

Rocky View County

Proposed Off-Site Levy Bylaws

Bylaw C-7801-2018: Regional Storm Water Off-Site Levy Bylaw

Bylaw C-7802-2018: Water and Waste Water Off-Site Levy Bylaw

Bylaw C-7805-2018: Regional Transportation Off-Site Levy Bylaw

Supplementary Submission prepared by:

**Rocky View Forward
November 14, 2018**

On November 6, 2018, the County released revised versions of its proposed off-site levy bylaws, giving stakeholders a week to provide additional feedback. The following should be read in conjunction with Rocky View Forward's October 3rd submission.

This submission will focus on the substantive new information provided in the revised versions of the bylaws. There were also a few largely technical changes made to all three off-site levy bylaws, for which we will provide no comment.

Transportation Off-Site Levies

Phasing in of urban base levy

The urban base levy rate is now proposed to be phased in over a five-year period. To the extent that the new rate is significantly higher than the existing rate, this may well be reasonable. However, consideration should be given to safeguarding against the possible incentive to rush through development approvals to qualify for the lower TOL rates.

Aggregate industry to be treated as "rural" rather than "industrial"

The more substantive change in these revisions is the concession provided to the aggregate industry. It will now be charged the lower rural base TOL rate rather than the urban base rate that all other commercial and industrial development will pay.

From our perspective, the aggregate industry should either be treated like all other industrial developments in the County and charged the higher base TOL rate or the County should treat it as the "temporary" land use the industry claims to be and charge TOLs once the land is eventually developed for some alternative use. Given that many gravel pits continue to operate for 30 - 50 years, exempting all gravel pits as "temporary" clearly would have significant revenue implications for the County.

The rationale for treating the aggregate industry differently than any other industrial developments is unclear. While there might be an argument that extraction activities are not "industrial", gravel pits do not simply dig up the gravel and sell it untouched. It is processed - raw gravel is at least sorted by size and grade before being sold. Most gravel pits also have crushers to further process the raw gravel they extract. The County's Land Use Bylaw definition of industrial businesses clearly includes processing of raw materials. In fact, the Land Use Bylaw's definition of "natural resource extraction / processing" states that they are "development for the removal, extraction and **primary processing of raw materials**".

As open-pit mines, gravel pits are heavy industry, meeting the Land Use Bylaw's definition of General Industry, Type III - "developments that may have an effect on the safety, use, amenity, or enjoyment of adjacent or nearby sites due to

appearance, noise, odour, emission of contaminants ...” Treating an industry that so clearly fits the definition of heavy industry as if it were not industrial activity for the purposes of the TOL appears to be unjustified.

It is true that many gravel pit applications require the operators to undertake specific transportation network upgrades as a condition of approval to accommodate the heavy truck traffic that is an unavoidable aspect of their operations. Such requirements are not uncommon for any development approval that will generate substantial traffic.

The TOL recognizes this. Section 9 acknowledges that when developers are required to construct and /or upgrade roads that are included in the TOL calculations they will be exempted from the related portion of the TOL. This is only appropriate and should be applied against the urban base TOL rate for the aggregate industry rather than artificially defining their activities as non-industrial.

Rocky View Forward realizes that the gravel industry portrays its payment of the Community Aggregate Payment levy as justification for excluding it from the Transportation Off-Site Levy. However, there is no policy rationale for their lobbying position. As ASGA points out the CAP levy is to provide local communities with “a visible and tangible benefit” from local aggregate operations. This is a different purpose from that of off-site levies.

It should also be pointed out that the aggregate operators don’t pay the CAP levy out of their profits. The charge is built into their pricing and fully recouped from customers. As well, gravel pits pay low property taxes relative to other industrial operations because their operations have very few permanent structures that provide value captured by property tax assessment.

Water / Waste Water Off-Site Levies

As was noted in our October 3rd submission, our major concern with the water / waste water off-site levies is whether they will be able to recover, on a timely basis, the costs already incurred by the County. To date, the levies have not succeeded in achieving this important objective.

Unfortunately, the corrected financial information released last week do not demonstrate any significant improvement. This is particularly troubling given that the restructuring of the levies in 2013 should have substantially improved the levy’s ability to recoup the investment already made in existing infrastructure. The fact that it has not done so indicates how dependent levy revenue is on actual development activity. It appears that there simply has not been sufficient new development activity to pay for the capacity already constructed.

According to the corrected financial information, the County still needs to collect \$84.2 million in levies to pay for the original \$115.3 million invested in water / waste water infrastructure (\$136.8 million, less the \$21.4 million in provincial grants). Over the last five years, the total still to be collected has been reduced by \$9.9 million – just under \$2 million per year. At this rate, it will take at least another 42 years to collect the outstanding amounts.

During that same five-year period, the County's external long-term debt has been reduced by \$16.9 million. However, offsetting that, accumulated interest on the amount outstanding has increased \$10.8 million and the amount that has been "borrowed" internally (i.e. paid out of general revenue and/or the Tax Stabilization Reserve, with promises to repay from future levies) has increased \$12.4 million to \$28 million.

Overall, it is difficult to be optimistic about the ability of the levies to repay the existing investment over any reasonable time frame. This raises serious concerns about the appropriateness of including an additional \$117.5 million in infrastructure upgrades in the proposed levy structure.

One of the core requirements of levies is that there must be a correlation between the levies charged and the benefits received. Until the existing capacity is much closer to full utilization, levies will be contributing to the repayment of amounts owing on existing facilities, not benefiting from new expansion. Until the committed capacity for the existing facilities reaches 70% – 80%, there will be no correlation between the amounts paid in levies by new development and the costs to upgrade the existing facilities.

The offsite levy bylaw does not provide the information needed to determine how close current committed capacity is to actual existing capacity. However, information provided to RVC's Policy & Priorities Committee in February 2017 suggests that committed capacity is still significantly below existing actual capacity. As the presentation noted, "utility infrastructure ... has a total capacity which far exceeds current demand levels (now approximately 34% overall)." The presentation also noted that the East Balzac water system was operating at only 19% of the system's capacity.

Conclusions – Recommendations for Next Steps

The revisions released on November 6th do not change any of the recommended next steps from our earlier submission.

We had grave doubts as to whether the County had met its statutory obligations to consult in good faith with all stakeholders even before the new information was released last week. These doubts have now been dramatically escalated. Releasing substantive new information without any accompanying broad-based public announcement cannot possibly be portrayed as good faith

consultations. This is particularly true given that those stakeholders who were aware of the new material were only given one week to respond.

To address this shortcoming, we strongly recommend that the County reconsider its plans for the off-site levy bylaws and bring them forward to a public hearing. We realize that the bylaws could not then be scheduled for Council's December 11th meeting as planned. However, they could be brought forward in early January. A properly advertised public hearing would go a long way towards rectifying existing shortfalls in the County's obligations to consult in good faith before approving its revised off-site levy bylaws. It would also be far more consistent with the current Council's stated objective to improve the transparency of County decision-making.

The newly released information also reinforces our concerns that the levies must be re-examined to ensure they meet the County's obligation to ensure there is a correlation between the levies charged and the benefits received by those paying the levies.