

Agenda – Standing Policy Committee on Finance – December 8, 2020

REPORTS

**Item No. 6 Impact Fee Reserve Fund – Report for the Period October 1 to
November 27, 2020**

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That this report be received by Standing Policy Committee on Finance as information.

ADMINISTRATIVE REPORT

Title: Impact Fee Reserve Fund – Report for the Period October 1 to November 27, 2020

Critical Path: Standing Policy Committee on Finance

AUTHORIZATION

Author	Department Head	CFO	CAO
M. McGinn	P. Olafson	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

During the period October 1 to November 27, 2020, no permits were issued that resulted in impact fees being paid. The collection of impact fees was suspended effective July 9, 2020. Since the last reporting date of September 30, 2020, an additional \$12,326.93 has accrued bringing the total interest accrued to \$699,506.47. Total impact fees paid, inclusive of Director Review/Administration Fees of \$2,715.97, remains unchanged at \$36,293.594.75, which combined with the accrued interest results in a total balance in the Impact Fee Reserve of \$36,993,101.22.

On July 8, 2020, Manitoba Court of Queen's Bench ruled that while the City has the power or authority to impose an impact fee generally, the by-law and resolution regarding the impact fees "imposes a constitutionally invalid indirect tax" and ordered the City to refund the fees paid together with any interest earned on the funds.

On July 9, 2020, the City announced the decision to suspend collection of the impact fee, pending a review of the Court's decision and determining next steps.

On October 27, 2020, the Court Order was issued by the Manitoba Court of Queen's Bench. The parties have until November 28, 2020 to file an appeal to the Manitoba Court of Appeal. Should no appeal be filed by this date, the City intends to begin processing refund payments the week of November 30, 2020.

RECOMMENDATIONS

1. That this report be received by Standing Policy Committee on Finance as information.

REASON FOR THE REPORT

At its November 3, 2016 meeting, Standing Policy Committee on Finance directed the Public Service to provide quarterly reports on the Impact Fee Reserve Fund balance, the first report being for the period ending June 30, 2017. This report covers the period October 1 to November 27, 2020.

IMPLICATIONS OF THE RECOMMENDATIONS

As this report is to be received as information only, there are no implications associated with the recommendation.

HISTORY/DISCUSSION

On October 26, 2016, Council concurred in the recommendation of the Executive Policy Committee, as amended, and adopted the following:

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, and that the fees collected by each area as outlined on the map in Appendix D be recorded and that Councillors be allowed access to the area information on an ongoing basis with accumulative totals;*
- 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.*

During the period October 1 to November 23, 2020, no permits were issued that resulted in impact fees being paid. The collection of impact fees was suspended effective July 9, 2020. Since the last reporting date of September 30, 2020, an additional \$12,326.93 has accrued bringing the total interest accrued interest to \$699,506.47. Total impact fees paid, inclusive of Director Review/Administration Fees of \$2,715.97, remains unchanged at \$36,293.594.75, which combined with the accrued interest results in a total balance in the Impact Fee Reserve of \$36,993,101.22.

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The City has worked with the other parties involved in the action to develop a process to refund the impact fees collected, plus interest, in a manner consistent with the Court Order. The City is obligated under the Court Order to refund the impact fees and interest accrued to the parties that originally paid the impact fee to the City. Interest on impact fees has been calculated from the date each fee payment was received, compounded monthly, to November 30, 2020 utilizing the City of Winnipeg's bank interest rate. The accrued interest portion of the refund amounts have been calculated by a third-party professional services firm.

Homeowners that did not directly pay the impact fee to the City and are of the view that they are entitled to a refund will be advised to contact their builder to review the details of the home builder's agreement. The Court Order requires that a builder or other party who receives the impact fee refund from the City return it to the homeowner, subject to contractual arrangements. It is anticipated that most refunds issued by the City will have been received by the parties that originally paid the impact fee by December 14, 2020.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 30, 2020

Project Name:

Impact Fee Reserve Fund – Report for the Period October 1 to November 27, 2020

COMMENTS:

There are no financial implications associated with this report.

Mike McGinn November 30, 2020

Mike McGinn, CPA, CA

Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

N/A

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Financial Services
Prepared by: Mike McGinn
Date: November 30, 2020
File No: N/A