

DATE OF MEETING JUNE 19, 2023

AUTHORED BY JESSICA VANDERHOEF, STENO COORDINATOR

SUBJECT ALTERNATIVE APPROVAL PROCESS – NANAIMO OPERATIONS CENTRE PHASE ONE BORROWING BYLAW 2023 NO. 7362

OVERVIEW

Purpose of Report

To obtain Council approval to proceed with an Alternative Approval Process for the borrowing of up to \$48,500,000 for the first phase of construction of the Nanaimo Operations Centre. |

Recommendation

That Council:

1. determine the total number of electors of the area to which the approval process applies (the whole of the City of Nanaimo) to be 77,990;
2. establish a deadline of 4:30 p.m. on Friday, 2023-NOV-03 for receiving elector responses for the Alternative Approval Process in relation to “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362”; and,
3. approve the Elector Response Form as attached to the Staff report dated 2023-JUN-19.

BACKGROUND

Council approval is being sought to undertake an Alternative Approval Process that, if electors’ assent is received, would permit Council to adopt “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” to authorize Council to borrow up to \$48,500,000 for phase one construction of the Nanaimo Operations Centre.

In order to proceed, Council is required to have approval of the electors prior to bylaw adoption in accordance with the *Community Charter*. Approval of the electors may be received by way of an Alternative Approval Process (AAP), or assent voting (referendum). Approval is obtained and Council may proceed with bylaw adoption, if less than 10 per cent of the electors oppose the proposal by submitting a valid elector response form. |

DISCUSSION

The AAP process involves:

- Fair determination of the number of electors (calculation provided below): Council approval is required.
- Approval of Elector Response Form (attached): Council approval is required.
- “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” (To authorize the borrowing of up to \$48,500,000 for the first phase of the construction of Nanaimo Operations Centre): Bylaw readings must be passed by a Council majority prior to requesting Inspector approval.
- Bylaw submission to the Ministry of Municipal Affairs and Housing: Should Council adopt the above recommendations and give three readings to “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362”, Staff will forward the bylaw to the Ministry of Municipal Affairs and Housing for approval of the Inspector of Municipalities.
- Public Notice: Notification is mandatory as outlined in the City’s Public Notice Bylaw and takes place after Inspector approval is received. It is estimated that Inspector approval will be received in 6 to 8 weeks. In order to avoid the busy summer season, and ensure more eligible electors can participate, Staff are planning to publish the notice in September. The notice would appear in the Wednesday, 2023-SEP-27 edition of the Nanaimo News Bulletin, and on the City of Nanaimo website. The notice will also be posted at City Hall.
- Elector Response form Submission Period: Council must establish the deadline for receiving elector responses, a minimum of 30 days after the publications of the notice. Friday, 2023-NOV-03 is 37 days after the notice publications, and provides electors with additional time to submit response forms while still allowing Staff to meet the agenda deadline for the 2023-NOV-20 Council meeting.
- Determination of Certification of Elector Approval Responses (10 per cent threshold): The Corporate Officer must determine and certify the number of valid Elector Response Forms received by the deadline, and whether electoral approval has been obtained. A report to Council will follow, likely at the 2023-NOV-20 Council meeting.
- Council Decision on Next Steps: Elector approval is deemed to have been obtained if less than 7,799 valid Elector Response Forms in opposition to Bylaw No. 7362 are received prior to 4:30 p.m. on Friday, 2023-NOV-03. Council would then be able to consider bylaw adoption. Should 7,799 or more opposition responses be submitted, Council could only move forward with the project through a successful referendum (assent voting).

Fair Determination of the Total Number of Electors:

Section 86(3) of the *Community Charter* requires that a fair determination be made of the total number of electors within the City of Nanaimo, which forms the basis of the 10 per cent threshold. It was determined that there are 77,990 electors based on the following:

- 76,522 electors on the City of Nanaimo voter's list for the 2022 Municipal Election;
- 697 new electors registrations for the 2022 Municipal Election;
- 689 new electors since the Municipal Election (approx. 6 months), based on a 1.8% population increase per year according to census data;
- 82 registered non-resident property electors in the 2022 Municipal Election; and,
- Therefore, the fair determination of electors is 77,990.

OPTIONS

1. That Council:
 1. determine the total number of electors of the area to which the approval process applies (the whole of the City of Nanaimo) to be 77,990;
 2. establish a deadline of 4:30 p.m. on Friday, 2023-NOV-03 for receiving elector responses for the Alternative Approval Process in relation to "Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362"; and,
 3. approve the Elector Response Form as attached to the Staff report dated 2023-JUN-19.
 - The advantages of this option: Electors would have 37 days to submit their response form and the AAP process does not require them to appear in person on designated days to express their opinion, making this method of elector consent more convenient for electors and suitable for a project that is considered necessary to the community.
 - The disadvantages of this option: If the AAP is unsuccessful Council will have the option to proceed to a referendum which would then increase costs significantly.
 - Financial Implications: Holding an AAP is done with much lower costs than by conducting a referendum.
2. That Council not move forward with the Alternative Approval Process. Council may wish to not pursue this matter.
 - The advantages of this option: The City's liability servicing limit would not increase as a result of this project at this time.
 - The disadvantages of this option: The current Public Works, and the Parks Operations Yard are no longer able to meet operational or seismic requirements and therefore Staff would need to return with alternative options to address these issues as this project is considered necessary to the community.
 - Financial Implications: The City's liability servicing limit would not increase as a result of this specific project; however, future upgrades or improvements could result in higher cost estimates.
3. That Council moves forward through an Assent Voting Process – "Assent Voting" is often referred to as a referendum. Council is not obligated to conduct an AAP, and instead could proceed to an Assent Voting process.
 - The advantages of this option: A referendum provides a clear process similar to an election and can list more than one question on the ballot.

- The disadvantages of this option: Conducting a referendum involves the same resources and costs as holding a general election.
- Financial Implications: The costs and Staff resources associated with Assent Voting are significant and similar to a general election.

SUMMARY POINTS

- Council is being asked to proceed with an Alternative Approval Process in relation to the costs associated with phase one construction of the Nanaimo Operations Centre.
- An alternative approval process may be undertaken by Council in order to move forward with approval of the bylaw.
- Should Council move forward with the Alternative Approval Process, there will be opportunity for electors opposed to the proposal to submit an Elector Response Form.
- Elector approval is deemed to have been obtained if less than 7,799 valid Elector Response Forms in opposition to Bylaw No. 7362 are received prior to 4:30 p.m. on Friday, 2023-NOV-03.

ATTACHMENTS:

ATTACHMENT A – AAP Elector Response Form. |

Submitted by:

Sheila Gurrie,
Director, Legislative Services |

Concurrence by:

Bill Sims,
General Manager, Engineering & Public
Works

Jake Rudolph
Chief Administrative Officer |



**ALTERNATIVE APPROVAL PROCESS
ELECTOR RESPONSE FORM**

**“NANAIMO OPERATIONS CENTRE PHASE ONE BORROWING BYLAW 2023 NO. 7362”
(To authorize the borrowing of up to \$48,500,000 for the first phase of construction of the
Nanaimo Operations Centre).**

Pursuant to the Community Charter, I certify that:

- *I am a person entitled to be registered as an elector (pursuant to the Local Government Act) within the City of Nanaimo;*
- *I have not previously signed an Elector Response Form with respect to this Bylaw; and*
- *I am **OPPOSED** to the adoption of “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” (To authorize the borrowing of up to \$48,500,000 for phase one construction of the Nanaimo Operations Centre), without first obtaining the assent of the electors in a voting proceeding (referendum).*

NAME OF ELECTOR:

_____ (Please Print Full Name)

ELECTOR'S STREET ADDRESS:

SIGNATURE OF ELECTOR:

DATE:

To be completed by Non-Resident Property Electors only

I am entitled to register as a non-resident property elector as an owner of the property legally described as:

For this elector response form to be counted, it must be submitted in person or by mail to be received by the Corporate Officer, Legislative Services Department **NO LATER THAN 4:30 P.M. 2023-NOV-03.**

Postmark **WILL NOT** be accepted as date of submission. **ORIGINAL SIGNATURES ARE REQUIRED SO THE ELECTOR RESPONSE FORM MAY NOT BE RETURNED BY EMAIL OR BY FAX.**

Approval of the electors by alternate approval process is obtained if less than 7,799 elector responses are received by the stated deadline.

Legislative Services Department
455 Wallace Street, Nanaimo, BC V9R 5J6
Phone (250) 755-4405

Office hours are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding statutory holidays.

“Freedom of Information and Protection of Privacy Act (FOIPPA) Information collected on this form is done so under the general authority of the Community Charter and FOIPPA and is protected in accordance with FOIPPA. Personal information will only be used by authorized staff to fulfill the purpose for which it was originally collected, or for a use consistent with that purpose.”

INFORMATION REGARDING QUALIFICATIONS FOR ELECTORS

Resident electors:

- 18 years of age or older;
- A Canadian citizen;
- Have lived in BC for the last 6 months;
- Resident of the City of Nanaimo;
- Not disqualified by any enactment from voting in an election or otherwise disqualified by law.

Non-Resident Property Elector:

- Not entitled to register as a resident elector in the City of Nanaimo;
- 18 years of age or older;
- A Canadian citizen;
- Have lived in BC for the last 6 months;
- Have owned real property in the City of Nanaimo for at least 30 days;
- Not disqualified by any enactment from voting in an election or otherwise disqualified by law;
- **If there is more than one registered owner of the property (either as joint tenants or tenants in common), only one of those individuals may, with the written consent of the majority of the owner, register as a non-resident property elector, and,**
- **A person may only register as a non-resident property elector in relation to one parcel of real property in a jurisdiction.**

NOTE: No corporation is entitled to be registered as an elector or have a representative registered as an elector and no corporation is entitled to vote.

An accurate copy of this elector response form may be utilized (either single-sided or double-sided), provided it is made prior to any electors signing such form, so that only elector response forms with original signatures are submitted.