

DATE: March 4, 2021

FILE: 4200-01

TO: Chair and Members
Comox Valley Sewage Commission

Supported by Russell Dyson
Chief Administrative Officer

FROM: Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Sewer Conveyance Project Alternative Approval Process Logistics

Purpose

The purpose of this report is to introduce to the Sewage Commission a loan authorization bylaw for the sewer system conveyance project and to describe the alternative approval process (AAP) logistics.

Recommendations from the Chief Administrative Officer:

1. THAT the following bylaw be introduced, read three times, and forwarded to the Inspector of Municipalities for approval:
 - Bylaw No. 647 being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021”;

AND FURTHER THAT participating area approval be sought by way of alternative approval process to be conducted with respect to the elector approval required for Bylaw No. 647 for the entire service area.

2. THAT with respect to proposed Bylaw No. 647, being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021”, the Comox Valley Regional District (CVRD) Board approves the elector response form and bylaw synopsis as provided in the notice of the AAP and upon receiving approval of the bylaw by the Inspector of Municipalities, CVRD staff be directed to publish the notice for each bylaw in accordance with section 86(2) of the Community Charter including the following information, as generally outlined in the staff report dated March 04, 2021;
 - the total number of eligible electors to which the AAP applies is 30,736 within the service area;
 - the notice of the AAP shall be published in the Comox Valley Record, as well as additional notice provided via the CVRD website;
 - the deadline for receiving elector responses is established as Monday, July 5, 2021 at 4:30 pm following the 30-day statutory elector response period;
 - the elector response form provides for only a single elector response on each form and will be available at the CVRD offices and on the CVRD website from the first publication date of the notices of AAP until the deadline of the elector response period as determined above; and
 - elector response forms may be accepted in any one of the following manners:
 - in person at: 770 Harmston Avenue, Courtenay, BC (Monday to Friday, 8:00 AM - 4:30 PM, excluding Statutory Holidays);
 - via mail to: 770 Harmston Avenue, Courtenay, BC, V9N 0G8;
 - via fax at: 250-334-4358; or

- via email attachment to: administration@comoxvalleyrd.ca with the subject heading: “Elector Response”.

Executive Summary

At its February 23, 2021 meeting, the Sewage Commission resolved to pursue a tunnel forcemain conveyance project to resolve a long-standing environmental risk and replace critical sewerage infrastructure for the Comox Valley Sewage System, and to secure a portion of funding for the project through a loan authorization bylaw. Bylaw No. No. 647 being “Sewage System Conveyance Project Loan Authorization Bylaw No. 647, 2021” (Appendix A) would authorize borrowing up to \$52 million to be repaid over a maximum 30 year term.

Following a thorough consideration of the available elector assent methods, staff are recommending the use of an AAP. Amongst these considerations, this approach recognizes the critical nature of the infrastructure project to public health and environmental protection and the substantial public engagement and education undertaken to date. If supported, the AAP elector response period would be held from June 3 to July 5, 2021.

While CVRD staff had previously anticipated bringing a conveyance project implementation strategy to the March 9, 2021 meeting, collaboration with municipal staff to develop this strategy is still underway, and this work is now expected to be complete and a recommended path forward brought to the April 13, 2021 sewage commission meeting.

Staff are confident recommending proceeding with an AAP at this time:

- in advance of a decision on project delivery method, because the cost estimate developed assumes delivery by design-bid-build and would only be revised down in the event a decision is made to deliver all or part of the project via design-build; and,
- based on this level of design, because an appropriate level of contingency has been included, and:
 - Under DBB (design-bid-build) it is not practical to proceed with an expensive engineering design (>\$1M) without first securing funding for the project.
 - Under a DB (design-build) the detailed design is not complete until a proponent team is selected, and a proponent team cannot be selected until the project is fully funded.

Prepared by:

J. Warren

James Warren
Deputy Chief Administrative
Officer

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

City of Courtenay CAO	✓
Town of Comox CAO	✓

Background/Current Situation

The proposed loan authorization bylaw would enable borrowing up to \$52 million to be repaid over a maximum 30 year term. As noted in previous reports, this is a significant investment that is integral

to the Comox Valley Regional Sewer System and will provide service for an estimated 80 years. The added cost to ratepayers is estimated at \$150 per year per household and represents an average five and a half per cent annual increase over current tax requisition levels over the next five years.

Policy Analysis

The AAP is a form of obtaining elector approval under the *Local Government Act* (LGA). The process for amending or initiating the projects considered under the singular AAP align with the legislation.

Options

The Sewage Commission may consider the following options:

1. endorse the recommendation(s) and proceed with the AAP process;
2. deny the recommendations(s) and direct staff to secure funding authorization for the project through the liquid waste management planning process;
3. defer the matter for further consideration. This would alter the proposed timelines for funding approval; or
4. any other action deemed appropriate by the commission.

Staff are recommending option one. Relying on the liquid waste management planning process to secure borrowing authorization for the conveyance project, as noted in option two, would delay resolution of the environmental risk along Willemar Bluffs by the additional two to three years required for the process and two length provincial reviews.

Financial Factors

The advertising costs for the statutory public notices associated with the AAP is estimated at approximately \$3,000. The conveyance AAP will be conducted in alignment with other CVRD approval processes, resulting in some cost savings and clarity for the public.

Legal Factors

Section 407 of the LGA (RSBC, 2015, c. 1) authorizes the CVRD to borrow funds through a loan authorization bylaw, which must be approved by assent voting (referendum) or an AAP. The Inspector of Municipalities' approval of loan authorization bylaws is required before undertaking an AAP.

In relation to an AAP, the board may, by resolution, adopted by at least two thirds of the votes cast, provide that the participating area approval is to be obtained for the entire proposed service area, which is provided for in the recommendation of this report.

An AAP is a process whereby eligible electors have 30 days to register their opposition to the loan authorization bylaw by completing an elector response form and submitting it to the Corporate Legislative Officer before the deadline. If 10 per cent of the eligible electors within the proposed service area sign and submit an elector response form by the AAP deadline, adoption of the bylaw may not proceed unless assent is obtained through voting (referendum).

In launching the AAP, the following matters must first be dealt with by the board:

- confirmation of the form to be used for elector responses;
- determination of the number of eligible electors within the area that is subject to the AAP, and
- establishment of the deadline for receiving responses from electors

Elector Response Form

The elector response form is attached to this report for the board's approval (Appendix B).

Determination of Eligible Electors

The *Community Charter* and the LGA require that the board make a fair determination of the total number of electors within the area affected by the bylaw for which the AAP is being conducted.

The number of people eligible to be a resident elector or a non-resident property elector is determined based on those individuals who, when signing an elector response form:

- are 18 years of age or older;
- are a Canadian citizen;
- have lived in British Columbia for at least six months;
- have lived or owned property in the jurisdiction (i.e. municipality or electoral area) for at least 30 days;
- live or own property in the area defined for the AAP; and,
- are not disqualified under the LGA, or any other enactment from voting in a local election, or are not otherwise disqualified by law.

The estimated number of eligible electors within the Comox Valley Sewerage Service is based on information the 2018 local government elections as reported by CivicInfo BC, calculated as follows:

Eligible Elector Determination for Bylaw No. 647 being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021” for the Comox Valley Sewerage Service	
City of Courtenay estimated eligible electors	19,869
Town of Comox estimated eligible electors	10,867
Estimated total number of eligible electors in the Sewerage Service	30,736
10 per cent of the total number of eligible electors is estimated to be:	3,074

Deadline for Submission

The deadline for submission of elector response forms may be no sooner than 30 days after the second publication of the AAP notice in the local newspaper. Assuming that the Inspector of Municipalities has approved Bylaw No. 647, it is proposed that the Statutory Notice of AAP be published for two consecutive weeks in the Comox Valley Record on May 26 and June 2. By setting the deadline for submission of elector response forms as Monday, July 5th at 4:30 pm electors will have no less than 30 days from the last newspaper publication to sign and submit it to the CVRD Corporate Legislative Officer.

Approve a Synopsis of the Bylaw (Notice)

The LGA authorizes regional districts to approve a synopsis of the bylaw for notice purposes as part of the AAP. The synopsis must include the intent of the bylaw, the area subject to the bylaw and where a complete copy of the bylaw can be viewed. Using a synopsis for the public notice instead of publishing the bylaw in its entirety is cost effective and more accessible for the public to interpret. Attached for consideration of approval by the board is a synopsis of proposed Bylaw No. 647 as contained in the notice of the AAP (Appendix C).

Regional Growth Strategy Implications

This section is not relevant to conducting an AAP.

Intergovernmental Factors

The sewerage conveyance project is a substantial interjurisdictional project that will rely on collaboration and partnerships between the CVRD, City of Courtenay and Town of Comox. The execution of the AAP and associated logistics do not involve the municipal partners however

finance strategy for the project was developed with municipal finance officers, and the household cost of implementing this project will be reflected in municipal tax bills. The CVRD will continue to work closely with its municipal partners on communicating this initiative to ensure consistent messaging is delivered through all local government channels.

Interdepartmental Involvement

The Corporate Services Branch coordinates the approval process for the loan authorization bylaw, involving both legislative and financial services staff. The Engineering Services Branch manages the overall project.

Citizen/Public Relations

A press release will be issued the week of May 3rd to announce details of the CVRD's singular AAP, including the Sewer Conveyance Project. Full details about the process, including a video and details about how to participate will be available on the CVRD's website. Information will include links to background reports and supporting materials about the conveyance project at: www.comoxvalleyrd.ca/lwmp.

The Statutory Notice of the AAP will be published for two consecutive weeks in the Comox Valley Record on May 26 and June 2, 2021. Result of the AAP will be reported back to the community via press release.

Attachments: Appendix A – Loan Authorization Bylaw
Appendix B – Elector Response Form
Appendix C – AAP Notice

COMOX VALLEY REGIONAL DISTRICT

BYLAW NO. 647

A bylaw to authorize the borrowing of fifty-two million dollars (\$52,000,000) for the upgrading of the conveyance forcemain and related pump stations for the Comox Valley Sewerage Service.

WHEREAS the Regional Board of the Comox Valley Regional District has established by Bylaw No. 2541, a service for the purpose of providing sewage interception, treatment and disposal to the Comox Valley Sewerage Service Area;

AND WHEREAS it is deemed desirable and expedient to replace and upgrade the pipes and related pump stations that convey wastewater from Courtenay, Comox and K'ómoks First Nation to the Comox Valley Water Pollution Control Centre.;

AND WHEREAS the board desires to borrow fifty-two million dollars (\$52,000,000) to help fund the Sewer System Conveyance Project;

AND WHEREAS under section 403 of the *Local Government Act (RSBC, 2015, C. 1)* and section 179 of the *Community Charter*, the board may, by loan authorization bylaw, borrow for capital purposes within its powers;

AND WHEREAS the approval of the electors of the Sewer System Conveyance Project Loan Authorization Bylaw is required and was obtained pursuant to section 345 of the *Local Government Act (RSBC, 2015, C. 1)*;

NOW THEREFORE the Board of the Comox Valley Regional District in open meeting assembled enacts as follows:

Borrowing amount and purpose

1. The board is hereby empowered and authorized to undertake and carry out or cause to be carried out the sewer system conveyance project for the Comox Valley Sewerage Service and to do all things necessary in connection therewith and without limiting the generality of the foregoing:
 - a) to borrow upon the credit of the Comox Valley Regional District (under the Comox Valley Sewerage Service), a sum not exceeding fifty-two million dollars (\$52,000,000); and
 - b) to acquire all such real and personal property, easements, rights-of-way, licenses, rights or authorities as may be requisite or desirable for or in connection with the construction of said improvements to the sewerage conveyance system.

Term of debenture

2. The maximum term for which debentures may be issued to secure the debt intended to be created by this bylaw is thirty (30) years.

Citation

This Bylaw No. 504 may be cited for all purposes as the "Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021".

Read a first and second time this	day of	2021
Read a third time this	day of	2021
Approved by the Inspector of Municipalities this	day of	2021
Received the approval of the electors this	day of	2021
Adopted this	day of	2021

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 647 being "Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021" as adopted by the board of the Comox Valley Regional District on the day of .

Corporate Legislative Officer



Alternative Approval Process - Elector Response Form

Proposed Bylaw No. 647 being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021” which would authorize the Comox Valley Regional District to borrow fifty-two million dollars (\$52,000,000) to be repaid over a maximum 30-year period for the replacement and upgrading of the pipes and related pump stations that convey wastewater from Courtenay, the K’ómoks First Nation, and Comox to the Comox Valley Water Pollution Control Centre.

Pursuant to Section 86 of the *Community Charter*, I certify that:

- I am a person entitled to be registered as an elector or non-resident elector pursuant to the *Local Government Act* (see eligibility requirements on the following page);
- I have not previously signed an Elector Response Form with respect to this matter; and
- I am **OPPOSED** to the adoption of Proposed Bylaw No. 647 being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021”.

Full name: (please print)	
Residential address: (please provide full address)	
Signature:	
Date:	

To be completed by non-resident property electors only
(see eligibility requirements on the following page)

I am entitled to register as a non-resident property elector as an owner of the property located at the following address:

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For this Elector Response Form to be counted, it must be received by the Corporate Officer of the CVRD no later than **4:30 pm on Monday, July 5, 2021** by one of the following methods:

Mail or in person: Comox Valley Regional District 770 Harmston Avenue, Courtenay, BC V9N 0G8	Fax: 250-334- 4358	Email: administration@comoxvalleyrd.ca
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- **Postmarks will not be accepted as the date of receipt by the CVRD**
- **Accurate copies of this elector response form may be made and used for signing**
- **A person may not sign more than one elector response form**
- **For the purpose of this Alternative Approval Process, 10 per cent of the qualified electors has been determined to be 3,074 persons. Determination of the number of qualified electors is available on the Regional District’s website and by request.**

Sewer System Conveyance Project Loan Authorization Bylaw

The Comox Valley Sewerage Service treats raw sewage (wastewater) from homes and businesses in Courtenay, Comox and K'ómoks First Nation. The Sewer System Conveyance Project proposes to replace and upgrade the pipes and pump stations that move wastewater to the sewage treatment plant. These improvements will address the environmental risks of the current pipeline location within the foreshore of the Comox estuary and the intertidal zone along the Willemar Bluffs.

The total cost of the project is estimated at \$73 million with a maximum of \$52 million of that amount being proposed from borrowing. The loan would be paid back over a maximum of 30 years by Comox Valley Sewerage System users at an average cost of approximately \$150 per household.

Elector Eligibility Requirements

Resident elector (section 65 of the *Local Government Act*)

- 18 years of age or older;
- a Canadian citizen;
- a resident of British Columbia for at least six months immediately before signing this elector response form;
- a resident of the Comox Valley Sewerage Service Area, being the City of Courtenay and Town of Comox for at least 30 days before signing this elector response form; and
- not disqualified from voting under the *Local Government Act* or any other enactment or otherwise disqualified by law from voting.

Non-resident property electors (section 66 of the *Local Government Act*)

- 18 years of age or older;
- a Canadian citizen;
- a resident of British Columbia for at least six months immediately before signing this elector response form;
- not entitled to vote as a resident elector in the Comox Valley Sewerage Service Area, that being the City of Courtenay and Town of Comox, for the purposes of this matter;
- a registered owner of real property in the proposed Comox Valley Sewerage Service Area for at least 30 days before signing this elector response form;
- may not vote more than once within a voting jurisdiction regardless of the number of properties owned;
- where more than one non-resident person owns the property, the person wishing to submit an electoral response form for that property must provide, at the time of registration, written consent from a majority of the property owners,
- who holds the real property in trust for a corporation or another trust is not eligible to vote as a non-resident property elector, and
- not be disqualified from voting under the *Local Government Act* or any other enactment or otherwise disqualified by law from voting.

More Information

Comox Valley Regional District: 770 Harmston Avenue, Courtenay, BC V9N 0G8

Phone: 250-334-6000 toll free: 1-800-331-6007

Office hours: Monday to Friday 8:00 am to 4:30 pm

www.comoxvalleyrd.ca/aap



NOTICE OF ALTERNATIVE APPROVAL PROCESS

Public Notice is hereby given in accordance with the *Local Government Act* and the Community Charter that the Comox Valley Regional District (CVRD) has proposed the following bylaw: Bylaw No. 647 being “Sewer System Conveyance Project Loan Authorization Bylaw No. 647, 2021” (“Bylaw”).

In general terms, the Bylaw would authorize the CVRD to borrow fifty-two million dollars (\$52,000,000) to be repaid over a maximum 30 year period for the replacement and upgrading of the pipes and related pump stations that convey wastewater from Courtenay, the K’ómoks First Nation, and Comox to the Comox Valley Water Pollution Control Centre.

The total cost of the project is estimated at \$73 million with a maximum of \$52 million of that amount being proposed from borrowing. The loan would be paid back over a maximum of 30 years by Comox Valley Sewerage System users at an average cost of approximately \$150 per household per year. The Comox Valley Sewerage Service Area comprises the Town of Comox and City of Courtenay.

Alternative Approval Process: In accordance with Section 86 of the Community Charter, the CVRD is seeking the approval of the electors by means of the alternative approval process (AAP). Therefore, eligible electors within the service area opposed to this initiative may petition against the adoption of Bylaw No. 647 by signing an elector response form, which may be obtained from the CVRD. The number of eligible electors within the boundaries of the service area has been fairly determined to be 30,736 and the number of valid elector response forms required to prevent the adoption of Bylaw No. 647 without first obtaining the assent of the electors by referendum is 3,074.

Elector Response Forms: Elector responses must be in the format established by the CVRD Board of Directors. Forms may be obtained from the CVRD or from its website at comoxvalleyrd.ca/aap and may only be signed by eligible electors of the Comox Valley Sewerage Service Area.

Deadline: The deadline for delivering the signed elector response forms to the CVRD is 4:30 pm on July 5, 2021. Emailed or faxed copies are acceptable however they must include the elector’s signature. Forms must be received by the deadline in order to be counted. Copies of Bylaw No. 647, a report concerning the determination of the number of eligible electors and other documents relating to the bylaw may be obtained from the CVRD offices at 770 Harmston Avenue, Courtenay, BC during regular office hours 8:00 a.m. to 4:30 p.m. (Monday-Friday, except holidays) or from comoxvalleyrd.ca/aap

More Information

Comox Valley Regional District: 770 Harmston Avenue, Courtenay, BC V9N 0G8

Phone: 250-334-6000 toll free: 1-800-331-6007

www.comoxvalleyrd.ca/aap