

# Report

Date

April 5, 2022

File:

Subject

Crofton Fire Hall Loan Authorization Bylaw No. 3863, 2022 for first three readings

## PURPOSE

To introduce the Crofton Fire Hall Loan Authorization Bylaw to authorize the long-term capital borrowing for the Crofton Fire Hall upgrade project.

## BACKGROUND

On November 18, 2020, Council directed that \$3.5 million be included in the 2021-2025 Financial Plan for upgrades to the Crofton Fire Hall, which included the demolition of the original 7,200 square foot 1964 building and replacing it with a smaller 2,150 square foot building and associated upgrades to the truck bays that were constructed in 2002, and that the project be financed through long term debt. This project was subsequently included in the 2021-2025 Capital Expenditure Program what was presented to the Committee of the Whole on December 15, 2020.

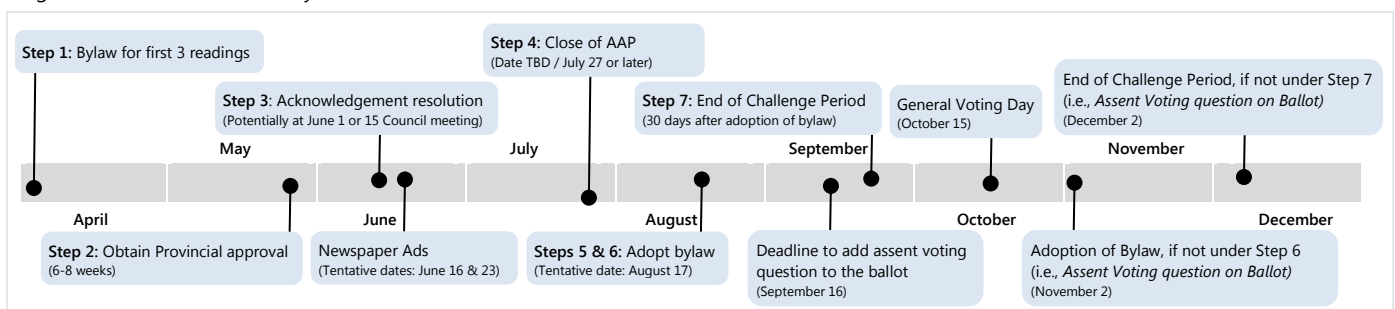
The \$3.5 million was included in the 2022 Capital Expenditure Plan that was presented to the Committee of the Whole on December 14, 2021 and the 2022-2026 Financial Plan (Five Year Financial Plan Bylaw No. 3858) that was adopted by Council on February 16, 2022. However, a change request was presented to Council on March 2, 2022 to increase the square footage of the rebuild from 2,150 square feet to 3,636 square feet and amend the budget due to the escalation in construction costs between 2020 and 2022. Council required additional information from staff prior to considering the change request, therefore the change request was referred back to staff for a detailed analysis of the financial implications.

The change request with the subsequent report was brought back to the March 16, 2022 regular meeting, where Council resolved to increase the square footage to 3,636 square feet and the budget to \$4.8 million. Council also authorized staff, at that meeting, to proceed with an alternative approval process (AAP) to seek elector approval and directed staff to develop a communications plan for informing North Cowichan residents about the Crofton Fire Hall redevelopment project.

## DISCUSSION

Figure 1, below, illustrates the timeline for obtaining elector approval through the AAP, from when the Bylaw receives first three readings through to the end of the challenge period, including if more than 10% of electors respond during the AAP and assent voting must be conducted.

Figure 1: Loan Authorization Bylaw Timeline



### Step 1 Consider Loan Authorization Bylaw No. 3863 for first three readings

The first step is for Loan Authorization Bylaw No. 3863 to receive first three readings. The Bylaw (Attachment 1) identifies the maximum loan amount (\$4.8 M), how long the loan will take to be repaid (20 years); that an AAP will be undertaken to determine the opinion of the electors in regard to the upgrades to the Crofton Fire Hall.

The Bylaw is then forwarded to the Inspector of Municipalities (the “Inspector”) for approval prior to initiating the AAP. The municipality may provide general information to electors about the initiative during this time, but it cannot publish the two required AAP statutory notices until after Inspector approval has been granted.

### Step 2 Obtain Provincial Approval

The second step in the process is to obtain statutory approval of the Loan Authorization Bylaw from the Inspector. The Bylaw will be submitted to provincial government staff, along with the following information and copies of supporting documentation:

- **Financial Plan** to provide evidence that the capital and operating components of the project are included in the five-year financial plan that was adopted on February 16, 2022 and the amendment on April 20, 2022;
- **Capital Budget** of \$4,800,000 which indicates that construction costs, soft costs and consultants, and furnishing, fixtures and equipment costs have been factored into the capital cost;
- **No Other Funding Sources** are being used for financing the project;
- **Cost Recovery** method that will be used is property taxes and the impact on the average residential property is \$17 per year;
- **Tax Impact** to properties and information on consultation or notice to be given to the electors;
- **Background Information** such as staff, consultant or engineering reports, excerpts of meeting decisions from Council and Committee of the Whole minutes, communication plan, media releases and announcements in the Council Matters news blogs that provide background information; and
- **Method of Approval of the Electors**, which in this case is the AAP. Copies of the elector response form and statutory notice will be provided to Council for consideration once statutory approval by the Inspector has been obtained.

Provincial staff will then review the bylaw for legislative compliance and financial viability. Once their review is complete, the bylaw is sent to the Inspector for final approval and issuance of a statutory approval certificate. This step will take approximately six to eight weeks.

### Step 3 Acknowledgement Resolution

Once approval by the Inspector is granted, a resolution of Council must be adopted acknowledging that the Loan Authorization Bylaw has received first three readings and establishing the number of days for submitting and receiving elector response forms, which must be at least 30 days after the second notice is published.

A report will be provided to Council (potentially at the June 1, 2022 or June 15, 2022 regular meeting) which shall include copies of the Liability Servicing Limit Certificate completed by the Director of

Finance, the Statutory Approval Certificate from the Inspector, a report determining the number of eligible electors, the elector response form and statutory notice. Once the Acknowledgement Resolution is adopted by Council, the Corporate Officer may undertake the AAP and publish the statutory notices. Once the second notice is published, the period for electors to respond will commence. With July 27, 2022 being the 80<sup>th</sup> day before general voting day, the close of the response period cannot fall prior to this date in the event that an assent voting question must be added to the ballot.

If the AAP closes between:

- (1) *July 27, 2022* and *August 2, 2022*, the first notice must be published between June 13<sup>th</sup> and 20<sup>th</sup> and the second notice before June 27<sup>th</sup>, or
- (2) *August 3, 2022* and *August 9, 2022*, the first notice must be published between June 20<sup>th</sup> and 27<sup>th</sup> and the second notice before July 4<sup>th</sup>.

#### Step 4 Obtain Approval of the Electors

- *What is an Alternative Approval Process (AAP)?*

It is a form of approval that allows electors to indicate whether they are against a local government proposal moving forward. Formerly known as a "counter petition," it requires 10% or more of the eligible electors sign and submit response forms in order for the municipality to be mandated to proceed to assent voting on the matter.

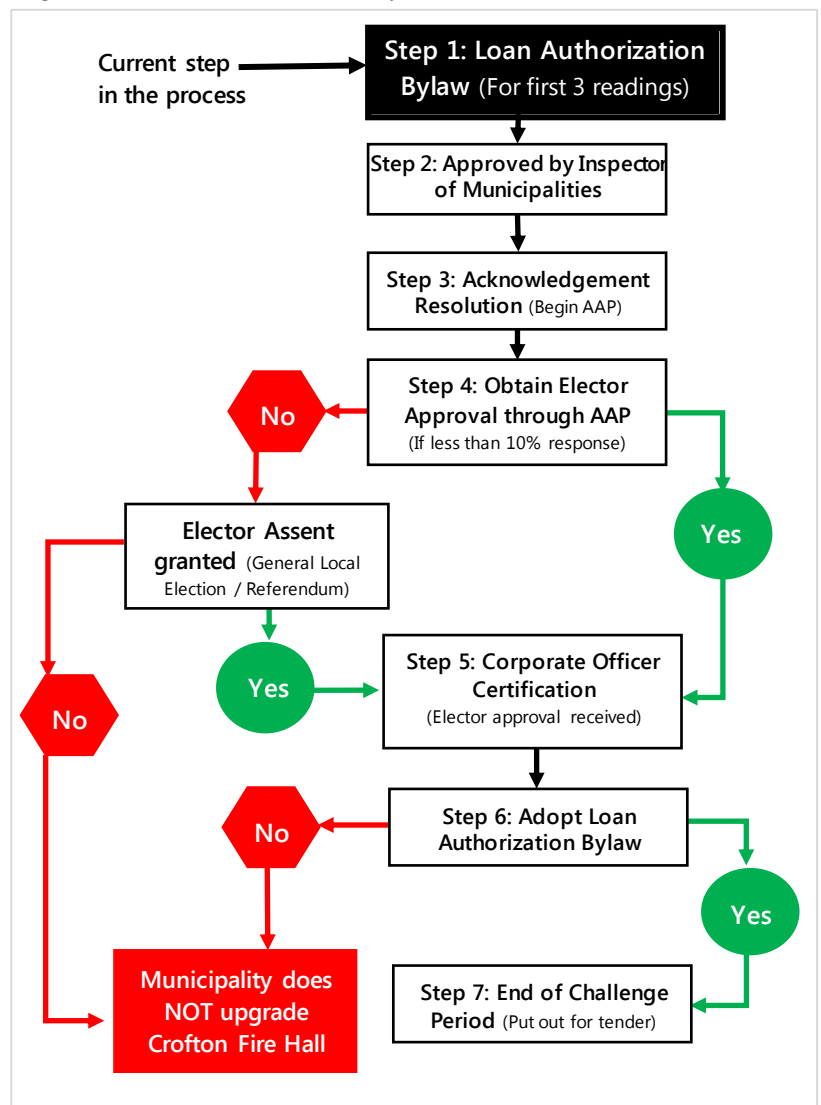
Assent voting (or referendum) allows electors to vote on whether a proposal would move forward or not. Assent of the electors is obtained if a majority of the votes counted are in favour of the bylaw.

Figure 2, to the right, illustrates the process for adopting a Loan Authorization Bylaw for the proposed upgrade to the Crofton Fire Hall from when the bylaw receives first three readings, through the AAP, assent voting (if required), and finally through to adoption or defeat of the bylaw.

- *How is the number of Electors estimated?*

The *Community Charter* requires that Council make a fair determination of the total number of eligible electors to form

Figure 2: AAP for Loan Authorization Bylaw



the basis of the AAP 10% threshold. There are a number of resources that staff can draw upon to help estimate the number of eligible electors, which include the provincial voters list, municipal utility records or property tax notices, BC Stats, BC Assessment, or Elections Canada. That estimate is then adjusted to account for people who may have moved into or out of the province within the last 6 months, individuals who are not Canadian citizens, and those who would be under 18 years of age.

- *Who is eligible to participate in the AAP?*

Any individual who qualifies as a resident elector or non-resident property elector within the municipal boundaries can participate.

- To qualify as a resident elector, the individual must be a Canadian citizen, at least 18 years of age, have resided in British Columbia for at least 6 months, and reside within the District of North Cowichan.
- To qualify as a non-resident property elector, the individual must be a Canadian citizen, at least 18 years of age, have resided in British Columbia for at least 6 months and owned property within the District of North Cowichan for at least 30 days. Properties that are owned by corporations are not eligible to be registered as an elector.

- *What happens during the AAP?*

A notice advising the public of the AAP will be published in the Cowichan Valley Citizen for two consecutive weeks and posted to the municipal website and the notice board at the Municipal Hall.

Electors who oppose the Loan Authorization Bylaw will be required to complete an Elector Response Form and submit it to the District of North Cowichan by the date and time identified in the notice. Eligible electors will have at least 30 days following the second notice to submit their completed response form if they oppose adoption of the Loan Authorization Bylaw. Once the AAP has begun, the process must be completed, regardless if Council were to decide to proceed to assent voting.

- *What happens if MORE than 10% respond?*

If more than 10% of the eligible electors submit a completed signed Elector Response Form by the deadline, in accordance with section 174 of the *Local Government Act*, Council may direct the chief election officer to include an assent voting question in relation to the Loan Authorization Bylaw on the ballot for the general local election as long as the deadline is not more than 80 days before general voting. The deadline to add an assent voting question to the ballot would be September 16, 2022.

If assent voting occurs, and a majority of the votes cast in response to the question on the ballot are in favour of the Loan Authorization Bylaw, Council may proceed with adoption of the bylaw.

- *What happens if LESS than 10% respond?*

If less than 10% of the eligible electors submit a completed signed Elector Response Form by the deadline, Council may proceed with adoption of the Loan Authorization Bylaw.

### Step 5 Corporate Officer Certification

A report from the Corporate Officer determining the results, on the basis of the elector response forms received by the deadline established under Step 3, will be presented to Council when they consider adoption of the Bylaw, likely at the August 17, 2022 regular meeting.

### Step 6 Adopt Loan Authorization Bylaw No. 3863

The bylaw can only be adopted when elector approval has been obtained either by AAP or assent voting. If less than 10% of eligible electors respond during the AAP, Council could consider adoption of the Bylaw at their August 17, 2022 regular meeting. That would give the Corporate Officer a week to determine the results under Step 5. If more than 10% respond, an assent voting question asking electors if they approve the adoption of the Bylaw will be added to the ballot and determination of elector approval will be decided on October 15, 2022. To avoid any additional delays, the Bylaw would be included as an item of business for the inaugural meeting on November 2, 2022.

A certified copy of the bylaw must then be filed with the Ministry of Municipal Affairs.

### Step 7 End of Challenge Period

Once the bylaw challenge period has passed (one month after the bylaw has been adopted), the municipality may apply for a Provincial Certificate of Approval to certify that the bylaw meets statutory procedural and other requirements. This certificate is then provided to the Municipal Finance Authority as assurance that the bylaw cannot be challenged for failing to comply with legislative procedural requirements.

If less than 10% of eligible electors respond to the AAP and the Bylaw is adopted on August 17, 2022, the end of the challenge period will be September 16, 2022.

If more than 10% of eligible electors respond to the AAP and an assent voting question is added to the ballot for the 2022 General Local Election, and the Bylaw is adopted on November 2, 2022, the end of the challenge period will be December 2, 2022.

### OPTIONS

1. **(Recommended Option)** Give Crofton Fire Hall Loan Authorization Bylaw No. 3863 first three readings and forward the bylaw to the Province for review and approval.

THAT Council give first, second and third readings to Crofton Fire Hall Loan Authorization Bylaw No. 3863, 2022;

AND THAT staff be directed to forward Bylaw No. 3863 and supporting documentation to the Ministry of Municipal Affairs for review and approval by the Inspector of Municipalities.

### IMPLICATIONS

Council must adopt 2022-2026 Financial Plan Amendment Bylaw No. 3862 prior to adopting Crofton Fire Hall Loan Authorization Bylaw No. 3863. A certified copy of 2022-2026 Financial Plan Amendment Bylaw No. 3862 must be forwarded to the Ministry of Municipal Affairs once adopted.

The earliest date that the AAP can close is July 27, 2022, otherwise assent voting [a referendum] would

have to be held if more than 10% of the eligible electors responded. For example, if the AAP closed on June 30, 2022, then the last day which assent voting could be held would be September 18, 2022. Because it is a statutory requirement to hold assent voting within 80 days, a referendum one month prior to the General Local Election would be mandatory if Council wishes to proceed with rebuilding the Crofton Fire Hall.

If more than 10% of the eligible electors submit a completed signed Elector Response Form by the deadline, an assent voting question will be included on the ballot for the 2022 General Local Election. If that happens, the earliest that the Bylaw could be adopted, would be at the inaugural meeting on November 2, 2022.

## **RECOMMENDATION**

THAT Council give first, second and third readings to Crofton Fire Hall Loan Authorization Bylaw No. 3863, 2022;  
AND THAT staff be directed to forward Bylaw No. 3863 and supporting documentation to the Ministry of Municipal Affairs for review and approval by the Inspector of Municipalities.

Report prepared by:



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Michelle Martineau  
Manager, Legislative Services

Report reviewed by:



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Ted Swabey  
Chief Administrative Officer

## **Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachment:

(1) Crofton Fire Hall Loan Authorization Bylaw No. 3863, 2022