

Regular MeetingSeptember 7, 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 Tuesday, September 7, 1999.

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

Council members absent: Councillor J.D. Nelson.

Staff members in attendance were: City Manager, R.A. Born; Acting-City Clerk, G.D. Matthews; Long Range Planning Manager, L.V. Foster*; Special Projects Planning Manager, H.M. Christy*; Subdivision Approving Officer, R.G. Shaughnessy*; Current Planning Manager, A.V. Bruce*; Traffic Engineer, Ken Gauthier*; Director of Finance & Corporate Services, C.P. Kraft*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 9:28 p.m.

2. PRAYER

The meeting was opened with a prayer offered by Councillor Leask.

3. CONFIRMATION OF MINUTES

3.1 Regular Meeting, August 23, 1999

Moved by Councillor Blanleil/Seconded by Councillor Bremner

R750/99/09/07 THAT the minutes of the Regular Meeting of August 23, 1999 be confirmed as circulated.

Carried

3.2 Public Hearing, August 24, 1999

Moved by Councillor Shepherd/Seconded by Councillor Day

R751/99/09/07 THAT the minutes of the Public Hearing of August 24, 1999 be confirmed as circulated.

Carried

3.3 Regular Meeting, August 24, 1999

Moved by Councillor Shepherd/Seconded by Councillor Day

R752/99/09/07 THAT the minutes of the Regular Meeting of August 24, 1999 be confirmed as circulated.

Carried

4. Councillor Leask was requested to check the minutes of this meeting.

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- 5.1 Bylaw No. 8457 – City of Kelowna Official Community Plan Amendment No. OCP98-010 - Southwest Mission Neighbourhood Two Area Structure Plan (ASP95-002) **requires majority of full Council (5)**

Councillor Day asked if he was in a conflict of interest and should refrain from voting on these bylaws because the staging of road improvements for Toovey Road was mentioned at the public hearing and as a developer in that area it could be interpreted that there was some kind of concession as far as his property was concerned. The City Manager ruled that Councillor Day was not in a conflict because his lands are far removed from the Neighbourhood 2 lands.

Moved by Councillor Bremner/Seconded by Councillor Cannan

R753/99/09/07 THAT Bylaw No. 8457 be read a second and third time.

Carried

- 5.2 Bylaw No. 8458 (Z98-1021) – 379736 B.C. Ltd., R265 Enterprises Ltd., Emil Anderson Construction Co. Ltd., Gilmar Management, and Gillen Investments (Grant Gaucher) – 5150 & 5120 Frost Road

Moved by Councillor Shepherd/Seconded by Councillor Leask

R754/99/09/07 THAT further reading consideration of Bylaw No. 8458 (Z98-1021 - Grant Gaucher for Emil Anderson Construction Co. Ltd., et al - 5150 & 5120 Frost Road) be deferred for staff to meet with the developer to determine whether the ultimate upgrade of Frost Road could be achieved at zero lots and consider options for an alternate access to the proposed subdivision.

Carried

Councillors Blanleil and Bremner opposed.

- 5.3 Bylaw No. 8459 (Z98-1029) – Pendulum Enterprises Ltd. (New Town Planning Services) – 5065 Frost Road

Moved by Councillor Shepherd/Seconded by Councillor Leask

R755/99/09/07 THAT further reading consideration of Bylaw No. 8459 (Z98-1029 – New Town Planning Services for Pendulum Enterprises Ltd. – 5065 Frost Road) be deferred for staff to meet with the developer to determine whether the ultimate upgrade of Frost Road could be achieved at zero lots and consider options for an alternate access to the proposed subdivision.

Carried

Councillors Blanleil and Bremner opposed.

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- 5.4 Bylaw No. 8460 (Z98-1032) – Hilltop Sand & Gravel Co. Ltd. (New Town Planning Services) – 5065 Frost Road and 611 & 625 Barnaby Road

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R756/99/09/07 THAT further readings of Bylaw No. 8460 (Z98-1032 – New Town Planning Services for Hilltop Sand & Gravel Co. Ltd. – 5065 Frost Road and 611 & 625 Barnaby Road) be deferred for staff to reconsider which of the three road corridor options would be pursued for providing future access to Neighbourhood Two in the Southwest Mission area.

Carried

Councillors Blanleil and Bremner opposed.

6. PLANNING

- 6.1 Planning & Development Services Department, dated August 23, 1999 re: Development Variance Permit Application No. DVP99-10,050 – Mohammad & Maryse Rajabally – 940 Bartholomew Court (3090-20)

The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and reviewed the report for Council. He advised that the Advisory Planning Commission does not recommend in support of this application and nor do staff as the proposed subdivision does not conform to the character of the neighbourhood. An application for preliminary subdivision layout review to subdivide the subject property was not given favourable consideration by the Approving Officer because the deposit of the plan of the subdivision was considered to be against the public interest.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the requested variances to come forward.

Wendy Farrell, Lot 2, Bartholomew Court, advised her property is immediately adjacent and so would be affected the most. She read the letter that she had submitted stating opposition to the proposed subdivision because of concerns about changing the character of the neighbourhood, loss of privacy and decreased land values. Her letter also pointed out that in 1994 a different 2-lot subdivision proposal was also opposed by the neighbourhood, Dr. Rajabally included. Ms. Farrell read a letter which she submitted from her neighbours, Dr. & Mrs. Roland Stickle, 960 Bartholomew Court, also asking that the approval be denied for similar reasons.

The Subdivision Approving Officer showed the support and opposition indicated in the petition plotted on a map noting two properties signed both for and against.

In response to questioning by Council, Mrs. Farrell confirmed that her son is a partner with the Appraisers who provided the opinion that property values would decrease. She explained that she obtained the appraisal from that firm because of the lack of time to get the information together on time for the Advisory Planning Commission meeting dealing with the subject DVP application.

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Anthony McCarthy, 945 Bartholomew Court, advised his property is across the street and that he is opposed to the subject application because the lot sizes would not be in keeping with the original neighbourhood plan. He further advised that he and his wife also registered their objection when this application was considered by the Advisory Planning Commission.

Mohammad Rajabally spoke in support of his application, showing photos of the view from his lot and advising that he had been told by two consultants that the proposed subdivision would not affect the neighbourhood before he proceeded with this application. Also before making the application for subdivision, he had talked to his neighbours and they had signed a petition of support saying they would like to see the corner developed. According to Mr. Rajabally, only Lots 1 and 3 in the neighbourhood are subdividable; two other lots with potential for subdivision cannot because of a covenant. The proposed subdivision that he and the others opposed 4 years ago would have created more than one lot. Dr. Rajabally advised that he would live in the new house because the existing house is too big now that his children are gone. He asked that Council make their decision based on facts not emotions.

The Subdivision Approving Officer clarified that he has formally refused the subdivision but was asked by the applicant to reconsider his decision. The applicant has been advised that if Council was to give favourable consideration to the development variance permit application, together with favourable public input the Approving Officer **may** reconsider his decision regarding the subdivision application.

Moved by Councillor Leask/Seconded by Councillor Bremner

R757/99/09/07 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,050; Mohammad Rajabally; Lot 1, Sec. 31, Twp. 29, O.D.Y.D., Plan 41690, located at 940 Bartholomew Court, Kelowna, B.C.;

AND THAT the variance to the following sections of Zoning Bylaw No. 8000 be granted:

1. Section 13.1.4(b) RU1 – Large Lot Housing zone – minimum lot depth requirement be varied from 30 m to 28.03 m for proposed Lot A;
2. Section 13.1.5(d) RU1 – Large Lot Housing zone – minimum side yard setback be varied from 2 m to 1.93 m for the existing residence on proposed Lot B.

DEFEATED

Mayor Gray and Councillors Blanleil, Day, Hobson and Shepherd opposed.

The Current Planning Manager entered the Council Chamber and the Subdivision Approving Officer left at 10:45 p.m.

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- 6.2 Planning & Development Services Department, dated September 1, 1999, re: Rezoning Application No. Z99-1047 & City of Kelowna Official Community Amendment No. OCP99-017 – Sylvia & James McCormack and Richard & Lorna Highfield (Porter Ramsay) – 625 & 665A Ford Road (3360-20)

Councillor Hobson advised that he is a director of the Regional Health Board that approved the contract for this facility and therefore was in a conflict of interest and left the Council Chamber at 10:45 p.m.

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The applicant is seeking rezoning of two lots not previously included in an application that is currently at third reading for a seniors housing development. The proposed development includes independent living units, assisted living units, and licensed full time care. The additional two lots would allow additional parking for the project.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R758/99/09/07 THAT Map 15.1 – *General Future Land Use* of Schedule “A” of the Kelowna Official Community Plan (1994 – 2013) Bylaw No. 7600 be amended by changing the Future Land Use designation of; Lot 8 and Lot 9, Sec. 26, Twp. 26, O.D.Y.D., Plan 9958, located on Ford Road, from Single/ Two Family Residential to Multiple Family Residential – Low Density Transitional as shown on Map “A”;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 8 and Lot 9, Sec. 26, Twp. 26, O.D.Y.D., Plan 9958, located on Ford Road, Kelowna, B.C., from the RU6 – Two Dwelling Housing and RU1 – Large Lot Housing zones to the RM4 – Transitional Low Density Housing zone;

AND THAT the Official Community Plan and zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit and Development Variance Permit on the subject property;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the issuance of Preliminary Layout Review Letter by the Approving Officer;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction;

AND FURTHER THAT final adoption of the zone amending bylaw be withheld until the owner has executed a Servicing Agreement acceptable to the City of Kelowna.

Carried

Councillor Hobson returned to the Council Chamber at 10:50 p.m.

The Current Planning Manager left the Council Chamber at 10:51 p.m.

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- 6.3 Planning & Development Services Department, dated September 2, 1999, re: Rezoning Application No. Z99-1028, ASP97-003; OCP99-011 – Cambridge Shopping Centres Limited (IBI Group/ Marshall Hundert) – Central Park Golf Course/Highway 97 (3360-20)

The Special Projects Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The subject application would designate the land north of the railroad as a special study area because the alignment of the future North End Connector is not yet finalized. If there would be a residential component to the application, the intent would be for it to be in the special study area with access off Dilworth Drive. Banks Road and Enterprise Way would be extended as part of this application. Phase one would be for commercial development; service commercial and business or light industrial development are also proposed in future phases. The first phase of development would include the appropriate Mill Creek setbacks, the linear pathway dedications and the storm water detention pond that would serve the entire Area Structure Plan area. The road network would be completed as each phase develops.

Council noted issues of concern that they would like addressed before further consideration of this application.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R759/99/09/07 THAT further consideration of Rezoning Application No. Z98-1028 (IBI Group for Cambridge Shopping Centres Ltd. – Central Park Golf Course – Highway 97 North) be deferred for 2 weeks for staff to meet with the developer to discuss Council's concerns regarding access to and future residential development of the 'special study area' lands and the absence of commitment to develop the Mission/Mill Creek pedestrian connection over the subject lands and incorporate residential uses south of the CNR railway as envisaged at the design charrette for the Highway 97 Town Centre or acknowledge the Advisory Planning Commission's recommendation for no net loss of trees.

Carried

The Director of Finance & Corporate Services entered the Council Chamber and the Traffic Engineer left at 11:30 p.m.

- 6.4 **(BYLAW PRESENTED FOR AMENDMENT AT FIRST READING AND FOR SECOND AND THIRD READINGS AS AMENDED)**

Bylaw No. 8353 (Z98-1006) - Gallaghers Canyon Land Developments Ltd. (CRC Developments Ltd.) - Field Road, and ASP98-001, and Kelowna Official Community Plan Amendment No. OCP98-001 requires majority vote of full Council (5)

The Special Projects Planning Manager presented the supplemental report noting that second and third reading consideration had been deferred for staff to resolve concerns raised at the public hearing. Since then, there have been a number of meetings of the residents, developer and staff and the concerns have been resolved to both the developer and residents' satisfaction. They have entered into an agreement and the amendments being recommended by staff are based on that agreement.

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Moved by Councillor Cannan/Seconded by Councillor Blanleil

R760/99/09/07 THAT Bylaw No. 8353 be amended at First Reading as outlined in the Planning & Development Services Department report dated August 31, 1999.

Carried

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R761/99/09/07 THAT Bylaw No. 8353, as amended, be read a second and third time.

Carried

The Long Range Planning Manager and the Special Projects Planning Manager left the Council Chamber at 11:35 p.m.

EXTENSION OF MEETING

Moved by Councillor Bremner/Seconded by Councillor Cannan

R762/99/09/07 THAT the Rules of Procedure be suspended and the meeting be continued beyond 11:00 p.m.

Carried

7. REPORTS

7.1 Director of Finance and Corporate Services, dated September 1, 1999 re: Tax Exemption Bylaw No 8461– Multi-Purpose Facility - Air Space Parcel A, D.L. 139, O.D.Y.D., Air Space Parcel Plan KAP60701 (B/L 8461)

The Director of Finance & Corporate Services presented the report for Council.

Moved by Councillor Day/Seconded by Councillor Blanleil

R763/99/09/07 THAT Tax Exemption Bylaw No. 8461 be forwarded for reading consideration by Council;

AND THAT October 12, 1999 be set as the deadline for receipt of Counter Petitions by the City Clerk in relation to Bylaw No. 8461.

Carried

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- 8.1 Draft Resolution re: Travel Authorization – Community Restorative Justice Crime Prevention Conference (1790-20)

The Acting-City Clerk read the resolution for the information of Council and the viewing audience.

Moved by Councillor Bremner/Seconded by Councillor Cannan

R764/99/09/07 THAT Councillor Shepherd be authorized to travel to attend the Community Restorative Justice Crime Prevention Conference scheduled for October 22 to 24, 1999 in Sicamous, B.C., with expenses paid in accordance with Council Remuneration and Expense Bylaw No. 7547, using funds from Account No. 351-10-015-0-001.

Carried

9. BYLAWS**BYLAWS PRESENTED FOR FIRST READING)**

- 9.1 Bylaw No. 8464 (Z99-1040) – Austin Beese (Emil Anderson Construction Ltd./ Mike Jacobs) – 3579 Water Road

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

R765/99/09/07 THAT Bylaw No. 8464 be read a first time.

Carried

- 9.2 Bylaw No. 8465 (Z99-1044) – John (Ian) & Margaret Donn – 595 White Road

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

R766/99/09/07 THAT Bylaw No. 8465 be read a first time.

Carried

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 9.3 Bylaw No. 8461 – Tax Exemption Bylaw – Multi-Purpose Facility

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R767/99/09/07 THAT Bylaw No. 8461 be read a first, second and third time.

Carried

The Director of Finance & Corporate Services left the Council Chamber at 11:40 p.m.

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- 9.4 Bylaw No. 8463 – Amendment No. 3 to City of Kelowna Electricity Regulation Bylaw No. 7639

Moved by Councillor Day/Seconded by Councillor Shepherd

R768/99/09/07 THAT Bylaw No. 8463 be read a first, second and third time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 9.5 Bylaw No. 8298 – Road Exchange Bylaw – a Portion of Petch Road

Moved by Councillor Blanleil/Seconded by Councillor Day

R769/99/09/07 THAT Bylaw No. 8298 be adopted.

Carried

- 9.6 Bylaw No. 8393 – Road Exchange Bylaw – a Portion of the Lane at the North End of Saucier Avenue

Moved by Councillor Day/Seconded by Councillor Shepherd

R770/99/09/07 THAT Bylaw No. 8393 be adopted.

Carried

10. REMINDERS – Nil.

11. TERMINATION

The meeting was declared terminated at 11:48 p.m.

Certified Correct:

Mayor

BLH/bn

Acting-City Clerk