
MEETING TYPE: Regular Council Meeting
MEETING DATE: Tuesday, July 05, 2022
AUTHOR: Reyna Seabrook, Director of Corporate Services
DEPARTMENT: Corporate Services
ITEM TITLE: Waterfront Property Acquisition
DESCRIPTION: Consideration of borrowing to acquire waterfront property

QUESTION

Does Council want to pursue the acquisition of waterfront lands for public use?

OPTIONS

- A. THAT Loan Authorization Bylaw (Waterfront Property) 1187, 2022 be read a first, second and third time; AND THAT approval of the electors be obtained through an alternative approval process (AAP) in accordance with section 86 of the Community Charter.
- B. THAT Loan Authorization Bylaw (Waterfront Property) 1187, 2022 be read a first, second and third time; AND THAT assent of the electors be obtained through a referendum (assent voting) in accordance with section 85 of the Community Charter and Part 4 of the Local Government Act.
- C. THAT Loan Authorization Bylaw (Waterfront Property) 1187, 2022 not receive any readings; AND THAT staff be directed to bring forward a report for consideration during the 2023 budget deliberations on additional reserve funding options to allow for future property acquisitions.

EXECUTIVE SUMMARY

In 2006, Council adopted Waterfront Property Acquisition Policy 06.05.73 resolving that Council should consider the acquisition of waterfront property when it becomes available. Some parcels have recently come available that offer public waterfront access, have historical significance or provide other strategic benefit to the community.

The District currently has limited funding sources for property acquisition. As of December 31, 2021 there was \$206,643 in the statutory reserves dedicated to land, park and waterfront acquisition and \$1,058,098 in the Parkland Acquisition Development Cost Charge fund however \$825,000 of this amount will be spent in 2022. Given the limited funding available for a purchase, Council may opt to borrow to fund future acquisitions. Alternatively, Council could increase reserve contributions, invest those funds to earn interest, and then have a balance in future years available for potential waterfront land purchases.

Section 179 of the *Community Charter* provides Council with the authority to incur a liability by borrowing funds for anything capital in nature. A loan authorization bylaw may only be adopted with the approval of the electors as per section 180 of the *Community Charter*. Approval of the electors may be obtained through a referendum, in accordance with Part 4 of the *Local Government Act* or an Alternative Approval Process (AAP) as per section 86 of the *Community Charter*.

DESIRED BENEFIT

Securing waterfront property for long term public use.

STRATEGIC RELEVANCE AND COMMUNITY SUSTAINABILITY

In 2006, Council adopted Waterfront Property Acquisition Policy 06.05.73 resolving that Council should consider the acquisition of waterfront property when it becomes available.

The current nature of the real estate market in Lake Country is such that properties, if priced appropriately, are purchased rapidly upon being listed. The nature of the municipal borrowing process, as is outlined in the rest of this report requires a significant time delay between Council expressing the desire to purchase a property and actually receiving borrowing proceeds to make a purchase due to the numerous approval steps required. In a down market it may be possible to enter into an agreement with a seller where the funds would not be committed for several months which make the time delay on the borrowing process less prohibitive. However in the current market funds need to be available almost immediately in order to close a deal at the best price for the District. As such, having the funds on hand for flexibility to acquire waterfront lands for public use whether through borrowing or through a built-up reserve through contributions over several years is a strategic advantage.

REQUISITES

If borrowing is desired, a loan authorization bylaw may only be adopted with the approval of the electors as per section 180 of the *Community Charter*.

UNINTENDED OUTCOMES

The adopted 2022-2026 Financial Plan, and long-term master plans include projects intended to be funded through debt. The debt servicing capacity of the District is limited by legislation. Additional debt servicing may impact planned projects that require debt in the future.

There are land parcels identified in some of our future planning documents for acquisition including road dedication, parkland or civic use. It is unknown when some of those parcels may come up for acquisition and adequate funding or debt servicing needs to be available to fund those key acquisitions.

BACKGROUND/HISTORY

See Discussion/Analysis.

DISCUSSION/ANALYSIS

Section 179 of the *Community Charter* allows Council to incur a liability by borrowing funds for any capital nature. A loan authorization bylaw may only be adopted with the approval of the electors as per section 180 of the *Community Charter*. Once a loan authorization bylaw has received three readings by Council, it is certified correct at third reading and forwarded to the Inspector of Municipalities for approval. Once approval is obtained the municipality may proceed with obtaining approval of the electors.

Approval of the electors may be obtained through assent of the electors (referendum), section 85 of the *Community Charter* or through an Alternative Approval Process (AAP), section 86 of the *Community Charter*.

The AAP process requires notice to be published for 2 consecutive weeks in the local newspaper. Eligible electors are provided with an opportunity to complete a response form indicating they **do not** support the borrowing. Council establishes an end date and time for receiving responses which must allow for a minimum 30-day period to submit forms. If the total valid number of responses received is less than 10% of eligible electors, approval is obtained. If 10% or more are received in opposition to the borrowing, approval is not obtained.

Elector response forms for an AAP must include specific information set out in the *Community Charter* including the number of responses required to prevent Council from proceeding with adoption of the loan authorization bylaw, without conducting a referendum.

Eligible voters are calculated using data from BC Statistics, Census Data, population and ward population from the GIS mapping software programs. The 2021 Census data indicates there are 12,767 residents 18 years or older who are eligible to vote. For an AAP to be successful, less than 10% of the eligible electors (less than 1,277) petitions must be received to proceed with borrowing.

Where approval is not obtained through an AAP Council may resolve to proceed to referendum following an AAP. In this instance, timelines for combining a referendum following an AAP with the 2022 General Local do not align.

A referendum as per section 85 of the *Community Charter* and Part 4 of the *Local Government Act* may be conducted to obtain assent of the electors in combination with the 2022 General Local Election. In order for the referendum question to be included on the 2022 General Election Ballot, the loan authorization bylaw must receive three readings and be forwarded to the Inspector of Municipalities for approval in early July. Once the Ministry has approved the bylaw, Council may set the question to be included on the ballot. Ballot layout procedures have already commenced and the first notice requirement for the referendum and 2022 General Local Election is August 8, 2022.

Election and referendum proceedings are governed by the District's Election Procedures Bylaw 538, 2005 and require a minimum of 2 advance voting days and registration at the time of voting. Assent of the electors (referendum) is obtained if a majority of the votes cast are **in favour** of the borrowing bylaw. If approval is obtained, the bylaw may be adopted. See Attachment Assent Voting vs AAP: Key Attributes.

Where approval of the electors has been obtained, Council may adopt the bylaw at its discretion, the legislation does not require the bylaw be adopted within a specified period of time. If adopted, a one month quashing period commences pursuant to sections 623 and 760 of the *Local Government Act* where applications can be made to the Supreme Court to set aside the bylaw. After the quashing period ends, the municipality may apply for final approval from the Inspector of Municipalities. The timing of the borrowing resolution required to borrow through Municipal Finance Authority (MFA) is also at the discretion of council and as such even though a borrowing bylaw could receive electoral approval and be adopted by Council, the borrowing is not triggered until a resolution of Council is made. The MFA only issues borrowing twice per year, once in the Spring and once in the Fall. There is an approximate minimum 4 month (or longer depending on the time of year) lead time between Council passing a resolution and receiving the borrowing proceeds from MFA to be considered.

APPLICABLE LEGISLATION AND POLICIES

Legislation & Applicable Policies

Community Charter Sections 84 to 88 – Approval of the Electors

Community Charter Section 179 – loan authorization bylaw

Community Charter Section 180 Elector Approval required for some loan authorization bylaws

Community Charter section 174

Local Government Act Part 4 – Assent Voting

Waterfront Property Acquisition Policy 06.05.73

IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES

Any property acquired that is further developed into parkland etc., will require ongoing maintenance and would require additional annual operating funds.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

The current 20 year borrowing rate per the Municipal Finance Authority is 4.61%. Rates have been steadily rising over the past year. The earliest period for the next borrowing is the Spring Borrowing session which occurs in March/April 2023. As such, we have prepared what the potential borrowing costs could look like if interest rates stay the same, or rise by 0.5%, 1% or 1.5% between now and that date. We have also included 3 potential principal amounts for illustrative purchases. We have assumed a 20 Year Long Term loan and an approximate amount of \$165,000 of additional tax dollars based on a 1% tax increase which was the approximate amount in 2022.

Rate Principal	4.61%	5.11%	5.61%	6.11%
\$4,000,000	\$340,989 Annual \$6,819,770 Total 2.07% Tax Increase	\$360,989 Annual \$7,219,770 Total 2.19% Tax Increase	\$380,989 Annual \$7,619,770 Total 2.31% Tax Increase	\$400,989 Annual \$8,019,770 Total 2.43% Tax Increase
\$6,000,000	\$511,483 Annual \$10,229,655 Total 3.10% Tax Increase	\$541,483 Annual \$10,829,655 Total 3.28% Tax Increase	\$571,483 Annual \$11,429,655 Total 3.46% Tax Increase	\$601,483 Annual \$12,029,655 Total 3.65% Tax Increase
\$8,000,000	\$681,977 Annual \$13,639,541 Total 4.13% Tax Increase	\$721,977 Annual \$14,439,541 Total 4.38% Tax Increase	\$761,977 Annual \$15,239,541 Total 4.62% Tax Increase	\$801,977 Annual \$16,039,541 Total 4.86% Tax Increase

Section 174(3) of the Community Charter (referring to Section 2, BC Reg 254/2004) places a limit on borrowing for municipalities called the Municipality Liability Servicing Limit. A municipality may not incur a liability if the total annual servicing cost of the aggregate liabilities is greater than 25% of annual revenues. The District's current liability servicing limit is approximately \$7.6 million. The District is currently utilizing approximately \$2.4 million of this limit, and could be as high as \$2.7 million if the District is successful in a grant request for the Wastewater Treatment Plant Phase 5 project and \$5,133,975 of additional debt is incurred as per the 2022 budget (subject to elector assent).

Included in attachments is a schedule of Long-Term Debt as at December 31, 2021. It should be noted that \$4,248,396 of the \$5,544,583 listed does not mature until 2026 or later. Please note this does not include the debt that was issued in April 2022 for the Firehall in the amount of \$6.124 million with a 20-year maturity date. There are several significant capital projects in the existing master plans (Water, Wastewater etc.) which will require debt components and as such consideration should be given to leaving room in the servicing limit.

As at December 31, 2021 there were \$26,024,924 in Non-Statutory Reserves, \$206,643 in Statutory Reserves and \$3,842,210 in Development Cost Charge Reserves. Included in the adopted 5 Year Capital Plan are the following planned expenditures:

- 2021 Carryforwards - \$17,041,704
- 2022 - \$31,198,211
- 2023 - \$14,730,140
- 2024 - \$17,661,001
- 2025 - \$32,498,000
- 2026 - \$8,998,000
- Total 5 Year Capital Plan - \$122,127,056

It should be noted that the 5 Year Capital Plan includes certain significant projects which are grant dependent or that would be potentially funded through debt. The \$122,127,056 includes \$47,524,080 that is planned to be covered through a combination of potential grants, developer contributions, and debt. It also includes \$27,801,283 of statutory Development Cost Charge funds, the majority of which cannot be reallocated for a potential land purchase. The capital plan was prepared based on a combination of all the long-term master plans and council priorities. If the purchase of land not previously part of the plan was to come at least partially from existing reserves, existing projects would need to be eliminated or delayed to accommodate.

Another option for Council would be to accumulate funds over time to build up a balance through reserves for when desirable land options come available. This could be achieved through the budgeting process through tax increases, potentially spread out over multiple years. For example (assuming funds are invested and receive a 3% annual rate of return):

- 3% tax increase, 1% per year spread over 3 years would result in \$2.13 million after 5 years, \$5.18 million after 10 years
- 5% tax increase, 1% per year spread over 5 years would result in \$2.65 million after 5 years, \$7.58 million after 10 years
- 5% tax increase, 1.67% per year spread over 3 years would result in \$3.56 million after 5 years, \$8.65 million after 10 years

COMMENTS FROM EXTERNAL AGENCIES, COMMITTEES AND STAKEHOLDERS

None.

CONSULTATION AND COMMUNICATION

None undertake at this point. A full communication plan will be rolled out upon a decision by Council to advance electoral assent for borrowing.

ANALYSIS OF OPTIONS FOR CONSIDERATION

Option A provides three readings of the borrowing bylaw and initiates obtaining approval of the electors via an Alternative Approval Process.

Option B also provides three readings of the borrowing bylaw and initiates obtaining assent of the electors through a referendum which would be held in conjunction with the 2022 General Local Election.

Option C has been provided for Council's consideration of future funding for a waterfront property acquisition reserve.

Respectfully Submitted,

Reyna Seabrook, Director of Corporate Services

Report Approval Details

Document Title:	Waterfront Property Acquisition.docx
Attachments:	- Attachment A-Assent Voting vs AAP Key Attributes.pdf - Attachment B-MFA Loan Authorization Process.pdf - Attachment C - 2021 Long Term Debt.pdf - Attachment D-Loan Authorization Bylaw (Waterfront Property) 1187, 2022.pdf - Attachment E-Waterfront Property Acquisition 73_Redacted.pdf
Final Approval Date:	Jun 30, 2022

This report and all of its attachments were approved and signed as outlined below:

No Signature found

Trevor James, CFO, Director of Finance & Administration - Jun 30, 2022 - 3:10 PM

Tanya Garost, Chief Administrative Officer - Jun 30, 2022 - 3:12 PM