
To: Mayor and Council
From: Paul Gipps, CAO
Meeting Date: March 4, 2025
Meeting Type: Regular Council Meeting

Prepared by: Reyna Seabrook, Director of Corporate Services
Department: Corporate Services

Title: AAP-2025 Kelowna-Lake Country Boundary Adjustment
Description: To initiate an Alternative Approval Process for a proposed boundary adjustment

RECOMMENDATION

THAT as per *Community Charter* section 86, the Corporate Officer proceed with an Alternative Approval Process (AAP) to obtain elector opinion on a proposed boundary adjustment that would transfer 5 properties from the City of Kelowna to the District of Lake Country as shown on Attachment A to the Report to Council dated March 4, 2025 and legally described as:

1. THAT PART LOT 46 SHOWN ON PLAN 940F DISTRICT LOT 118 OSOYOOS DIVISION YALE DISTRICT PLAN 457 EXCEPT PLAN 36673 (PID 011-168-226)
2. THAT PART LOT 45 SHOWN ON PLAN 940F DISTRICT LOT 118 OSOYOOS DIVISION YALE DISTRICT PLAN 457 EXCEPT PLAN 36673 (PID 011-168-218)
3. THAT PART OF LOT 46 DISTRICT LOT 118 OSOYOOS DIVISION YALE DISTRICT PLAN 457 SHOWN IN RED ON PLAN 939F (PID 012-232-969)
4. THAT PART OF LOT 45 DISTRICT LOT 118 OSOYOOS DIVISION YALE DISTRICT PLAN 457 SHOWN IN RED ON PLAN 939F (PID 012-323-951)
5. THAT PART LOT 44 SHOWN IN BOLD OUTLINE ON PLAN 39249 DISTRICT LOT 118 OSOYOOS DIVISION YALE DISTRICT PLAN 457 (PID 011-914-475)

AND THAT the deadline for receipt of elector response forms be established as 4:30 p.m., 30 days from the date of the second notice required for an AAP;

AND THAT the Elector Response Form (the "Form") as shown on Attachment B to the Report to Council dated March 4, 2025, be established as the official Form for the AAP-2025 Boundary Adjustment.

EXECUTIVE SUMMARY

One of the joint initiatives of the February 2022 Memorandum of Understanding ("MOU") between Kelowna, Lake Country and OKIB, an agreement that documents the governments shared interest and commitment to working together on several shared priorities, includes a boundary adjustment to move 5 pieces of property from the City of Kelowna to the District of Lake Country. The subject properties are 2 lots previously owned by BC Tree Fruits along Bottom Wood Lake Road and recently rezoned to accommodate the Westpoint project and 3 portions of the rail trail. Zoning and OCP amendments for the properties in the Westpoint project were considered by Lake Country on [November 5, 2024](#) and [Kelowna](#) on the same date. In order to proceed with a boundary adjustment, approval of the electors either through referendum or AAP, is required. On [September 3, 2024](#), Council approved using an AAP process and starting the process was conditional upon receiving approval from the Ministry of Municipal Affairs. Approval was received January 22, 2025 and Council can now initiate the AAP process.

DISCUSSION/ANALYSIS

As one of nine joint priorities in the 2022 MOU the parties have been working towards completing a boundary adjustment that encompasses 2 private properties and 3 portions of the rail trail. Before proceeding with the boundary adjustment, the Ministry of Municipal Affairs required letters of support to be provided and has now indicated the District can proceed with elector approval (Attachment C).

On September 3, 2024, Council authorized use of an AAP (resolution No. 2024-09-169) to obtain elector approval for the proposed boundary adjustment. Staff can now proceed with requirements to post notice and seek elector approval as per section 12(2) of the *Local Government Act*.

An AAP requires notice to be published for 2 consecutive weeks in a local newspaper. The notice must state eligible electors can submit a response form indicating they **ARE OPPOSED TO** the proposed boundary adjustment. The deadline (date and time) for receipt of forms must be established by Council and can not be less than 30 days from the date of the second notice. The 30 days includes weekends as per the *Interpretation Act* and does not include the date of the second notice and the date of the deadline. The 30-day period cannot be extended once the notices have been published.

Notification can be placed in the Calendar newspaper on March 13 and March 20, 2025. The 30-day time period would commence on Friday March 21, 2025. Taking into consideration statutory holidays of Good Friday April 18 and Easter Monday, April 21, 2025 and the deadline would be 4:30 p.m. Tuesday, April 22, 2025.

The *Community Charter* requires elector response forms to include specific information, including:

- a general description of the matter
- the area to which the approval process applies
- where forms are available
- the deadline for submitting response forms
- a statement that Council may proceed with the matter unless at least 10% of the electors submit response forms indicating they are opposed, by the established deadline
- responses must be submitted on the form approved by Council
- the number of responses required to prevent Council from proceeding
- the only persons entitled to sign the forms are the electors of the municipality

If *less* than 10% of eligible electors submit a valid elector response form in opposition to the matter, approval is obtained. If 10% or more are received, approval is not obtained and Council may then determine if they wish to proceed with a referendum. General Voting Day for a referendum following an AAP process must be not more than 80 days after the deadline for receiving elector responses (LGA s 174).

Response forms may allow for a single or multiple elector signature on each form. The Form proposed for Council's consideration permits 2 signatures per form. Forms must be available at the Municipal Hall from the date of the first notice until the deadline and will also be made available on the District's website or other locations as required. Elector response forms can be submitted on an accurate copy (e.g. photocopy) and can be submitted electronically via email (e.g. scanned pdf or jpeg picture) to admin@lakecountry.bc.ca. [Electronic Form Submission Policy 190, 2021](#) establishes the process for the acceptance of electronic forms. Elector response forms must include the person's full name, address (or the address of a non-resident property elector if applicable) and a signature and must be submitted before the deadline.

After the deadline has passed, the Corporate Officer must determine and certify whether elector approval in accordance with section 86 of the *Community Charter*, has been obtained. A determination is final and conclusive. Information on elector response forms cannot be shared with anyone other than the Corporate Officer or person(s) designated by the Corporate Officer. The number of responses received while the AAP is underway is only released after the deadline has passed and the results have been certified.

An elector can ask the Corporate Officer to return their response form or to have their name removed from a form prior to the AAP deadline. An elector can not withdraw their form or have their name removed after the deadline has passed.

ELIGIBLE ELECTORS

Council must determine the number of eligible electors and, upon request, make available a report on how the number of electors was determined. The number of eligible electors is calculated using a combination of data from BC Statistics and the 2021 Census. The BC Statistics estimated population for 2024 is 17,497. The number of eligible electors determined using the 2021 Census residents 18 and older divided by the total 2021 population provides an eligible elector percentage of 80.7%. This percentage (80.7%) of the 2024 BC Stats population of 17,497 is approximately 14,123 eligible electors. Ten percent of estimated eligible electors is 1,412.

For the AAP to be successful and to proceed with the proposed boundary adjustment, the District must receive petitions from **less** than 1,412 eligible electors, before the established deadline.

Eligibility for an AAP parallels eligibility in general local elections. Only eligible electors, including non-resident property electors (NRPE) can submit an elector response form. A person who is not an elector must not sign an elector response form and a person may only sign one elector response form. An eligible elector must be:

- 18 years of age or older;
- a Canadian citizen;
- a resident of BC for at least six months;
- a resident of Lake Country;
- not disqualified under the *Local Government Act*, or any other enactment from voting in an election, or be otherwise disqualified by law.

A NRPE is an individual that owns property within Lake Country but lives elsewhere in BC. If a property is owned by more than one owner, only one owner can sign the Elector Response Form and that owner must submit written consent of the majority of the other property owners. If a corporation owns all or part of a property, no one may submit an elector response form for that property.

FINANCIAL IMPLICATIONS

None Budget Previously Approved Other (see below)

Costs for 2 newspaper advertisements, an open house event and other advertising.

COMMUNICATIONS

In addition to the required notices, staff will be holding an open house at the Municipal Hall and preparing information and FAQs for the website and other platforms.

ALTERNATIVE

THAT staff be directed to obtain approval of the electors by way of assent voting (referendum) and report back with associated costs and timelines.

Respectfully Submitted,
Reyna Seabrook, Director of Corporate Services

Report Approval Details

Document Title:	AAP-2024-Boundary Adjustment.docx
Attachments:	- Attachment A-Subject Properties to be Transferred.pdf - Attachment B-Elector Response Form-V02.pdf - Attachment C - Letter from Ministry-Jan 2025.pdf
Final Approval Date:	Feb 25, 2025

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

Jeremy Frick, Director of Development Approvals - Feb 24, 2025 - 4:14 PM

Matt Vader, Director Parks, Recreation and Culture - Feb 24, 2025 - 4:38 PM

Paul Gipps, Chief Administrative Officer - Feb 25, 2025 - 7:48 AM

Makayla Ablitt, Legislative & FOI Coordinator - Feb 25, 2025 - 9:01 AM