

# STAFF REPORT TO COUNCIL

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**DATE:** January 28, 2022

**TO:** MAYOR AND COUNCIL

**NAME AND TITLE:** Kris Dalio, Director of Finance, and  
Maureen Connelly, Manager of Legislative Services

**SUBJECT:** 2022 Equipment Financing Bylaw and Approval of the Electors' Options

**ATTACHMENT:** Appendix A - Elector Response Forms for Bylaw No. 9277

## RECOMMENDATIONS:

1. THAT Council GIVES FIRST THREE READINGS to "City of Prince George Equipment Financing Bylaw No. 9277, 2022".
2. THAT Council AUTHORIZES 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 "City of Prince George Equipment Financing Bylaw No. 9277, 2022".
3. THAT Council ESTABLISHES the deadline of 5:00 p.m. on Thursday, March 31, 2022 for receiving Elector Response Forms for the alternative approval process for "City of Prince George Equipment Financing Bylaw No. 9277, 2022".
4. THAT Council APPROVES the determination of the total number of electors of the area to which the alternative approval process applies for "City of Prince George Equipment Financing Bylaw No. 9277, 2022" as 55,703 electors, on the basis described in this report.
5. THAT Council DIRECTS the Corporate Officer to report the results of the alternative approval process for "City of Prince George Equipment Financing Bylaw No. 9277, 2022" and if approval of the electors has been obtained, to return "City of Prince George Equipment Financing Bylaw No. 9277, 2022" for Council's consideration of final reading and adoption.

## PURPOSE:

At the January 24, 2022 Budget meeting, Council approved some capital projects in the Five Year (2022 – 2026) Capital Financial Plan with the funding source designated as "MFA Lease Proceeds". The purpose of this report is to ask Council to grant first three readings to the required equipment financing bylaw associated with those capital projects requiring Municipal Finance Authority ("MFA") debt funding, and to obtain Council's approval for using the alternative approval process to obtain approval of the electors for this equipment financing bylaw.

#### POLICY/REGULATORY ANALYSIS:

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. If the agreement is for more than 5 years, Council may only incur the liability with the approval of the electors.

Equipment Financing Bylaw No. 9277, 2022 provides that the equipment financing agreements may have a term up to 15 years. The MFA has established an equipment financing program that is available to municipalities under section 175 of the *Community Charter*, and Bylaw No. 9277 contemplates the City entering into equipment financing agreements with the MFA under that program. Statutory approval from the Inspector of Municipalities is therefore not required for Bylaw No. 9277. However, because the proposed loan agreements with the MFA are for terms of more than five (5) years, Bylaw No. 9277 does require approval of the electors after first three readings. After obtaining approval of the electors, Council may consider final reading and adoption of Bylaw No. 9277.

The two options for seeking approval of the electors for the equipment financing bylaw, and the process for each option, is described below.

#### STRATEGIC PRIORITIES:

Debt financing of the City's annual mobile fleet and equipment needs is an approach that supports Council's priorities of Sustainable Infrastructure, Sustainable Fiscal Management and Organizational Excellence.

#### FINANCIAL CONSIDERATIONS:

The Equipment Financing Bylaw No. 9277 assumes an interest rate of 0.97%, as per the MFA's January 2022 interest rate on the Equipment Financing Program. The cost of the projects associated with the bylaw is \$1,779,834 and would result in estimated annual debt servicing costs of \$186,833, or 0.16%, of future tax levy increases. The timing of when these costs would impact the levy depends on when the work is completed and the funds are borrowed, but it is expected that these costs will impact the 2023 tax year levy.

#### **Equipment Financing Bylaw No. 9277, 2022**

The annual replacement and addition of vehicles and capital equipment are financed through the MFA Equipment Financing Program. Through these loan agreements, the City retains ownership of the asset and is charged a low variable interest rate based on the Canadian Dealer Offered Rate with fixed payment schedules. The MFA Equipment Financing Program 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. All loan agreements will be for a term no longer than fifteen (15) years to match the expected service life of the new mobile equipment.

The approved projects from the 2022 – 2026 Capital Plan that will be part of the Equipment Financing program request include:

- #0431 – Mobile Equipment Replacement - \$1,687,834
- #3208 – Janitorial Equipment – Replace Floor Scrubbers - \$41,000
- #3359 – 2022 New Bylaw SUV - \$51,000

#### **Debt Servicing Costs:**

BC municipalities' financial liabilities (e.g. under leases, partnering, and long-term debt agreements) are subject to liability servicing limits. They also require elector approval if they are:

- a loan guarantee or are of a capital nature; and
- the agreement is for more than five years; or
- the agreement could be for more than five years if an extension were exercised.

A municipality cannot incur a liability that extends beyond the current year if it would cause the municipality's total annual cost of servicing (e.g. lease payments, partnering payments (if they're of a capital nature), long-term debt principal and interest payments) to exceed the regulated amount. The regulated amount is currently based on 25% of a municipality's controllable revenues such as:

- property taxes - a deduction is made to revenue received from Major Industry tax revenues for municipalities which are heavily dependent on that class;
- payments in lieu of taxes;
- user fees; and
- unconditional grants.

A municipality may only exceed its liability servicing limit with the prior approval of the Inspector of Municipalities in consultation with the MFA. The City relies on debt financing for new infrastructure and for major repair of existing infrastructure. The City also enters into financing agreements for the purchase of mobile equipment. The following table provides the debt capacity and available capacity as determined by the Municipal Liabilities Regulation. 2021 figures are not available at this time.

Year	Municipal Revenue	Liability Servicing Limit	Payment Capacity Available	Approximate Principal Borrowing Available
2016	\$164,912,920	\$41,228,230	\$22,442,740	\$249,363,778
2017	\$165,029,633	\$41,257,408	\$22,496,328	\$249,959,200
2018	\$172,759,289	\$43,189,822	\$25,154,282	\$279,492,022
2019	\$177,512,689	\$44,378,172	\$23,982,421	\$322,778,210
2020	\$171,514,757	\$42,878,689	\$15,422,526	\$194,975,044

The total amount of all approved loan authorization bylaws are included in the liability servicing limit regardless of whether the funds have actually been borrowed.

#### OTHER CONSIDERATIONS:

##### Overview of Approval of the Electors

Long-term borrowing by local governments (i.e. loans with a term of more than 5 years) cannot be undertaken without the loan authorization bylaw being approved by the Inspector of Municipalities after the bylaw is given first three readings by the local government. In addition, "approval of the electors" is then required before Council may consider adopting the long term loan authorization bylaw.

The Province 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 for long-term loan authorization bylaws 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 summary of both the assent of the electors (referendum) process, and the alternative approval process follows.

**(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 loan authorization bylaw receiving third reading and receiving approval from the Inspector of Municipalities. In addition, at least two advance voting opportunities must be held – one on the 10<sup>th</sup> day before general voting day, and one on the 4<sup>th</sup> 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 Prince George adopting Bylaw No. 9277, which will authorize Council to borrow ...”

A loan authorization bylaw 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 a bylaw 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.

In order to estimate the cost of conducting a referendum, it may be useful to refer to the cost of conducting the 2017 referendum for the Fire Hall #1 and Four Season Leisure Pool replacement loan authorization bylaws. The cost of holding that referendum was approximately \$91,000. 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. Administration is recommending the alternative approval process as the preferred method to seek elector assent rather than elector approval through an assent voting process (referendum).

If Council directs that assent of the electors for this loan authorization bylaw be obtained through a referendum, then Administration will return a report to Council setting out the next steps and further resolutions required from Council in order to undertake that process.

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

The alternative to holding a referendum is the alternative approval process, which is governed by the *Community Charter* requirements. Local governments have been able to use the alternative approval process for quite some time. The process was previously known as the “counter petition method.”

The alternative approval process involves publication of a notice in a local newspaper once each week for two consecutive weeks. The notice is also posted on the notice board in the first floor foyer of City Hall, and on the City website.

As part of the alternative approval process, Council must make a fair determination of the total number of electors within the City. Typically, the calculation of the number of electors in the City is based on information provided by Elections BC, a non-partisan independent public agency that maintains an up to date list of registered electors. More information on this determination is included in a subsequent section of this report. Electors would then be given the opportunity to indicate they are opposed to Council proceeding with adoption of a loan authorization bylaw by signing and submitting an Elector Response Form, the wording of which must be approved by Council.

Council must set a deadline for Elector Response Forms to be submitted. The deadline must be at least 30 days after the second publication of the notice in a newspaper. If an elector is in favour of Council adopting the loan authorization bylaw, then they would not have to do anything. If an elector is opposed to the bylaw, or they do not want Council to proceed to adopt the bylaw 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 alternative approval process. 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 adoption of the bylaw unless approval of the electors is obtained through the “assent of the electors” process described above. In other words, a referendum would then be required to be held on the matter in order for Council to proceed to adopt the bylaw.

### **Referendum and Alternative Approval Process Considerations**

The alternative approval process 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 alternative approval process consists primarily of two notices being published in a local newspaper, and the printing of elector response forms. The newspaper advertising cost for the alternative approval process referenced in this report is estimated to be \$5,000. The cost of printing Elector Response Forms would depend on the number of forms requested by electors. More significantly, the staff resources needed to administer the alternative approval process are minimal in comparison to the considerable staff resources required to conduct a referendum.

The time period to hold an alternative approval process is approximately 8 weeks from the date that the first notice is published in a newspaper up to the date that the results of the process are certified by the Corporate Officer and reported to Council.

### **REPORT FOR DETERMINATION OF 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 Bylaw No. 9277.

To be consistent with past practice, it is recommended that the calculation of the number of electors in the City be based on information provided by Elections BC, a non-partisan independent public agency that maintains an up to date list of registered electors. According to Elections BC, the total number of registered electors within the City of Prince George as of December 15, 2021 is 55,703.

Administration therefore recommends that Council approve the determination of the total number of electors for the purposes of the alternative approval process for Bylaw No. 9277 to be 55,703. Approval of the electors for this Bylaw would be obtained if the number of Elector Response Forms received by the deadline is less than 5,570 (10% of 55,703).

#### ALTERNATIVE APPROVAL PROCESS SCHEDULE:

Administration recommends the following schedule in regard to the alternative approval process for proposed Bylaw No. 9277:

Date	Activity
Thursday, February 17, 2022	Publication of First Notice in a Newspaper
Thursday, February 24, 2022	Publication of Second Notice in a Newspaper
5:00 p.m. on Thursday, March 31, 2022	Deadline for Submitting Elector Response Forms
Monday, April 11, 2022	Corporate Officer reports results of Alternative Approval Process at Regular Council Meeting

#### SUMMARY AND CONCLUSION:

If Council wishes to proceed with the debt financed projects detailed in this report, then it would be in order for Council to pass the recommendations set out above. Administration is recommending the alternative approval process as the preferred method to seek elector assent.

#### RESPECTFULLY SUBMITTED:

Maureen Connelly, Manager of Legislative Services/  
Corporate Officer

Kris Dalio, Director of Finance

#### APPROVED:

Walter Babicz, City Manager

Meeting Date: [2022/02/07]