

Options for Public Engagement and Referendum for the D69 Pool Service and Expansion

RECOMMENDATION

That the Staff Report dated July 26, 2022, "Options for Public Engagement and Referendum for the D69 Pool Service and Expansion" be received for information.

BACKGROUND

This report has been developed as a result of direction from the Regional District of Nanaimo (RDN) Board who requested a staff report to provide information regarding options for public engagement and a referendum for the District 69 Pool Service. At the June 14, 2022, RDN Board meeting the Board received recommendations from the District 69 Swimming Pool Service Select Committee. From the discussions and deliberations on the topic, the following resolutions were adopted by the Board:

It was moved and seconded that a referendum be held with public engagement, at the "involve" level of participation within the Board's engagement policy, to amend the Regional District of Nanaimo District 69 Swimming Pool Service Establishment Bylaw No. 899, 1993 (Bylaw 899), to include Electoral Areas E, F, G, H, City of Parksville and Town of Qualicum Beach, based on an apportionment model of 1/3 assessment, 1/3 population, and 1/3 usage.

It was moved and seconded that staff prepare a report on the possibility of holding the referendum during the upcoming election on October 15, 2022, as well as other options.

At the July 12, 2022 meeting, the Board received Oceanside Service Committee recommendations for the Ravensong Aquatic Centre Expansion and Regional Aquatics for Oceanside Communities 2022 - 2024 Plan. At that meeting, the following resolutions were adopted by the Board:

It was moved and seconded that the Regional District of Nanaimo proceed with option 1B as noted on page 4 of the Ravensong Aquatic Centre Expansion and Regional Aquatics for Oceanside Communities 2022-2024 Plan staff report.

It was moved and seconded that this motion [that a referendum occur concurrently with the referendum for the amendment to Bylaw 899] be referred to an upcoming regular Board meeting to discuss with an upcoming staff report regarding the amendment to Bylaw 899.

Ministerial and Legal Advice

Combining a Service Amendment and Loan Authorization Referendum Question

RDN staff sought Ministry and legal advice regarding options related to combining a service amendment and loan authorization referendum question. Ministry staff have advised that, Electoral Area E would be allowed to vote on the service amendment bylaw, but not the loan authorization bylaw. For Electoral Area E to vote on the loan authorization bylaw, they would first need to be included in the related service as a participant. The only time service establishment and borrowing questions can be combined is when money is being borrowed for the start of a new service, and not service amendments. The Ministry also commented that they would caution against combining multiple issues into one question, as it may lead to elector confusion on what they are voting for. Our legal advice has confirmed this and added that statutory voting procedures require these electors to be part of the participating area from the date of the referendum notice to the general voting day. Our legal advice also added that if the capital loan is required *this year* for the expansion project, it should proceed by way of a separate AAP or referendum outside of Area E.

Inspector Approval Timeline for Bylaws

Clarification was sought on the timeframe regarding when bylaw(s) can be sent for inspector approval to have adequate time for approval to be included for a referendum vote in the October 15, 2022, General Local Election (GLE). Previous discussions with the Ministry indicated that bylaws would need to be submitted by early July to have appropriate time for approval. A follow up with the Ministry has indicated that submission of bylaws for inspector approval as soon as possible is preferred, and the Ministry can make this approval a priority so that it should be processed in time for a referendum at the GLE.

Application of Board Policy A1.23 - Public Engagement

The motion passed by the Board at its June 28, 2022, meeting outlined above, referred to a referendum for an amendment to Bylaw 899 to include Electoral Area E in the service, and to change the cost apportionment model. The motion also directed staff that public engagement be held at the “**involve**” level of participation within the Board’s engagement policy. It is important for the Board to be updated on the application of its Public Engagement policy related to this matter, and key points are outlined below:

1. By carrying a motion to move to referendum, the highest level of engagement is achieved by **empowering** the public as this means that the Board will “**place final decision-making in the hands of the public**” – to support this, informing the public by providing information and education on the facts and the process that needs to occur is a recommended next step in the engagement process to ensure those voting in the referendum understand what they are voting on. There is not adequate time nor staff resources to provide information and educate the public on this matter in advance of October 15, 2022 to ensure the public is clear what they are voting on in the referendum.
2. If the desire is to **involve** the public about all three aspects of this Service: (1) adding Electoral Area E to the recreation service, (2) the cost apportioned to the service – would require its own comprehensive public engagement plan, process, budget and time. Ideally, the Board would use the input gathered from this process in order to decide IF a referendum is the appropriate next step. Item (3), the loan authorization bylaw, is a separate matter legally and can only be done with current participants.

3. The **involve** level of engagement is the promise to the public “**to work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered**” and “**...work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision**”. The bolded part of the process is an important distinction from the other levels of the engagement spectrum. This level of engagement would have to be done prior to and before a decision to proceed with a referendum to align with Board policy “A1.23 Public Engagement”, as the Board would need to be prepared to make decisions influenced by the public feedback received.

If the Board chose not to do something that the electorate asked for when their feedback was sought in the public engagement process, it will be very important to clearly state the reasons why a different direction was taken by the Board in order for the public engagement process to be seen as transparent, authentic, and consistent with best practices for use of the **involve** level.

4. Public confusion will be created if the Board chooses to do both **involve** and **empower** for this topic at the same time or close together.
5. If the Board continues to want to **involve** the public, there is not adequate time to do so effectively and have the referendum question or questions on the October 15, 2022 GLE ballot.

Staff Capacity Implications

The Recreation and Parks department has capacity concerns regarding undertaking a referendum scheduled for October 15, 2022. Existing staff commitments to scheduled projects taking place between now and to the end of 2022 within recreation services would make completing a fulsome public engagement extremely difficult to achieve. Projects such as the completion of the construction and opening of the Meadowood Community Hall, planning now underway and the start of remediation on the former South Wellington School site, review of recreation services fees and charges, preparation for Board approval Terms of Reference for a 2023 District 68 and District 69 Usage Survey, scheduled three week shutdown of Ravensong Aquatic Centre, and 2023 budget planning now underway are some examples of work to be done before the end of 2022. These are all individual projects and are in addition to maintaining regular operations of Oceanside Place, Ravensong Aquatic Centre and the delivery of recreation programs.

There are also significant capacity implications in Legislative Services who would be required to resource and fill the roles of Regional Voting Officer (“RVO”) and Deputy RVO to conduct a region wide referendum, who has the duties and powers outlined in Section 179 (5) of the *Local Government Act* including coordination of proceedings, preparing ballots, directing all CEO’s in the region, preparing forms and notices, and determining results.

Considerations

The following outlines some of the considerations that the Board may wish to deliberate when determining options for public engagement and referendums for the District 69 Pool Service and expansion:

- As Electoral Area E would not be able to participate in a referendum for a pool expansion loan authorization bylaw until after a decision is made about participants in the service, the Board may wish to decide who the participants are and provide information on cost allocation before a referendum for the pool expansion. This would allow electors to know the costs associated to each participating area to inform their decision. This would result in two separate elector approvals (AAP / referendum) for the bylaws so that the participants are known before an elector approval on borrowing.
- Staff is seeking direction from the Board to the extent of public engagement, which staff have been directed by resolution to undertake at the **involve** level of our Public Engagement policy. To meet the requirements of the policy, the Board would need to defer the referendum to a later time to undertake adequate and meaningful engagement at the **involve** level, or even to provide necessary engagement at the **empower** level as outlined above. Both the **involve** and **empower** level of engagement would impact capacity to a greater extent than what is possible by October 2022, and **involve** would ideally require an additional step where the Board could meaningfully contemplate the outcome of engagement prior to proceeding with direction on next steps, which could include a referendum.
- There are other considerable capacity concerns to undertake any referendum at the October 15, 2022 GLE including an impact on the capacity of the Recreation and Parks department and the Legislative Services department.
- There are considerable cost considerations related to public engagement, and regional referendums whether stand alone or in conjunction with the GLE.

Options for next steps

In staff's view, the analysis in this report that is intended to answer the Board's questions suggests that the Board should either:

- a) leave the participation, governance, and apportionment as it currently exists in the service establishing bylaw and give direction on the proposed renovations to Ravensong Pool, the proposed aquatic facility in Parksville or both **OR**
- b) first address participation, governance, and apportionment and subsequently give direction on the proposed renovations to Ravensong Pool, the proposed aquatic facility in Parksville or both.

By way of reminder, the staff recommendation to the Oceanside Services Committee on June 27, 2022 was (and remains) as follows:

- 1. That proceeding with Phase 1 or both Phases of the Ravensong Aquatic Centre be determined after the amendments to Bylaw 899 have been approved such that any changes to participating jurisdictions have been determined.
- 2. That, should funds be awarded to the Ravensong Aquatic Centre Expansion Project from the Canada Community Building Fund Strategic Priorities Fund program stream, the timelines, including phasing options for the project, be re-evaluated and revised to capitalize on awarded funds.

FINANCIAL IMPLICATIONS

If the Board would have been able to accomplish its objectives for conducting a regional referendum in conjunction with a general election, it would have been able to achieve significant cost savings over a stand-alone referendum. While staff has not undertaken a detailed costing, the savings would be in the order of ¾ or more. The 2022-2026 financial plan contains \$120,000 for a potential referendum in relation to the Ravensong Pool expansion.

Significant costs are also associated with public engagement activities, commensurate with the nature of the engagement, whether followed up with a referendum or not.

STRATEGIC PLAN ALIGNMENT

People and Partnerships - Improve the governance and awareness of RDN activities for citizens throughout the Region.

REVIEWED BY:

- J. Hill, Manager, Legislative Services
- D. Wells, General Manager, Corporate Services
- D. Holmes, Chief Administrative Office

ATTACHMENT:

1. Staff Report to Oceanside Services Committee, June 27, 2022 – Ravensong Aquatic Centre Expansion and Regional Aquatics for Oceanside Communities 2022-2024 Plan