

Regular Meeting – P.M.June 12, 2000

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, June 12, 2000.

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

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, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Long Range Planning Manager, L.V. Foster*; Community Planning Manager, T. Eichler*; Director of Parks & Leisure Services, D.L. Graham*; Recreation Manager, R. Oddleifson*; Cultural Services Manager, I. Forsyth*; Parks Manager, J. Creron*; Parks Design & Construction Supervisor, J. Kunow*; Drainage/Solid Waste Manager, A. Newcombe*; Traffic & Transportation Engineer, K. Gauthier*; and 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 Shepherd was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Okanagan University College re: OUC Successes and Challenges (0550-01)

Allan Coyle, Communications Officer for OUC:

- Spoke on the importance of access to education in the Okanagan and of OUC maintaining its university college status, noting the percentage of college versus university courses offered at OUC are split about 50/50.

Ian Wickett, Chairman of the OUC Board of Governors:

- Addressed the issue of the inequity of per capita funding for the Okanagan region in comparison with other universities, colleges and institutes in the province and spoke of the challenges OUC faces in their efforts to retain the comprehensive nature of the institution.
- Clarified that as far as research goes, OUC is accredited by the institutions that award grants and there seems to be no structural impediment to OUC receiving grants; however, OUC is seeking stronger recognition of their research mandate.

4. UNFINISHED BUSINESS

4.1 Planning & Development Services Department, dated June 6, 2000 re: Resolution to the UBCM Regarding Changes to the Residential Tenancy Act (5040-20)

Staff:

- The proposed draft resolution responds to one of the recommendations endorsed by Council during consideration of the 1999-2000 Housing Study.
- The Community Housing Needs Committee examined the merits of initiating a Standards of Maintenance bylaw and determined that another bylaw is not the right tool to resolve the problem, particularly for the landlord.
- The CHNC is of the view that there should be a provincial solution and suggests that changes to the Residential Tenancy Act are necessary.

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Moved by Councillor Shepherd/Seconded by Councillor Given

THAT the following resolution be endorsed by Council and forwarded for debate at the 2000 Union of British Columbia Municipalities Convention:

WHEREAS the City of Kelowna has undertaken an extensive review process, including consultation with its Community Housing Needs Committee, its staff and a widely advertised public forum to consider the need to proceed with a Standards of Maintenance Bylaw;

AND WHEREAS the City of Kelowna has concluded that its community does not want to proceed with a Standards of Maintenance Bylaw, but instead has expressed considerable dissatisfaction with the processes to resolve issues relating the condition of dwellings under the Residential Tenancy Act, particularly from the perspective of the landlord;

NOW THEREFORE BE IT RESOLVED that the City of Kelowna is requesting the UBCM to lobby the Ministry of the Attorney General to provide clarity under the Residential Tenancy Act regarding standards for rental accommodation and to provide processes that work to resolve disputes regarding the condition of dwellings.

Council:

- Concern that the wording of the last paragraph of the resolution is too general/vague and may not achieve the objective.

Moved by Councillor Shepherd/Seconded by Councillor Given

R513/00/06/12 THAT the draft resolution attached to the Community Planning Manager's report of June 6, 2000 **not** be forwarded for debate at the 2000 UBCM Convention but rather referred back to staff and the Community Housing Needs Committee to reconsider the options for resolving issues with respect to standards for rental accommodation;

AND THAT a new draft resolution be brought back for Council's endorsement and advancement to the 2001 UBCM Convention through the Okanagan Mainline Municipal Association at their convention in 2001.

Carried

5 PLANNING

- 5.1 Planning & Development Services Department, dated May 29, 2000 re: Rezoning Application No. Z00-1031 – Jeannette Mergens (Sheri Simson, Simson Construction Management & Design Ltd.) – 1922 Abbott Street (3360-20)

Staff:

- The applicant proposes to demolish the existing garage and construct a new 2-car garage with a secondary suite above.
- The Heritage Alteration Permit is required because the house is identified as a class 'C' structure in the heritage inventory.
- The HAP will provide for variances required for reduced setbacks and the proposed height of the garage structure.

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R514/00/06/12 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of That Part of Lot 10 shown on Plan B4136, D.L.14, O.D.Y.D., Plan 1782, located on 1922 Abbott Street, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone;

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

AND FURTHER THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Major Heritage Alteration Permit on the subject property.

Carried

5.2 Planning & Development Services Department, dated June 6, 2000 re: Rezoning Application No. Z99-1016 – Birgit Goedecke – 519 Buck Road

Staff:

- This rezoning application was prompted by City Bylaw Enforcement staff responding to a complaint received in 1998 regarding the illegal suite.
- The existing garage was converted into a suite without the appropriate permits.
- The applicant has agreed, should this application advance past the Public Hearing, to take out the necessary portions of walls and ceiling to prove that the work done in converting the building to a suite meets Building Code standards.
- Setback requirements have changed since the garage was originally constructed in 1972; if the rezoning is approved, a variance would also be required for a reduced setback to Bellevue Creek.

Moved by Councillor Hobson/Seconded by Councillor Nelson

R515/00/06/12 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 357, S.D.Y.D., Plan 40158, located on Buck Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone;

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

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

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

Carried

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- 5.3 Planning & Development Services Department, dated June 6, 2000 re: Development Permit Application No. DP00-10,040 – Bill-Ed Logging Ltd., Huber Developments, Joseph Huber (Prestige Inn Kelowna) – 1675 Abbott Street (3060-20)

Staff:

- The applicant is proposing to enclose 3 parking stalls in order to construct a 73 sq. m addition to develop a health spa in the lower level of the Prestige Inn.
- The hotel will still meet parking requirements.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R516/00/06/12 THAT Municipal Council authorize the issuance of Development Permit No. DP00-10,040; for the Prestige Inn Kelowna, located on Lot A, D.L. 139, O.D.Y.D., Plan 36244, located on Abbott Street, 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".

Carried

- 5.4 Planning & Development Services Department, dated June 7, 2000 re: Rezoning Application No. Z00-1023 – B. Lawrence Contracting Ltd. (New Town Planning Services) – 188 Penno Road (3360-20)

Staff:

- The applicant purchased and consolidated two lots resulting in split-zoning of a single parcel.
- This application would eliminate the split-zoning and allow the entire site to be used for a truck servicing facility.
- The site would be accessed from both Penno and Acland Roads.

Council:

- Staff to provide examples of typical landscaping buffers for industrial sites at the public hearing.
- Staff to ensure that the proposed landscaping does not include any prohibited plant species.

Moved by Councillor Hobson/Seconded by Councillor Day

R517/00/06/12 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot A, D.L.123, O.D.Y.D., Plan KAP66465, as shown on Map "A" attached to the report of the Planning and Development Services Department, dated June 7, 2000, located on Penno Road, Kelowna, B.C., from the RR3 – Rural Residential 3 zone to the I2 – General Industrial zone;

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

Carried

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- 5.5 Planning & Development Services, dated June 7, 2000 re: Agricultural Land Reserve Appeal No. A00-104 – Provincial Rental Housing Corporation (Peter Klimuk/Milagro Advisory Services Inc.) – 2209 Mayer Road (6635-20)

Staff:

- The property is approx. 0.5 ha (1.2 ac.) in size and is currently being used as a 4-bed residential care facility.
- The existing care facility is permitted under the A1 zoning regulations and the use as it exists is not dependent on the land being excluded from the ALR.
- Since the subject property was less than 0.8 ha (2 ac.) prior to December 1972, the Agricultural Land Reserve Act restrictions on the use of the property do not apply.
- The applicant wishes to clear the legal notation regarding the Agricultural Land Reserve Act from the title on the property.
- City Planning staff and the Agricultural Advisory Committee (AAC) recommend non-support because the request for exclusion is simply based on the desire to remove the legal notation referencing the ALR Act from the title of the land, and because of concern that a precedent would be set for similar requests for other adjacent smaller parcels.

Moved by Councillor Hobson/Seconded by Councillor Day

R518/00/06/12 THAT Council hear from the applicant.

Carried

Peter Klimuk, applicant:

- Has received nothing in writing giving the AAC's reasons for non-support and did not receive a copy of the memo attached to the staff report to Council.
- Presumably the reasons for the AAC's non-support are because they perceived a double standard with the ALR issue affecting a Provincial agency.
- The AAC and Council should consider the merits of the application and who the land owner is should not matter.
- The ALR Act notation on title creates a nuisance for obtaining financing to allow for future expansion of the existing facility or subsequent redevelopment of the property.
- Precedent is not a valid concern for the 3 smaller residential properties to the south because even if they were consolidated they could not support a viable agricultural use.
- The land to the east is parkland and it is difficult to conceive of any adverse impact removal of the subject property or even the 3 smaller parcels would have on that parkland, unless of course the real reason for non-support is to indirectly protect those properties for future acquisition of a park use.
- Council has already supported the exclusion of land north of the subject property and Council's support of the subject application may hasten the Land Reserve Commission's approval of those lands.

Moved by Councillor Hobson/Seconded by Councillor Clark

R519/00/06/12 THAT Agricultural Land Reserve Appeal No. A00-104; Lot 1, Sec. 16, Twp. 26, O.D.Y.D., Plan 1727 except Plan 22823 located on 2209 Mayer Road, Kelowna, B.C., for exclusion from the Agricultural Land Reserve pursuant to Section 15(1) of the Agricultural Land Reserve Act **not** be supported by the Municipal Council;

AND THAT Municipal Council forward the subject application to the Land Reserve Commission.

Carried

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Councillors Day, Given and Nelson opposed.

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5.6 Planning & Development Services Department, dated June 6, 2000 re: Soil Removal Application No. SRA00-001 – City of Kelowna (Peter Alexander/Parks Division) – 5200 Lakeshore Road (6635-20)

Staff:

- Removal of soil from property within the Agricultural Land Reserve requires Council approval prior to being considered by the Land Reserve Commission.
- City Parks staff propose to regrade areas of slope failure within Cedar Creek Park and as a result remove approximately 61,000 m³ from the site.
- Phase 1 reconstruction requires removal of approximately 34,500 m³ of soil that is being stockpiled on-site until the Land Reserve Commission approves its removal and then it will be placed on non-agricultural land.
- If approval is received, only about 5,000 m³ of soil material would be removed from the site this year; Land Reserve Commission approval usually takes 3 months which means the work likely would not commence until October.
- Phase 2 reconstruction is at the northeast corner of the Park site and requires removal of approximately 26,500 m³ of soil to be removed to a job site where the same type of clay soil is needed.
- Recommend that an application also be submitted to the Land Reserve Commission for exclusion of the park site from the Agricultural Land Reserve since the site is no longer used for agricultural purposes.

Council:

- Lakeshore Road in this area is narrow and not up to standard.
- Traffic impact a concern with potentially 250 truck loads being moved per day.
- Arrange for Council to tour the site when phase 1 is complete and before phase 2 proceeds.

Moved by Councillor Hobson/Seconded by Councillor Day

R520/00/06/12 THAT Soil Removal Application No. SRA00-001; Lot 1, Sec. 23, Twp. 28, S.D.Y.D., Plan 2647, located on 5200 Lakeshore Road, Kelowna, BC, for the removal of soil on lands within the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Land Reserve Commission.

Carried

Councillor Shepherd opposed.

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R521/00/06/12 THAT if Soil Removal Application SRA00-001 (City of Kelowna - Cedar Creek Park) is approved by the Land Reserve Commission, City staff report back to Council advising when the material will be moved and to what location, and the number of trucks and time of day they will operate.

Carried

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- 5.7 Planning & Development Services Department, dated June 6, 2000 re: Allocation of Agriculture Plan Funds for Awareness/Promotion by Kelowna Chamber of Commerce (1660-20; 6900-01)

Staff:

- The funds would be used for the production and publication of a brochure for the promotion and awareness of agriculture and as seed money for other agriculture-related programs, through the office of the Cultural and Agri-Tourism Manager at the Kelowna Chamber of Commerce.

Council:

- Staff to monitor the project and keep Council informed on how the money is being spent.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R522/00/06/12 THAT unexpended funding of \$30,310 remaining from the Kelowna Agriculture Plan Account No. 10-162-0-3729 be made available to the Kelowna Chamber of Commerce on a progress billing basis for the production and publication of information on agricultural opportunities for visitors, residents and growers within the City.

Carried

Councillor Clark opposed.

- 5.8 Planning & Development Services Department, dated June 6, 2000 re: Rutland Waterworks District Relocation (Gerstmar/Hollywood Sites) (5600-07)

Staff:

- The Rutland Waterworks District is seeking to relocate from their existing site on Highway 33.
- The Hollywood Road site is recommended despite its size constraints because of strong community rejection of the Gerstmar site.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R523/00/06/12 THAT the City of Kelowna recommend to the Regional District of Central Okanagan that consideration of placement of a new Rutland Waterworks District storage and maintenance yard on Lot B, Plan 16702, Sec. 22, Twp. 26 (Gerstmar Road), not be pursued;

AND THAT joint efforts between the Regional District, City of Kelowna and Rutland Waterworks, be applied to the suitable relocation of the present Rutland Waterworks installation at Highway 33, to the site owned by the Utility at Hollywood Road South (Lot A, Plan 35040, Sec. 14, Twp. 26).

Carried

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R524/00/06/12 THAT Council hear from the Rutland Residents Association.

Carried

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John Vielvoye, president, Rutland Residents Association

- Commended City and Regional District staff for their diligence and patience working with the area residents.

6. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 6.1 Bylaw No. 8565 (Z00-1011) – University Business Park Ltd. (Grant Maddock, Protech Consultants) – 149 Commercial Drive

Moved by Councillor Nelson/Seconded by Councillor Given

R525/00/06/12 THAT Bylaw No. 8565 be adopted.

Carried

7. REPORTS

- 7.1 Cultural Services Manager, dated June 1, 2000 re: Appointment of Rick J. Patterson to City of Kelowna Arts Foundation (0230-20-70)

Moved by Councillor Given/Seconded by Councillor Nelson

R526/00/06/12 THAT City Council approve the appointment of Rick J. Patterson, 838 Dehart Avenue, Kelowna, BC V1Y 6A1, to the City of Kelowna Arts Foundation for a term of three years, ending June 1, 2003.

Carried

- 7.2 Drainage/Solid Waste Manager, dated June 7, 2000 re: Ogogrow Facility Relocation (5380-03)

Staff:

- The existing site is no longer an option; the lease expires in 2002 and will not be extended by the land owner.
- The technology that would be incorporated into the new facility would effectively mitigate odours.
- The intent is for new facility to become operational around September 2001.
- Traffic impact would be minor (2-3 trucks per day) as a result of this facility.

Moved by Councillor Day/Seconded by Councillor Hobson

R527/00/06/12 THAT Council direct staff to proceed with the planning and design of the Ogogrow production facility, to be located at the Glenmore Landfill;

AND THAT staff be directed to include items within the 2001 budget for the construction of the facility in 2001.

Carried

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7.3 Transportation Manager, dated June 7, 2000 re: Rutland Urban Centre Transportation Plan (8330-20)

Staff:

- Public input has been received and incorporated into the plan where appropriate and where possible.
- There were 3 contentious issues: Extension of Shepherd Road to Rutland Road across the driveway to Centennial Park (staff recommend the potential for this road extension be retained in the plan); removal of heavy truck parking from the Roxby parking lot (will occur over time); medians along Highway 33 (retained as an option in the plan but not a short term priority).

Council:

- Agreed to a friendly amendment of the motion to delete the Shepherd Road extension from the plan and set a timetable for removing the heavy trucks from the Roxby lot.

Moved by Councillor Shepherd/Seconded by Councillor Day

R528/00/06/12 THAT Council receive the report of the Transportation Manager dated June 7, 2000;

AND THAT Council endorse the Rutland Urban Centre Transportation Plan with the removal of the future Shepherd Road connection to Rutland Road North,

AND THAT staff work with the trucking industry with a view to removing heavy truck parking from the Roxby parking lot by January 1, 2001;

AND FURTHER THAT Council direct staff to amend the 10-year Capital Plan to support the infrastructure needs as identified in the plan.

Carried

Mayor Gray and Councillors Blanleil and Nelson opposed.

7.4 Recreation Manager, dated June 6, 2000 re: Sportsfield User Fees (1810-01)

Staff:

- The average impact of this fee increase would be a little over \$3/season/child in 2001.

Moved by Councillor Blanleil/Seconded by Councillor Nelson

R529/00/06/12 THAT City Council approve the establishment of hourly user fees for adult and minor sports groups use of City of Kelowna sportsfields, effective January 1, 2001 as identified in the report from the Recreation Manager dated June 6, 2000;

AND THAT the rate of \$10.00 per hour be established as the benchmark for all hourly rates for sportsfield use for the period 2001 through 2005 for the adult use of the City's "B" Class sportsfields;

AND THAT the rates for minor sports groups be established at 50% of the adult rates;

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AND THAT revenue from these new fees be reserved in the Sportsfield Reserve Account for the future development and improvement of City sportsfields and stadiums;

AND THAT minor sports groups hourly fees be reviewed prior to the 2003 season;

AND FURTHER THAT a process be established for minor sports groups to appeal to the Sportsfield Committee for special consideration should user fees present a significant financial hardship on a minor sports group.

Carried

7.5 Recreation Manager, dated June 6, 2000 re: Liquor Licenses in Parks – Council Policy No. 223 (8110-00)

Staff:

- The proposed amendments allow increased flexibility for event organizers while still providing the level of control required by the City.

Moved by Councillor Nelson/Seconded by Councillor Given

R530/00/06/12 THAT Council approve the amendments to Policy # 223 on liquor licenses in Parks as attached to the report dated June 6, 2000 from the Recreation Manager.

Carried

7.6 City Clerk, dated May 26, 2000 re: Noxious Insect Control Bylaw (B/L 8564)

Staff:

- The enforcement of this bylaw is contracted to Regional District of Central Okanagan staff. They have recently adopted a new bylaw and are asking that the City of Kelowna bring our bylaw into compliance with theirs.

Moved by Councillor Hobson/Seconded by Councillor Day

R531/00/06/12 THAT Noxious Insect Control Bylaw No. 8564 be advanced for reading consideration.

Carried

8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

8.1 Bylaw No. 8002 – Road Exchange Bylaw – Brookside Avenue

Moved by Councillor Shepherd/Seconded by Councillor Clark

R532/00/06/12 THAT Bylaw No. 8002 be read a first, second and third time.

Carried

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8.2 Bylaw No. 8564 – Noxious Insect Control Bylaw

Moved by Councillor Day/Seconded by Councillor Blanleil

R533/00/06/12 THAT Bylaw No. 8564 be read a first, second and third time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

8.3 Bylaw No. 8554 – Road Exchange Bylaw

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R534/00/06/12 THAT Bylaw No. 8554 be adopted.

Carried

9. COUNCILLOR ITEMS

(a) DKA Concerns about Littering in the Downtown

Councillor Clark referred to a letter from the Downtown Kelowna Association suggesting that free lunches being offered in the downtown area from various goodwill groups in the community are leading to problems with littering, etc. Councillor Clark suggested that at the least, the City contact these groups to explain the DKA's concerns and ask for their cooperation for resolving the matter.

(b) Funding for Kelowna City Band and Okanagan Symphony

Councillor Clark suggested that consideration be given to funding Kelowna City Band and perhaps the Okanagan Symphony through the base budget rather than by way of grants. He asked that the City Manager report back with a recommendation for Council.

(c) Folkfest - Skyreach Place

Councillor Clark commented that the City's agreement with RG Properties would prevent Folkfest from having a food fair as part of their event if it was held in Skyreach Place because RG has total control over the concessions in Skyreach Place. He asked that staff investigate whether that can be changed and report back to Council.

(d) Funding of Benvoulin Church Reid Hall Addition

Councillor Clark asked that a letter be sent to the Heritage Trust asking for their reasons for rejecting the grant request for the Benvoulin Church Reid Hall addition. Councillor Shepherd advised that the Heritage Society is in the middle of an appeal process and suggested that they be consulted before sending the letter to make sure they think sending a letter could help.

(e) Proposed Changes to the Criminal Code re Home Invasion

Councillor Clark asked that members of Council give thought to whether they want to send written support to the Government of Canada concerning proposed changes to the Criminal Code with respect to Home Invasion so that it can be discussed at the Council Meeting tomorrow night.

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(f) Public Consultation Policy

Councillor Hobson suggested that a policy be drafted for Neighbourhood Residents Associations to be notified whenever a public meeting is scheduled by City staff. The City Clerk commented that Planning Department staff could consider that as part of the work they are already doing to improve public consultation.

10. TERMINATION

The meeting was declared terminated at 6:06 p.m.

Certified Correct:

Mayor

City Clerk

BLH/bn