

Regular MeetingNovember 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 Tuesday, November 28, 2000.

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

Council members absent: Councillor B.A. Clark.

Staff members in attendance were: Acting City Manager/Director of Planning & Development Services, R.L. Mattiussi; City Clerk, D.L. Shipclark; Director of Finance & Corporate Services, C.P. Kraft\*; Deputy Director of Finance, P.A. Macklem\*; Financial Planning & Systems Manager, K. Grayston\*; Current Planning Manager, A.V. Bruce\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:00 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Moved by Councillor Shepherd/Seconded by Councillor Nelson

**R940/00/11/28** THAT the minutes of the Regular Meetings of October 30, 2000, October 31, 2000, and November 6, 2000 and the minutes of the Public Hearing of October 31, 2000 be confirmed as circulated.

Carried

Councillor Hobson advised that he had received a phone call from Councillor Clark to say he had fallen ill and would not be at the meeting.

Mayor Gray advised that Shaw Cable has agreed to televise tonight's meeting on Saturday, December 2<sup>nd</sup> at 1:00 p.m.

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

The City Clerk outlined the procedure that would be implemented for the public input portion of the meeting, following completion of the Planning items and bylaws on the agenda, and encouraged anyone wishing to speak to sign the speakers list.

5. PLANNING

5.1 Planning & Development Services Department, dated November 8, 2000 re: Development Variance Permit Application No. DVP00-10.079 – Talos Enterprise Ltd. (Saron Chouinard/Pacific Sign & Design Ltd.) – 1570 Water Street (3090-20)

Staff:

- Variances are requested to the Sign Bylaw in order to permit placement of a projecting sign that exceeds the maximum size and incorporates neon into the lettering above the main entrance of the Keg Restaurant.

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Mayor Gray invited anyone in the public gallery who deemed themselves affected by the requested variance(s) to come forward. There was no response.

Moved by Councillor Nelson/Seconded by Councillor Shepherd

**R941/00/11/28** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP00-10,079; Pacific Sign & Design; Lot 2, Sec. 24, Twp. 25, O.D.Y.D., Plan 1355, located on Water Street, Kelowna, B.C.;

AND THAT variances to the following sections of Sign Bylaw No. 8235 be granted:

**Section 6.1 – Specific Zone Regulations for Major Commercial, Projecting Signs:** a .37 m<sup>2</sup> variance is requested to the maximum size of 1 m<sup>2</sup> of a projecting sign where required by guidelines of a development permit area in a urban town centre to 1.37 m<sup>2</sup> as proposed;

**Section 6.1 – Specific Zone Regulations for Major Commercial, Projecting Signs, Lighting:** to vary the requirement that projecting signs shall only be lit by wall mounted directional lighting to permit a neon lit sign without wall mounted directional lighting.

Carried

5.2 (a) BYLAWS PRESENTED FOR ADOPTION

- (i) Bylaw No. 8589 (TA00-001) – City of Kelowna Zoning Bylaw Text Amendment to Add “Commercial Storage” as Principal Use in the I1 – Business Industrial Zone

Moved by Councillor Day/Seconded by Councillor Hobson

**R942/00/11/28** THAT Bylaw No. 8589 be adopted.

Carried

- (ii) Bylaw No. 8590 (Z00-1038) – Kelowna Self Storage Ltd. (Robert Evans/True Consulting Group) – 1698 Findlay Road

Moved by Councillor Hobson/Seconded by Councillor Day

**R943/00/11/28** THAT Bylaw No. 8590 be adopted.

Carried

- (b) Planning & Development Services Department, dated October 31, 2000 re: Development Permit Application No. DP00-10,045 and Development Variance Permit Application No. DVP00-10,046 – Kelowna Self Storage Ltd. (Robert Evans/True Consulting Group) – 1698 Findlay Road (3060-20; 3090-20)

Staff:

- The applicant is proposing to develop a commercial storage and office facility on the former Shunter’s Gun Shop site.

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- Variances to the Zoning Bylaw are required to allow for a reduced site area, front yard setback, rear yard setback and the north landscaping buffer.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the requested variance(s) to come forward. There was no response.

Moved by Councillor Hobson/Seconded by Councillor Cannan

**R944/00/11/28** THAT Municipal Council authorize the issuance of Development Permit No. DP00-10,045 and Development Variance Permit No. DVP00-10,046; for Kelowna Self Storage Ltd.; Part 1 acre more or less of Lot 6 shown on Plan B5071, Sec. 34, Twp. 26, O.D.Y.D. Plan 2043, except Plan H8110; located on 1698 Findlay 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 to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;
5. The applicant registering the subdivision plan dedicating road along Highway 97 and Findlay Road at the Kamloops Land Titles Office;

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

1. **Section 15.1.4(c) – Subdivision Regulations**: minimum lot area required for a site outside the Downtown and Highway 97 urban town centres is reduced from 4000 m<sup>2</sup> to the proposed 3610 m<sup>2</sup>;
2. **Section 15.1.5(c) - Development Regulations**: minimum front yard required is 6.0 m reduced to the proposed 3.0 m;
3. **Section 6.10.1 – Setback from Provincial Highways**: all buildings and structures on lots abutting Highway 97 shall not be closer than 15.0 m reduced to the proposed 11.73 m;
4. **Section 7.6.1(c) – Minimum Landscape Buffers**: Level 3: minimum landscape buffer along the north property line required is 3.0 m reduced to the proposed 1.29 m;

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

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- 5.3 Planning & Development Services Department, dated November 15, 2000 re: Development Variance Permit Application No. DVP00-10,078 – Petro-Canada (Eric Fefer/Petro-Canada) – 365 Highway 33 West (3090-20)

Staff:

- Petro-Can is redeveloping several of their sites in Kelowna to their new corporate image. What is proposed on the subject property is similar to the site already redeveloped at Richter and Harvey.
- Staff support the variance to allow the signs that project above the canopy but do not support the variance for the signage above the gas pumps under the canopy.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the requested variance(s) to come forward.

Eric Fefer, applicant:

- Petro-Can is looking for consistency in the image they project.
- Similar variances have already been approved by Council for the Harvey/Richter site.
- Petro-Can is providing a significant upgrade of the corner at this location by putting in a 6 m landscape strip along Highway 33.
- Circulated a photo of one of their service stations at night to make the point that Petro-Can's signage is focused under the canopy and at night the canopy disappears and only a thin neon strip is seen. While other companies have big massive canopies that glow at night, there is no internal illumination in Petro-Can's canopies.
- Petro-Can has compromised and agreed that the sign at the subject location will be very low profile, well below the maximum allowed by the Sign Bylaw, and is willing to compromise further by removing the Petro Canada lettering from the under canopy signage.

Staff:

- The offer to reduce the sign height was made to the Advisory Planning Commission (APC) but the APC still felt the proposed signage was excessive on-site. The offer to remove the lettering under the canopy would make those signs less obvious but that offer was not presented to the APC.

The consensus of Council was to allow the signage as requested but with the lettering removed from the under-canopy signage.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R945/00/11/28** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP00-10,078; Petro-Canada Inc.; Lot 1, Sec. 23, Twp. 26, O.D.Y.D., Plan KAP53366, located on Highway 33 W., Kelowna, B.C.;

AND THAT variances to the following sections of Sign Bylaw No. 8235 be granted:

**Section 5.4.1 Specific Regulations – Under Canopy Signs** be varied to permit 1 sign with business logo per pump island for gas bars;

**Section 6.1 Specific Zone Regulations – Major Commercial (C3, C4, C6 and C8)** – maximum number of Awning, Fascia, Canopy, Under canopy/awning, and Projecting signs permitted be varied to permit 1 sign with business logo per pump island for gas bars.

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Councillor Hobson opposed.

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Mayor Gray altered the order of business and advised that the bylaws under agenda item No. 7 would be dealt with next.

7. BYLAWS

**(BYLAWS PRESENTED FOR FIRST READING)**

- 7.1 Bylaw No. 8615 (TA00-005) – Amendment to the CD4 – Comprehensive Small Lot Residential zone (replace CD4 Map A)

Moved by Councillor Nelson/Seconded by Councillor Given

**R946/00/11/28** THAT Bylaw No. 8615 be read a first time.

Carried

**(BYLAWS PRESENTED FOR FIRST THREE READINGS)**

- 7.2 Bylaw No. 8620 – Amendment No. 6 to Airport Fees Bylaw No. 7982

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R947/00/11/28** THAT Bylaw No. 8620 be read a first, second and third time.

Carried

**(BYLAWS PRESENTED FOR ADOPTION)**

- 7.3 Bylaw No. 8602 (HRA00-001) – Heritage Revitalization Agreement Authorization Bylaw – Martin D. Johnson and D. Glenn Einfeld Law Corp. – 830 Bernard Avenue

Moved by Councillor Shepherd/Seconded by Councillor Cannan

**R948/00/11/28** THAT Bylaw No. 8602 be adopted.

Carried

6. REPORTS

- 6.1 FARM IMPROVEMENTS TAXATION (1970-01)
- Report dated November 22, 2000 from the Director of Finance & Corporate Services.
  - Input from the public.

Mayor Gray advised that the phase in of farm improvement taxation would affect 675 properties in the city and would increase the rate of tax levied on principal dwellings on properties with farm status. Council will listen to the public at this meeting and make a decision on the matter at the Regular Meeting on December 11<sup>th</sup>.

Councillor Hobson advised that both he and his brother actively farm on land within the City of Kelowna and so because he and other family members could be potentially affected by the outcome of the decision of Council, he is unable to participate in discussion of the farm improvements taxation question or vote on the matter.

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Councillor Day advised that he has no improvements on agricultural land within the City of Kelowna but that numerous members of his immediate family have improvements on their agricultural land. The City Solicitor has provided an opinion that indicates a conflict of interest should be declared where family members could be potentially affected by the outcome of the decision of Council. Councillor Day expressed regret that he could not participate in discussion of this matter because he was a member of the negotiating team that negotiated the amalgamation agreement. However, he noted that former Mayor Jim Stuart was also on the negotiating committee and that he is in the gallery and would be very capable of advising Council and the public why the agreement was written the way it was.

Having declared a conflict of interest Councillors Hobson and Day left the meeting at 7:50 p.m.

Staff:

- The 1973 amalgamation agreement with the Province obligated the City to reduce the municipal tax rate for principal dwellings on properties with farm status recognizing the minimal services and amenities provided to rural areas. Historically this rate has been at approximately half of the residential tax rate for non-farm properties.
- Improved services and the City's take-over of the rural roads have triggered the recommendation from staff for Council to consider either a 6-year or a 3-year phase-in to increase the tax rate for farm improvements to the residential rate. Farm *land* taxation would remain unchanged and farm *outbuildings* would continue to be exempt from municipal taxes.
- The Letters Patent talk about a 3 year period to protect the taxation that was in place at the time until such time as services were extended to the farm areas. If Council agrees to increase the tax rate on principal farm dwellings, Municipal Affairs' approval would be required for appropriate changes to the Letters Patent.
- All other communities with similar Letters Patent (Kamloops, Nanaimo and Prince George) have already completed their phase-in and Kelowna is the only community left with preferential tax rates for farm improvements.
- In 2000, the difference in revenue collected would have been \$311,000, had farm improvements been taxed at the non-farm residential rate.
- Outlined the public process that was undertaken to notify the public of the proposed change to farm improvements taxation, including sending letters to all 675 farm properties that would be affected.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the proposal to phase in farm improvement taxation to come forward.

Ken Sessford, 1955 Swainson Road:

- No one seems to care that farmers are having a difficult time across Canada and in most parts of the world.
- Farmers brought irrigation which brought forth the greenery, the fruit of the land encouraged packing houses, the Canadian Pacific Railway and other transportation for a market in the rest of the world. In addition to providing market and transportation farming also provided tourism.
- Orchards are disappearing just as surely as the polar ice cap is disappearing.
- Farmers should be permitted to separate the title of their principal dwelling from the title of their farm land.

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Michael Casling, 3845 Miller Road:

- Residential properties on non-farm lands in the rural area that are currently paying very high taxes should not be left out of the equation.
- The City has allowed ongoing subdivision of the rural areas and that is what has introduced the services. Now the farmers are being asked to pay for services they did not request or want and the improved roads are bringing in unwanted additional traffic.
- The City's policy should be to preserve farm land for the future.

Sue van Hees, 2040 Gallagher Road:

- Kelowna is unique and cannot be compared with other communities because of the amount of farm land we have.
- Farms are being surrounded by subdivisions within the ALR. Those subdivisions bring in all kinds of problems (juvenile pranks, acts of vandalism, trespass) for the farmer but the farmer does not get compensated for having to build fences and fix the vandalism.

Brian Porter, 3145 Gulley Road:

- Personally does not get or need any services from the City.
- The City cannot penalize those who are trying to make a living on farm land they have no option but to work because the land is stuck in the ALR.
- If agriculture plays such an important role, then it should be subsidized because of the benefits to the community (i.e. greenspace and improved air quality).
- The City receives 50¢ per thousand of assessment regardless of the value of the house on a farm property so the tax levied on a \$400,000 home compensates for the tax levy on an \$80,000 home and the City gets the taxes even though neither is using any more services than the other.

Russell Husch, President, B.C. Fruit Growers Association:

- Does not support implementation of the proposed farm improvement tax.
- Municipalities need to include in their policy analysis, the provincial and federal dollars that are introduced into the local economy through agriculture programs.
- The proposed tax increase is contrary to the City of Kelowna Agriculture Plan which is intended to encourage agriculture.
- If anything the farmers should be getting some money for preserving the greenspace instead of being asked to pay more.
- B.C. Fruit Growers is willing to help the City lobby to get the province to pick up the portion of taxes that the farm community is not paying.

Mike Culos, 2550 Grantham Road:

- Spoke as a representative of Culos farms and also representing local neighbours and a large number of concerned farmers who are all opposed to raising the tax rate on farm residences.
- The letters patent indicate that taxes were to be increased when amenities were increased and the amenities have not changed drastically since 1973.
- The proposed tax rate increase is contrary to the City's OCP and Agriculture Plan.
- As taxation and operating costs escalate, it becomes more and more difficult for farmers to continue as effective stewards of the public lifestyle, recreation and amenity values associated with agricultural land. Economic hardship is the prime reason behind a farmer's decision to remove his/her orchard trees.
- Farmers ask for similar economic incentives as are provided to non-profit groups and heritage property owners.
- Keeping the tax rate for farm residences at its present level would demonstrate the City's appreciation for the role farm families play in making Kelowna a desirable place to visit and live.



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Mike Schleppe, 4050 Miller Road:

- Farmers receive no sewer, no City water, no paved roads with gutter and storm drains, buffer zones are inadequate to protect farm operations when adjacent lands are developed, and farmers get to pick up the garbage tourists leave behind.
- If a bill was sent to the City for every apple taken by tourists it would more than pay the extra tax bill.
- Farmers are not asking for services from the City.
- The contribution to this city from the farming community is extensive and should be recognized and appreciated or it could end up being lost.

Robert Holitzki, 2825 Dunster Road:

- Unless the City can give farmers separate title for their residences, farm dwellings should not be taxed at the residential rate.
- Farmers are not responsible for increased servicing costs and so should not be singled out.
- Other groups get tax breaks and there should be similar criteria for farmers.
- Properties should have to be zoned residential to legally charge the residential tax rate.
- The proposed tax increase is contrary to the City's OCP and Agriculture Plan.

Jim MacDonnell, 1-3310 McCulloch Road:

- The City is in a surplus budget situation.
- The amount to be collected with the proposed tax increase is minuscule to the City's budget but is a huge tax burden to the farmer.
- The monster houses are the reason for this tax review but only a small number of people are concerned about them. It is a perception thing – if they are farming they have the same rights as any business or operation including benefits for farmers. If they not farming they will be declassified and will be paying residential tax. The solution is already there.
- Small farms may not generate their total income from the farm but they still put in the labour and small farms are usually labour intensive because they do not have the capital for machinery.

Ed Henkel, 202B Drake Road:

- Farm owners must prove that their farm income qualifies them for farm status no matter what it costs them to earn that income.
- The community benefits at the expense of the farmer.
- The decision is up to this Council to support the farming community and their contribution to the community.
- Asked that the resolution adopted by the Agricultural Advisory Committee be read into the record.

Mayor Gray read the Agricultural Advisory Committee's resolution of non-support for the proposed tax increase.

Bill Duyvewaardt, 3668 Spiers Road:

- The letter received by the farming community says the City is 'considering' the tax increase. Tonight Council should request a show of hands to see if the people in the gallery support Council doing that.
- This is all a result of more Provincial downloading.
- All homeowners have to be treated equally.
- Services to public should be based primarily on income tax that should first be paid to municipalities, then to the province and then if anything is left over to the federal government.
- The City is attempting to change the tax basis on lands they may not have a right to tax if all lands are still owned by First Nations.

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Michael Stirling, 1990 Ward Road:

- Councillors Day and Hobson were elected based on their integrity and they have a legal responsibility to do their job. The City Solicitor sold the farm community short by ruling that they were in a conflict on this matter.
- The proposed tax increase is contrary to the City's Agriculture Plan, raising taxes would undermine the land base of farming, and changing the rules could turn away new entrants to the farming business.

Chris Turton, East Kelowna:

- Farmers' only real asset is land and once it was put in the Agricultural Land Reserve, the owners lost their rights to sell to stave off starvation.
- Farmers should be applauded not penalized and the advocates for the proposed tax increase should be ashamed for having made this proposal.
- Suggest the City increase efficiencies instead of farmer's taxes.

Doug Sperling, 1280 Dehart Road:

- Support the comments of previous speakers regarding the value of agriculture to the community and the high costs of farming today.
- The additional \$300,000 the City would collect in farm taxes is a pittance compared to the benefits agriculture brings to the community.
- If the City can help with provision of industrial land at the cost of the taxpayer the City can help the farmers too.

Steve Day:

- The owners of land within the Agricultural Land Reserve have a huge investment in their land but are restricted on what they can do with it.
- Less than 2% of landowners are representing almost 50% of the land base in Kelowna.
- Increasing the tax on farm residences is in direct conflict with City's Agriculture Plan and is a slap in face for the farmers because it implies that they have not been paying their way.

Ken Day:

- Trees are needed to remove carbon monoxide from the air.
- When the ALR was introduced the value of farm land dropped significantly. Today, it seems that farm land is more valuable with the trees cut down.
- A large sum of money was recently spent to put trees in the median along Highway 97 and probably a lot will die. Where are the priorities?
- The City cannot tax farmers differently based on the assessed value of their home.
- 1.8% of the population has control over 45% of the land in Kelowna and if everyone cannot all get along Kelowna has got a big problem.
- Just because the other communities phased in tax increases does not mean Kelowna should.

Gordie Ivans, 1310 McKenzie Road:

- The amalgamation and the ALR did not come in by choice.
- If the City wants to tax farm dwellings as residential then Council should help the farmers fight Victoria to get rid of the ALR.

Alex Rezansoff, 984 Dehart Road:

- Taxes should be abolished for farmers who are living on the farm since they have to be there by necessity because of vandalism, etc., especially when they are in the city and have to comply with all the rules and get along with their urban neighbours.
- The proposed tax increase is insulting to farmers when they do not even have a residential lot.
- Most farmers do not have the option of working at another job to subsidize their farm.

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Barry Black, 2080 Palmer Road:

- Does not receive any services from the City.
- Kelowna cannot be compared to the other cities that amalgamated because the others did not have *forced* amalgamation.
- The federal and provincial governments are proposing to decrease taxes and the City should so likewise.

Al Kempf, 1276 Teasdale Road:

- Would not mind paying the higher taxes if he could get his house out of the ALR.
- The City's requirements (road dedications, etc.) for a homesite severance are outrageous.

Farlie Paynter, 2680 Scharf Road:

- Canadian farmers cannot compete with the other countries exporting produce to Canada because they do not have the environmental standards we have.
- We should be speaking out against international agreements.
- Banks only pay 2% income tax on their huge profits.
- Need to ask the government to give interest free money to municipalities.

Jim Stuart (former Mayor of Kelowna), 2600 Hewlett Road:

- Kelowna and Kamloops were the only 2 forced amalgamations – the others volunteered.
- The amalgamation came first and the ALR came along right behind.
- There are some very nice homes on farms now and frequently they are owned by people new to the area. They come in and buy when most people would not buy and they build a nice home thinking they are getting a tax break but then they find out what it costs to keep that farm parcel farmed or green. These people are providing a service to the farming community by buying farm land. The owners who have cleared off their trees did not have anyone to buy their land.
- Taking away the tax advantage for farms would eliminate any incentive for potential buyers to buy farm land.
- Are the extra \$311,000 in taxes worth putting the green belt now being provided freely by the farmers in jeopardy?
- The City of Kelowna has put a lot of money into the Community Arts Centre, Skyreach Place and other projects.

Council:

- Staff to clarify for the December 11<sup>th</sup> Council meeting, whether the owner is prohibited from getting a tax benefit when a farm property is leased out; whether a property has to be zoned residential in order to legally charge the residential tax rate; and whether farmers could receive a tax break under criteria similar to what is in place for churches and non-profit organizations.

Mayor Gray advised that Council will debate this issue at the Regular Meeting on December 11, 2000.

The City Clerk advised that there is no statutory requirement for the correspondence, letters, e-mails and phone calls that have been received on this issue to be read into the record. However, that information has been circulated to Council and is available for public viewing in the Finance Department.

Staff:

- Explained that 'threshold' was a potential compromise solution that was explored with Victoria and denied as an option. It would have established a 'threshold' number (assessed value); farm dwellings below that number would be taxed at a preferential rate and those above that number would be taxed a higher rate.

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7. BYLAWS

The bylaws under section 7 were dealt with after agenda item No. 5.3.

**(BYLAWS PRESENTED FOR FIRST READING)**

- 7.1 Bylaw No. 8615 (TA00-005) – Amendment to the CD4 – Comprehensive Small Lot Residential zone (replace CD4 Map A)

**(BYLAWS PRESENTED FOR FIRST THREE READINGS)**

- 7.2 Bylaw No. 8620 – Amendment No. 6 to Airport Fees Bylaw No. 7982

**(BYLAWS PRESENTED FOR ADOPTION)**

- 7.3 Bylaw No. 8602 (HRA00-001) – Heritage Revitalization Agreement Authorization Bylaw – Martin D. Johnson and D. Glenn Einfeld Law Corp. – 830 Bernard Avenue

8. REMINDERS - Nil

9. TERMINATION

The meeting was declared terminated at 11:05 p.m.

Certified Correct:

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Mayor

City Clerk

BLH/bn