

DATE OF MEETING March 29, 2023

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SUBJECT APPROVAL OF THE ELECTORS

OVERVIEW

Purpose of Report:

This report is intended to provide Council with information regarding seeking elector approval to proceed with borrowing for major capital projects either through an Alternative Approval Process (AAP) or Referendum (Assent of the Electors).

BACKGROUND

During the 2023-FEB-15 Finance and Audit Committee meeting, Staff noted four emerging major capital projects that would require debt funding. These projects are not currently included in the 2023-2027 Provisional Project Plan and include:

- Nanaimo Operations Centre (NOC)
- Police Operations Building – Future Phases
- Waterfront Walkway
- South End Community Centre
- Other community amenities

Borrowing would be required for these projects and therefore, approval of electors is required for municipal loan authorization bylaws and decisions that have potential long-term future impacts on citizens. Where approval is required, it may be done by Referendum (Assent Voting) or by Alternative Approval Process (AAP).

DISCUSSION

When considering whether to proceed with a Referendum (Assent Vote) or AAP, the history, scale, cost, public expectation, and timing of the proposal needs to be evaluated. For example, with an estimated project budget of \$40M for Phase I, the NOC project will require a loan authorization bylaw which requires elector approval. Since the NOC project is intended to provide services that are considered necessary to the community, Staff are recommending that Council proceed with an AAP process for this project rather than a Referendum, should Council choose to proceed. An AAP is considered the best approach when local governments are dealing with a project that must be completed to continue to provide municipal services.

As an alternative, when considering a community amenity, a Referendum to ask citizens for approval would be considered best practice. Combining the question on the ballot is also an advantage to a Referendum. An example would be to have a Referendum question combining the South End Community/Wellness Centre and the Waterfront Walkway project on the ballot as they are similar, community amenities. Combining the question also provides cost saving opportunities and decreases voter burn out.

Overview of an AAP

During an AAP only electors opposed to the initiative submit their response form, and for that reason the process is often referred to by its previous name the “counter-petition process”. Through the AAP, process when 10% or more of eligible electors sign and submit an elector response form the issue is considered significant and the initiative cannot proceed without holding a Referendum. During an AAP eligible electors have at least 30 days to submit elector response forms to the Corporate Officer. If less than 10% of electors submit a response form then elector approval is obtained and the initiative can proceed.

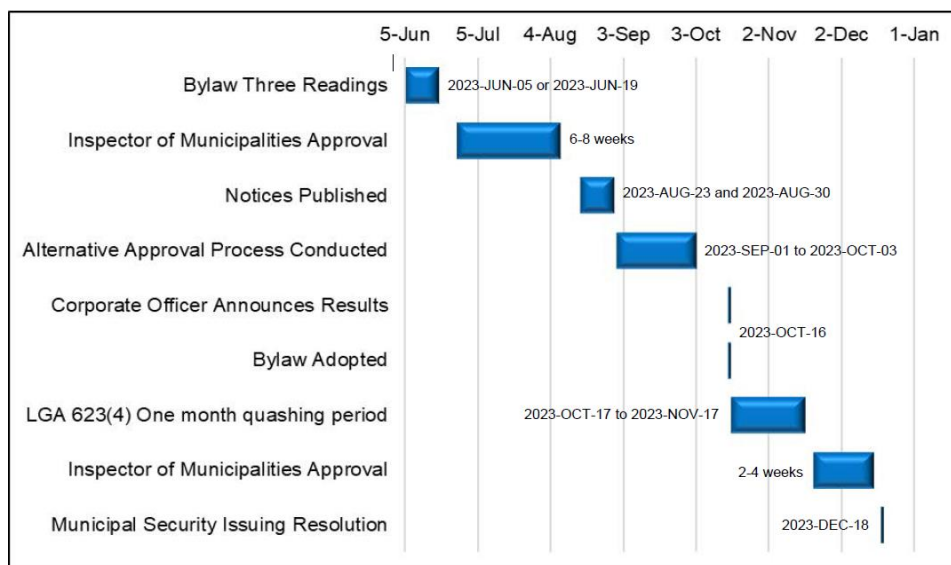
Benefits of an AAP

An AAP can offer some increased convenience over a Referendum as it provides electors with at least 30 days to express their opinion and does not require them to appear in person on designated days to cast a ballot. Holding an AAP is usually done with much lower costs than by conducting a Referendum as it only includes two notices being published and printing of the elector response forms. The AAP process also involves fewer staff resources.

Public Expectations and Timing

Prior to a loan authorization bylaw receiving three readings the public should be actively engaged to determine if there are reasonable indications that citizens are in favour. Where possible an AAP should be scheduled to provide reasonable opportunity for electors to submit response forms and should take into consideration summer months and the holiday season.

Example AAP Timeline



Overview of a Referendum

A Referendum requires that Council establish a “question” to ask electors on the ballot. The *Local Government Act* requires that the question be in closed-ended form where electors select either yes or no. A Referendum is conducted in the same manner as an election and requires the majority of the votes counted to be in favor of the question in order to proceed. If the majority is opposed the matter is closed and the City must wait at least six months before bringing forward another bylaw for the same purpose.

Benefits of a Referendum is that it can be held at the same time as an election and/or it can list more than one question on the ballot.

	Referendum	Alternative Approval Process
Major Capital Projects to replace failing infrastructure or maintain municipal services.	Can go directly to Referendum or proceed to Referendum within 80 days if an AAP fails.	Best approach for community services/operations to continue providing necessary municipal services.
Major Capital Projects related to new community amenity initiatives.	Depending on scale best approach to go directly to Referendum.	Not recommended.
Method of engagement.	Question on ballot.	Mail/drop-off response form.
Timeframe for electors to submit.	Select voting days (1-3 days if advanced dates available).	Minimum 30 days.
Method of determining results.	Elector approval if majority of votes counted are in favour.	Electors do not approve if at least 10% of electors submit response forms.
What if electors do not approve?	Council cannot proceed with the initiative and must wait at least six months before bringing forward a similar bylaw.	If Council, chooses to continue the initiative must proceed to a Referendum within 80 days.

Financial/Budgetary Considerations

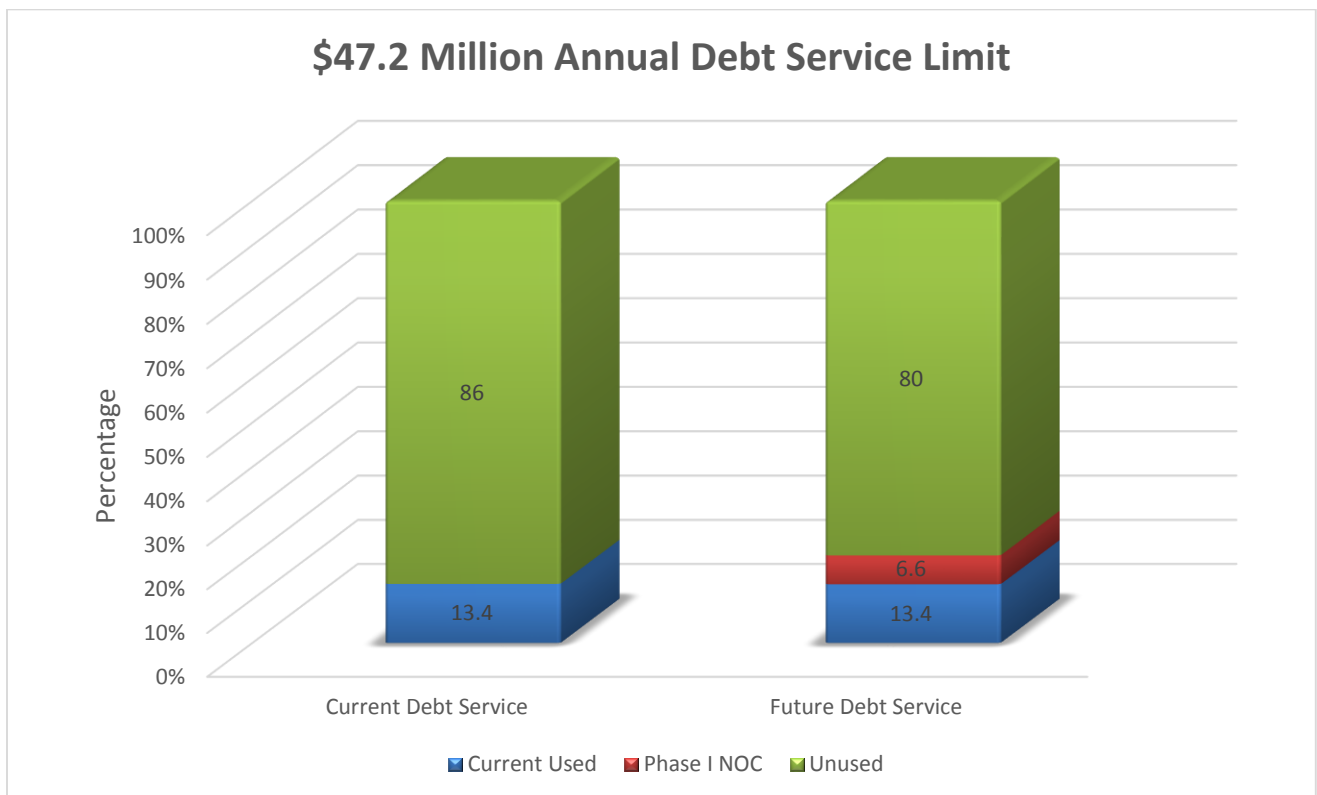
The cost associated with holding a Referendum is considerably more expensive than an AAP. For example, the estimated cost of holding a Referendum is \$283,000 and an AAP would be only \$14,000.

Additional financial considerations involved in a Referendum are the costs associated with holding the Referendum itself. As noted, a Referendum is conducted in the same manner as an election and therefore can incur the same costs as holding an election. Examples of costs associated with a Referendum include such things as: voting location rentals, staffing, voting machine rental, advertising, and supplies.

A Referendum can be held at the same time as a general local election or by-election and more than one question can be listed on a Referendum ballot. Coordinating two items on one ballot can be more cost effective. When the opportunity is available a Referendum question can also be included on a ballot for a municipal election (this requires coordinating the timeline to meet the requirement to hold a Referendum within 80 days of the Chief Election Officer being appointed).

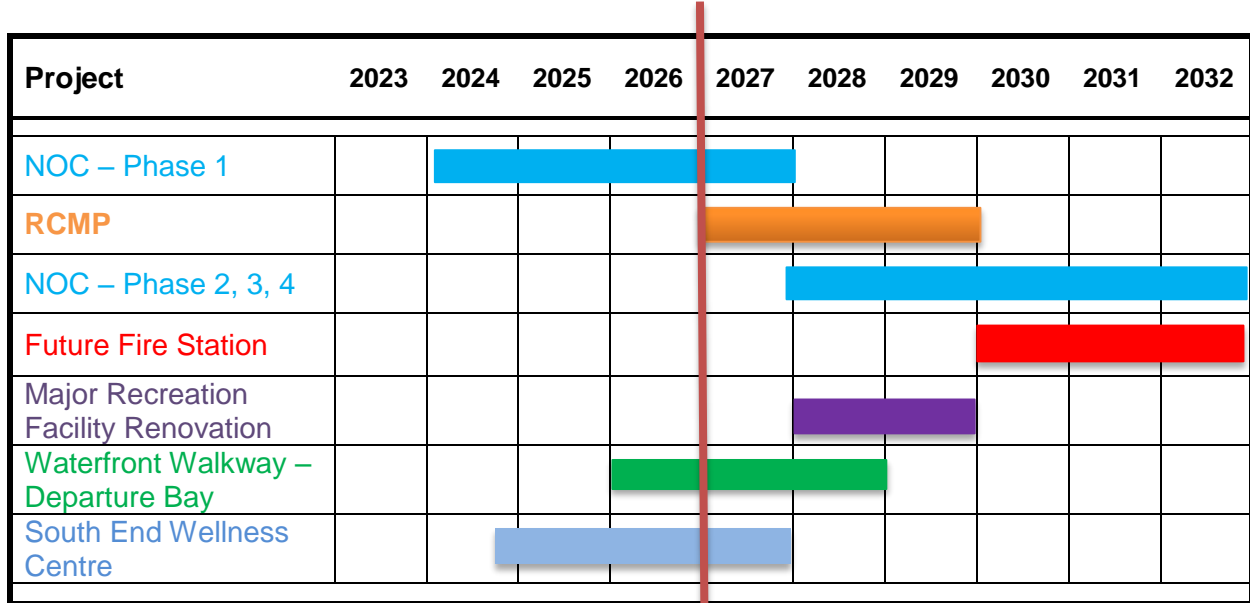
All municipalities in BC are required to borrow from the Municipal Finance Authority of BC. Using Phase 1 of the NOC project as an example with an estimated project budget of \$40M, the anticipated borrowing time frame would be 20 years at an estimated interest rate of 4.66% per year. This would result in an estimated re-payment of approximately \$3.1M per year. Under section 174 of the *Community Charter*, municipalities are subject to a liability servicing limit where total borrowing cannot exceed 25% of controllable annual revenues.

As at December 31, 2021 the City's liability servicing limit was \$47.2M per year and the utilization rate was just over \$6.3M or 13.4% of the total limit. If the City were to proceed with the addition of \$3.1M in annual debt payments, the total annual debt servicing cost would be approximately \$9.4M. This would bring the total utilization to 19.99% with approximately 80.01% of the liability servicing limit still available.



CONCLUSION

In viewing the chart below, during Council’s 2022 – 2026 term, an AAP for the Nanaimo Operations Centre could be held in early Fall 2023; a Referendum with combined questions for the Waterfront Walkway and South-end Community Centre in the Spring or Fall of 2024; and, further phases of the RCMP buildings could be ready for consideration before the end of this Council term as well. An AAP would be recommended for the RCMP project as it fits the criteria for a municipal service, rather than an amenity.



Staff will return to Council with a report for decision on the process of either an AAP, as recommended in this report, or a Referendum for the Nanaimo Operations Centre, prior to 3 readings of a bylaw being presented.

When more information is available for the South-end Community Centre and Waterfront Walkway, as outlined in the “Large Capital Projects Overview” staff report, Council will be asked to provide direction on an AAP or Referendum, as recommended, for those projects.

SUMMARY POINTS

- An AAP is considered the best approach when local governments are dealing with a project that must be completed to continue provided municipal services.
- When considering a community amenity, a Referendum to ask citizens for approval would be considered best practice. Combining the question on the ballot is also an advantage to a Referendum.
- As at December 31, 2021 the City’s liability servicing limit was \$47.2M per year and the utilization rate was just over \$6.3M or 13.4% of the total limit.

- During Council's 2022 – 2026 term, an AAP for the Nanaimo Operations Centre could be held in early Fall 2023; a Referendum with combined questions for the Waterfront Walkway and South-end Community Centre in the Spring or Fall of 2024; and, further phases of the RCMP buildings could be ready for consideration before the end of this Council term as well.

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