

DATE OF MEETING October 19, 2020

AUTHORED BY JEREMY HOLM, DIRECTOR, DEVELOPMENT APPROVALS

**SUBJECT OPTIONS FOR PROHIBITING BOTTLING OF GROUNDWATER
 WITHIN THE CITY OF NANAIMO**

OVERVIEW

Purpose of Report

To present options and a recommendation regarding the prohibiting of commercial bottling of groundwater within the city of Nanaimo.

Recommendation

That Council deny consideration of adopting a bylaw to prohibit the commercial bottling of groundwater within the City of Nanaimo.

BACKGROUND

On 2019-MAR-25, the Committee of the Whole received a delegation from Mr. Bruce Gibbons from Merville, BC, requesting consideration to implement a bylaw to prohibit the bottling of groundwater for commercial sale or bulk export. The request related to the Provincial Government's issuance of a licence in Merville to extract groundwater for commercial bottling.

At its meeting of 2019-MAY-06, Council directed Staff to prepare a report regarding options for consideration of a bylaw that prohibits the bottling of groundwater within the city of Nanaimo to help protect groundwater today and for the future.

Although surface water is the main source of supply for the city, groundwater plays an important role in the overall watershed health and balance of water resources for the region. To date, there are no known commercial bottling companies located in the city of Nanaimo using groundwater for commercial distribution.

DISCUSSION

Aquifers within the city of Nanaimo are typically of low to moderate productivity, and groundwater is not a significant source of domestic or commercial water supply within the city. However, higher productivity aquifers reside outside the city boundaries, such as the Cassidy Aquifer. The City of Nanaimo drinking water supply relies on surface water as its main source of supply to the community. The City also supplies bulk water to commercial entities that primarily distribute water for domestic use to users with insufficient potable water yield.

In British Columbia, the Province manages the diversion and use of surface and groundwater through a system of licences and permits under the *Water Sustainability Act (WSA)*. The *WSA* requires that any person who withdraws and uses groundwater for anything other than household use is required to obtain a license and pay water fees and rentals. The process for granting water

licences includes referral by the Province to interested parties, including local governments. The Groundwater Protection Regulation, adopted under the *WSA*, regulates well construction and groundwater extraction and requires that these activities be performed in an environmentally-safe manner.

The City of Nanaimo participates in the Regional District of Nanaimo Drinking Water and Watershed Protection (DWWP) Program. The DWWP Program supports decision-making through developing information and understanding of how best to conserve and protect water resources in the region. The DWWP Program is also involved in responding to referrals from the Province for commercial water licence applications and is well informed and positioned to raise concern if commercial water licence applications pose a threat to vulnerable aquifers.

The City of Nanaimo has authority with respect to land use regulation under the *Local Government Act*. However, the *Community Charter* establishes that, where spheres of concurrent authority exist, municipal bylaws, serving the purpose and effect of the protection of the natural environment, must receive approval from the Minister of Environment. Mr. Gibbons' presentation to the Committee of the Whole, as well as the discussion at Council, referenced protection of groundwater and the natural environment as purposes for consideration of a groundwater bottling prohibition bylaw. While a groundwater bottling prohibition bylaw is not recommended, should Council chose to consider such a bylaw, it would require the approval of the Minister of Environment to be lawfully adopted.

A groundwater bottling prohibition bylaw could be established on the basis of land use impacts of the use within the city of Nanaimo. However, it would be difficult to establish a groundwater bottling prohibition bylaw on the basis of land use impacts given the comparable impacts of other similar permitted uses.

Given the direction provided for consideration of a groundwater bottling prohibition bylaw appears to be intended for the protection of the natural environment, and a bylaw based on the land use impacts of the use within the Nanaimo would be difficult to establish, Staff would not recommend adoption of a groundwater bottling prohibition bylaw and have not prepared such a bylaw for Council's consideration.

OPTIONS

1. That Council not consider adopting a bylaw to prohibit the commercial bottling of groundwater within the city of Nanaimo.
 - Advantages: Avoids potential challenges to a bylaw either established for a purpose of protection of the environment in relation to a matter managed by the Province, or for a poorly established land use purpose.
 - Disadvantages: Does not address the delegate's request.
 - Financial Implications: None identified.

2. That Council consider adopting a bylaw to prohibit the commercial bottling of groundwater within the city of Nanaimo.

- Advantages: Addresses the delegate's request.
- Disadvantages: Invites potential challenges to a bylaw either established for a purpose of protection of the environment in relation to a matter managed by the Province, or for a poorly established land use purpose.
- Financial Implications: Staff time and approximately \$1000 for public hearing advertising.

SUMMARY POINTS

- Surface water is the main source of supply for the city and groundwater plays an important role in the overall watershed health and balance of water resources for the region.
- The Province manages the diversion and use of surface and groundwater through a system of licences and permits under the *Water Sustainability Act*. The Groundwater Protection Regulation, adopted under the *WSA*, regulates well construction and groundwater extraction and requires that these activities be performed in an environmentally-safe manner.
- Municipal bylaws, serving the purpose and effect of the protection of the natural environment, must receive approval from the Minister of Environment. It would be difficult to establish a groundwater bottling prohibition bylaw on the basis of land use impacts given the comparable impacts of other similar permitted uses.

Submitted by:

Jeremy Holm
Director, Development Approvals

Concurrence by:

Dale Lindsay
General Manager, Development Services

Bill Sims
General Manager, Engineering & Public Works