

Regular MeetingFebruary 22, 1999

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Monday, February 22, 1999.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, R.D. Cannan\*, C.B. Day, J.D. Leask, J.D. Nelson and S.A. Shepherd.

Council members absent: Councillors M.I. Bremner and R.D. Hobson.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi\*; Current Planning Manager, F.B. Pritchard\*; Subdivision Approving Officer, R.G. Shaughnessy\*; Inspection Services Manager, K. Skinner\*; Civic Properties Manager, H.R. Hyatt\*; Roadways Engineer, M. Duggan\*; Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 1:30 p.m.

2. Councillor Cannan was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Peter Chataway, President of the Central Okanagan Heritage Society re: Announcement of the Society's 1998 Heritage Awards

Mr. Peter Chataway advised that the Province's budget for heritage community projects has been increased by \$0.5 million and the Society is hopeful that Kelowna will be awarded some of those funds in order for the Benvoulin Church upgrade and the Brent's Mill project to proceed this year.

Ms. Lorraine McLarty announced the winners of the 1998 Heritage Awards in the following categories: distinguished community service; restoration of a heritage building in non-residential use; restoration of a building in residential use; continued preservation of a building; preservation of a neighbourhood or area.

The Director of Planning & Development Services entered the Council Chamber at 1:40 p.m.

4. PLANNING

4.1 Planning & Development Services Department, dated February 17, 1999 re: Rezoning Application No. Z98-1047 – Ken Stocks & Randy Scott – 55 Caramillo Road (3360-20)

Councillor Cannan declared a conflict of interest because a family member owns an adjacent property and left the Council Chamber at 1:40 p.m.

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The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and presented the report for Council. The rezoning would facilitate a 2-lot single family residential subdivision of the property. The Advisory Planning Commission recommends support of the application, as do staff.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

**R120/99/02/22** THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 43, Sec. 32, Twp. 26, O.D.Y.D., Plan 21321, located on Caramillo Road, Kelowna, B.C., from the RR3 – Rural Residential 3 zone to the RU1 – Large Lot Housing zone;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

Carried

4.2 Planning & Development Services Department, dated February 15, 1999 re: Rezoning Application No. Z98-1020 – Clark Smith (John Arthur/J.E. Arthur & Associates) – 2730 Arthur Road (3360-20)

The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and presented the report for Council. The rezoning would accommodate a 2-lot rural residential subdivision.

Councillor Cannan returned to the Council Chamber at 1:44 p.m. and took his place at the Council Table.

The Subdivision Approving Officer advised that because this application was received prior to Council's adoption of the Subdivision, Development & Servicing Bylaw, the application is not subject to the bylaw's requirement for connection to a community sewer system. The Public Health Officer advises the 2 lots meet the Health Act requirements for on-site sewage disposal. The Advisory Planning Commission recommends support of the application, as do staff.

Moved by Councillor Leask/Seconded by Councillor Cannan

**R121/99/02/22** THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Sec. 20, Twp. 23, O.D.Y.D., Plan 42230, located on Arthur Road, Kelowna, B.C., from the RR2 – Rural Residential 2 zone to the RR3 – Rural Residential 3 zone;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

Carried

The Subdivision Approving Officer left the Council Chamber at 1:55 p.m.

4.3 Planning & Development Services Department, dated February 11, 1999 re: Development Permit Application No. DP99-10,005 – Peter Schultz/Schultzco Holdings Ltd. – 353 Bernard Avenue (3060-20)

Dealt with after agenda item No. 5.3.

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- 4.4 Planning & Development Services Department, dated January 27, 1999 re: Development Permit Application No. DP98-10,091 – Allen Tozer/Ashley Equities Ltd. (Steve Hale/Sepra Projects) – 940, 960, 990 & 1030 McCurdy Road (3060-20)

Mayor Gray noted agenda item No. 4.5 is part of the same development and suggested the two applications be presented concurrently.

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the reports for Council. Both applications form part of the commercial campus under development on the site. The first application proposes to renovate the existing Boardwalk building into a 30 lane bowling centre and brew pub. The application next on the agenda is for construction of a 72-seat White Spot restaurant along Highway 97.

Responding to questions of Council, the Current Planning Manager confirmed that the proposed White Spot restaurant is contrary to what was initially presented to Council for development of the site. The initial plans indicated three large development pods along the highway; the current plans now indicate smaller buildings along the highway. An Engineering firm is working with the applicant to resolve misunderstandings concerning the interpretation of some of the clauses in the Voluntary Gifting Agreement that was required with the original application. The Liquor Licensing Branch have not yet indicated how many seats they will approve for the brew pub; initial plans contemplated 250 seats and the current plans now show 125 seats. There would be sufficient on-site parking for the brew pub whether it is approved for 125 or 250 seats.

Moved by Councillor Nelson/Seconded by Councillor Leask

**R122/99/02/22** THAT Municipal Council authorize the issuance of Development Permit No. 98-10,091; for Lot 4, Sec. 27, Twp. 26, O.D.Y.D., Plan 1879, except Plans A12969 and H8110, Lot A, D.L. 143, O.D.Y.D., Plan 16391, East Half Lot 61, D.L. 143, O.D.Y.D., Plan 426, Except: (1) Portion shown outlined red on Plan A12969 Now Road See DF M50582 (2) Plan 16391, and West Half Lot 61, D.L. 143, O.D.Y.D., Plan 426, Except Plans A12969 and H8110, located on McCurdy Road, Kelowna, B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. East Half Lot 61, D.L. 143, O.D.Y.D., Plan 426, Except: (1) Portion shown outlined red on Plan A12969 Now Road See DF M50582 (2) Plan 16391, and Lot A, D.L. 143, O.D.Y.D., Plan 16391 be consolidated into one legal lot;
4. The applicant be required to address the outstanding requirements with respect to the future Rutland Sanitary Sewer Specified Area No. 21, as identified by the Works & Utilities Department prior to the issuance of a building permit for development subject to this permit;

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

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- 4.5 Planning & Development Services Department, dated February 17, 1999 re: Development Permit Application No. DP99-10,002 - Allen Tozer/Ashley Equities Ltd. (Steve Hale/Sepra Projects) – 940, 960, 990 & 1030 McCurdy Road (3060-20)

See discussion under 4.4.

Moved by Councillor Nelson/Seconded by Councillor Leask

**R123/99/02/22** THAT Municipal Council authorize the issuance of Development Permit No. 99-10,002; for Lot 4, Sec. 27, Twp. 26, O.D.Y.D., Plan 1879, except Plans A12969 and H8110, Lot A, D.L. 143, O.D.Y.D., Plan 16391, East Half Lot 61, D.L. 143, O.D.Y.D., Plan 426, Except: (1) Portion shown outlined in red on Plan A12969 Now Road See DF M50582, (2) Plan 16391, and West Half Lot 61, D.L. 143, O.D.Y.D., Plan 426, Except Plans A12969 and H8110, located on McCurdy Road, Kelowna, B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping within Development Permit Area as shown by the red coloured dashed line shall be provided in general accordance with Schedule "C";
4. The applicant be required to address the outstanding requirements with respect to the future Rutland Sanitary Sewer Specified Area No. 21, as identified by the Works & Utilities Department prior to the issuance of a building permit for development subject to this permit;

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

- 4.6 Planning & Development Services Department, dated February 11, 1999 re: Extension of Approval for Issuance – DP96-10,098 and DVP97-10,024 – Gerry Desjarlais/Odyssey Enterprises – 1540 K.L.O. Road (3060-20; 3090-20)

The Current Planning Manager indicated the property on a map displayed on the overhead projector and outlined the report for Council. The applicant is proposing to construct a 4-storey, 86-unit seniors apartment housing complex and is requesting the additional time in order to meet landscape bonding requirements.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

**R124/99/02/22** THAT Municipal Council authorize the extension of the 180 day period of issuance of Development Permit DP96-10,098, and Development Variance Permit DVP97-10,024 for Lot 1, D.L. 131, O.D.Y.D., Plan KAP62685, for a period of 60 days.

Carried

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- 4.7 Planning & Development Services Department, dated February 11, 1999 re: Extension of Period of Issuance – DP97-10,074 and DVP97-10,075 – McTavish Holdings Ltd. (Lynn Welder Consulting) – 518 Osprey Avenue (3060-20; 3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and briefly outlined the report for Council. The applications permit the development of a commercial building with 3 units that would front onto Pandosy Street. The applicant is not yet ready to proceed.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

**R125/99/02/22** THAT Municipal Council authorize the extension of the one year period of issuance of Development Permit DP97-10,074 and Development Variance Permit DVP97-10,075, for Lot 18, D.L. 14, O.D.Y.D., Plan 3769, located on Osprey Avenue, Kelowna, B.C., for a further one year period, to lapse April 24, 2000.

Carried

The Inspection Services Manager and the Roadways Engineer entered the Council Chamber and the Current Planning Manager left at 2:18 p.m.

## 5. REPORTS

- 5.1 Transportation Manager, dated February 16, 1999 re: Tender 1999 Asphalt Overlay Program (Urban Area) (5400-10)

The Roadways Engineer presented the report recommending acceptance of the low bid and assured Council that staff will do due diligence with each aspect of the project to ensure satisfactory performance by the contractor.

Moved by Councillor Blanleil/Seconded by Councillor Day

**R126/99/02/22** THAT the tender for the 1999 Asphalt Overlay Program (Urban Area), be awarded to the low bidder, Peter's Bros. Construction Ltd., in the amount of Eight Hundred Twenty-three Thousand, One Hundred Five Dollars and Seventy-nine Cents (\$823,105.79) including GST.

Carried

The Director of Planning & Development Services returned to the Council Chamber with the Civic Properties Manager, and the Roadways Engineer left the Chamber at 2:29 p.m.

- 5.2 Inspection Services Manager, dated February 10, 1999 re: Homeowner Protection Act (0130-20)

The Inspection Services Manager presented the report for Council noting the main concern is the potential for abuse of the owner-builder exemption from the licensing and warranty requirements and associated costs. Additional costs for the City to comply with the Act are unknown at this time but are anticipated to be minimal. The City will have to determine if in fact there will be a duplication in services once the Homeowner Protection Office has been in operation for awhile. However, guidelines provided by the Province indicate the present plan review process and site inspections carried out by the municipality are to be continued.

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The Inspection Services Manager responded to questions of Council clarifying that none of the licensing fees collected by the Homeowner Protection Office would come to the City, confirming that single family units built in the City of Kelowna would be exempt from contributing to the Reconstruction Fund, and agreeing that ideally owner-builders should have to wait longer than 18 months before they can obtain another building permit.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

**R127/99/02/22** THAT the report dated February 10, 1999 from the Inspection Services Manager regarding the Homeowner Protection Act be received for the information of Council.

Carried

The Current Planning Manager returned to the Council Chamber and the Inspection Services Manager left at 2:40 p.m.

5.3 Civic Properties Manager, dated February 16, 1999 re: Proposed Okanagan Military Museum (7930-20)

The Civic Properties Manager presented the report advising that Council's approval in principle would allow the Okanagan Military Museum Society to make applications for securing possible ongoing funding as a qualifying military museum. The proposed interim use in the Memorial Arena would be for about a 5-10 year term.

Moved by Councillor Shepherd/Seconded by Councillor Leask

**R128/99/02/22** THAT Council hear from representatives of the Okanagan Military Museum Society.

Carried

Mr. Bob Hadgraft, president of the society, and Mr. Jack Dangerfield, building committee chairman, responded to questions of Council regarding the elevator and potential grants.

Moved by Councillor Shepherd/Seconded by Councillor Leask

**R129/99/02/22** THAT City Council approve in principle the establishment on an interim basis of the Okanagan Military Museum on the second floor of the Centennial Hall addition of Memorial Arena, subject to preparation and acceptance of:

- 'Schematic' Building Plan (to be prepared by Civic Properties Division)
- Capital Funding Strategy
- Detailed Business Plan;

AND THAT the City share 50/50 with the Okanagan Military Museum Society (OMMS) the cost (project total not to exceed \$5,000) of the necessary design study;

AND FURTHER THAT the funding be provided from Council Contingency.

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The Civic Properties Manager left the Council Chamber at 3:04 p.m.

Mayor Gray advised that agenda item No. 4.3 would be dealt with next.

- 4.3 Planning & Development Services Department, dated February 11, 1999 re: Development Permit Application No. DP99-10,005 – Peter Schultz/Schultzco Holdings Ltd. – 353 Bernard Avenue (3060-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and briefly outlined the report for Council. The applicant proposes to enclose the outdoor patio seating area in front of the Kitchen Cowboy restaurant to provide an additional 12-14 seats. No additional parking would be required with this application.

Moved by Councillor Nelson/Seconded by Councillor Cannan

**R130/99/02/22** THAT Municipal Council authorize the issuance of Development Permit No. DP99-10,005; for Lot 9, Blk. 14, D.L. 139, O.D.Y.D., Plan 462, Except the East 15 Feet Thereof, located on Bernard Avenue, Kelowna, B.C., subject to the following:

1. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "A".

Carried

The Director of Planning & Development Services and the Current Planning Manager left the Council Chamber at 3:10 -m.

## 6. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

### **(BYLAW PRESENTED FOR ADOPTION)**

#### 6.1 Bylaw No. 8318 – Wild or Exotic Animal Prohibition Bylaw

The City Manager noted that adoption of the bylaw was deferred when City staff became aware that, in addition to the Shriners, the Multi-Purpose facility would also be affected by this bylaw. After reviewing the agreements with RG Arenas, staff recommend the bylaw be further amended to exempt the multi-purpose facility from the provisions of the bylaw until 2002. The City Manager advised that RG is aware the Shriners will not be bringing in animal acts after this year and suggested that RG would likely do likewise if attendance at their circus is poor.

The City Clerk explained how the bylaw would be amended to recognize the two existing contracts for upcoming circuses in Kelowna and advised that the amended bylaw would be scheduled to the March 1, 1999 agenda for adoption by Council.

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**R131/99/02/22** THAT second and third readings given Bylaw No. 8318 (Wild or Exotic Animal Prohibition Bylaw) under Resolution No. R42/99/01/18 adopted on January 18, 1999 be rescinded and the bylaw amended as follows:

- by deleting the last sentence from Section 5;
- by adding the following section:  
 "6. This bylaw does not apply to any person who has a signed contract as of the date of adoption of this bylaw to operate or carry on a circus, public show, exhibition, carnival or performance in the Multi-Purpose Facility at 1223 Water Street, on property legally described as Airspace Parcel A, D.L. 139, O.D.Y.D., Airspace Plan KAP60701, up to August 31, 2002. No exemptions to this bylaw are permitted after August 31, 2002."; and
- renumbering subsequent sections.

Carried

Councillor Cannan opposed.

Moved by Councillor Blanleil/Seconded by Councillor Day

**R132/99/02/22** THAT Bylaw No. 8318, as amended, be read a second and third time.

Carried

Councillor Cannan opposed.

7. COUNCILLOR ITEMS – Nil.8. TERMINATION

The meeting was declared terminated at 3:25 p.m.

Certified Correct:\_\_\_\_\_  
Mayor\_\_\_\_\_  
City Clerk

BLH/bn