ITEM	5
MANAGER'S REPORT NO.	13
COUNCIL MEETING	90/02/19

RE: PROPOSED AMENDMENTS TO BURNABY DEVELOPMENT COST CHARGES BYLAW 1979, BYLAW 9082 RELATED TO NEIGHBOURHOOD PARKLAND ACQUISITION CHARGE

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1990 FEBRUARY 13

FROM: DIRECTOR PLANNING & BUILDING INSPECTION

SUBJECT: **PROPOSED AMENDMENTS TO BURNABY DEVELOPMENT COST CHARGES BYLAW 1979, BYLAW 9082 RELATED TO NEIGHBOURHOOD PARKLAND ACQUISITION CHARGE**

PURPOSE: To request Council's authorization to introduce an amended Development Cost Charges Bylaw related to the Neighbourhood Parkland Acquisition Charge.

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RECOMMENDATIONS:

1. THAT Council authorize the Municipal Solicitor to introduce an amended Development Cost Charges Bylaw to amend Bylaw 1979, Bylaw #9082, in accordance with Section 4.0 of this report.

2. THAT a copy of this report be sent to the Parks and Recreation Commission.

R E P O R T

1.0 BACKGROUND AND SUMMARY

Burnaby's Development Cost Charge Bylaw as it relates to neighbourhood parkland acquisitions has been very successful in providing funds for parkland acquisition and has allowed the Municipality to acquire many properties for park purposes. From its inception in 1976 and up to 1989 December 31, developer's contributions amount to $13,432,411.70, interest earnings amount to $9,113,710.67, and property acquisitions amount to $8,564,544.17. The total amount of funds in reserve accounts as of 1989 December 31 amount to $13,449,941.25.

To more appropriately respond to the Municipality's current parkland acquisition program, the Development Cost Charge Bylaw needs to be updated and amended. Section 4.0 of this report outlines adjustments to the Bylaw and cost charge criteria relative to the assist requirement, to an adjusted definition of appropriate parkland acquisition, to a broader criteria for the use of charge funds, and to the need to correspond to the current detailed wording of the Municipal Act regarding Development Cost Charges.

2.0 DEVELOPMENT COST CHARGES BYLAW 1979

The current Neighbourhood Parkland Acquisition Charge was established on the basis of the following rationale:

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Section 983 of the Municipal Act states that a local government (municipality) may, by bylaw, impose development cost charges for the purpose of providing funds to assist the local government to pay the capital costs of providing parkland to serve, directly or indirectly, the development for which the charge is being imposed.

Through the Park Acquisition Program, the Municipality has a method to acquire property suitable for park purposes as it becomes freely available or as finances permit. However, the priority expenditure of municipal funds for parkland acquisition emphasizes the major consolidation of community park areas and systems. The increase in densities in developing residential areas has resulted in a concomitant need for additional neighbourhood parks.

Due in part to the financial priorities and constraints of the Municipality in budgeting for parkland acquisitions, it has been considered appropriate that new residential development, in addition to existing development and the Municipal Corporation, assist in the provision of neighbourhood parks to meet its own needs. The "assist" factor is a prime principle of which the Province must be convinced prior to the approval of any Municipality's Development Cost Charge Bylaw.

The Parkland Acquisition Charge applies to all new residential development throughout the Municipality and is deposited in interest bearing reserve accounts with record accounts established corresponding to Neighbourhood Planning Areas. The charges which are collected are to be utilized to acquire neighbourhood parkland within the precinct of the Neighbourhood Planning Area or in any directly abutting area.

The Parkland Acquisition Charge was established by Bylaw on 1979 April 09 when Council gave final adoption to the "Burnaby Development Cost Charges Bylaw 1979".

The Bylaw received the approval of the Inspector of Municipalities after an extensive exchange of clarifying information in support of Burnaby's Bylaw.

The application of charges is coordinated by the Planning & Building Inspection Department so that the possibility of double assessment of a given development proposal is avoided. All charges collected, which are deposited in separate reserve accounts, must be used only for the acquisition purpose for which the charges were deposited. A recent amendment to the Municipal Act has permitted the use by the municipality of interest earned on money in the parkland development cost charge reserve fund to provide for "fencing, landscaping, drainage and irrigation, restrooms and changing rooms, playground and playing field equipment" on municipal parkland. As a statutory requirement expenditures of reserve account funds must be authorized by Bylaw.

The Parks and Recreation Commission in 1988 December authorized the use of funds from interest earned from parkland charge deposits to finance park development projects with the amount used from this source to be determined on a yearly basis at budget time. At the same time, the Commission adopted a companion recommendation stipulating that the Parkland Acquisition Reserve be maintained at a level sufficient to pay for all parkland, conservation areas, and public open space needed in the future.

3.0 PROPOSED AMENDMENT TO THE DEVELOPMENT COST CHARGE BYLAW

The form of Burnaby's currently applicable Development Cost Charge Bylaw states that the monies collected are to be used for the acquisition of neighbourhood parkland within the Neighbourhood Planning Areas in which the funds are collected or in any directly abutting area. The Municipal Act also requires that the Municipality contribute to or assist in the acquisition of parkland funded through the application of cost charges.

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It is proposed that the Development Cost Charge Bylaw be updated to more appropriately reflect current circumstances and needs by broadening the acquisition criteria for the use of deposited Neighbourhood Parkland Acquisition Charge funds. Adjustments to the Bylaw and cost charge criteria are proposed relative to the assist requirement, to an adjusted definition of appropriate parkland acquisition, to a broader criteria for the use of charge funds, and to the need to correspond to the current detailed wording of the Municipal Act regarding Development Cost Charges. These proposals have been considered appropriate by the Management Committee and by the Municipal Solicitor for advancement to Council for consideration and approval.

4.0 SPECIFIC ADJUSTMENT PROPOSALS

4.1 ASSIST REQUIREMENT

It is proposed that the Municipal assist requirement for the acquisition of parkland be adjusted administratively from the current 50% designation to a 10% designation, and the Inspector of Municipalities be so informed.

Discussion

Section 983(2) of the Municipal Act states that collected parkland charge funds are to assist the municipality in paying the capital costs of acquiring parkland. The current 50% assist designation is not included in the Municipality's Development Cost Charge Bylaw but is included in the information related to the bylaw given to the Inspector of Municipalities. Discussions with Ministry staff appear to indicate that the Province would not object to lowering the assist factor to the proposed percentage. The capital budget of the Parks and Recreation Department would be adjusted to reflect this revised assist factor. No change is proposed to the currently applicable cost charge amounts.

4.2 ADJUSTED DEFINITION OF APPROPRIATE PARKLAND ACQUISITIONS

It is proposed that the term "neighbourhood" be deleted from the Development Cost Charge Bylaw so that the Charge Bylaw would more accurately reflect the Municipality's general practice and response to parkland needs of the Municipality arising out of new residential development.

Discussion

The use of the term "neighbourhood" as it relates to the Neighbourhood Parkland Acquisition Charge is not considered completely accurate for describing the subject charge. It is emphasized that the deposited charges can continue to be justified as arising out of park needs related to increased residential development. The many classes of parks which have been established primarily as a hierarchy related to the scope of park development and park scale can also each be considered to have neighbourhood-oriented and/or residentially-generated aspects. Reference to capital costs included in informational material accompanying the original Development Cost Charge Bylaw and actual operational practice have reflected this appropriate broader definition. The proposed wording adjustment, deleting the word "neighbourhood" from the Development Cost Charge Bylaw, will more closely align terminology with practice where deposited charge funds could more confidently be utilized to acquire parkland required by the Municipality in response to priorities of the day while at the same time remaining basically faithful to the concepts upon which the charge was established.

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4.3 BROADER CRITERIA FOR THE USE OF CHARGE FUNDS

It is proposed that the deposited charge funds be utilized to acquire parkland throughout the Municipality to meet the priority acquisitions established by the Municipality and to take advantage of attractive acquisition opportunities as they arise. The Development Cost Charge Bylaw would be amended accordingly.

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Discussion

The Development Cost Charge Bylaw would be amended to indicate the use of charge funds throughout the Municipality rather than be restricted to the limited area of Neighbourhood Planning Areas in which they are collected, or directly abutting areas. The useful recording procedures utilized since the inception of cost charges in 1976 indicating the neighbourhood planning areas in which funds were deposited, from which funds were drawn, and in which acquisitions were made would continue to be maintained.

4.4 CURRENT WORDING OF MUNICIPAL ACT

It is proposed that the Burnaby Development Cost Charge Bylaw be updated to correspond to the latest wording of Section 983, 984 and 985 of the Municipal Act (edition consolidated to include amendments effective 1989 January 17) (see attached Appendix "A").

Discussion

The latest edition of the Municipal Act outlines wording and certain technical regulations which are somewhat differently expressed from the Municipal Act edition applicable at the time of Burnaby's enactment of its Development Cost Charge Bylaw. This is considered a housekeeping matter which does not essentially affect the overall intent and basic terms of the Bylaw.

A. L. Parr
Director Planning &
Building Inspection

KI:lf

Attachment: Appendix "A"

cc: Director Engineering
Director Finance
Director Recreation & Cultural Services
Municipal Solicitor

APPENDIX "A"

DIVISION (6) — DEVELOPMENT COSTS RECOVERY

Development cost charges generally

983. (1) In this Division

(a) "development" means those items in subsection (2) (c) and (d) for which a development cost charge may be imposed, and

(b) a reference to local government includes a greater board.

(2) A local government may, by bylaw, for the purpose of providing funds to assist the local government to pay the capital costs of

(a) providing, constructing, altering or expanding sewage, water, drainage and highway facilities, other than off-street parking facilities, and

(b) providing park land

to service, directly or indirectly, the development for which the charge is being imposed, impose development cost charges on every person who obtains

(c) approval of a subdivision, or

(d) a building permit authorizing the construction, alteration or extension of a building or structure.

(3) No charge is payable under a bylaw made under subsection (2) where

(a) the building permit authorizes the construction, alteration or extension of a building or part of a building that is, or will be, after the construction, alteration or extension, exempt from taxation under section 398 (h),

(b) the building permit authorizes the construction, alteration or extension of a building that will, after the construction, alteration or extension,

(i) contain less than 4 self-contained dwelling units, and

(ii) be put to no other use other than the residential use in those dwelling units, or

(c) the value of the work authorized by the permit does not exceed $50 000 or any other amount the minister may, by regulation, prescribe.

(4) A development cost charge that is payable under a bylaw under this section shall be paid at the time of the approval of the subdivision or the issue of the building permit, as the case may be.

(5) Notwithstanding subsection (4), the minister may, in respect of all or different classes of developments, by regulation authorize the payment of development cost charges in instalments and prescribe conditions under which the instalments may be paid.

(6) A development cost charge is not payable where

(a) the development does not impose new capital cost burdens on the municipality, regional district or greater board, or

(b) a development cost charge has previously been paid for the same development unless, as a result of further development, new capital cost burdens will be imposed on the municipality, regional district or greater board.

(c) [Repealed 1987-14-40.]

(7) Notwithstanding a bylaw under subsection (2), where a local governnment has imposed a charge or made a requirement under

(a) section 642,

(b) Division (7), or

(c) section 729 before the repeal of that section became effective,

for park land or for specific works and services outside the boundaries of land being subdivided or developed, that are included in the calculations used to determine the amount of a development cost charge, the amount of the charge imposed or the value of the requirement made under section 642, Division (7) or section 729, as the case may be, shall be deducted from those classes of development cost charges which are applicable to the types of works and services or the park land for which the charge was imposed or the requirement was made.

(8) Notwithstanding a bylaw under subsection (2), where an owner has, with the approval of the local government, provided or paid the cost of providing specific works and services outside the boundaries of land being subdivided or developed, that are included in the calculations used to determine the amount of a development cost charge, the cost of the works and services shall be deducted from those classes of development cost charges which are applicable to the works and services.

(9) [Repealed 1987-14-40.]

(10) Where a board or greater board has the responsibility of providing a work, service or park land referred to in subsection (2) in a participating member municipality, the board or greater board may by bylaw under subsection (2), impose a development cost charge that is applicable within that municipality.

(11) Where a board or greater board had, before this section came into force, adopted a bylaw that it would have been empowered to adopt had this section been in force at the time the bylaw was adopted, that bylaw is conclusively deemed by this subsection to have been validly adopted at the time that it was adopted.

(12) The municipality shall collect and remit the development cost charge imposed under subsection (10) to the regional district or greater board in the manner provided for in the bylaw.

1985-79-8; 1987-14-40.

Fixing of development cost charges

984. (1) A bylaw that imposes a development cost charge shall specify the amount of the charge in a schedule or schedules of development cost charges, and the charges may vary with respect to

(a) different zones or different defined or specified areas,

(b) different uses,

(c) different capital costs as they relate to different classes of development, and

(d) different sizes or different numbers of lots or units in a development,

but the charges in the schedule shall be similar for all developments that impose similar capital cost burdens on the local government.

(2) In fixing development cost charges in a bylaw under section 983 (2), the local government shall take into consideration future land use patterns and development, the phasing of works and services and the provision of park land described in an official community plan and whether the charges

(a) are excessive in relation to the capital cost of prevailing standards of service,

(b) will deter development, or

(c) will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land

in the municipality or regional district.

(3) The local government shall make available to the public, on request, the considerations, information and calculations used to determine the schedule referred to in subsection (1), but any information respecting the contemplated acquisition costs of specific properties need not be provided.

1985-79-8.

Use of development cost charges

985. (1) A development cost charge paid to a local government shall be deposited by the local government in a separate special development cost charge reserve fund established for each purpose for which the local government imposes the development cost charge.

(2) Sections 382 and 387 apply to a fund established under subsection (1) of this section, but no approval by the minister under section 378 is required.

(3) Money in development cost charge reserve funds, together with interest on it, shall be used only to

(a) pay the capital costs of providing, constructing, altering or expanding sewage, water, drainage and highway facilities, other than off-street parking facilities and park land acquisition that relate, directly or indirectly, to the development in respect of which the charge was collected, or

(b) pay principal and interest on a debt incurred by a local government as a result of an expenditure referred to in paragraph (a),

and for the purposes of this subsection "capital costs" includes planning, engineering and legal costs directly related to the work for which a capital cost may be incurred under this section.

(4) Authority to make payments under subsection (3) shall be authorized by bylaw.

1985-79-8; 1987-14-41.

Acquisition and development of park land

986. (1) Where a development cost charge bylaw provides for a charge to acquire park land, the charge may be paid for in whole or in part by providing land having a market value, as at the day the charge is payable, equivalent to the amount of the charge, so long as the location and character of the land is acceptable to the local government.

(2) Where, for the purposes of subsection (1), the owner and the local government do not agree on the market value, it shall be determined in the manner that is prescribed in the regulations made under section 992 (7).

(3) Where partial payment of a development cost charge for park land in the form of land is made, the remainder shall be paid in accordance with a bylaw under section 983 (2).

(4) Section 992 (12) applies to land provided under subsection (1).

(5) Notwithstanding section 985 (3), interest earned on money in the park land development cost charge reserve fund may be used by the local government to provide for fencing, landscaping, drainage and irrigation, restrooms and changing rooms, playground and playing field equipment on park land owned by the local government or owned by the Crown and managed by the local government.

1985-79-8; 1987-14-42.

Adoption procedures

987. (1) A bylaw that imposes a development cost charge shall not be adopted until the inspector has approved it, and the inspector may refuse to grant approval where he determines that

(a) the development cost charge is not related to capital costs attributable to projects included in a capital expenditure bylaw under sections 266 and 797 (13), or

(b) the local government has not properly considered the matters referred to in section 984 (2).

(2) The inspector may revoke an approval made under subsection (1) in respect of all or part of a bylaw that imposes a development cost charge, and, where he revokes his approval, the part of the bylaw in respect of which the revocation applies has no effect until the local government amends the bylaw and obtains the inspector's approval of the amendment.

(3) The inspector may require a municipality, regional district or greater board to provide him with a report on the status of development cost charge collections, expenditures and proposed expenditures for a time period he may specify.

(4) After reviewing the report, the inspector may order the transfer of funds from a development cost charge reserve fund under section 985 (1) to a capital works reserve fund established under section 378 (1) (a).

1985-79-8.