

Regular Meeting – P.M.August 28, 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, August 28, 2000.

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

Council members absent: Councillor A.F. Blanleil.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Finance & Corporate Services, C.P. Kraft*; Director of Parks & Leisure Services, D.L. Gaham*; Director of Planning & Development Services, R.L. Mattiussi*; Current Planning Manager, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Community Planning Manager, T. Eichler*; Airport General Manager, R. Sellick*; Drainage/Solid Waste Manager, A. Newcombe*; Transportation Manager, R.W. Westlake*; Recreation Manager, R. Oddleifson*; 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 Hobson was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Presentation by Al Litynsky, Senior Project Manager for Telus re: Telus Local Area Toll Free Calling Proposal (0550-01)

Al Litynsky, Telus:

- Brief outline of the proposal to create a regional calling area to eliminate long distance within the region.
- Telus would submit the application to the CRTC.
- Market research conducted by Telus has shown that over 75% of the public would support an expansion of the calling area if it comes forward.
- Overall, the expansion proposal would be financially neutral to Telus.
- Anticipate the expanded local calling area could be in place by the second quarter of 2001.

Moved by Councillor Hobson/Seconded by Councillor Day

R703/00/08/28 THAT Kelowna City Council supports the Telus proposal to expand toll-free local calling in the Central Okanagan;

AND THAT the Regional Board be so advised.

Carried

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4. CORRESPONDENCE

- 4.1 Regional District of Central Okanagan, dated August 22, 2000 re: Presentation by Murray Kopp, Regional District Parks Planner - Official Regional Parks Plan (0550-01)

Murray Kopp, Regional Parks Planner:

- Presented an overview of the plan to address the role of Regional Parks in context with other park systems; set out policies for acquisition and development; and indicate existing and future parkland areas.
- Requested comments from the City with respect to the Plan.

Moved by Councillor Shepherd/Seconded by Councillor Clark

R704/00/08/28 THAT Council receive and endorse the Central Okanagan's Official Plan for the Regional Park System.

Carried

5. PLANNING

- 5.1 Planning & Development Services Department, dated August 22, 2000 re: Soil Removal Application No. SRA00-002 – Delauralyn Pihl – 4491 Stewart Road West (6635-20)

Staff:

- The applicant is seeking permission from the Land Reserve Commission (LRC) to remove soil from the subject property and to add some fill and top soil for the purpose of creating pastures.
- Conditions such as days and hours of operation, etc. would be addressed in the permit that the City would determine if the application is approved by the LRC.

Moved by Councillor Day/Seconded by Councillor Cannan

R705/00/08/28 THAT Agricultural Land Reserve Appeal No. SRA00-002, Lot 221, Sec. 32, Twp. 29, O.D.Y.D., Plan 1247, located on Stewart Road West, Kelowna, B.C., be supported by Municipal Council subject to the following conditions:

1. That a maximum of 3,000 cubic metres of fill and top soil be brought onto the property;
2. That there be adequate dust control to protect the surrounding agricultural lands; and
3. That bonding be put in place to ensure the project be completed within one year;

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

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- 5.2 Planning & Development Services Department, dated August 23, 2000 re:
Community Housing Needs Committee Membership (0540-20)

Moved by Councillor Shepherd/Seconded by Councillor Given

R706/00/08/28 THAT City Council extend the membership terms of the following members of the Community Housing Needs Committee until June 30, 2002, when they will have completed their 2 consecutive terms of membership:

Jean-Jacques Clermont-Ferrand John M. Schlosser;

AND THAT City Council appoint the following new members to the Community Housing Needs Committee to June 30, 2002, when membership can be re-considered:

Sheri Wood Sam Neufeld Kelly McKnight;

AND FURTHER THAT City Council accept with regret, the resignation of the following members from the Community Housing Needs Committee:

Jim Hammond Luke Stack Jim Fenton Janet Scotland.

Carried

- 5.3 Planning & Development Services Department, dated August 24, 2000 re:
Housing Opportunities Reserve Fund Bylaw (5040-20)

Staff:

- Establishment of a Housing Reserve Fund Bylaw was a primary recommendation from the Housing Study.
- The proposed bylaw addresses only low income or special needs housing.
- The intent would be to acquire lands for the purpose of housing to lease back to non-profit groups and/or developers by means of public/private partnership agreements.
- The City owns 2 lots at the corner of Morrison Avenue/Richter Street and a third lot in the middle is owned by West Kootenay Power (WKP). The 3 lots were previously used as a power utility and are zoned accordingly.
- The intent is to acquire the land owned by WKP and initiate a Request for Proposals for a long term arrangement to assist with development of an affordable or special needs housing project on the site.

Moved by Councillor Given/Seconded by Councillor Nelson

R707/00/08/28 THAT Council undertake approval procedures for the draft Housing Opportunities Reserve Fund Bylaw attached to the Planning Department's report of August 24, 2000;

AND THAT funds to assist affordable or special needs housing projects, other than by the provision of land under the requirements of the proposed Housing Opportunities Reserve Fund Bylaw, be made available under the Community Social Development Grant program;

AND THAT the City initiate a Request for Proposals (RFP) for property located at the northwest corner of Morrison Avenue and Richter Street, known as 2490 Richter Street, with the following conditions:

- The City will enter into negotiation with West Kootenay Power to acquire that part of the property owned by the utility;
- Suitable development would consist of the following: boarding home for no more than 10 residents; minor group home; duplex or semi-detached dwellings; or single detached home with a secondary suite, in accordance with the definitions and requirements of the City's Zoning Bylaw 8000;
- Secondary uses of this property might include a minor care centre, in accordance with the requirements of the City's Zoning Bylaw 8000;
- The City will undertake to re-zone the property from P4 to RU6 or RU6b, depending on the proposal that is selected;
- Prospective tenants of the proposed development should fall within the Core Need Income Thresholds established by BC Housing and provided in the City's Housing Resources Handbook;
- Rents should not be above the latest CMHC average rents, provided in the City's Housing Resources Handbook;
- If homes are offered for purchase, the price should not be above the latest starter home price identified by the City in the Housing Resources Handbook;
- Needs groups for housing to be targeted for the development should consist of any of the following groups that fall at or below Low Income Cut-Off levels (see the Housing Resources Handbook):
 - Lone parent families;
 - Couples;
 - Two parent families;
 - Single person households of non-elderly persons;
 - Elderly single person households;
 - Special needs households (i.e. people with disabilities);
- The City will acquire the land and lease it back to the partners responding to the RFP through a long-term lease arrangement;
- The City will enter into a public-private partnership with the successful RFP respondents which will specify the details of the arrangement by the means of a legal agreement registered against the property.

Carried

6. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 6.1 Bylaw No. 8448 (OCP97-024) – Official Community Plan Amendment – Marona Estates Ltd. (The Conservatory) Requires majority vote of full Council (5)

Councillor Day advised that this bylaw and the next 2 bylaws on the agenda involve direct members of his immediate family putting him in a conflict of interest and left the Council Chamber at 2:52 p.m.

Council:

- The subject bylaw requires 5 affirmative votes to pass and the vote was very close at 2nd & 3rd readings. It would be in the best interests of the applicant to have all of Council participate in the vote, particularly given that this is such a large controversial project.

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Staff:

- Financing is in place to secure road works that the applicant wants to start this fall. If adoption of the bylaws is deferred that would delay those works to next spring and that adds financing costs to the project.
- The applicant is anxious to have the issue resolved and did not exercise the option to withdraw the bylaws from this agenda.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R708/00/08/28 THAT adoption consideration of Bylaw No. 8448 (OCP97-024 – Marona Estates Ltd.); Bylaw No. 8449 (TA99-009 – To create the CD3 – Comprehensive Development Three zone) and Bylaw No. 8450 (Marona Estates Ltd. – 780 Glenmore Road) be deferred to the Regular Meeting of September 25, 2000.

Carried

Councillors Cannan and Clark opposed.

6.2 Bylaw No. 8449 (TA99-009) – City of Kelowna Zoning Bylaw Text Amendment – Marona Estates Ltd. (The Conservatory)

See resolution of deferral under 6.1 above.

6.3 Bylaw No. 8450 (Z97-1021) – Marona Estates Ltd. (Warren Neufeld) – 780 Glenmore Road

See resolution of deferral under 6.1 above.

Councillor Day returned to Council Chamber at 3:03 p.m. and took his place at the Council Table.

6.4 Bylaw No. 8474 (Z99-1045) – James & Terricia Anderson – 2495 Maquinna Road

Moved by Councillor Cannan/Seconded by Councillor Day

R709/00/08/28 THAT Bylaw No. 8474 be adopted.

Carried

6.5 Bylaw No. 8508 (Z99-1064) – Jason Bennett and Brenda Adams – 2406 O'Reilly Road

Moved by Councillor Day/Seconded by Councillor Cannan

R710/00/08/28 THAT Bylaw No. 8508 be adopted.

Carried

Councillor Clark opposed.

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7. REPORTS

- 7.1 Airport General Manager, dated August 22, 2000 re: Airport Improvement Fee Collection Agreement (0550-05: 0230-20)

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R711/00/08/28 THAT Council authorize the Airport General Manager to sign a revised Airport Improvement Fee (A.I.F.) Memorandum of Agreement (M.O.A.) with the Air Transport Association of Canada and Signatory Air Carriers dated May 31, 1999 and amended effective February 18, 2000 and further amended effective June 1, 2000.

Carried

- 7.2 Airport General Manager, dated August 22, 2000 re: New Air Traffic Control Tower – Kelowna International Airport (0550-05; 2380-20-8095)

Roger:

- The proposed location for the control tower is on federally-owned property. The requested right-of-way is required to cross City land for access to the tower.
- Construction will begin immediately and the facility is anticipated to be operational by late 2001.
- Development Cost Charges will be paid.

Moved by Councillor Hobson/Seconded by Councillor Day

R712/00/08/28 THAT Council approve sub-leasing 57,600 square feet of land on the east side of the airport to NAV CANADA for the construction of a new air traffic control tower on the terms and conditions provided for in the Aviation Services and Facilities Agreement (A.S.F.A.) between the City of Kelowna and NAV CANADA, and approved by Council at its regular meeting on April 19, 1999;

AND THAT Council authorize the Mayor and City Clerk to sign the sub-lease on behalf of the City of Kelowna;

AND FURTHER THAT Council approve granting NAV CANADA a right-of-way across City owned land between Old Vernon Road and the proposed tower site.

Carried

- 7.3 Drainage/Solid Waste Manager, dated August 23, 2000 re: Lawrence Avenue Upgrading (TE00-05) (5225-40)

Moved by Councillor Hobson/Seconded by Councillor Day

R713/00/08/28 THAT Peters Brothers Construction Ltd. be awarded the tender TE00-05 to carry out construction of water, storm, electrical and roads improvements on Lawrence Avenue from Ellis Street to Bertram Street for the price of \$378,073.27, GST and contingency included;

AND THAT the Mayor and City Clerk be authorized to execute the Contract on behalf of the City of Kelowna.

Carried

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- 7.4 Recreation Manager, dated August 23, 2000 re: Ben Lee Park – Construction of Recreational Facilities (6240-20)

Moved by Councillor Cannan/Seconded by Councillor Shepherd

R714/00/08/28 THAT the Parks & Leisure Services Department proceed with construction in Ben Lee Park of the children's waterpark and the multi-functional support building in 2000/2001, and the skateboard park in 2001 as per the report dated August 23, 2000 from the Recreation Manager;

AND THAT funding of \$133,400 be brought forward from the Ben Lee Park Reserve account, as well as \$100,000 from the Major Facilities Reserve and \$201,500 from the Parks Development Reserve accounts;

AND THAT additional funding of \$20,000 be budgeted from Community Contributions and \$20,000 transferred from existing Parks Development 2000 budget;

AND THAT Council direct staff to bring forward for consideration the following:

- \$484,500 in the 2001 budget to complete the children's waterpark, multifunctional building, and skateboard facilities;
- \$125,000 in the 2002 budget to twin the walking/jogging trail and apply asphalt paving and perimeter lighting;
- \$150,000 in the 2003 budget to construct a plaza which will include a fountain;
- \$125,000 in the 2004 budget construct a double tennis court;

AND THAT the 2000 Financial Plan be amended to reflect the additional funding requirements;

AND FURTHER THAT the City of Kelowna award the following primary contracts for the construction of the children's waterpark and multifunctional building in Ben Lee Park:

- | | |
|---------------------------|---------------|
| • Cruise Construction | \$463,875.00 |
| • Marquardt Mechanical | \$246,700.00 |
| • Waterplay Manufacturing | \$121,836.62 |
| • Issak Electric | \$ 68,703.00. |

Carried

- 7.5 Report dated August 15, 2000 from Director of Works & Utilities re: Occupancy and Use of Municipal Rights-of-Way and Draft Resolution Initiated by Councillor Clark (0910-20-001-005; 2360-01; 0230-20)

Council:

- This sets a standard policy for municipalities from coast to coast.
- The per capita contribution is a one-time expense.
- It is hoped the FCM would mediate an agreement rather than going to Court.

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Moved by Councillor Clark/Seconded by Councillor Given

R715/00/08/28 THAT Council endorse the five principles of the model Municipal-Access Agreement and that Council will deny access to municipal rights-of-way unless the applicant agrees in writing to the five principles of the model Municipal-Access Agreement;

AND THAT the City of Kelowna contribute \$0.03 per capita, based on the 1996 census, into the “Municipal Right-of-Way Defence Fund” established by the FCM to support municipalities that become involved in disputes with a CRTC-regulated telecommunications firm over use of municipal rights-of-way, provided that the criteria for such support is met;

AND FURTHER THAT the funds for this contribution, in the amount of \$2,683.26 be appropriated from Council Contingency.

Carried

7.6 Director of Parks & Leisure Services/Director of Finance & Corporate Services, dated August 23, 2000 re: Multi-Purpose Facility – Outstanding Issues (0890-20)

Moved by Councillor Cannan/Seconded by Councillor Day

R716/00/08/28 THAT Council approve modification of the Facility Agreement, specifically Articles 7.1 and 7.2, to authorize Community Use Payments coincident with commencement of community use time within the Skyreach multi-purpose facility;

AND THAT Council approve modification of the Facility Agreement, specifically Article 10, Property Taxes, to detail the definitive tax obligations of RG Arenas (Kelowna) Ltd. resulting from the tax exemption provided on the Air Space Parcel and Facility by both the City and the Province over the life of the Agreement;

AND THAT Council approve an increase in the allowable mortgage on the Multi-Purpose Facility from \$11.0 Million to \$11.5 Million;

AND THAT Council approve exclusive use, to RG Arenas (Kelowna) Ltd., of Parcel “A” subject to the same public right-of-way provisions applying to the public plaza within the Air Space Parcel;

AND THAT Council authorize amendment to the Legal Agreements contained within Bylaw No. 8225 utilizing the firm of Blake, Cassels and Graydon;

AND FURTHER THAT Council approve a budget amendment to reflect the payment of Community Use Payments beginning September 30, 1999.

Carried

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8. RESOLUTIONS

8.1 Draft Resolution re: Board of Variance Appointment (3730-01)

Moved by Councillor Cannan/Seconded by Councillor Day

R717/00/08/28 THAT Council appoint Mrs. Shirley Staley as a member of the Board of Variance for a three (3) year term commencing August 28, 2000 pursuant to Section 899 of the *Municipal Act*.

Carried

8.2 Draft Resolution re: Travel Authorization - International Downtown Association Conference – Los Angeles (1800-01)

Moved by Councillor Cannan/Seconded by Councillor Clark

R718/00/08/28 THAT Councillor Hobson be authorized to attend the International Downtown Association Conference being held in Los Angeles, California on September 16-19, 2000, with expenses paid in accordance with Council Remuneration and Expense Bylaw No. 7547, using funds from Account No. 351-10-015-0-001.

Carried

8.3 Draft Resolution re: Travel Authorization – Kasugai, Japan (1800-01)

Moved by Councillor Clark/Seconded by Councillor Given

R719/00/08/28 THAT Councillor Cannan be authorized to travel with the Kelowna Kasugai Sister City delegation October 18-26, 2000 to attend the Kasugai Festival in Kasugai, Japan;

AND THAT Council allocate funds to cover airfare, estimated to cost \$1,400; up to \$500 for purchase of gifts deemed appropriate for the visit to Japan; and a per diem to be paid in accordance with Council Remuneration and Expense Bylaw No. 7457;

AND FURTHER THAT the funds be appropriated from Council Contingency.

Carried

9. COUNCILLOR ITEMS

(a) Transit Service to Kelowna Airport

Councillor Shepherd noted that Kelowna transit does not go directly into the airport but rather drops off airport passengers at the airport entrance on the highway. Mayor Gray advised that the decision was made years ago based on reasons that may have changed by now and agreed it would be timely to revisit the decision and to raise the matter for discussion at the next Transit Committee meeting.

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(b) Noxious Weeds and Grasses Bylaw

Councillor Shepherd noted that the definition of 'grasses' in the City's Noxious Weeds and Grasses Bylaw is very general and prevents the growth or presence of grasses exceeding 8" high. As the bylaw now reads Bunch Grass and other ornamental plants that are becoming popular in landscaping would not be permitted. Councillor Shepherd asked that staff investigate whether an amendment to the bylaw is warranted to acknowledge and provide for use of native plant species such as bunch grass.

(c) Triathlon

Councillor Cannan requested a report from staff on the successes and failures from this year's Triathlon to determine whether changes are needed for next year.

(d) Westbank First Nation

Councillor Cannan suggested that the Mayor send a letter of congratulations to newly-elected Chief Brian Eli. Councillor Hobson added that local government should initiate discussions with the new Chief and Council early on.

(e) Electronic Agenda Packages

Councillor Day expressed appreciation for agenda packages now being available to Council electronically and enquired when the maps and other attachments to the reports will also be available with the electronic agenda package. Staff to investigate.

(f) Knox Mountain Park

Councillor Hobson noted there is no indication of where the easterly boundary of Knox Mountain Park begins and asked that staff consider installing signs to indicate when people are entering the park.

10. TERMINATION

The meeting was declared terminated at 4:18 p.m.

Certified Correct:

Mayor

City Clerk

BLH/bn