F.1

STAFF REPORT: Finance & IT Services

REPORT TO:	**Council**
MEETING DATE:	**June 11, 2012**
REPORT NO.:	**FIT.12.37**
SUBJECT:	**Windfall Development Financing**
PREPARED BY:	**Darcy Chapman, Capital Accountant**

A. Recommendations

THAT Council receive Staff Report FIT.12.37, "Windfall Development Financing" for information purposes;

AND THAT Council provide direction to Staff in finalizing the draft front-ending agreement with Windfall GP Inc.

B. Background

Preamble – Issues

At the May 14, 2012 Council meeting, Town staff presented report FIT.12.30, "Windfall Development – Request for Development Charge Relief" as attached under item #1, which including numerous recommendations to deal with the various issues. At the heart of the problem remained two separate issues. Firstly the developer wanted to ensure that they would in fact be able to receive prepaid DC credits for all 609 units within their development to which Council supported through a resolution on May 14.

The second issue surrounded an upfront loan to the Town in the amount of approximately $650,000 as a result of the additional capacity within the pipe for the Osler and Castle Glen service areas. Based on report FIT.12.30 the following recommendations were passed;

> Moved by: Joe Halos Seconded by: John McKean
>
> THAT Council receive Staff Report FIT.12.30, "Windfall Development – Request for Development Charge Relief" for information purposes.
>
> AND THAT Council authorize Prepaid Development Charge credits to be maximized through the front-ending agreement with Windfall GP Inc.
>
> AND THAT Council authorize a timeline of 40 years from the current draft of 20 years for the use of prepayments and recovery of financing through the front-ending agreement with Windfall GP Inc.
>
> AND THAT Council authorize the use of an annual inflationary clause in the front-ending agreement with Windfall GP Inc to be tied directly to the Stats Canada Construction Price Index as used in the Town's Development Charges By-law.

AND THAT Council authorize funding any sewer development charge costs attributable to the Craigleith Service Area greater than the developers prepaid development charge contribution from existing and future Craigleith Area Sewer Development Charge Reserve Funds.

Subsequently, Council was aware that although the motion provided some relief, the outstanding questions surrounding the estimated $650,000 Castle Glen and Osler share still existed. In that regard a further motion was passed.

Moved by: Michael Martin Seconded by: Gail Ardiel

THAT with regard to Staff Report FIT.12.30 “Windfall Development – Request for Development Charge Relief”, Council direct Staff to inquire with the proponent and required resources to bring to Council alternatives for repayment of $650,000 to carry out the Windfall development.

Remaining Issue - $650,000 Deferral

As it currently stands, the developer would pay $650,000 more for sewer works than they believe will likely be able to recover in the short term. Windfall is asking the Town to eliminate the risk for them that Castle Glen and Osler will never develop within the 40 year period and also help them to recover the $650,000 sooner. If the $650,000 doesn’t come from Castle Glen and Osler DC’s, it has to come from some other source.

The question before Council is:

Is there something about these circumstances or this particular development that warrants Council moving away from past practices, precedents and philosophies?

a) If the answer is “no”, then Council would choose Option # 1 below;

b) If the answer is “yes”, Council must determine where the $650,000 should come from. Staff have outlined some options below.

Options - Summary

Below is a chart outlining various options that were developed through consultation with Windfall GP Inc. at a staff-developer meeting on May 30, 2012. A full explanation of the options has been provided following this summary

Option	Comply with Past Practice, Precedent, Philosophy (Yes/No)	Risk to Taxpayer (None to High)	Risk to Other / Future Development (None to High)	Requires Opening of DC Study (Yes/No)	Meets Developer Construction Timelines (Yes/Maybe/No)	Provide Short Term Economic Benefit (Yes/Maybe/No)	Recommended by Staff (Yes/No)
#1. Leave the Draft Agreement as is	Yes	None	None	No	Yes	Maybe	Yes
#2. Leave $650,000 as is. Include $740,000 road costs to eligible DC recoveries	No	None	Medium	Yes	Maybe	Yes	Yes
#3. Town reimburse the $650,000 to Developer via taking out a loan	No	High	Low	No	Yes	Yes	No
#4. Share/Split the risk via taking out a loan for some amount less than $650,000	No	Medium-High	Low	No	Maybe	Yes	No
#5. Town pay for 50% of works. Developer receives no further repayment considerations	No	Medium	None	Yes (in the future)	Maybe	Yes	No
#6. Reimburse developer from another DC reserve	No	High	Medium-High	No	Yes	Yes	No
#7. Proportionate Use of Sewer Reallocation	No	High	Low-Medium	Yes	Maybe	Maybe	No
#8. Re-open the Town DC Background Study	No	None	Medium-High	Yes	No	No	No

Options

#1 - Continue with agreement in its current form

The Town uses the philosophy of “development pays for development”. In this regard past agreements relating to development driven servicing projects have taken on a strong tone of being risk averse to the taxpayer. In that regard, the current draft of the up-front financing arrangement borrows heavily from the Camperdown and Lora Bay agreements. Although the binding agreements were not authored by the OMB, the structure was set through board hearings and a final ruling in the Minutes of Settlement. It is understood that prior Council direction has extended a longer time frame and an interest component to the Windfall agreement which was not part of prior agreement requirements.

As the developer is driving the process and is receiving benefit from the Town being willing to consider entering into such an agreement, it is important that the Town protect its' fiscal position. Keeping the draft agreement in its current form safeguards the Town against current or future risk not being placed on the tax or user rate base. More importantly it ensures that a precedent is not set that would unduly place further burden onto the Town through future developer negotiations. The agreement currently recognizes that the developer is assuming a share of the financial risk as part of the benefit of advancing the timing of the works and being able to develop earlier than otherwise would be the case.

As well, Council should be aware that the developer is working within a timeline which would allow for construction to occur in summer/fall of 2012. Delays in finalizing the agreements may force Windfall into a holding pattern until the next construction season.

#2 – Continue with agreement in its current form. Revisit road re-instatement costs

The Town's DC Background Study was structured in such a way that County Road 21 reinstatement costs estimated at $740,000 were not eligible and therefore would not allow the developer to receive prepaid credits or reimbursement in any form. The expense of updating the Craigleith DC to include these costs would have to be borne by the developer. A case could be made to illustrate the relevance of including the road reinstatement costs. This inclusion of costs, however, is not in line with current Town practices within other DC projects and as such may be under scrutiny by the other developers within the area. In the event that another developer challenged the Town's reasoning, Windfall would have to decide if they would like to fight the claim at their sole cost. Based on the estimated costs, including this within the Craigleith Area DC would increase the charge by approximately $200 each to all 3779 units in the area. Providing for this option will extend the time to apply the by-law's new rates which is not in line with the developer's construction timing.

#3 - Town borrow the funds to pay for the works

The Town has the ability to borrow the funds from a third party lender or possibly even Windfall as was suggested during the delegation. This debt could be taken over a 10-40 year period utilizing a locked in interest rate. The annual repayment of the debt would be made using taxation or user rates. An internal liability would be established noting the amount to be repaid to the taxpayer by the Osler and Castle Glen DC's when or if they are recovered.

Borrowing funds will create a liability with annual repayments. Since there is very low chance of upstream development within the short to medium timeframe, annual repayments would be made by tax or user rate levies. Although this creates a cash flow management issue, the Town would recover that cash when the Castle Glen and Osler development occurs.

The risk is two-fold; firstly the annual loss of interest generation from those funds will reduce Town investment revenues. Secondly, should the upstream development never move forward, or the liability remains on the Town's financial statements for an extremely long period of time, a future Council may have to make the decision to write down the liability, ultimately forcing the tax payer to cover the costs.

#4 - Town share/split the risk with developer by borrowing the funds to pay for a portion of the works

The Town would share in the risk with Windfall and provide partial payment to cover a portion of the Castle Glen and Osler share. Many variations of this option are available. Council would need to provide direction on an acceptable percentage split of the risk to which Staff would then negotiate with the developer on the mechanisms that could be used. In any event, the risks are the same as Option #3 just at a smaller amount or reduced timeframe depending on a final arrangement. Working through an arrangement whereby both the Town and the developer are comfortable with their respective share of the risk may force an extended time period to gain acceptance which is not in line with the developer's construction timing.

#5 - Town borrowing the funds to pay for 50% of the works with developer receiving no further repayment considerations

The Town would provide to the developer 50% upfront repayment for the Castle Glen and Osler share of the works (estimated at $325,000) with Windfall providing the other half. In this option, Windfall would accept this amount of financing as a non-recoverable payment. In the event that the upstream development goes forward the DC's would have to be recalculated to reflect this savings as the Town cannot profit from DC's. In other words, there is a benefit to the upstream development if the $325,000 is realized as this would reduce the DC payable. This option is very similar to #4, however the long term risk to the remaining development community is substantially reduced as Windfall would not have outstanding upfront payments to be repaid. Again, the risks to the taxpayer are the same as Option #3 just at half the amount. Lastly, working through an arrangement such as this may extended time period to gain acceptance which is not in line with the developer's construction timing.

#6 - Town use other DC reserve funds to repay loan

The draft agreement has been developed using section 35 of the DC Act. Windfall is requesting that Council utilize Section 36 of the DC Act to allow for early repayment of the liability. Section 36 allows for a municipality to borrow funds from DC reserve funds so long as interest is paid to the fund. In speaking with the Town's DC consultant, Craig Binning of Hemson Consulting, it has been determined that Section 36 was not intended for this type of use. The Town's solicitor also concurs with both staff and the consultant. A letter from Hemson relating to this issue has been attached as item #1.

Another issue with this option relates to future development. Should the Town provide the means for Windfall to recover costs in a manner other than has been done in the past, future developments are likely to be impacted. If the Town provides credits for work that does not relate, those credits are not available for future development. When other works need to be completed and front ended by a different developer, the Town may not be able to provide DC prepaid credits or other reimbursement options.

Council passed a DC By-law establishing not only the amount to collect from each developer but also stipulating through the background study all of the works that would be done with the DC monies collected. At some point in time, all works will need to be constructed and should reserves not be sufficient due to credit agreements with various developers, either the last developer in or the taxpayer/user rate payer will be forced to provide the money to complete the works.

#7 - Town determine a proportionate use of sewers within Craigleith and reallocate costs

It has been suggested that the Town revisit the sewer works to be constructed in the Craigleith Area to determine the exact developments that will benefit. In this scenario, possibilities may arise whereby some of the southerly trunk (from GR19 to Sixth Street) may benefit Castle Glen and Osler substantially more than the Craigleith Area. An exercise could be completed to determine the triggers to which the works would need to be completed and a reallocation of the risk could be assessed. At the end of the day, the suggestion may shift the 60%-40% split in the short term away from Castle Glen and towards Craigleith (potentially more in the 70%-30% area). The funding of this option would still closely follow Option #6 but would see a lesser dollar amount being required and therefore a somewhat reduced risk on the taxpayer or future developer. This option may also require an extended time period to gain acceptance which is not in line with the developer's construction timing.

#8 - Town undergo a full review of the DC Background Study to reallocate costs

The Town could open up the entire background study to review possible changes. As this is outside of the normal 5 year review process, the costs associated (estimated at $30,000-$40,000) would be borne by the developer. The potential advantages of taking a holistic approach include;

- Road reinstatement costs could be reallocated on all projects creating symmetry within the Background Study
- Review of the allocation of costs between service areas could be completed on an "up-sizing" basis versus total growth units.
- Timing requirements for servicing could be reviewed to ensure adequate long term cash flows
- Infrastructure construction "cost per meter" estimates could be reviewed to ensure accuracy

A full review would take in the magnitude of six to 18 months. As well, there are no guarantees that any of the assumptions would change or that any costs would be reflected differently. Likewise, any changes to the study should be done in conjunction with changes to background documents that provide the funnel of information such as

Roads Studies, EA’s, Master Plans, Official Plan, Zoning By-law, etc. Council should be aware that in the event significant changes are made to the philosophy or “backbone” of the study, the Town could be taken to the OMB through an appeal by any one of the developers within the Town should they feel that the changes have created an unfair advantage for one development over another.

It is important to note that Town Staff support the present DC Background Study as it has been completed using relevant and current EA’s, Roads Studies, OP/ZBL, etc.

Yet again, providing for an option such as this would definitely force an extended time period to gain acceptance which would stall the development for upwards of two years.

Other Considerations

It was the opinion of Finance Staff, based on the deputation and letter, that the developer was concerned about the risk involved in not being able to collect that money based on the timing of development within the Osler and Castle Glen areas. Based on this understanding staff recommended extending the timeframe of the agreement to 40 years (from 20 years) and also to include an inflationary factor to ensure that the value of the money would not erode over time should it take a number of years for the upstream development to occur.

It should be noted that in an effort to provide relief and ease the burden on the developer, staff also recommended providing financing for any Craigleith eligible costs over the developers prepaid DC upset limit therefore reducing the developer’s up-front payment requirement. This amount is currently estimated at $240,000 and will be financed through the use of current and future DC sewer reserves for the Craigleith area. Council passed all recommendations made by Staff at the May 14 meeting.

As well, Town Staff have been in consultation with proponents of the Windfall Development and the Town’s engineering consultant to establish construction costs of $2.4M. It must be noted that these preliminary costs are ***estimates only*** and as such the final costs could vary substantially. The final agreement will recognize the various dollar amounts and credits as overarching framework to establish a final statement once all works have been completed.

Lastly, although the Town has seen a substantial decrease in development over the last three years, municipal economists have suggested that the GTA market is starting to regain traction which should turn in to increased activity in this area within the next two to three years. In that regard, all of the options have been weighted to account for the short term regional economic benefits that this large development may provide through increased construction and trade works. Should it stall, these benefits may be delayed or potentially not realized from this particular developer for a number of years.

C. The Blue Mountains’ Strategic Plan

Providing a strong, well managed municipal government

D. Environmental Impacts

Supporting environmentally sound decisions

E. Financial Impact

There is an overall increased chance of risk and future liability should certain options be exercised by Council as explained within the report.

F. In Consultation With

Troy Speck, CAO
David Finbow, Director of Planning & Building Services
Reg Russwurm, Director of Engineering
Shawn Everitt, Director of Recreation
John Metras, Solicitor
Craig Binning, Hemson Consulting

G. Attached

1. FIT.12.30 “Windfall Development – Request for Development Charge Relief”
2. Hemson Consulting letter dated May 23, 2012

Respectfully submitted,

Darcy Chapman, Capital Accountant

Robert Cummings, CMA
Director of Finance & IT Services

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This document can be made available in other accessible formats as soon as practicable and upon request

STAFF REPORT: **Finance & IT Services**

REPORT TO:	**Council**
MEETING DATE:	**May 14, 2012**
REPORT NO.:	**FIT.12.30**
SUBJECT:	**Windfall Development – Request for Development Charge Relief**
PREPARED BY:	**Darcy Chapman, Capital Accountant**

A. Recommendations

THAT Council receive Staff Report FIT.12.30, “Windfall Development – Request for Development Charge Relief” for information purposes.

AND THAT Council authorize Prepaid Development Charge credits to be maximized through the front-ending agreement with Windfall GP Inc.

AND THAT Council authorize a timeline of 40 years from the current draft of 20 years for the use of prepayments and recovery of financing through the front-ending agreement with Windfall GP Inc.

AND THAT Council authorize the use of an annual inflationary clause in the front-ending agreement with Windfall GP Inc to be tied directly to the Stats Canada Construction Price Index as used in the Town’s Development Charges By-law.

AND THAT Council authorize funding any sewer development charge costs attributable to the Craigleith Service Area greater than the developers prepaid development charge contribution from existing and future Craigleith Area Sewer Development Charge Reserve Funds.

B. Background

At the April 23, 2012 Council Meeting, Paul Peterson of HGR Graham Partners made a deputation to Council on behalf of the Windfall Development. An accompanying letter from Mr. Peterson can be found as attachment #2 to this report. Both the letter and the subsequent deputation outlined issues that the developer would like rectified in order to finalize the upfront payment agreement for the sanitary trunk extension and subsequent master development agreement which requires the provision of the sanitary servicing to initiate construction.

Town Staff have been in consultation with proponents of the Windfall Development in order to establish an agreement for the upfront financing of the sanitary trunk extension on Grey Road 21 estimated to cost $1.66M. The current process that staff is applying has utilized the Town’s current best practices, existing policies and procedures. Through consultation with the developer, a number of issues have arisen that require Council guidance and approval as they are beyond the scope of current policy or practices.

Description of Project & Current Consultation

The sanitary trunk extension includes the construction of 2600 m of pipe mainly within the road base of Grey Road 21. The costs were captured in the last Town Wide Development Charge (DC) Background Study and subsequent DC By-law passed in March 2010. In accordance with the *Development Charges Act, 1997* (DCA), the current draft agreements have been structure by utilizing relevant section in the DCA legislation. The financing of the project involves the establishment of prepaid DC credits through Section 27 of the DCA. Secondary to this, any amount greater than the prepaid DC credits are required to be established through the agreement as a form of liability owed to the developer. This "loan" will be repaid to the developer through the use of Section 35 of the DCA in accordance with the provisions of the upfront financing agreement.

Issue #1 - Limit on Development Charge Prepayment Credits

Developer Request
Windfall request that sewer DC credits should be permitted up to the total eligible DC costs of the sanitary trunk extension financed by Windfall. If the eligible DC related costs are the same as the estimated sanitary project currently at $1.66M then Windfall should be entitled to sewer DC credits up to that amount.

Town Position
Staff has calculated the eligible DC related costs at $1M. Staff concurs that the prepaid DC credit should be permitted up to 100% of the total eligible DC costs (to the maximum of $1M).

Potential Risk
As this relates specifically to the prepayment of DC's through the use of Section 27 of the DCA, the Town would be in contravention of the DCA should Council provide relief above the eligible costs.

Background
The December 8, 2011 memo as attached outlines a process whereby the current Craigleith DC ($2,505) would restrict the developer to a maximum credit of 400 +/- units without any flexibility for units above that up to the maximum 609 unit potential of the development. During discussions, it has come to staff's attention that an error in calculating the Craigleith Area Sanitary DC was made in the 2010 Background Study. In an effort to correct this issue, staff has contacted Hemson Consulting in order to rectify the situation. By the end of June, a joint report to Council between staff and Hemson will outline the changes to the DC study that should be adopted. At that time, a public meeting must be held in accordance with the DCA to allow the public and development community the ability to comment on the proposed changes. After the public meeting is held, the new rate can be adopted by Council. Preliminary work to this point would suggest that the current 2012 rate of $2,505 per Residential "B" unit will be reduced to something in the magnitude of $1,250. Based on the estimated recalculated sewer DC rate, Windfall would have a total prepaid DC credit of approximately $761,000

(609 units x $1,250). This prepaid DC credit will be finalized when the new DC rate is passed as per the requirements as stated above.

Issue #2 – Eligible DC Reimbursement ($650,000 Deferral)

Developer Request
Windfall be entitled to reimbursement from sewer service DC's should be 100% available from the respective DC's collected by the Town in the Craigleith service area and not limited to the percentage split between the three service areas. Council is being requested to grant further Craigleith DC credits to Windfall above the 60.58% originally calculated.

Town Position
DC reimbursement over the prepaid DC credit amount will be handled using section 35 of the DCA. This section stipulates that "money in a reserve fund established for a service may be spent only for capital costs determined through"... the establishment of the background study and subsequent DC By-law. The 2010 study established the costs of the works in question to benefit the three service areas as follows;

Craigleith	60.58%
Osler	5.76%
Castle Glen	33.66%
	100.00%

As such, the Town is not in a position to allow a split of the costs in any other manner than currently illustrated without undergoing a full review of the background study.

Potential Risk
As this relates specifically to the repayment of the liability for financing the works, the use of DC's through Section 35 allows for only specific uses of DC reserves and as such should Council provide reimbursement in some other form of a percentage split the Town would be in contravention of the DCA.

Issue #3 – Reimbursement Timing

Developer Request
Reimbursement from sewer service DC's should be available from the respective DC's collected by the Town in any of the Craigleith, Osler or Castle Glen service areas whichever first occurs.

Town Position
The attributable DC breakdown of prepayment or developer contributions is established through The Town's DC Background Study as illustrated above and subsequently incorporated into the agreements relating to the upfront financing. Simultaneous repayment from the three service areas is possible up to a specific maximum established in the agreement. The request for a "whichever first occurs" approach up to those maximums is possible. Prepaid DC credits and developer repayments will need

to be established through the agreement relating to the upfront payment of funds to construct the Grey Road 21 extension. A final statement will be prepared utilizing final construction costs and will ultimately illustrate the amounts for each service area and the method of recapture by the developer based on the initial agreements.

Potential Risk
The Town must ensure that it remains compliant with Section 35 of the DCA in repaying any liability to the developer. As this relates specifically to the repayment of the liability for financing the works, the use of DC's through Section 35 allows for only specific uses of DC reserves and as such should Council provide reimbursement in some other form of a percentage split the Town would be in contravention of the DCA.

Issue #4 – Simultaneous Cost Recovery

Developer Request
In the December 8, 2011 memo, staff had identified three possible sources of cost recovery, being prepaid DC credits (#1 above), transfer of future sewer service DC payments received by the Town (#3 above) and payments from existing un-serviced properties that may connect to this service.

Windfall requests that cost recovery be available from all of these sources simultaneously on a first come, first serve basis provided the total combined amount of cost recovery from all three sources not exceed the actual total DC eligible cost of sewer service works financed by Windfall.

Town Position
Windfall would be eligible to receive repayment of funds through flow-through payments or existing benefitting payments, whichever should come first from each of the three service areas affected up to the maximum repayable amount. As previously noted, the final statement will illustrate the total liability for each service area and the method in which Windfall will receive monies back.

Potential Risk
As this relates specifically to the repayment of the liability for financing the works, the use of DC's through Section 35 allows for only specific uses of DC reserves and as such should Council provide reimbursement in some other form of a percentage split the Town would be in contravention of the DCA.

Background
Discussions with Windfall regarding the cost recovery of up front financed monies have been based on previous agreements with the Camperdown and Lora Bay servicing projects. Past agreements have stipulated that the first method of payment is through the use of prepaid DC credits. This option is maximized by the number of development units. The agreements then stipulate that both collection of monies from other developers through DC payments and existing units through local servicing by-laws will be flowed through to the developer. Upon completion of the construction, a final

statement is prepared outlining the prepaid DC credits, DC flow-throughs and existing benefitting units involved.

<u>Issue #5 – Agreement Length</u>

Developer Request
The current draft of the upfront financing agreement stipulates a 20 year “sunset” for the use of prepaid DC credits or repayment of outstanding funds collected from other developers or service extension projects. Windfall is doubtful that a 20 year period will ensure an adequate time frame to recover costs, specifically those from Osler and Castle Glen.

Town Position
Staff agree that the time limit should be extended to 40 years to allow adequate time for the developer to recover costs.

Potential Risk
The ability for the Town to repay the liability for financing the works will remain in place so long as the DCA or its successor is in effect. As such, there is minimal risk to the Town to allow for a longer agreement timeframe.

Background
This time horizon was established as a baseline from past practices with both the Camperdown and Lora Bay developments. The 20 years was a mandated timeframe through OMB rulings relating to those developments. The establishment of the agreement could have a longer timeline should Council deem it appropriate. This would provide Windfall a longer timeframe to recoup up-fronted costs that provide benefit for more than their 609 units.

<u>Issue #6 – Interest on Repayments</u>

Developer Request
The current draft of the agreement stipulates a zero percent (0%) interest rate on all up-fronted costs. Windfall is requesting that the agreement have an interest or inflationary adjustment clause included.

Town Position
Staff agree that the inclusion of an inflationary clause is fair and justifiable.

Potential Risk
The annual inflationary factor used should be the same as stipulated in the indexing of the Town’s DC By-law being the previous year’s 3rd Quarter Canadian Construction Price Index. This will ensure that any inflationary increases to the liability will be directly offset by the annual increase in the service area DC. This poses minimal financial risk to the Town.

Background
Again, this was based on OMB rulings from the Camperdown and Lora Bay developments. The reasoning through the OMB was that the project provided benefit for the developers but affected many existing residential units. The ruling stipulated a “no interest clause” as a way of providing some public benefit to those affected units. In the case of this extension, the vast majority of the benefit comes in the form of future development lands (more than 95%). In the sense of fairness it would not seem reasonable to impede the current developer at the benefit of a future developer not having to pay interest on constructed works.

<u>Further Consideration</u>

In an effort to reduce the overall burden on the developer, the Town could use existing and anticipated future Craigleith Area Sewer DC’s to offset costs above Windfall’s prepaid DC credit.

The current estimated cost of the works is $1.66M. The breakdown of attributable costs to each service area is as follows;

Craigleith	$ 1,005,628
Osler	$ 95,616
Castle Glen	$ 558,756
	$ 1,660,000

The current estimated prepaid DC credit by Windfall is in the magnitude of $761,000 (609 units x $1,250). The Town could fund the shortfall of the Craigleith portion with current and future DC’s collected. The financial obligation is illustrated below;

Craigleith Portion of Works	$ 1,005,628
Windfall Prepayment	$ 761,000
Potential Town Funded	$ 244,628

The Town’s current Craigleith Area DC Reserve Fund balance at the end of 2011 was $130,826. The remaining $113,802 would be internally financed until the specific DC’s had been collected through other developments or local servicing projects. Based on the recalculated rate, that would mean approximately 90-100 units. There is a reasonable expectation that through service extensions and other development within the Craigleith area, this liability would be reimbursed within a 3-5 year period. Given that the Town is in a relatively good financial position, the risk to this option is considered low.

C. The Blue Mountains’ Strategic Plan

Providing a strong, well managed municipal government

D. Environmental Impacts

Supporting environmentally sound decisions

E. Financial Impact

There is an overall increased chance of risk and future liability should certain options be exercised by Council as explained within the report.

F. In Consultation With

Troy Speck, CAO
David Finbow, Director of Planning & Building Services
Reg Russwurm, Director of Engineering
Shawn Everitt, Director of Recreation
John Metras, Solicitor

G. Attached

1. GR21 Sanitary Extension Memo dated December 8, 2011
2. HGR Graham Partners letter dated April 17, 2012

Respectfully submitted,

Darcy Chapman, Capital Accountant

Robert Cummings, CMA
Director of Finance & IT Services

For more information, please contact:

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MEMORANDUM

To: Darcy Chapman

From: Craig Binning

Date: May 23, 2012

Re: Windfall Development – Eligible DC Reimbursement

This memo is in support of the Town's position with regards to Issue #2 contained in Staff Report No. FIT.12.30.

The developer in the area of Craigleith, Windfall Development, has agreed to prepay approximately $761,000 in development charges associated with the financing of the sanitary trunk extension on Grey Road 21. The remaining costs of the extension will be recovered through the areas of Osler and Castle Glen, and portion will be paid for by the Town.

The developer is requesting that reimbursement of the upfronting costs should be made available as soon as DCs are collected from the Craigleith area to alleviate the liability to Windfall Development. The request is based upon the developer's interpretation of section 36 of the *Development Charges Act* that stipulates:

> Despite section 35, a municipality may borrow money from a reserve fund but if it does so, the municipality shall repay the amount used plus interest at a rate not less than the prescribed minimum interest rate.

It is our opinion that this section of the *Act* is intended for the use of the Town to borrow monies from one reserve to help finance projects in another area. It is not common practice that a municipality utilize this section of the *Act* to repay 'front end financing' costs.

Should the Town wish to fulfill the developer's request with respect to this issue, the Town would be at the risk of depleting the DC reserve funds such that other scheduled works would have limited financing, or timing would be delayed.

It is important to note that the developer is driving the process and is requesting that municipal infrastructure be advanced before the municipality is planning, or has the fiscal capacity, to undertake the works. The municipality would be prudent to protect its' fiscal position and the agreement recognize the developer is assuming a share of the financial risk as part of the benefit of advancing the timing of the works and being able to develop earlier than otherwise.