Summary & Preliminary Assessment of RVC's Proposed Off-Site Levy Bylaws

Off-site levies are intended to raise money from developers and others who subdivide land to pay for a share of infrastructure upgrade costs associated with incremental development. Rocky View has off-site levies for transportation (since 2004), water / waste water (since 2007) and storm water (since 2015). The transportation off-site levy applies across the County. The water / waste water off-site levy applies to County-financed infrastructure, primarily in east Rocky View but also in Cochrane Lakes and Bragg Creek. The storm water off-site levy applies in east Rocky View for lands that will connect to the Co-operative Stormwater Management Initiative (CSMI) regional stormwater infrastructure.

At its July 10th meeting, Council directed Administration to undertake consultations on the proposed revised bylaws for each of the three off-site levies before it reviews the bylaws. Open houses will be held on Wednesday, September 12th from 4 – 7 pm and on Wednesday, September 19th from 4:30 – 7:30 pm, both at the County offices at 911 – 32nd Ave. NE, Calgary. Written submissions may be sent to Angela Pare in Engineering Services until Wednesday, October 3rd (email: APare@rockyview.ca).

Overview of Changes

The transportation off-site levy is substantially improved from the small landowners' perspective, but it still has serious weaknesses. As well, it is highly unlikely that it will be capable of raising the revenue needed to support necessary road upgrades.

The water/waste water off-site levy is proposing substantial expansion of systems that are operating significantly below capacity – upgrades of $120.7 million. To date, levies have done a very poor job of repaying the original investment -- $97.0 million remaining to be collected on the original cost of $135.1 million. Given that reality, there should be serious concerns about undertaking major capital expansions.

The storm water off-site levy is proposing massive storm water management systems in east Rocky View – a regional system ($54.7 million) plus sizable local upgrades ($91.4 million). These are needed to allow development to move forward, but the costs are very large. Given the County's record with repayment of the debt for the water/waste water systems, investments of this magnitude should be viewed with caution.

The proposed levies provide Council with the discretion to reduce or waive the levies at its sole discretion. This is totally unacceptable. The levy rates must be the same for all parties – there should not be even a perception that if you've got friends on Council you might not have to pay the full amount. It is the equivalent of giving the provincial or federal government the discretion to waive or reduce how much income tax must be paid, based on how good a sob story you can present.

Transportation Off-Site Levy (TOL) – Summary

Since the current bylaw was passed in 2014, two earlier revisions were introduced but did not make it beyond the proposal stage. This revision carries forward many of the earlier changes and makes some additional changes.

The new provisions in this version, relative to earlier TOL proposals, are:

- Separation of the base levy into an "urban" and a "rural" rate.
    - The "urban" rate will apply to residential developments with less than 2-acre fully-serviced parcels and to all commercial and industrial parcels – $14,701/acre.
    - The "rural" rate will apply to all other residential subdivisions that are less than 7.41 acres (3 hectares) – $4,595/acre.
- Where there is an existing dwelling on a parcel to be subdivided, the post-subdivision parcel with the existing dwelling will be exempt from TOL.
- A portion of the costs of road upgrades (24%) will be allocated to existing users.
- The Special Area levy rates have been maintained at their 2014 levels, with minor modifications. These range from an additional $774/acre - $18,638/acre, depending on the specific special area. The 2017 draft had proposed eliminating these and replacing them with a uniform additional charge all land subject to the TOL.

Other significant changes from the 2014 bylaw include:

- A dramatic reduction in the assumed number of developable acres used to calculate the levy rates. The 2014 and earlier TOLs assumed that 60 – 65% of the County's total land would be developed. The proposed bylaw has reduced this to the acreage in approved ASPs plus a 10% margin, for a total of 12 – 13% of the County's land.
- Removal of collector and local roads from the levy calculations.
- The minimum residential parcel size to which the TOL applies was reduced from 9.88 acres (4 hectares) to 7.41 acres (3 hectares).

Transportation Off-Site Levy – Assessment

Overall, the latest proposed revisions to the TOL are an improvement over the existing levy structure and the intermediate proposals. There are still some serious shortcomings, but it has moved in the right direction.

One of the major criticisms of the existing levy and earlier revisions is that they subsidized large development by applying the same levy rate to all acres being developed regardless of how intensively they were being subdivided. For example, subdividing a 10-acre parcel into two 5-acre parcels paid the same TOL as subdividing the 10-acre parcel into 1-acre parcels or into a busy commercial strip mall.

- Now the commercial strip mall will pay the "urban" base TOL rate and the subdivision into two 5-acre parcels will only pay the "rural" rate on the incremental parcel (assuming there was an existing house on the property).
- The subdivision into 1-acre parcels will pay the "urban" rate if the lots have piped water and sewer servicing – which hopefully they would require for rezoning and subdivision approval.

- From a theoretical perspective, a simple per-door charge would be better in that it is the most equitable way for the levy to reflect the incremental demands placed on the transportation network. However, calculating the levy rates for this approach do appear to be more difficult.

The allocation of 24% of the costs of road upgrades to existing users is a critical change that should remove the questionable legality that plagued the County's exiting TOL structure. The legislation and related court cases made it clear that municipalities must allocate infrastructure costs on an equitable basis between new development and existing users. The removal of local and collector roads from the levy calculations also reflects the need to allocate costs equitably between existing and new users.

To the extent that the special area levies are designed to fund very localized infrastructure, they have a logical rationale. However, there are some inequities in the special area levies, especially the Springbank special area where a substantial portion of the costs allocated to the area are only of benefit to a small fraction of the land within the special area.

The most significant concern with the revised TOL proposal is the assumptions underlying the division between the "urban" and "rural" base levies. The proposed bylaw assumes that just under 60,000 acres will be developed as less than 2-acre serviced lots. It is highly unlikely that so much higher density development will occur in Rocky View within the timeframe used to calculate the TOL. To the extent that development to which the "urban" base levy rate will apply does not occur, the base levy will not raise as much revenue as anticipated.

- Assuming the 60,000 acres is subdivided only into parcels just under the 1.99-acre threshold, that would be 30,000 additional residential parcels or an additional 90,000 residents (at 3 residents/dwelling). To put this into perspective, at its peak, new home construction in RVC was 450 houses/year and, more recently, has averaged under 250 houses/year.
- At recent construction rates it would take over 100 years to build out the 60,000 acres at the assumed densities.
- Alternatively, the County will need to see a dramatic increase in commercial and industrial development to account for a substantial portion of those 60,000 acres.

Another serious concern with the revised TOL proposed differential between the "urban" and "rural" base levy rates is that it will provide an incentive for developers to either build 2+ acre parcels with no servicing or substantially higher density developments.

- With the "urban" base levy rate more than three times the "rural" rate, developers will need to subdivide the same acreage into at least 3 – 4 upa to recoup the incremental levy costs. This is not consistent with most of the County's planning documents.

Water / Waste Water Off-Site Levy – Summary

The original water / waste water off-site levy bylaw was introduced in 2007. It was substantially revised in 2013 when the basis for charging the levy was switched from a per-acre charge to a volume charge. The off-site levy is intended to pay for water / waste water infrastructure owned by the County. Most of this is in east Rocky View, with smaller facilities in Cochrane Lakes and Bragg Creek.

The levy structure is based on capacity utilization and the levies that apply to any specific development depend on which components of the overall system it will be using. Each component has a levy rate based on its outstanding costs and the remaining capacity available for new development. The costs include the outstanding original cost that has not yet been recovered through levies as well as the accumulated interest on those amounts and the costs of anticipated upgrades.

In the early 2000s, the County spent $135.1 million building a water / waste water treatment system in east Rocky View, with the expectation that the provision of servicing would attract both residential and commercial development to the area. It did attract a certain amount of initial investment (e.g. Cross Iron Mills). Unfortunately, the original levy structure was set far too low to collect a fair share of the costs from that initial burst of development and subsequent development has not lived up to expectations. As a result, the County has been carrying the debt associated with this infrastructure for almost twenty years. According to the draft 2018 bylaw, at the end of 2017, there was $96.97 million still remaining to be collected through levies.

Water / Waste Water Off-Site Levy – Assessment

The major concern with the water / waste water levies is whether they can recover the costs incurred by the County and pay down the debt on a timely basis. To date, the levies have not been successful in achieving this objective. For example, when the 2013 bylaw was passed there was $91.1 million in outstanding costs remaining to be paid on the east Rocky View system. According to the 2018 bylaw, at the end of 2017 there was $91.2 million still remaining to be paid from the original investment. The amount collected in levies appears to have been less than the principal repayments and interest charges from the initial investment, since the total remaining to be paid has increased slightly.

As well, the water / waste water system has run well below operating capacity since its construction, with the exception of the Langdon waste water treatment plant. This has required the County to subsidize ongoing operating costs as well as carrying the debt incurred to construct them.

The 2018 proposed revisions to the water / waste water levy structure assume significant capacity upgrades to many of the components of the system – a total of $86.9 million in future upgrades for the east Rocky View system; an additional $14.8 million for the Bragg Creek system; and $19.1 million to connect the transfer station at Dalroy to the main waste water transmission line. (It should be noted that the major user of the Dalroy transfer station is the Lakes of Muirfield development just east of Rocky View's borders.) Given that the levies have fallen far short in recouping money already invested in these systems and the reality that most components operate well below capacity, the rationale for including substantial capacity upgrades in the current levy structure is highly questionable.

Storm Water Off-Site Levy – Summary

The storm water off-site levy was introduced in 2015 to pay RVC's share of a major inter-municipal storm water drainage system on the east side of the County. It covers lands in the Langdon, Conrich, Janet, and Omni ASPs. T he Co-operative Stormwater Management Initiative (CSMI) involves Calgary, Chestermere, Strathmore and parts of Wheatland County as well as Rocky View. Rocky View's share of the system is just over 60%. The anticipated total net cost of the system is $87.6 million, after receipt of grant funding. Rocky View's share is $54.7 million.

The proposed revisions to the storm water off-site levy add the costs associated with connecting each of the areas into the CSMI drainage system and the costs for necessary upgrades to local storm water management systems – another $91.4 million. This $91.4 million will be allocated between existing development and new development -- $15.5 million for existing and $75.8 million for new development. It is not clear whether the $15.5 million would come from general revenues or from local improvement taxes charged to existing developments within the specific benefiting areas.

The proposed storm water levy has two parts. The first is applied to all new development in the identified ASPs to pay the $54.7 million for the CSMI system. The second part applies within each of six separately identified sub-areas to pay for new development's share of the $91.4 million in costs of local upgrades and connections to the CSMI system.

The storm water levy will be applied to all residential subdivisions that create parcels less than 7.41 acres (3 hectares) and to all business and institutional subdivisions. The levy calculation assumes that just under 4,000 hectares (9,790 acres) will be developed and subject to the storm water off-site levy. This is 59% of the total developable land in the area that will benefit from the CSMI drainage system.

The storm water levy rates are $5,587/acre to cover the $54.7 million in costs for CSMI plus an additional levy of between $1,093/acre – $8,272/acre for the connections to CSMI and necessary local improvements. The proposed total storm water levy would be $6,680/acre – $13,859/acre.

Storm Water Off-Site Levy – Assessment

As with the water / waste water off-site levy, the major concern with the storm water off-site levy is whether it will actually cover the costs of the storm water management system. Storm water issues in the affected areas are sufficiently serious that little new development is possible until these upgrades are undertaken. That suggests that the County may well be pressured to front the costs of the system, much as it did for the water / waste water infrastructure, and hope to recover the costs through levies over time as new development occurs. While the County's efforts to improve development possibilities on the east side of the County are laudable, the associated costs are daunting.

The assumption that 9,790 acres will be developed within the timeframe of the offsite levy (about 25 years) is highly questionable. It would represent a much faster pace of development than the area has experienced in the past. If actual development falls short of expectations, the levy will not raise as much revenue as predicted.

Another serious concern is that the proposed increases in the storm water levy rates, especially when combined with the other off-site levy charges, will raise the costs of development. This may counteract the assumed increase in the rate of development that is required for the levies to pay for the necessary infrastructure. If the County succumbs to pressure to finance the needed infrastructure in advance of receiving levy payments, there is a substantial risk that storm water infrastructure debt will simply magnify the issues with the existing water/waste water infrastructure debt and the County will be left with even more debt that it cannot repay from the intended sources.

Prepared by: Rocky View Forward, September 2018