no lost opportunity to the City to collect payment-in-lieu of parking for residential development to achieve broader city building objectives.

Next Steps

City Planning will work with Strategic and Corporate Policy, Corporate Finance, the Toronto Parking Authority, Transportation Planning and the City Solicitor to develop a policy framework, including a proposed implementation framework and report back to Executive Committee by the end of 2017.

CONTACT

Jennifer Keesmaat, MES, MCIP, RPP, Chief Planner and Executive Director, City Planning Division, 416-392-8772, Fax: 416-392-8115, Jennifer.Keesmaat@toronto.ca

Kerri A. Voumvakis, Director, Strategic Initiatives, Policy & Analysis, City Planning
Phone: 416-392-8148 Fax: 416-392-3821 Email: Kerri.Voumvakis@toronto.ca

Joe Farag, Executive Director, Corporate Finance, Phone: 416-392-8108 Fax: 416-397-4555 Email: Joe.Farag@toronto.ca

Kelly Matsumoto, Director, Legal Services, Phone: 416-392-8042 Fax: 416-397-4420
Email: Kelly.Matsumoto@toronto.ca

SIGNATURE

Brian Haley
Interim City Solicitor
Legal Services

John Livey
Deputy City Manager
Cluster B

Rob Rossini
Deputy City Manager &
Chief Financial Officer

ATTACHMENT

Attachment 1: Summary of contributions and draws to/from the City Parking Payment-in-Lieu Reserve Fund between 2001-2016

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ATTACHMENT 1
CITY PARKING PAYMENT-IN-LIEU RESERVE FUND
SUMMARY OF CONTRIBUTIONS AND DRAWS (CONTINUITY SCHEDULE)
FOR THE YEARS ENDED DECEMBER 31, 2001 THROUGH 2016

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
OPENING BALANCE	7,464,223	4,011,715	4,103,339	5,039,647	6,244,738	5,816,813	6,096,026	6,585,221	7,667,061	7,705,396	7,732,348	8,716,175	8,786,630	5,773,566	5,779,106	1,855,815
Contribution from developers	141,203	82,000	157,289	67,000	0	15,600	0	831,690	0	0	920,081	0	0	0	0	0
Investment Income	384,289	209,624	247,867	238,091	297,075	336,756	351,011	250,150	38,335	26,952	72,642	70,455	79,000	54,737	31,781	0
Parking Revenue	22,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CONTRIBUTIONS	547,492	291,624	405,156	305,091	297,075	352,356	351,011	1,081,840	38,335	26,952	992,723	70,455	79,000	54,737	31,781	0
FUNDING TO CAPITAL	(4,000,000)	(200,000)	0	1,200,000	0	0	437,208	0	0	0	0	0	0	0	0	0
Dundas Square Garage - carpark 26 expansion	0	0	0	(300,000)	0	0	0	0	0	0	0	0	0	0	0	0
Bathurst St Carpark	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NY CTR - Yonge/Sheppard to Finch	0	0	0	0	(725,000)	244,372	0	0	0	0	0	0	0	0	0	0
Queen/Dovercourt - 2006	0	0	0	0	0	(313,366)	0	0	0	0	0	0	0	0	0	0
Bloor West - Vicinity of Spadina	0	0	0	0	0	(34,149)	(40,469)	0	0	0	0	0	0	0	0	0
Fire Alarm Upgrade CP29 (75 Holly St)	0	0	0	0	0	(228,555)	0	(8,896)	0	0	0	0	0	0	0	0
Cabbagetown	0	0	0	0	0	0	0	0	0	0	0	0	(1,896,411)	0	0	0
Cp Expansion Adjacent To Cp 411 (East)	0	0	0	0	0	0	0	0	0	0	0	0	(1,195,654)	0	0	0
2300 Lakeshore	0	0	0	0	0	0	0	0	0	0	0	0	0	(4,269)	0	0
Queen/Ossington To Dufferin	0	0	0	0	0	0	0	0	0	0	0	0	0	(44,928)	(3,955,072)	0
TOTAL DRAWS	(4,000,000)	(200,000)	0	900,000	(725,000)	(103,143)	168,184	0	0	0	(8,896)	0	(3,092,065)	(49,197)	(3,955,072)	0
Reallocation of 1998 York Parking Payments in lieu from City Parking Reserve Fund	0	0	531,152	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL REALLOCATIONS	0	0	531,152	0	0	0	0									
ENDING BALANCE DECEMBER 31	4,011,715	4,103,339	5,039,647	6,244,738	5,816,813	6,066,026	6,585,221	7,667,061	7,705,396	7,732,348	8,716,175	8,786,630	5,773,566	5,779,106	1,855,815	1,855,815