

THE CORPORATION OF THE  
**CITY OF WHITE ROCK**  
CORPORATE REPORT



**DATE:** June 22, 2015  
**TO:** Mayor and Council  
**FROM:** Dan Bottrill, Chief Administrative Officer  
**SUBJECT:** Water Utility – Acquisition Options

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**RECOMMENDATIONS**

THAT Council:

1. Receive for information the corporate report dated June 22, 2015 from the Chief Administrative Officer, titled “Water Utility – Acquisition Options;”
  2. Direct staff to serve notice and initiate expropriation proceedings for the water utility assets of the White Rock water utility currently owned and operated by EPCOR White Rock Water Inc.;
  3. Direct staff to amend the 2015 – 2019 Financial Plan to include revenues as well as capital and operating expenditures associated with the acquisition and ongoing capital and operating costs of the water utility; and
  4. Direct staff to prepare a corporate report to Council with recommendations regarding options to operate the water utility.
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**INTRODUCTION**

The following resolution was made at the Closed Council Meeting held on June 10, 2013:

*“THAT Council authorizes staff, in accordance with the Agreement made September 29, 1922 between the Corporation of the District of Surrey and White Rock Water Works Company Limited, and their successor organizations, to:*

- a) provide notice to EPCOR White Rock Water Inc. of the City's intention to exercise its option to assume ownership of EPCOR's water utility works and all associated licenses and real and personal property in respect of the water utility service which provides water to the City of White Rock, which ownership would enable the City to provide water service to the residents of White Rock;*
- b) commence negotiations with EPCOR to acquire this property; and*
- c) report to and obtain approval from City of White Rock Council before completing the purchase.”*

This decision was released and communicated at the Regular Council meeting held later that same day.

## **ANALYSIS**

### **Background**

Water services and infrastructure in White Rock have always been owned and operated by private operators. The terms and conditions are outlined in three agreements dated September 1922, April 1966, and May 1966. The current operator of the water service is EPCOR White Rock Water Inc. (EPCOR), a subsidiary of EPCOR Utilities.

EPCOR serves the entire City of White Rock as well as certain adjacent properties in the City of Surrey as well as Semiahmoo First Nation. The water supply comes from the Sunnyside Uplands Aquifer with all services being metered.

Due to a contamination issue in 2010, Fraser Health Authority placed operating permit conditions requiring the implementation of permanent chlorination by June 2016. Other operating permit conditions require a further treatment system be put in place should arsenic levels move above Health Canada Guidelines for Canadian Drinking Water Quality or should manganese be deemed a health criteria. In response to the contamination issue, EPCOR implemented their Total Water Quality Management Project (TWQM). TWQM includes chlorination treatment as well capital infrastructure upgrades critical to the water system.

### **Benefits to Ownership by White Rock**

The main benefit to City ownership is that White Rock water utility users will no longer have to pay water rates that include an annual profit to a private operator. The annual profit is based on a return on equity of approximately 10%. Based on EPCOR's 2014 – 2017 rate application to the Comptroller of Water Rights for British Columbia, EPCOR projected this profit to be \$428,000 in 2015 and \$878,000 in 2017.

Other benefits include the fact that the City is able to borrow at interest rates substantially below the private sector and that the City would be eligible for Provincial and Federal infrastructure grants not available to EPCOR.

Once the water utility is acquired, the City would also have control over decisions related to water quality as well as whether or not it wishes to continue to use the aquifer as a water source or to obtain its water supply from Metro Vancouver.

### **Negotiations**

The negotiations with EPCOR have not progressed well in terms of coming to a mutually agreeable acquisition price. It is believed that further negotiations will be lengthy with no guarantee of a successful conclusion.

### **Information Meeting**

Status of negotiations as well as options available regarding the acquisition of the water utility were outlined at a Water Utility Information Meeting held June 16, 2015. Notes from the meeting as well as comment sheets submitted at the meeting are attached in Appendix A and B, respectively.

Attendees at the meeting were generally very supportive of the City pursuing the water utility. Many of the attendees supported expropriation as this was viewed as the most efficient means of acquiring the water utility in a timely manner. Some attendees expressed their desire for the City to obtain their water supply from Metro Vancouver. It was acknowledged that a change in water supply would first require the City to obtain control of the water utility.

## **OPTIONS**

The following options are available for Council's consideration to move towards acquisition of the water utility.

### **1. Continue Negotiations**

As outlined above, this process will most likely be very lengthy with no guarantee of a successful conclusion.

### **2. Exercise Contractual Rights for arbitration in accordance with the 1922 Agreement**

The agreement provides for arbitration if both sides are unable to come to a conclusion regarding the value of the water utility. The advantage of this option is that ultimately the City should be able to expect to acquire the water utility. The disadvantage is that this option is also expected to be very lengthy.

It should be noted that EPCOR has disputed the validity of this agreement. It may be necessary to engage in a legal process in order to substantiate and enforce the terms of the agreement. The fact that the agreement is very old further complicates this option.

### **3. Exercise Statutory Rights and serve notice in accordance with the *Expropriation Act***

As a local government, the City of White Rock has the statutory authority to expropriate assets for a municipal purpose, such as a water utility. The advantage of this option is that the City would acquire the water utility within a short time frame (within 120 days of serving notice). The disadvantage is that the price of the water utility would be unknown at the time of acquisition.

An expropriating authority must pay fair market value for any property taken in expropriation. If the City uses its statutory expropriation powers, it must make an advance payment to the owner following the initial expropriation notice, based on a valuation report obtained by the City. If EPCOR does not accept the City's advance payment, it is entitled to proceed in court to challenge the valuation. The *Expropriation Act* also provides for the payment of interest to the owner for any additional amount which is payable following a court decision. Interest is payable the prime rate unless there is a difference of more than 10% between the advance payment and the final valuation, in which case the interest rate increases to the prime rate + 5%. In addition, the *Expropriation Act* contains provisions for compensating an owner for a portion of its legal and appraisal costs. Accordingly, the risk of expropriation proceedings includes the risk of additional interest and costs awards.

It is recommended that Council pursue Option three (3) to exercise its statutory rights and serve notice in accordance with the *Expropriation Act*. This option provides certainty to acquire the water utility. Further, the acquisition would occur in a timely manner.

The City should be able to expect to pay fair market value for the assets of the water utility. Any legal process with regards to the valuation of the water utility would ultimately result in that determination.

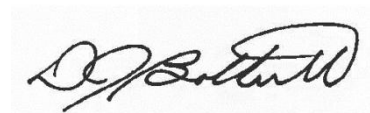
### **BUDGET IMPLICATIONS**

Under *Expropriation Act* procedures, if the parties cannot agree on the value of the expropriated assets, the value is determined in court proceedings. Based on the history of negotiations with them, EPCOR can be expected to take a highly aggressive position on valuation. If the court accepts the valuation approach of EPCOR, the acquisition of the water utility and the capital expenditures associated with the TWQM would be expected to be approximately \$20 million. Annual capital expenditures for the water utility have historically been in the order of \$1.0 - \$1.2 million. Annual operating expenditures (excluding debt servicing costs) are expected to be approximately \$ 2.1 million. Including debt servicing costs associated with the acquisition of the water utility including TWQM, the City expects to be able to charge water rates at the same levels as those projected to be charged to water users by EPCOR.

### **CONCLUSION**

Negotiations with EPCOR to acquire the water utility serving White Rock have proven to be unsuccessful. It is recommended that Council initiate expropriation proceedings for the water utility assets of the White Rock water utility currently owned and operated by EPCOR White Rock Water Inc.

Respectfully submitted,



Dan Bottrill  
Chief Administrative Officer

Appendix A: Public Comment Notes – Water Utility Information Meeting held June 16, 2015

Appendix B: Written Comments – Water Utility Information Meeting held June 16, 2015

**PRESENT:** Mayor Baldwin  
Councillor Chesney  
Councillor Fathers  
Councillor Knight  
Councillor Lawrence  
Councillor Meyer  
Councillor Sinclair

**STAFF:** D. Bottrill, Chief Administrative Officer  
S. Kurylo, Director of Financial Services  
G. St. Louis, Director of Engineering and Municipal Operations  
T. Arthur, City Clerk

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The public meeting was started at 5:35 p.m. by Mayor Baldwin who made opening comments.

The Chief Administrative Officer gave a presentation, outlining the status of negotiations of the potential purchase of the water utility from Epcor, what is involved, prospective plans and next steps.

**Note:** the presentation is available on the City website: [www.whiterockcity.ca](http://www.whiterockcity.ca)

#### Questions / Feedback from the Public

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| <ul style="list-style-type: none"><li>• Is there a range of fair market value for this potential purchase?</li><li>• I believe a municipality should own its water.</li><li>• I believe expropriation is the best option; more funds will be required the longer the City waits to do this. The sooner the better would permit the best price at this time.</li></ul>  |
| <ul style="list-style-type: none"><li>• What is the plan for the land on Oxford Street?<br/>It is currently zoned utility, the development application for this site needs to be put on hold.</li><li>• What will the impact of this purchase be on the property taxes?</li><li>• I am not against expropriation of this utility, but I need to understand what will the impact be on the taxpayer.</li><li>• Not happy in regard that the City would not be purchasing the land on Oxford Street. I think there would be more than one (1) acre needed to be utilized for the operation of water utility.</li><li>• Would we not need more lands around that one (1) to protect the utility / area around the well?<br/>The City should consider this property as part of the water utility purchase.</li></ul> |
| <ul style="list-style-type: none"><li>• I would like this presentation made this evening to be available to the public.</li><li>• What condition is the asset in?</li><li>• How has the asset been maintained?</li><li>• Who oversees the conditions of this asset?</li><li>• Does the province have jurisdiction on this? (ensuring it is up to standards)</li></ul>  |

<ul style="list-style-type: none"><li>• There may be one further option – the City putting in its own infrastructure for this utility and joining Metro.</li><li>• If the City purchased the water utility would the City use a water meter system for payment?</li></ul>
<ul style="list-style-type: none"><li>• Assessment of the infrastructure would not be a disadvantage / a problem; it can be done by engineers and use the history that is available. Not much to negotiate, Epcor's profitability that will be the only difference.</li><li>• The City could offer this service for less; it would reduce the costs of Epcor's overhead. The City could offer this service more efficiently.</li><li>• Oxford lands, the City should take that over as part of the expropriation and the land should be used as parkland. The high value of the Oxford land is only if it is rezoned for development, it could be very cheap to obtain.</li><li>• There is a consideration of costs of the facilities to maintain / efficiency that would have to be expended but not all of it if the City were to connect into Metro's water system.</li><li>• In agreement of the City acquiring the water utility, this should be done as soon as possible using the option of expropriation.</li></ul>
<ul style="list-style-type: none"><li>• We should not be talking about purchasing Epcor, we just need to move forward.</li><li>• What would the cost be to connect to Metro?</li><li>• Most Municipalities belong to Metro.</li><li>• I would prefer, because I am dealing with manganese in my home that the City connects to Metro, we need to move off of the aquifer.</li></ul>
<ul style="list-style-type: none"><li>• Why has the City not connected onto the Metro water supply?</li></ul>
<ul style="list-style-type: none"><li>• White Rock Water Users Group made submissions to the controller three (3) years ago.</li><li>• I encourage the City to acquire this utility and to do so under the expropriation option.</li><li>• How much is the city going to pay for this utility?</li><li>• The needed upgrades: Chlorination / Manganese and Arsenic. If going to cost 22 million to upgrade it, that suggests what there is nothing there, you only have the land the infrastructure it is sitting on.</li><li>• It is a given that the upgrade in regard to arsenic and manganese would need to be done (12 million to do this).</li><li>• Is the City going to operate the water utility itself or contract it out or keep Epcor staff doing this?</li><li>• If Epcor does the management of this asset it won't be cheaper.</li><li>• The City staff does have the expertise to run this asset, it won't be a problem.</li><li>• 10% return on their investment is that of 22 million?</li><li>• I would be in favour of joining Metro (they have spent much in upgrades already).</li><li>• Just get on with the purchase, it is very important to do this and do it now.</li></ul>
<ul style="list-style-type: none"><li>• I support the City purchase of the water utility but only if they were to connect to Metro and do so right away.</li><li>• What would the liability be to the City?</li><li>• The bigger issue to consider is in terms of the water quality.</li><li>• My concern is if you did not connect to Metro right away it will cost substantially more at a later</li></ul>

<p>date.</p> <ul style="list-style-type: none"> <li>The property on Oxford, this is the least expensive land in White Rock, a good opportunity for the City. We need park space if the City was to purchase this this would be ideal. The land will only be expensive if it is rezoned.</li> </ul>
<ul style="list-style-type: none"> <li>I oppose this purchase if the rates for water would be charged in the same way as the City charge's for sewer and drainage. Will the fees be set out by bylaw?                  Sewer and drainage is not being charged by user pay. If the water was done by bylaw the user pay can't work or won't be available.                  The City needs to figure out a way to reasonably charge the residents for sewer and drainage that is fair.</li> <li>The last thing the City needs is parks; we have a beach to use and spend time at.</li> </ul>
<ul style="list-style-type: none"> <li>Did Epcor go to the comptroller and was it found that the maintenance was not being done correctly and now it has to be maintained? Is this how the required upgrades occurred?</li> <li>Is it correct that maintenance on the asset has not been done throughout the years?</li> <li>Is Epcor owned by the City of Edmonton?</li> <li>The profit Epcor makes does that go to the City of Edmonton?</li> <li>Isn't it better, if there is a way to run the utility efficiently, that the City of White Rock owns it, rather than help Edmonton with their tax base?</li> <li>I believe that the City should use the right they have to acquire the utility and I am in favour of this.</li> <li>Let's get on with it. We should own this utility.</li> </ul>
<ul style="list-style-type: none"> <li>The expropriation option makes sense as we would obtain the utility quickly if we use this option.</li> <li>If the City borrows the funds for this purchase, does the payable interest rate fluctuate?</li> <li>Would the City be able to get infrastructure grants that a private company cannot?</li> <li>We must own the utility in order to explore or take on the option to connect to Metro.</li> </ul>
<ul style="list-style-type: none"> <li>I speak today as a friend of Epcor, I understand what they are doing.</li> <li>They offer good service, when the boil water occurred in 2010 they were addressing it right away.</li> <li>I don't want just the negative to come out about this company.                  I am happy with the cost and quality of the water as it is. I am happy to keep utilizing Epcor.</li> </ul>
<ul style="list-style-type: none"> <li>The water through my life here in White Rock is the best in the Lower Mainland.</li> <li>If the City acquires this utility, is the City going to contract it out running it? This bothers me if this is the plan or what would occur.</li> <li>If the City does purchase the utility, I would prefer the City run it and the work not be contracted out.</li> </ul>
<ul style="list-style-type: none"> <li>If the City were to purchase the utility, how long would it take to pay off the debt?</li> </ul>
<ul style="list-style-type: none"> <li>Does the system have the capacity to deal with approx. 10,000 additional persons in future that will be added to the Community (extra growth projections)?</li> <li>Are there funds there to do the work and upgrade infrastructure to handle that additional</li> </ul>

<p>capacity?</p> <ul style="list-style-type: none"><li>• The water source itself, what is the longevity of it?</li></ul>
<ul style="list-style-type: none"><li>• What did Epcor purchase the utility for in 2005?</li><li>• Was there thought given to use the City's surplus rather borrow to purchase this utility?</li><li>• Is there anything else (lands/properties) other than the land at Oxford that the City does not plan to acquire as part of this acquisition?</li><li>• I would support expropriation, however the terms are important to know and knowing the costs to connect to Metro would be very important.</li></ul>
<ul style="list-style-type: none"><li>• I encourage mediation as the tool to move toward a resolution on this matter. There are many advantages to doing this and it can be swift and be in the best interest for both parties.</li></ul>
<ul style="list-style-type: none"><li>• What are the rates the City pays for hydrants? When the City owns the waterworks it will not have to pay that money out, this will be an automatic cost savings. This is just one item in the structure of Epcor that could be to the City's advantage.</li></ul>
<ul style="list-style-type: none"><li>• 2010 water problem a maintenance problem on behalf of Epcor?</li><li>• Why are we going to finance it? Future users will pay for it so this is a good idea.</li><li>• White Rock Utilities were a first class organization.</li></ul>

Mayor Baldwin made some closing remarks.

At 7:25 p.m. it was noted that Council and staff would remain for approximately 20 – 30 minutes, the public were welcome to stay and have further discussions if they wished to do so.

It was also noted that there were feedback forms available at the session for anyone wanting to submit their comments / concerns using that option.



# Feedback

Kindly advise the public WHY  
meetings are held when  
commuters can not  
attend?

# Feedback

5:30 to 7:30 is an inconvenient time, not conducive to generating maximum resident participation. Most people are eating dinner!

Presentation was clear. More research seems to be required regarding joining the Metro's Van system. Let's get on with expropriation. No contracting out!

# Feedback

Mayor Baldwin  
Council :

Having listened to this evening's presentation  
I think it is important that White Rock  
own the Water Utility and we should  
use expropriation to move forward now!  
I do not support rezoning of the land  
on Oxford for High Rises. I understand this  
is a separate issue. Thank you

Robert Collier

14852 Beachview Ave

White Rock, B.C. V4R 1W7

June 16th 2015

**WHITE ROCK**  
City by the Sea!

# Feedback

Kindly proceed with the acquisition  
and do NOT upzone the  
Oxford land.

Keep the asset - could  
partner with Prov/Fed/NGO  
& build low scale  
social housing/institutional  
facility - thanks

Water Infrastructure

# Feedback

Good Job - Thanks for listening. MLC

Am in favour of proceeding with Notice of Expropriation which may bring Epcor to the table. Determination of Fair Market Value is onerous. Asset value can be undertaken by consultant with ground penetrating radar and determination of condition. I don't think the City should operate, but contract, thereby sharing operational liabilities. All "utility" lands should be included, and lands remain deemed as "utility". City could put in place an Operational Maintenance and Capital Plan to keep/bring the infrastructure to standard. Having dealt with Epcor previously. I wish the City Administration well!!!

**WHITE ROCK**  
City by the Sea!

# Feedback

Patsy Kealy  
932 Maple St

Support expropriation  
ASAP!!

# Feedback

Great to see the city moving in the direction of acquiring the water utility. Get on with expropriation!

Concerns about joining the Van. water system - increasingly low snow pack may result in less  $H_2O$  available in the future?? Maybe we should stay with our aquifers but we MUST treat for arsenic and manganese.

K. Brooks  
White Rock