

**Agenda – Standing Policy Committee on Finance – November 13, 2020**

**REPORTS**

**Item No. 4                      Impact Fee Reserve Fund - Report for the Period July 1 to  
September 30, 2020**

**WINNIPEG PUBLIC SERVICE RECOMMENDATION:**

1.        That this report be received as information.

# ADMINISTRATIVE REPORT

**Title: Impact Fee Reserve Fund - Report for the Period July 1 to September 30, 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 July 1 to September 30, 2020, 17 permits were issued that resulted in impact fees of \$175,295.77 being paid, which involved 5 of the 10 'Maps' or geographic areas as laid out in the table below. Since its implementation effective May 1, 2017 to the reporting date of September 30, 2020, 3,569 permits have been issued totaling \$36,290,878.78. A total of \$697,179.54 in interest has accrued on fees paid between May 1, 2017 and September 30, 2020 and Director Review/Administration Fees of \$2,715.97 have been paid for a total balance in the Impact Fee Reserve of \$36,980,774.29.

During the preparation of this report, the query used to extract the data was further refined resulting in a change to prior period information presented to the Standing Policy Committee on Finance. The impact of this further refinement is that, as of June 30, 2020, the number of permits issued and impact fees being paid were overstated by 8 and \$18,331.11 respectively. The June 30, 2020 comparative figures have been restated to incorporate these respective amounts.

Map	As at September 30, 2020		As at June 30, 2020 Restated		During Reporting Period	
	Permits Issued	Impact Fee	Permits Issued	Impact Fee	Permits Issued	Impact Fee
Impact Fee-Map 2 - Wilkes	301	\$ 3,230,879.91	300	\$ 3,217,765.54	1	\$ 13,114.37
Impact Fee-Map 3 - Old Kildonan	762	9,158,193.09	759	9,131,712.35	3	26,480.74
Impact Fee-Map 6 - Transcona West	507	4,664,467.24	506	4,654,770.59	1	9,696.65
Impact Fee-Map 7 - South St. Boniface	747	7,330,881.37	742	7,282,692.10	5	48,189.27
Impact Fee-Map 8 - Waverley West	1,250	11,899,542.17	1,243	11,821,727.43	7	77,814.74
Impact Fee-Map 11 - North Henderson	2	6,915.00	2	6,915.00	-	-
<b>Total</b>	<b>3,569</b>	<b>\$ 36,290,878.78</b>	<b>3,552</b>	<b>\$ 36,115,583.01</b>	<b>17</b>	<b>\$ 175,295.77</b>

On July 8, 2020, Manitoba Court of Queen's Bench Justice Edmond 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 Justice Edmond. The parties have up to thirty days from the date of the order to file an appeal to the Manitoba Court of Appeal. No refunds of the impact fee are intended to occur until the appeal period has expired.

## RECOMMENDATIONS

1. That this report be received as information.

## REASON FOR THE REPORT

At its November 3, 2016 meeting, the 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 of July 1 to September 30, 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 July 1 to September 30, 2020, 17 permits were issued that resulted in impact fees of \$175,295.77 being paid, which involved 5 of the 10 'Maps' or geographic areas as laid out in the table below. Since its implementation effective May 1, 2017 to the reporting date of September 30, 2020, 3,569 permits have been issued totaling \$36,290,878.78.

During the preparation of this report, the query used to extract the data was further refined resulting in a change to prior period information presented to the Standing Policy Committee on Finance. The impact of this further refinement is that, as of June 30, 2020, the number of permits issued and impact fees being paid were overstated by 8 and \$18,331.11 respectively.

The June 30, 2020 comparative figures have been restated to incorporate these respective amounts.

A total of \$697,179.54 in interest has accrued on fees paid between May 1, 2017 and September 30, 2020 and Director Review/Administration Fees of \$2,715.97 have been paid. All amounts have been credited to the Impact Fee Reserve Fund for a total balance as at September 30, 2020 of \$36,980,774.29.

The table below provides a breakdown of the number of permits and related impact fees by map/geographic area.

Map	As at September 30, 2020		As at June 30, 2020 Restated		During Reporting Period	
	Permits Issued	Impact Fee	Permits Issued	Impact Fee	Permits Issued	Impact Fee
Impact Fee-Map 2 - Wilkes	301	\$ 3,230,879.91	300	\$ 3,217,765.54	1	\$ 13,114.37
Impact Fee-Map 3 - Old Kildonan	762	9,158,193.09	759	9,131,712.35	3	26,480.74
Impact Fee-Map 4 - Kilcona Park	-	-	-	-	-	-
Impact Fee-Map 5 - Transcona North	-	-	-	-	-	-
Impact Fee-Map 6 - Transcona West	507	4,664,467.24	506	4,654,770.59	1	9,696.65
Impact Fee-Map 7 - South St. Boniface	747	7,330,881.37	742	7,282,692.10	5	48,189.27
Impact Fee-Map 8 - Waverley West	1,250	11,899,542.17	1,243	11,821,727.43	7	77,814.74
Impact Fee-Map 9 - Trappistes	-	-	-	-	-	-
Impact Fee-Map 10 - Red River Ex	-	-	-	-	-	-
Impact Fee-Map 11 - North Henderson	2	6,915.00	2	6,915.00	0	-
<b>Total</b>	<b>3,569</b>	<b>\$ 36,290,878.78</b>	<b>3,552</b>	<b>\$ 36,115,583.01</b>	<b>17</b>	<b>\$ 175,295.77</b>

See Appendix 1 for a view of Maps 2 to 11 within the context of a map of the City of Winnipeg.

On July 8, 2020, Manitoba Court of Queen's Bench Justice Edmond 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.

The City intends to ensure the process used to refund the impact fees collected is fair and consistent with the Court's decision. Discussions between legal counsel representing the City and the plaintiff to establish this process, as well as finalize the wording of the Court Order, are continuing.

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 Justice Edmond. The parties have up to thirty days from the date of the order to file an appeal to the Manitoba Court of Appeal. No refunds of the impact fee are intended to occur until the appeal period has expired.

**FINANCIAL IMPACT**

**Financial Impact Statement**

**Date:** **October 28, 2020**

**Project Name:**

**Impact Fee Reserve Fund – Report for the Period July 1 to September 30, 2020**

**COMMENTS:**

There are no financial implications associated with this report.

*Mike McGinn October 28, 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: October 29, 2020  
File No: N/A

Attachments:

Appendix 1 – Map 1

**APPENDIX 1**

