

CASTLEGAR

REPORT TO COUNCIL

MEETING DATE: August 14, 2023 **REPORT NO.:** 23-67
SUBMITTED BY: Director of Finance **FILE NO.:** 1760-20
SUBJECT: Custom Pumper Fire Apparatus Fire Equipment Borrowing

RECOMMENDATIONS (to be considered individually):

1. **THAT Council authorize up to \$1,650,000 be borrowed, under section 175 of the *Community Charter*, from the Municipal Finance Authority, for the purpose of financing the Custom Pumper Fire Apparatus Fire Equipment,**

AND FURTHER;

THAT the loan be repaid within 20 years, with no rights of renewal.

2. **THAT Council authorize an alternative approval process in accordance with section 86 of the *Community Charter* be used for the purpose of seeking approval of the electors in relation to the Custom Pumper Fire Apparatus Fire Equipment,**

AND FURTHER;

THAT Council establish the deadline of 4:00 p.m. on October 2, 2023 for receiving Elector Response Forms for the alternative approval process.

3. **THAT Council approve the determination of the total number of electors of the area to which the alternative approval process applies for the Custom Pumper Fire Apparatus Fire Equipment as 6,316 electors, on the basis described in Report 23-67.**

4. **THAT Council direct the Corporate Officer to report the results of the alternative approval process for the Custom Pumper Fire Apparatus Fire Equipment and if approval of the electors has been obtained.**
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PURPOSE:

To seek Council's authorization to secure the long-term borrowing from the Municipal Finance Authority (MFA) for a new Custom Pumper Fire Apparatus Fire Equipment, and to obtain Council's approval for using the Alternative Approval Process to obtain approval of the electors for financing the purchase.

This report is for consideration at the August 14, 2023, Committee of the Whole Meeting and adoption at the August 14, 2023 Regular Council Meeting in order to proceed with the Alternative Approval Process (AAP) and guarantee the price quoted by Rocky Mountain Phoenix.

SUMMARY/BACKGROUND:

As part of the 2023 – 2027 Capital Plan, Council approved the replacement of the 2004 Spartan Engine 1 as it will reach the end of its useful life for fire operations in 2024. At the July 17, 2023 Regular Meeting, Council approved the purchase of the new fire truck to Rocky Mountain Phoenix for a total price of \$1,641,797.92. The new fire truck, as indicated in the Capital Plan, was to be funded through debt financing from the MFA.

The MFA has established an Equipment Financing Program (EFP) that is available to municipalities under section 175 of the *Community Charter*. Through this loan agreement, the City retains ownership of the asset and is charged an interest rate based on the Canadian Dealer Offered Rate with fixed payment schedules. The EFP has no fees to set up or discharge leases, no taxes on payments, and no penalties or fees for paying out early or making extra principal payments. Staff is recommending a term no longer than 20 years to match the expected service life of the Custom Pumper Fire Apparatus Fire Equipment.

Given the proposed term of the agreement (longer than five years), elector approval is required per the *Community Charter*; however, statutory approval from the Inspector of Municipalities is not required under the program as compared to other types of long-term borrowing. The two options for seeking approval of the electors for the financing, and the process for each option, is described below.

Overview of Approval of the Electors

The Province of BC has provided a legislative framework for local governments that recognizes that elected officials are democratically elected, autonomous, responsible and accountable. The Province recognizes that elected officials are in the strongest position to weigh the needs of their municipality and to make informed decisions for the benefit of their electors. Accordingly, under the *Community Charter*, the Province has provided the option for local governments to seek approval of the electors in one of two ways:

- (a) by holding a referendum to obtain “assent of the electors”; or
- (b) by holding an alternative approval process.

(a) Assent of the Electors through the Referendum Process:

Assent of the electors is obtained through a referendum, also known by other terms such as a vote or plebiscite. A referendum is a voting process that is governed by the *Local Government Act* and is similar in many ways to the process for conducting a general local election.

In order to conduct a referendum, Council must appoint a Chief Election Officer and Deputy Chief Election Officer who are responsible for the administration and conduct of the referendum. The Chief Election Officer then sets the general voting day for the referendum, which must be a Saturday within 80 days of the requested borrowing. In addition, at least two advance voting opportunities must be held – one on the 10th day before general voting day, and one on the 4th day before general voting day. Special voting opportunities (e.g. at long term care facilities) and mail ballot voting processes would also be organized by the Chief Election Officer.

The ballot for a referendum must be in the form of a question put to the electors that is phrased in a manner such that it may be answered by marking either “yes” or “no”. Council must approve of the wording of the question to be printed on the ballot. Wording would typically begin with “Do you approve Council for the City of Castlegar entering into a loan agreement with the Municipal Finance Authority, to ...”

A requested loan agreement is deemed to have received the assent of the electors if a majority of the votes counted are in favour of the question (i.e. if a majority of voters answer “yes”). If a majority of the votes counted are opposed to the question (i.e. if a majority of voters answer “no”), then the request for the same purpose may not be submitted to the electors for approval within a period of 6 months, except with the Province’s approval.

The cost of holding a referendum would be approximately \$30,000, similar to the amount spent to hold the last general municipal election. Since City staff would be responsible to conduct the referendum, it would mean those resources would be diverted during the referendum process, and existing projects would be re-prioritized. Staff would need to begin planning and organizing a referendum promptly after Council’s decision to proceed, given the legislative time frame to hold a referendum.

(b) Approval of the Electors through the Alternative Approval Process (AAP):

The alternative to holding a referendum is the AAP, which is governed by the *Community Charter* requirements. The AAP was previously known as the “counter petition method.”

As part of the AAP, Council must make a fair determination of the total number of electors within the City. Typically, the calculation of the number of electors is based on information provided by Elections BC, a non-partisan independent public agency that maintains an updated list of registered electors. Electors would then be given the opportunity to indicate they are opposed to Council proceeding with the loan agreement by signing and submitting an Elector Response Form, the wording of which must be approved by Council.

The AAP involves publication of public notice in accordance with section 94 of the *Community Charter*. Council must set a deadline for Elector Response Forms to be submitted. The deadline must be at least 30 days following the second publication of the notice in the newspaper. If an elector is in favour of Council proceeding with the loan agreement, then they would not have to do anything. If an elector is opposed to the agreement, or they do not want Council to proceed without a referendum being held, then they must express that opinion to the City by signing and submitting an Elector Response Form by the deadline.

The Corporate Officer is responsible for determining and certifying the results of the AAP. If 10% or more of the total number of electors within the City submit valid Elector Response Forms by the deadline, then Council may not proceed with a loan agreement unless approval of the electors is obtained through the “assent of the electors” process described in (a) above. In other words, a referendum would then be required to be held on the matter in order for Council to proceed.

Referendum and Alternative Approval Process Considerations

The AAP allows a long period of time for the opinion of the electors to be expressed (at least 30 days). In the case of a referendum, the electors generally have 12 hours on each of the two advance voting days, and 12 hours on general voting day to cast their vote.

The cost of holding an AAP amounts to the cost of printing Elector Response Forms which is dependent on the number of forms requested by electors. More significantly, the staff resources needed to administer the AAP are minimal in comparison to the considerable staff resources required to conduct a referendum. The time period to hold an AAP is approximately 8 weeks from the date that the notice is first published up to the date that the results of the process are certified by the Corporate Officer and reported to Council.

Staff are recommending the AAP as the preferred method to seek elector assent rather than elector approval through an assent voting process (referendum).

Determining Total Number of Electors Within the City:

As outlined above, section 86 of the *Community Charter* requires that Council make a fair determination of the total number of electors in the City. The purpose of this part of the report is to show the basis for determining the total number of electors in relation to the alternative approval process proposed for this borrowing.

Staff recommend that the calculation of the number of electors in the City be based on information provided by Elections BC as of the 2022 General Election. Based on the Elections BC registered electors, and the number of registered non-resident property electors, the total number of registered electors within the City of Castlegar as of August 14, 2023 is 6,316.

Based on this data, 10% of the City of Castlegar's electors would be 632.

ALTERNATIVES:

Council could choose not to approve the requested borrowing and the alternative approval process or assent voting/referendum. Staff does not recommend this option as this could decrease or impact the city's current Fire Underwriters Survey (FUS) rating given that any delay will affect the two years it will take to build the new fire truck. In addition, delaying the purchase will increase costs due to the current pricing volatility on fire trucks.

IMPLICATIONS:

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| (1) Social | Staying current with the FUS requirements minimizes insurance costs for all residents. Castlegar residents count on the Castlegar Fire Department (CFD) to provide excellent fire response service with modern and reliable equipment. |
| (2) Environmental | By upgrading to the 2024 Custom Pumper Tender Fire Apparatus, the CFD will be able replace two pieces of apparatus. This will reduce the City's carbon footprint. |

(3) Personnel Approximately 30 hours of staff time across multiple departments will be required execute the AAP process and finalize the loan agreement with MFA.

(4) Financial The MFA Equipment Financing Program assumes an interest rate of 5.23%, as per the MFA's July 2023 interest rate on the Equipment Financing Program. The cost of the borrowing is \$1,650,000 and would result in estimated annual debt servicing costs of \$133,200 with repayment coming from the City's Equipment Replacement Reserve.

The cost of advertising in two issues of the newspaper is \$1,500.

POLICY IMPLICATIONS:

Section 175 of the *Community Charter* provides that Council may incur a liability under an agreement if the liability is not a debenture debt and the period of the liability is not longer than the reasonable life expectancy of the subject matter under the agreement.

Division 2 Approval of the Elections, Section 84-88 of the *Community Charter* set the regulations for alternative approval process and assent voting.

IMPLEMENTATION:

If Council approval is received at the August 14, 2023 Regular Meeting, the process and timeline in accordance with the *Community Charter* for an AAP is as follows:

- Two consecutive ads/notice of the APP will be in the August 24 and 31 Castlegar News editions.
- The official 30-day elector response form submission period begins on August 31, when the second AAP notice is published.
 - Elector response forms will be available for pick up at City Hall and available for download on the City Website.
 - Elector response forms can be submitted to the Corporate Officer at City Hall by mail, email or dropped off at City Hall
 - The only elector response forms that will be accepted are the official ones provided by the City of Castlegar.
 - Only electors of the City of Castlegar are eligible to sign the elector response forms
 - Eligible electors may only submit one elector response forms, forms must include an original signature not a PDF or other form of electronic signature.
 - Resident electors and eligible non-resident property electors can participate in an AAP if they meet the qualifications set out in Section 65 and 66 of the *Local Government Act*. Further information regarding eligible electors is attached to this report.
 - An elector may withdraw their elector response form, in writing to the Corporate Officer prior to 4:00 p.m. on October 2, 2023.
- The deadline to submit elector response forms is October 2, 2023 at 4:00 p.m.
- The Corporate Officer will determine and certify the results of the AAP on October 3, 2023.

COMMUNICATION:

- Notice of the AAP will be published in the August 24 and 31, 2023 Castlegar News, and advertised in the Castlegar Source.
- Staff will create an AAP page on the City's website that will contain all required information, notices, forms, and results.
- A report to Council reporting the results of the AAP will be brought to the October 10, 2023 Committee of the Whole Meeting.

Respectfully submitted,



Ola Oladele, CPA CGA
Director of Finance

Approved by



For: _____
Chris Barlow, A.Sc.T.
Chief Administrative Officer