

Regular Meeting – P.M.

January 28, 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 28, 2002.

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

Council members absent: Councillors B.A. Clark and R.D. Hobson.

Staff members in attendance were: City Manager, R.A. Born; Acting City Clerk, A. Flack; Director of Planning & Development Services, R.L. Mattiussi\*; Subdivision Approving Officer, R.G. Shaughnessy\*; Special Projects Planning Manager, H.M. Christy\*; Long Range Planning Manager, S.K. Bagh\*; Planner-Long Range, G.D. Routley\*; Acting Cultural Services 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 Day was requested to check the minutes of the meeting.

3. PLANNING

- 3.1 Planning & Development Services Department, dated January 21, 2002 re: Rezoning Application No. Z00-1026 – Total Mechanical Systems Inc. – 700 McCurdy Road

Moved by Councillor Blanleil/Seconded by Councillor Nelson

**R92/02/01/28** THAT Municipal Council authorize an extension to Rezoning Application No. Z00-1026 (Bylaw No. 8573) for a period of not more than 180 days from December 27, 2001.

Carried

- 3.2 Planning & Development Services Department, dated January 22, 2002 re: Agricultural Land Reserve Appeal No. A01-113 – Mary Dulik, Doris Johnson, Diana Fabian, Stanley Gunderson and Pioneer Vineyards Ltd. (Susan Dulik) – 4055 Hughes Road

Staff:

- The requested homesite severance would allow two generations of the family to retire in the two homes that they have resided in on the property since 1952.
- Subdivision approval would be withheld until the matter of permitting 2 residences on one homesite severance lot is addressed with the Land Reserve Commission.
- Hughes Road is a driveway, not a constructed road.

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Moved by Councillor Blanleil/Seconded by Councillor Day

**R93/02/01/28** THAT Agricultural Land Reserve Appeal No. A01-113, Lot B, Section 5, Township 26, ODYD Plan 32728, located on Hughes Road, Kelowna, B.C., for subdivision within the Agricultural Land Reserve pursuant to Section 22(1) of the Agricultural Land Reserve Act be supported by the Municipal Council;

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

AND FURTHER THAT Council support the Advisory Planning Commission's recommendation that Hughes Road not be constructed as a result of this application and that the road right-of-way be closed.

Carried

3.3 Planning & Development Services Department, dated January 22, 2002 re: Agricultural Land Reserve Appeal No. A01-112 – C.D. Turton – 2796 & 2798 K.L.O. Road

Staff:

- The applicant owns two adjacent parcels that are separately titled. The westerly parcel is  $\pm 0.34$  ha in size and the easterly parcel is  $\pm 1.90$  ha in size. The applicant is seeking permission to adjust the common interior property line so that lot sizes would be reversed with the westerly parcel  $\pm 1.90$  ha in size and the easterly parcel  $\pm 0.34$  ha in size.
- The City of Kelowna Zoning Bylaw requires that newly created lots on septic system be minimum 1 ha in size. The subject application would not meet that requirement.
- The City's Approving Officer cannot support either the lot line adjustment proposed by the applicant or the lot line adjustment suggested by the Agricultural Advisory Committee (AAC) because neither would have a benefit to farming.
- The AAC recommendation to Council is for support with the suggestion that the common property boundary be adjusted to allow both lots to meet the minimum 1 ha lot size requirement. That option was offered by the Approving Officer to the applicant subject to a restrictive covenant being registered to preclude building a house on the easterly lot. The option was declined by the applicant.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R94/02/01/28** THAT Agricultural Land Reserve Appeal No. A01-112, those Parts of lot 2 shown on Plans B3824 and Plan B3790, Section 9, Township 26, ODYD Plan 1992, located on KLO Road, Kelowna, B.C., for subdivision within the Agricultural Land Reserve pursuant to Section 22(1) of the Agricultural Land Reserve Act be supported by the Municipal Council **provided that** the application is amended to create two parcels that meet the minimum lot size of 1 ha for lots created on septic disposal, and then without requirement to register a covenant to preclude building a house on the easterly lot;

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

Carried

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3.4 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 8736 (Z01-1037) – Four-D Ventures Ltd. (Axel Hilmer) – 1876 Ambrosi Road

Moved by Councillor Day/Seconded by Councillor Blanleil

**R95/02/01/28** THAT Bylaw No. 8736 be adopted.

Carried

- (b) Planning & Development Services Department, dated January 22, 2002 re: Development Permit Application No. DP01-10,051 – Four-D Ventures Ltd. (Axel Hilmer) – 1876 Ambrosi Road

Staff:

- A 2-storey commercial building is proposed for construction with a personal service establishment as main tenant on the main floor and two 1-bedroom apartments on the second floor.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R96/02/01/28** THAT Council authorize the issuance of Development Permit No. DP01-10,051 for Lot 8, Blk. 1, D.L. 129, ODYD, Plan 5109, located on Ambrosi 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. Signage to be provided on the land be in general accordance with Schedule "D";
5. 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;
6. The applicant provide payment of cash-in-lieu for one parking stall in the amount of \$3,000.00;

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

Carried

Mayor Gray altered the order of business on the agenda and advised that agenda item No. 3.6 would be dealt with next.

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- 3.6 Planning & Development Services Department, dated January 18, 2002  
re: Rezoning Application No. Z01-1002 – Brad Laverdure – 594 Spruceview Place South

Staff:

- Adoption of the zone amending bylaw is being withheld subject to the applicant meeting requirements of the Building Department including addressing a concern about on-street parking that was causing congestion in front of the mail boxes in front of Cara Glen Park.
- The applicant now has new tenants in the suite and parking is no longer a problem.
- The existing on-site parking meets bylaw requirements.

Moved by Councillor Nelson/Seconded by Councillor Given

**R97/02/01/28** THAT Zone Amending Bylaw No. 8659 be advanced for adoption consideration by Council;

AND THAT Council waive the applicant's commitment to provide an additional parking stall on the subject property.

Carried

- 3.5 Planning & Development Services Department, dated January 22, 2002  
re: Rezoning Application No. Z01-1062 – James Ramsay/SD-21 Ventures Ltd. (Bryan Murray) – 510 Doyle Avenue

Staff:

- The applicant proposes to renovate the former Kal Tire building for use as a restaurant.

Moved by Councillor Shepherd/Seconded by Councillor Given

**R98/02/01/28** THAT Rezoning Application No. Z01-1062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, D.L. 139, ODYD, Plan 25975, located on Doyle Avenue, Kelowna, B.C., from the I4 – Central Industrial zone to the C7 – Central Business Commercial zone, be considered by Council;

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

AND THAT final adoption the zone amending bylaw be considered subsequent to the registration of a lane dedication and corner rounding;

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

Carried

- 3.6 Planning & Development Services Department, dated January 18, 2002  
re: Rezoning Application No. Z01-1002 – Brad Laverdure – 594 Spruceview Place South

Dealt with after agenda item No. 3.4.

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- 3.7 Planning & Development Services Department, dated January 16, 2002 re: Kirschner Mountain Area Structure Plan ASP00-001 and OCP01-020 – Gordon & Heidi, Donald & Amy and Allan & Angelica Kirschner (John Steil/Stantec Consulting Ltd.) – South of Highway 33 Between Garner and Gallagher Roads

Council:

- Staff to arrange an on-site visit for Council with the applicant.

Moved by Councillor Nelson/Seconded by Councillor Given

**R99/02/10/28** THAT Council endorse the Kirschner Mountain Area Structure Plan dated December 2001 and attached as Schedule "A" to the report of the Planning & Development Services Department dated January 16, 2002;

AND THAT OCP Amendment No. OCP01-020 to amend Table 15.1 of the Kelowna Official Community Plan (1994-2013) Bylaw No. 7600 by deleting line 12 in its entirety be considered by Council;

AND THAT OCP Amendment No. OCP01-020 to amend Map 13.2 – Areas Subject to Development Permit Area Designation of the Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 by redefining the boundaries of the Natural Environment/Hazardous Condition Development Permit Area Designation for Lot A, Section 13, Township 26, ODYD Plan KAP48770; Lot B, Sections 12 and 13, Township 26 and Sections 7 and 18, Township 27, ODYD Plan KAP48770; Lot C, Sections 12 and 13, Township 26, ODYD Plan KAP48770; Lot D, Section 13, Township 26, ODYD Plan KAP48770; Lot 3, Section 13, Township 26 and of Section 18, Township 27, ODYD Plan KAP44995; and part of Section 12, Township 26, ODYD except (1) Plans 1380, 1639 and KAP44995 and KAP48770 (2) Parcel A (Plan B8600) (3) the southwest 1/4 of said section, located on Garner, Loseth and Verdure Roads, Kelowna, B.C., as shown on Map "A" attached to the report of Planning & Development Services Department dated January 16, 2002 be considered by Council;

AND THAT OCP Amendment No. OCP01-020 to amend Map 15.1 – Generalized Future Land Use of the Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 by changing the Future Land Use designation of Lot A, Section 13, Township 26, ODYD Plan KAP48770; Lot B, Sections 12 and 13, Township 26 and Sections 7 and 18, Township 27, ODYD Plan KAP48770; Lot C, Sections 12 and 13, Township 26, ODYD Plan KAP48770; Lot D, Section 13, Township 26, ODYD Plan KAP48770; Lot 3, Section 13, Township 26 and of Section 18, Township 27, ODYD Plan KAP44995; and part of Section 12, Township 26, ODYD except (1) Plans 1380, 1639 and KAP44995 and KAP48770 (2) Parcel A (Plan B8600) (3) the southwest 1/4 of said section, located on Garner, Loseth and Verdure Roads, Kelowna, B.C., from the Single/Two Family Residential and Rural/Agricultural designations to the Single/Two Family Residential and Major Park/Open Space designations, as shown on Map "B" attached to the report of Planning & Development Services Department, dated January 16, 2002, be considered by Council;

AND FURTHER THAT OCP Bylaw Amendment No. OCP01-020 be forwarded to a public hearing for further consideration.

Carried

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- 3.8 Planning & Development Services Department, dated January 22, 2001  
re: Glenn Avenue and Central Elementary School Buildings (B/L 8804;  
B/L 8805)

Moved by Councillor Shepherd/Seconded by Councillor Given

**R100/02/01/28** THAT City Council consider designation of the building located at 1633 Richter Street, Kelowna B.C., commonly known as the 'Glenn Avenue School' as a Municipal Heritage Site pursuant to Section 967 of the Local Government Act;

AND THAT City Council consider designation of the building located at 1825 Richter Street, Kelowna B.C., commonly known as the 'Central Elementary School' as a Municipal Heritage Site pursuant to Section 967 of the Local Government Act;

AND FURTHER THAT the Heritage Designation Bylaws be forwarded to a Public Hearing for further consideration.

Carried

- 3.9 Planning & Development Services Department, dated January 22, 2001  
re: City of Kelowna 2001 Development Statistics

Moved by Councillor Given/Seconded by Councillor Blanleil

**R101/02/01/28** THAT the Planning and Development Services Department's report dated January 22, 2002 comparing development activities and statistics from 1991 to 2001 as a measure of how the City of Kelowna is meeting OCP objectives be received by Council for information.

Carried

Moved by Councillor Given/Seconded by Councillor Shepherd

**R102/02/01/28** THAT staff report back to Council with options for incentives to encourage residential development in the urban and town centres.

Carried

#### 4. BYLAWS (ZONING & DEVELOPMENT)

##### **(BYLAWS PRESENTED FOR ADOPTION)**

- 4.1 Bylaw No. 8659 (Z01-1002) – Brad Laverdure – 594 Spruceview Place South

Moved by Councillor Blanleil/Seconded by Councillor Day

**R103/02/01/28** THAT Bylaw No. 8659 be adopted.

Carried

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**(BYLAW PRESENTED FOR DEFEAT)**

- 4.2 Bylaw No. 8584 (Z00-1035) – 554007 B.C. Ltd. (Walter & Lidia Baumgart) – 952 Lawson Avenue

Moved by Councillor Day/Seconded by Councillor Blanleil

**R104/02/01/28** THAT Bylaw No. 8584 be ***defeated*** and the file closed.

Carried

5. REPORTS

- 5.1 Acting Cultural Services Manager, dated January 22, 2002 re: Kelowna Community Theatre – 2002 Renovations (0750-01)

Staff:

- Provides for more meeting space, expanded entrance and lobby space, a reception area, and office space.
- The \$250,000 has already been approved in the 2002 budget.
- Anticipate that the project could be finished in July 2002.

Moved by Councillor Shepherd/Seconded by Councillor Given

**R105/02/01/28** THAT City Council receive for information, the report dated January 22, 2002 from the Acting Cultural Services Manager regarding the 2002 Kelowna Community Theatre renovations.

Carried

6. RESOLUTIONS

- 6.1 Draft Resolution re: Minimum Heating Standards for Residential Tenants (0230-20)

Council:

- A letter has already been sent from the Mayor urging the Attorney General to address the need for minimal heating standards in the Residential Tenancy Act.
- Attorney General to be cc'd on the letter that is sent to OMMA asking that the below resolution be advanced for debate at their 2002 General Meeting.

Moved by Councillor Cannan/Seconded by Councillor Shepherd

**R106/02/01/28** THAT the following resolution be endorsed by Council and forwarded to the Okanagan Mainline Municipal Association for debate at the OMMA 2002 General Meeting;

WHEREAS the Province has enacted legislation through the *Residential Tenancy Act* to protect tenants from unacceptable living conditions, while providing appropriate protection for landlords;

AND WHEREAS Section 10 – Duty to Repair and Keep Clean of the *Residential Tenancy Act* states, under subsection (1) (a), that the landlord must ensure a rental premises “complies with health, safety and housing standards required by law”; and, under subsection 1(b), is “reasonably suitable for occupation by a reasonable tenant”; yet no health, safety or housing standards are provided as part of the Act, nor does the Act define “reasonable”;

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AND WHEREAS Section 13(1) (b) Emergency repairs includes the central or primary heating system as a repair that is “urgent and necessary for the health and safety of persons or the preservation and use of the resident property or residential premises”; yet does not address control of the heating system, nor define adequate heat;

AND WHEREAS heating is essential in order to survive the cold winter months, and municipalities are aware of situations where the tenant is not able to control the level of heat;

AND WHEREAS there is currently no provincial legislation that specifically states what level of heat is acceptable for rental housing;

AND WHEREAS the Province is currently undertaking a review of the *Residential Tenancy Act* in order to “modernize and improve” the Act “to properly protect tenants and landlords”;

THEREFORE BE IT RESOLVED that the Okanagan Mainline Municipal Association be requested to lobby the Ministry of Public Safety and Solicitor General to address minimum heating standards in the *Residential Tenancy Act*, subject to the following:

- That the landlord be responsible for providing a functional heat system;
- That the heating system for the rental dwelling be capable of providing a minimum heat of 20 degrees Celsius in the living room of the dwelling;

AND THAT a copy of the letter forwarding the above resolution to OMMA be sent to the Attorney General.

Carried

## 7. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

### **(BYLAWS PRESENTED FOR ADOPTION)**

- 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

**R107/02/01/28** THAT Bylaw No. 8795 be adopted.

Carried

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

Moved by Councillor Shepherd/Seconded by Councillor Given

**R108/02/01/28** THAT Bylaw No. 8796 be adopted.

Carried



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8. COUNCILLOR ITEMS

(a) Clean Indoor Air and Smoking Bylaw

Councillor Shepherd referred to information circulated to Council including a letter from the Deputy Chief Public Health Inspector of the Interior Health Authority, a news release from the Ministry of Skills Development and Labour announcing a new workplace smoking regulation, and the January 2002 labour relations edition of the BCRFA Fresh Sheet. She noted that not all Kelowna businesses have complied with existing smoking bylaw regulations and expressed disappointment that the newly approved Provincial (WCB) workplace smoking regulation is not stronger. Councillor Shepherd noted that the new WCB regulation goes into effect May 1, 2002 and suggested that the task force established several years ago to deal with smoking regulations in the City of Kelowna be reinstated to review the new WCB regulation with a view to bringing forward recommendations for changes to the City of Kelowna Clean Indoor Air and Smoking Bylaw that go beyond the WCB regulation.

The City Manager suggested that the City Clerk's office undertake that review and if there are recommendations to enhance the City's bylaw bring those back in a report to Council. The Clerk could also recommend a consultation/communication strategy for any proposed bylaw changes.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

**R109/02/01/28** THAT the City Clerk review the current City of Kelowna Clean Indoor Air and Smoking Regulation Bylaw No. 5980-86 and the new Provincial Workplace Smoking Regulation that goes into effect May 1, 2002 with a view to bringing forward recommendations to enhance the City of Kelowna Clean Indoor Air and Smoking Bylaw.

Carried

(b) Council Endorsement of Recommendations from Parks & Facilities Committee

Moved by Councillor Blanleil/Seconded by Councillor Nelson

**R110/02/01/28** THAT Council support the recommendation from the Parks & Facilities Committee for the City to partner with the Regional District of Central Okanagan and the Okanagan Dog Owners Association to develop a dog park on a Hollywood Road South property.

Carried

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

**R111/02/01/28** THAT Council support the recommendation from the Parks & Facilities Committee for the City to partner with the Regional District of Central Okanagan to develop a Canine Workshop to be held in the spring of 2002.

Carried

(c) Athans Pool

Councillor Blanleil requested an update from staff on when the Athans Pool project will be completed and whether the project is within budget, etc. The City Manager advised that the project is very close to being complete and dates are being considered for the official opening. Council will be provided with an update report.

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(d) Traffic Bylaw

Councillor Cannan noted that there has not yet been a report back from staff in response to the Traffic Bylaw issue raised by Councillor Shepherd at the December 3, 2001 Regular Meeting. City Manager to investigate.

9. TERMINATION

The meeting was declared terminated at 4:00 p.m.

Certified Correct:

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Mayor

BLH/am

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Deputy City Clerk