

DATE OF MEETING FEBRUARY 12, 2024

AUTHORED BY DALE LINDSAY, CHIEF ADMINISTRATIVE OFFICER

SUBJECT ALTERNATIVE APPROVAL PROCESS UPDATE AND NEXT STEPS

OVERVIEW

Purpose of Report

To provide Council with an update of the status of the Alternative Approval Process (AAP) and provide options on how to proceed.

Recommendation

That Council:

- a) Cancel the current AAP process;
- b) Abandon “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362”; and,
- c) Direct staff to return to Council with options to fund Phase One of the Nanaimo Operations Centre project.

BACKGROUND

On 2024-DEC-04, Council provided direction to proceed with an Alternative Approval Process (AAP) to obtain approval of the electors for the “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” starting 2024-JAN-18 through to 2024-FEB-20.

AAP Timeline:

- Advance Notice was provided for the AAP on 2024-JAN-10 in the Nanaimo News Bulletin and on the City of Nanaimo website.
- Notice was provided on 2024-JAN-17 for the AAP in the Nanaimo News Bulletin and on the City of Nanaimo website.
- Response forms for the AAP were available on the City of Nanaimo website and at City Hall at 455 Wallace Street, Nanaimo, BC, V9R 5J6 on 2024-JAN-18.

Issue:

Staff became aware of a potential error on 2024-FEB-01 when identifying the response forms were not available upon providing Notice of the AAP. This is a requirement under the *Community Charter* section 86(3)(b)(ii) and once aware this had not been done, staff informed their department head of the issue. It was then confirmed that this was in fact a potential error in the process and staff communicated the error to Council on 2024-FEB-05. Council directed

staff to seek legal advice and upon review of the advice, to hold a Special Council Meeting to discuss the options for moving forward. |

DISCUSSION

Staff have reviewed the process and sought advice. Due to the response forms not being made available on 2024-JAN-17 (the first Notice in accordance with the *Community Charter* section 86(3)(b)(ii)), the requirements in the legislation have not been met.

It is important to note that 2024-JAN-17 was the date of the official Notice and 2024-JAN-10 was the date of the advance Notice, as per the legislation updates to the *Community Charter* in 2022 and the City's Public Notice Bylaw 2022 No. 7325. The two Notices were published in the Nanaimo News Bulletin and on the City of Nanaimo website, as the City has a bylaw prescribing alternate ways of publication.

Section 86(2) of the *Community Charter* requires Notice of an AAP to be published in accordance with s. 94. Section 94(1)(a) requires notice under section 94.1 or 94.2 and since the City has adopted an alternative means of notice bylaw under 94.2, section 94.2 applies to the City's AAP notices.

Attempting to go beyond legislated and bylaw requirements, staff provided advance Notice for this AAP on 2024-JAN-10 and added an additional day by posting the official Notice on 2024-JAN-17, based on advice provided to them. This Notice was done prior to commencing the AAP process on 2024-JAN-18. This added day after Notice, without the Response forms available, has created the need for Council to consider how to proceed with the Nanaimo Operations Centre project.

SUMMARY |

In summary, citizens of Nanaimo have spent a considerable amount of time and energy participating in the Alternative Approval Process. AAP's are often used as an opportunity to better understand the community's views regarding long-term borrowing and public opinion, and can be helpful for decision making. The AAP for the "Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362" has provided many engagement opportunities and information-sharing sessions that will facilitate future decisions Council will make with respect to the project that otherwise may not have occurred.

OPTIONS

1. |That Council:
 - a) Cancel the current AAP process;
 - b) Abandon "Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362"; and, |
 - c) Direct staff to return to Council with options to fund Phase One of the Nanaimo Operations Centre project.

The advantages of this option:

- Community fatigue having to go through another process to obtain electoral approval at this time is not desirable.

- Council has been able to gauge public perception and views around long-term borrowing and the AAP process.
- A review with respect to engagement and communication for future AAPs will be coming forward and will provide the opportunity to integrate changes to any future AAP processes.
- The project will be able to move forward.

The disadvantages of this option:

- The project will inevitably be delayed.

SUMMARY POINTS

- On 2024-DEC-04, Council provided direction to proceed with an Alternative Approval Process (AAP) to obtain approval of the electors for the “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” starting 2024-JAN-18 through to 2024-FEB-20.
- Staff became aware of a potential error on 2024-FEB-01 when identifying the Response Forms were not available upon providing Notice of the AAP.
- The AAP for the “Nanaimo Operations Centre Phase One Borrowing Bylaw 2023 No. 7362” has provided many engagement opportunities and information sharing sessions that will facilitate future decisions Council will make with respect to the project that otherwise may not have occurred.

Submitted by:]

Dale Lindsay,
Chief Administrative Officer]