

Regular Meeting – P.M.

January 21, 2002

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, January 21, 2002.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanche, 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: Acting City Manager/Director of Planning & Development Services, R.L. Mattiussi, City Clerk, D.L. Shipclark; Current Planning Manager, A.V. Bruce*; Community Planning Manager, T. Eichler*; Director of Works & Utilities, J. Vos*; Development Engineering Manager, S. Muenz*; Wastewater Manager, W.J. Berry*; Transportation Manager, R.W. Westlake*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 1:34 p.m.

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

Mayor Gray welcomed a delegation visiting from Kasugai, our Sister City in Japan.

3. PUBLIC IN ATTENDANCE

3.1 Presentation by Alan Dolman, Chair, Interior Health Authority; and Murray Ramsden, CEO, Interior Health Authority re: New Interior Health Authority

Alan Dolman:

- Prior to December 12, 2001, there were 52 health councils with over 600 directors. The now 5 health councils are able to work with the Ministry on health care in a much more cooperative way.
- Health of the citizens is paramount and is the motivator for changes as health care is redefined in British Columbia.

4. UNFINISHED BUSINESS

4.1 Planning & Development Services Department, dated December 18, 2001 re: Liquor Licencing Application No. LL01-012 – Victor Projects (Jill Johnstone/Kelowna Lazerium) – 1551 Water Street

Staff:

- The Liquor Control Board (LCB) Inspector has confirmed the following in response to questions of Council at the Regular Meeting of Tuesday, January 8, 2002 when this application was initially considered:
 - That applicants for cabaret licences could voluntarily restrict their hours to other than 7 p.m. to 2 a.m. and Council would have input if those hours were to change.
 - Local government cannot impose restrictions on the liquor licence.

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- If the Class “C” liquor licence was granted, the applicant could not expand the licence capacity without coming back to Council for a recommendation of support. If Council did not support an application to increase licence capacity, most likely the Province would not consider the licence appropriate; however, there is opportunity for the applicant to appeal that decision.
- Local government cannot set minimum price levels for the sale of alcohol or restrict the sale of alcohol to only bottles or cans; this can, however, be done by agreement between licence holders.
- Transfer of a liquor licence from one property to another requires Council input; transfer of a liquor licence between subsequent owners of the same property does not require Council input.
- A “B” class Dining Room that sells only beer, wine, cooler, liqueurs requires the least amount of food in comparison to a “B” class Dining Lounge that sells all types of liquor. However, the Dining Room food service has to be sufficient to be construed as a meal.
- The Province is still working on the new classes of licences and there has been no indication when they may be introduced.
- The only class “C” licence that is active but not in use is the Snooty Fox and they would require a resolution of support from Council in order to move to another location. The former Tramps had a class “A” lounge licence and it expires in May.
- Within the downtown area, only Splashes has capacity to expand; they could increase their licence capacity by about 164 for a total capacity of 464 people. Flashbacks could expand for another 50 for up to about 400 capacity. The only other “C” class licence with capacity to expand is outside the downtown area.
- Confirmed that the LCB Inspector did not recommend that the applicant go to an earlier closing time.

Barry Williamson, City Solicitor:

- Council’s powers for regulating business practices were substantially increased in the *Local Government Act* via Bill 88. The City of Kelowna Business Licence Bylaw may need to be amended accordingly.
- If a licensee does not abide by the rules, Council can revoke or suspend the business licence by a majority vote of Council.
- Council could amend the City of Kelowna Business Licence Bylaw to impose new regulations on certain classes of businesses without incurring new liability. Existing businesses would not be grandfathered if new regulations were introduced.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R55/02/01/21 THAT Council ***not*** support the licencing of a Class “C” liquor licence proposed by Jill Johnstone for 1551 Water Street;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licencing Board in Victoria.

AND FURTHER THAT staff be directed to meet with the Provincial Liquor Licencing Authority, the City Solicitor and all stakeholders and report back to Council with recommended options for amending the City of Kelowna Business Licence Bylaw to address concerns raised during consideration of LL01-012 for all liquor licence categories.

Carried

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5. PLANNING

- 5.1 Planning & Development Services Department, dated January 16, 2002 re: Housing Agreement No. HA02-001 – Joel & Marie Prichard (Provincial Rental Housing Corporation) – 547 Caramillo Court (3360-20)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R56/02/01/21 THAT the report dated January 16, 2002 from the Planning and Development Services Department regarding Housing Agreement No. HA02-001 be received for information;

AND THAT staff be directed to prepare the necessary bylaw authorizing the City to enter into a housing agreement with the Provincial Rental Housing Corporation to ensure that the development proposed for 547 Caramillo Court will be reserved for Special Needs housing.

Carried

- 5.2 Planning & Development Services Department, dated January 16, 2002 re: Minimum Heating Standards Bylaw (3900-20)

Council:

- Agreed to eliminate the first two paragraphs of the staff recommendation (to proceed with the necessary steps to enact a Minimum Heating Standards Bylaw and to determine the method of enforcement) and to consider the third and final paragraph of the recommendation, amended to include sending a letter now to the Attorney General with the same request.

Moved by Councillor Nelson/Seconded by Councillor Cannan

R57/02/01/21 THAT a resolution be prepared for debate by the Okanagan Mainline Municipal Association urging the Provincial Ministry of the Attorney General to address minimum heating standards in the Residential Tenancy Act and that a letter also be sent immediately to the Attorney General requesting his office address minimum heating standards in the Residential Tenancy Act.

Carried

6. REPORTS

- 6.1 Transportation Manager, dated January 16, 2002 re: Feasibility Study for "Rails with Trails" (8320-20)

Al Popoff, Safety Engineer with Hamilton Associates:

- Presented the study results indicating that it would be feasible to integrate an active rail corridor with a commuter cycling/pedestrian trail within the existing CNR right-of-way.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R58/02/01/21 THAT Council receive the report of the Transportation Manager dated January 16, 2002 with Executive Summary on the Feasibility Study for a "Rails with Trails" project using the existing CNR right-of-way through Kelowna;

AND THAT the 2001 Financial Plan be amended to include \$67,000 in funding for the Feasibility Study and for legal/negotiation costs with the appropriate authorities for the joint use of the CNR right-of-way;

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AND FURTHER THAT staff be directed to begin negotiations with CN Rail and Kelowna Pacific Railway for the use of the CN right-of-way for a “Rails with Trails”.

Carried

6.2 Wastewater Manager, dated January 8, 2002 re: Addition No. 2 to Sewer Specified Area No. 21A (McKenzie Bench) (B/L 8795; 5340-09-21A)

Moved by Councillor Clark/Seconded by Councillor Blanleil

R59/02/01/21 THAT Bylaw 8658 be amended to add the following 33 properties to Sewer Specified Area No. 21A, as shown on the map attached as Schedule “A” to the Wastewater Manager’s report dated January 8, 2002:

Lots 1-13, Plan 15377
 Lots 24-32, Plan 15377
 Lots 3-8, Plan 22050
 Lots 4-8, Plan 22370;

AND THAT Bylaw 8795, being Amendment No. 2 to Sewer Specified Area No. 21A (McKenzie bench), be forwarded to Council for reading consideration;

AND THAT once included in Sewer Specified Area No. 21A, these parcels be subject to all the fees and charges specified by the original Bylaw No. 8658;

AND THAT Bylaw No. 8469, the Sewer Connection Charge bylaw, be amended to remove these parcels from Sewer Service Area No. 21.

Carried

Mayor Gray altered the order of business and advised that agenda item No. 6.4 would be dealt with next.

6.4 City Clerk, dated January 16, 2002 re: Sanitary Sewer Specified Area No. 29 (Campion/Cambro Road) Bylaw No. 8771 (B/L 8771)

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R60/02/01/21 THAT Council receive the Certificate of Sufficiency dated January 11th, 2002 pertaining to the Sanitary Sewer Specified Area No. 29 (Campion/Cambro Road) Bylaw No. 8771;

AND THAT Sanitary Sewer Specified Area No. 29 (Campion/Cambro Road) Bylaw No. 8771 be advanced for adoption consideration.

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6.3 City Clerk, dated January 16, 2002 re: Frost Road Closure Bylaw No. 8768 (B/L 8768)

Staff:

- As of January 12, 2002, a total of 13 responses were received, 7 in support and 6 opposed.
- Once Frost Road is extended south to connect to Lakeshore Road, staff will be back with a request to rescind this bylaw, re-open this road closure and instead close Frost Road at Chute Lake Road.
- The public has a right of access to this public road. The Road Closure Bylaw takes that right of public access away but the road remains public and would continue to be maintained by the City.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the proposed road closure to come forward.

Sue Kuipers, 4915 & 4923 Frost Road:

- Supports making the temporary closure permanent because of safety concerns with the sharp right angle turns on Frost Road.
- Recommends there be an upper and a lower Frost Road so that emergency vehicles know which road to take.

Ervin Schleith, 4895 Frost Road:

- Supports making the temporary closure permanent. The road is rural and cannot safely support added high traffic levels or construction traffic from South Ridge development.

Sylvia Root, 4923 Frost Road:

- Supports making the temporary closure permanent. The closure makes it safer for exiting their driveway.

Marion Everett, 4940 Chute Lake Road:

- Owns and operates Happy Dog Kennels.
- Supports making the current temporary closure permanent.
- Closing Frost Road at Chute Lake Road would be a devastating blow to the success of her business and it would discourage prospective buyers and devalue her property.

Council:

- Staff to report back with a recommendation for naming of Frost Road that takes into consideration future connection of Frost Road at some point in time with Ivans and Paret Roads.

Moved by Councillor Shepherd/Seconded by Councillor Given

R61/02/01/21 THAT Council receive the report from the City Clerk dated January 15, 2002 pertaining to Frost Road Closure Bylaw No. 8768 for information;

AND THAT Frost Road Closure Bylaw No. 8768 be advanced for adoption consideration.

Carried

Councillor Cannan opposed.

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- 6.4 City Clerk, dated January 16, 2002 re: Sanitary Sewer Specified Area No. 29 (Campion/Cambro Road) Bylaw No. 8771 (B/L 8771)

Dealt with after item No. 6.2

- 6.5 City Clerk, dated January 21, 2002 re: Council Indemnity Review – 2002 (0540-30-35)

Moved by Councillor Nelson/Seconded by Councillor Day

R62/02/01/21 THAT an independent committee, representing a broad cross-section of community interest, be struck to review Council remuneration, expenses and benefits so that any changes are in place in time for the newly elected Council taking office in December 2002;

AND THAT the following individuals be appointed to the Council Indemnity Review Committee:

Lawrence Bates, CEO SunRype
Bruce Jones, VP Royal Bank
Ben Lee (retired City of Kelowna Councillor).

Carried

7. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 7.1 Bylaw No. 8795 – Amendment No. 2 to Sewer Specified Area No. 21A Bylaw No. 8658 (McKenzie Bench)

Moved by Councillor Nelson/Seconded by Councillor Given

R63/02/01/21 THAT Bylaw No. 8795 be read a first, second and third time.

Carried

- 7.2 Bylaw No. 8796 – Amendment No. 6 to Sewer Connection Charge Bylaw No. 8469

Moved by Councillor Nelson/Seconded by Councillor Given

R64/02/01/21 THAT Bylaw No. 8796 be read a first, second and third time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 7.3 Bylaw No. 8768 – Road Closure – Frost Road

Moved by Councillor Shepherd/Seconded by Councillor Given

R65/02/01/21 THAT Bylaw No. 8768 be adopted.

Carried

Councillor Cannan opposed.

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7.4 Bylaw No. 8771 – Sewer Specified Area No. 29 – Campion/Cambro

Moved by Councillor Shepherd/Seconded by Councillor Clark

R66/02/01/21 THAT Bylaw No. 8771 be adopted.

Carried

8. COUNCILLOR ITEMS

(a) Graffiti – Ben Lee Park

The Acting City Manager reported that Civic Properties and the RCMP are working on a plan to address graffiti problems centered around Ben Lee Park.

9. TERMINATION

The meeting was declared terminated at 5:28 p.m.

Certified Correct:

Mayor

BLH/am

City Clerk