
CITY OF KELOWNA

MEMORANDUM

Date: November 1, 2004
File No.: 0910-20-156-002/0550-01
To: City Manager
From: Acting City Clerk
Subject: ALTERNATIVE APPROVAL PROCESS – Property Agreement & Lease Joint Bio-solids Composting Facility with the City of Kelowna and the City of Vernon
Report by: Corinne Boback, Legislative Coordinator

RECOMMENDATION:

THAT an alternative approval process opportunity open to all electors within the City of Kelowna be initiated subject to the Report of the Manager of Community Development & Real Estate dated September 15, 2004;

AND THAT 4:00 p.m. Friday, December 17, 2004 be set as the deadline for receipt of elector responses in the form attached to the November 1, 2004 report of the Acting City Clerk in relation to the City entering into a lease for a portion of Lot 1, Plan 23286 and entering into an Option to Purchase and a Right of First Refusal on the same property as well as purchasing a portion of Lot 2, Plan 2402 as per the terms and conditions outlined in the Agreement for Lease and Option to Purchase dated September 13, 2004 attached to the Report of the Manager of Community Development & Real Estate dated September 15, 2004;

AND THAT following the close of the alternative approval process the Acting City Clerk make a determination and certification as to the results of the alternative approval process.

BACKGROUND:

The alternative approval process (previously referred to in the *Local Government Act* as the "Counter-Petition process") is open to all qualified electors in the City, which is estimated to be 76,235, based upon the most recently available census data for Kelowna (2001).

Advertisement for the alternative approval process will be posted on the public notice board at City Hall, will run in the Kelowna Daily Courier on November 10th and November 17th, 2004 and will be posted on the City's website. Approval of the electors will be obtained if the number of elector responses received by the end of the alternative approval process is less than 10% of the number of electors (7, 624).

S.Fleming, Acting City Clerk

cc: Manager of Community Development & Real Estate

**Proposed Joint Bio-solids Composting Facility with the
City of Kelowna and the City of Vernon**

ALTERNATIVE APPROVAL PROCESS ELECTOR RESPONSE FORM

I am **OPPOSED** to the City of Kelowna intends, along with the City of Vernon, to jointly enter into a lease agreement for a *portion of* Lot 1, Plan 23286 with an option to Purchase and a Right of First Refusal on the same leased property. The option is open for 12 years and the Right of First Refusal is open for 20 years. There is a Right of First Refusal over *all of* Lot 1, Plan 23286 (open for 30 years) and an option to purchase a portion of Lot 2, Plan 24201 jointly with the City of Vernon. The lease term is for 12 years with a 10 year option to renew. The City of Kelowna will be responsible for 2/3 of the cost sharing and the City of Vernon will be responsible for the remaining 1/3.

I, the undersigned, hereby certify that:

- I am eighteen years of age or older; and
- I am a Canadian citizen; and
- I have resided in British Columbia for at least six months; and
- I have resided in, OR have been the registered owner of real property in, the City of Kelowna for at least thirty days; and
- I am not disqualified by the *Local Government Act* or any other enactment or otherwise disqualified by law from voting in local elections; and
- I am entitled to sign this alternative approval process elector response form and have not previously signed an alternative approval process elector response form for the proposed Agreement.

(see instructions on reverse)

ELECTOR'S FULL NAME (Print)	RESIDENTIAL ADDRESS (AND mailing address if different from residential)	SIGNATURE OF ELECTOR

You MUST reside or own property within the municipal boundaries of the City of Kelowna in order to sign this alternative approval process elector response form.

ALTERNATIVE APPROVAL PROCESS

Pursuant to section 86 of the *Community Charter*, the Council of the City of Kelowna is proposing to seek the assent of the electors of the City of Kelowna by an alternative approval process. The question before the electors is whether they are **opposed** to the City of Kelowna intends, along with the City of Vernon, to jointly enter into a lease agreement for a *portion* of Lot 1, Plan 23286 with an option to Purchase and a Right of First Refusal on the same leased property. The option is open for 12 years and the Right of First Refusal is open for 20 years. There is a Right of First Refusal over *all* of Lot 1, Plan 23286 (open for 30 years) and an option to purchase a portion of Lot 2, Plan 24201 jointly with the City of Vernon. The lease term is for 12 years with a 10 year option to renew. The City of Kelowna will be responsible for 2/3 of the cost sharing and the City of Vernon will be responsible for the remaining 1/3.

INSTRUCTIONS

- If you are **opposed** to the Agreement outlined above, and you qualify as an elector of the City of Kelowna, you may sign an alternative approval process elector response form
- If you are not opposed to the Agreement outlined above, you need do nothing
- Alternative approval process elector response forms are available at the Office of the City Clerk, 3rd Floor, City Hall, 1435 Water Street, Kelowna, B.C. V1Y 1J4, from 8:00 a.m. to 4:00 p.m. business days, starting on November 10th, 2004
- Accurate copies of the alternative approval process elector response forms may be made and each alternative approval process elector response form, or accurate copy, may be signed by one or more electors
- To sign an alternative approval process elector response form you **MUST** meet the following criteria for either a Resident Elector OR a Non-resident (Property) Elector:

Resident Electors:

- Must be eighteen years of age or older; and
- Must be a Canadian citizen; and
- Must have been a resident of British Columbia for at least six months; and
- Must have been a resident of the City of Kelowna for at least thirty days; and
- Must not be disqualified by the *Local Government Act* or any other enactment from voting in an election or be otherwise disqualified by law.

Non-resident (Property) Electors:

- Must NOT qualify as a Resident Elector of the City of Kelowna; and
- Must be eighteen years of age or older; and
- Must be a Canadian citizen; and
- Must have been a resident of British Columbia for at least six months; and
- Must have been the registered owner of real property in the City of Kelowna for at least thirty days; and
- Must not be disqualified by the *Local Government Act* or any other enactment from voting in an election or be otherwise disqualified by law; and
- May only sign an alternative approval process elector response form once, no matter how many parcels the person might own within the City of Kelowna.

NOTE: A person must not sign any alternative approval process elector response form more than once and may not withdraw his or her name from the alternative approval process elector response form after the deadline for submission of the petitions has passed.

All alternative approval process elector response forms must be received by the City Clerk, 3rd Floor, City Hall, 1435 Water Street, Kelowna, B.C., V1Y 1J4 on or before 4:00 p.m. on Friday, December 17th, 2004.

The number of electors of the City of Kelowna is estimated to be 76,235. If 10% (7,624) of the estimated number of electors of the City of Kelowna sign an alternative approval process elector response form opposing the noted transactions, City Council will not be able to proceed without then receiving the assent of the electors by referendum.