
CITY OF KELOWNA

MEMORANDUM

Date: July 24, 2001
File No.: BL 8660, BL8661, BL8690 & BL8705
To: City Manager
From: City Clerk
Subject: Legacy Fund Bylaws (BC Gas)

RECOMMENDATION

THAT Council receive the Certificate of Sufficiency dated July 24, 2001 pertaining to the BC Gas Loan Authorization Bylaw No. 8660;

AND THAT Council receive the Certificate of Sufficiency dated July 24, 2001 pertaining to the BC Gas Agreements Authorization Bylaw No. 8661;

AND THAT Gas Distribution Service Establishment Bylaw No. 8705, BC Gas Loan Authorization Bylaw No. 8660, BC Gas Agreements Authorization Bylaw No. 8661 and BC Gas Utility Ltd. Franchise Renewal Agreement Authorization Bylaw No. 8690 be advanced for adoption consideration.

BACKGROUND

On June 11, 2001 Council gave the first three readings to Bylaw Nos. 8660 and 8661 which taken together authorize the borrowing and the "lease-in, lease-out" transaction between BC Gas and the City related to the natural gas distribution system. Under the provisions of the *Local Government Act* the City is required to provide a counter petition opportunity for loan authorization bylaws and agreements longer than five years. Notices of the counter petition opportunity was advertised in the Kelowna Daily Courier on June 20 & 21, 2001 and in the Capital News on June 22, 2001 giving a deadline of 4:00 p.m. July 23, 2001 for receipt of petitions. As of the deadline date a petition bearing 21 valid signatures was received by the City Clerk. This number falls short of the 2769 signatures required to force a referendum and the appropriate certificates of sufficiency are attached to this report.

There are two other bylaws that pertain to the BC Gas transactions and the creation of the Legacy Fund that did not require a counter petition opportunity.

BC Gas Utility Ltd. Franchise Renewal Agreement Authorization Bylaw No. 8690 also received the first three readings by Council on June 11, 2001 and subsequently received the approval of the Inspector of Municipalities on June 15, 2001 as required by the *Local Government Act*. This bylaw authorizes the extension of the natural gas franchise agreement between BC Gas and the City until September 30th, 2018 and eliminates the "buy-out" clause in the agreement.

The other bylaw related to the transaction is the Gas Distribution Service Establishment Bylaw No. 8705. Prior to the creation of the Legacy Fund transaction this type of bylaw was not required for the City as it did not operate its own natural gas service. While technically the City will still not be operating the natural gas distribution service itself, it will lease the distribution assets from BC Gas and will be leasing the operation of the system back to BC Gas and therefore the bylaw is now required. This bylaw received the first three readings by the Council on July 16, 2001.

As all four of these bylaws pertain to the Legacy Fund transaction it would be appropriate to advance them for adoption consideration concurrently.

D.L. Shipclark

Attach. (2)

c.c. Director of Finance and Corporate Services (attach.)
Deputy Director of Finance (attach.)

CITY OF KELOWNA

CLERK'S CERTIFICATE OF SUFFICIENCY

(Pursuant to Section 241 of the *Local Government Act*)

I hereby certify that sufficient petitions HAVE NOT been received covering proposed **BC Gas Loan Authorization Bylaw No. 8660** as detailed on the schedule below.

Dated this 24th day of July, 2001

D.L. Shipclark
City Clerk

Description	Number of Electors Required to Defeat Proposal (5% of electors City wide)	Number of Objections Received
BC Gas Loan Authorization Bylaw No. 8660 - borrowing of \$49 Million for a 17 year period to prepay rent payable under the terms of the Capital Lease with BC Gas Utility Ltd. for existing natural gas distribution assets within City boundaries.	2769	21

CITY OF KELOWNA

CLERK'S CERTIFICATE OF SUFFICIENCY

(Pursuant to Section 241 of the *Local Government Act*)

I hereby certify that sufficient petitions HAVE NOT been received covering proposed **BC Gas Agreements Authorization Bylaw No. 8661** as detailed on the schedule below.

Dated this 24th day of July, 2001

D.L. Shipclark
City Clerk

Description	Number of Electors Required to Defeat Proposal (5% of electors City wide)	Number of Objections Received
BC Gas Agreements Authorization Bylaw No. 8661 – authorizes agreements between the City of Kelowna and BC Gas Utility Ltd related to the natural gas distribution system and the creation of the “Legacy Fund”. Agreements authorized are Capital Lease, Operating Lease, Additions Option Agreement and Cost Recovery Agreement	2769	21