

Regular Meeting – P.M.

February 25, 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, February 25, 2002.

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; Deputy City Clerk, A. Flack; Director of Planning & Development Services, R.L. Mattiussi*; Current Planning Manager, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Deputy Director of Finance, P.A. Macklem*; Revenue Supervisor, M. Crossley*; former Acting-Director of Parks & Leisure Services, H.R. Hyatt*; Parks Manager, J. Creron*; 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 1:35 p.m.

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

3.0 UNFINISHED BUSINESS

3.0.1 Planning & Development Services Department, dated November 7, 2001 re: Development Variance Permit Application No. DVP01-10,066 – Dick Leppke, Okanagan Mission Community Hall Association – 4409 Lakeshore Road

Staff:

- Council debate of this application was deferred from the Regular Meeting of December 11, 2001 for staff and the applicant to look at alternatives to their proposal to build a structure to enclose the 3 existing outdoor tennis courts. The proposal would require variances to allow the west side yard setback and the rear yard setback to both be reduced by approximately 10 ft. (3 m).
- Staff met with the two abutting neighbours directly affected by the proposed variance (Kabellas to the south and Fairweather to the west) and have determined that there is nothing that can be done to alter their position of opposition to the structure.
- Many options have been considered by staff and the applicant but none were worth pursuing very far for mutual reasons. The only option that the Association is prepared to consider would shift the building to the northwest by 10 ft. and drop the overall height of the building by 5 ft. That option would still require a variance and would also require at least another \$80,000 because the existing courts would have to be completely replaced under the new footprint. The \$80,000 is probably a very conservative estimate and the Association would be looking to the City to pick-up those additional costs.
- The Association would look to see the application as initially presented to Council (with the 2 variances) decided by Council today as that is the option that preserves the best business plan for them.
- The staff recommendation for non-support of the application still stands.

Mayor Gray clarified that input on the subject DVP application was received from the public at the Regular Meeting of December 11, 2001. The item is on today's agenda for Council's decision on the variances. If Council passes a resolution to hear from the applicant today, then the public would also be given the opportunity to again be heard but for new information only.

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Staff in response to questions of Council:

- Moving the enclosure 10 ft. to the north would mean that the on-site parking would have to be reconfigured and expect that could be done with no net loss in parking.
- The proposed alternative to move the building 10 ft. to the north and reduce the peak height by 5 ft. would eliminate need for a setback variance from the Kabella property but the variance from the Fairweather property would still be required. The overall impact of the building on the abutting neighbours would be the same regardless of the alternative.
- It could be another 10 years before the City actually takes ownership of the Reid property and then that site is intended as more passive open space rather than as a location suitable for a tennis facility.
- Shifting the existing courts to where the Scout Hall is now located would likely cost in the area of \$100,000 and the Association's business plan could not support that level of cost.

Council:

- If Council agrees to everything requested by the applicant, including the additional \$12,000 to upgrade the lighting proposed for the new outdoor courts, the City's contribution to this project would be minimum \$250,000.
- Considered the following options:
 - Accept the staff recommendation and defeat the application for the 2 variances;
 - Grant the two variances as requested in the subject application;
 - Support the alternate option to shift the proposed structure forward and reduce the height of the building, with the City paying the extra cost;
 - Support the alternate option to shift the proposed structure forward and reduce the height of the building, without the City paying any extra costs;
 - Proceed with developing the 3 outdoor tennis courts, with the improved lighting, on the City's property regardless of whether the Association proceeds with their tennis court proposal.
- Staff to report back with advice on the feasibility of each of the above options and the impact of each on the cost to the City/the Association's business plan. Staff to also try to determine a more accurate estimate, since the \$80,000 estimate is considered to be very conservative, for the costs of moving the building footprint for the proposed structure.
- The Association has committed to make the changes to their bylaws/constitution that Council had decided would be a deal-breaker but the changes still have not actually been made. Staff to be sure that adoption of the financial bylaws related to this project is done in the right sequence.

Staff:

- Changes to the proposal could impact the bylaws relative to the funding and could require another Counter Petition period.

Moved by Councillor Nelson/Seconded by Councillor Given

R179/02/02/25 THAT consideration of Development Variance Permit Application No. DVP01-10,066 (Okanagan Mission Hall Association – Lakeshore/Dehart Roads) be further deferred to the Regular Meeting of March 4, 2002 pending a further report from staff to provide the information requested by Council at this meeting.

Carried

Councillors Blanleil, Cannan and Clark opposed.

The City Manager announced that this is probably Ross Hyatt's last Council Meeting before his retirement and recognized his many years of excellent work for the City of Kelowna, most recently as Acting Director of Parks & Leisure Services for the last 7 months.

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3. PLANNING

- 3.1 Planning & Development Services Department, dated February 18, 2002 re: Rezoning Application No. Z01-1070 – Ivan & Nada Vidovic – 278 Temple Court

Staff:

- The rezoning would legalize an existing non-conforming suite in the residence.

Moved by Councillor Hobson/Seconded by Councillor Nelson

R180/02/02/25 THAT Rezoning Application No. Z01-1070 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 4, Sec. 27, Twp. 26, ODYD, Plan 37210, located on Temple Court, Kelowna, B.C., from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forward 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 the Department's satisfaction.

Carried

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

Bylaw No. 8701 (Z00-1033) – Brad Bennett/Eldorado Ranch Ltd. – End of Jim Bailey Road (the Public Hearing was waived for this application)

Moved by Councillor Hobson/Seconded by Councillor Day

R181/02/02/25 THAT Bylaw No. 8701 be adopted.

Carried

- (b) Planning & Development Services Department, dated February 18, 2002 re: Development Permit Application No. DP01-10,079 – Eldorado Ranch Ltd. (Brad Bennett) – east end of Jim Bailey Road

Staff:

- Authorization to grant Natural Environment/Hazardous Condition Development Permits has been delegated to the Director of Planning & Development Services; however, because of the concurrent rezoning, the Development Permit is also brought forward for Council approval.
- The permit is mandatory because of the proximity of the property to Vernon Creek and establishes mitigation measures that include a no-disturb area next to the creek, compensation for loss of trees, and protection of a tree for support of wildlife habitat.
- The no-disturb covenants extend to include the portions of the property within the District of Lake Country.

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Moved by Councillor Hobson/Seconded by Councillor Day

R182/02/02/25 THAT Council authorize the issuance of Development Permit No. DP01-10,079 for Part of the East ½ of Sec. 2, Twp. 20, ODYD, except Plans 19099, 19644 and A15293, located on Beaver Lake Road, Kelowna, B.C., subject to the following:

1. Landscaping and environmental mitigation measures to be provided on the land be in general accordance with Schedule "A";
2. 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;

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

4. BYLAWS (ZONING & DEVELOPMENT)

(BYLAW PRESENTED FOR SECOND & THIRD READINGS)

- 4.1 Bylaw No. 8806 (Z01-1056) – BHF Building Healthy Families Society (Tom Smithwick/Porter Ramsay, Barristers & Solicitors) – 1390 KLO Road **(the Public Hearing was waived for this application)**

Councillor Cannan declared a conflict of interest because he and his wife are on the fund raising committee for this facility and left the Council Chamber at 3:00 p.m.

Moved by Councillor Blanleil/Seconded by Councillor Day

R183/02/02/25 THAT Bylaw No. 8806 be read a second and third time.

Carried

Councillor Cannan returned to the Council Chamber at 3:02 p.m. and took his place at the Council Table.

(BYLAWS PRESENTED FOR ADOPTION)

- 4.2 Bylaw No. 8685 (Z01-1011) – Eileen Powell (Henk Van Gulp/Gehue & Van Gulp) – 2830 East Kelowna Road

Moved by Councillor Day/Seconded by Councillor Cannan

R184/02/02/25 THAT Bylaw No. 8685 be adopted.

Carried

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5. REPORTS

- 5.1 Deputy Director of Finance, dated February 19, 2002 re: Downtown Kelowna Association 2002 Budget (1950-06)

Moved by Councillor Hobson/Seconded by Councillor Cannan

R185/02/02/25 THAT Council approve the Downtown Kelowna Association 2002 budget;

AND THAT Council approve a grant to the Downtown Kelowna Association for 2002 in the amount of \$380,000, to be funded by a levy on Class 5 and 6 properties located within the boundaries of the improvement area.

Carried

- 5.2 Deputy Director of Finance, dated February 19, 2002 re: Utility Billing Customer Care Bylaw (B/Ls 8754)

Staff:

- Customer services will be transferred over to BCG Services on March 1, 2002 and the City staff that will also be moving over will go on March 4th.

Moved by Councillor Nelson/Seconded by Councillor Given

R186/02/02/25 THAT Utility Billing Customer Care Bylaw No. 8754 be forwarded for reading consideration;

AND THAT the following corresponding amendments to the current regulatory bylaws also be forwarded for reading consideration:

- Sewerage System User Bylaw, 1972, No. 3480, Amendment Bylaw No. 8809
- Water Regulation Bylaw No. 2173, Amendment Bylaw No. 8810
- Bylaw No. 8811 being Amendment No. 6 to City of Kelowna Electricity Regulation Bylaw No. 7639

Carried

- 5.3 Acting Cultural Services Manager, dated February 20, 2002 re: City of Kelowna Arts Foundation Board of Directors Membership (0230-20)

Moved by Councillor Hobson/Seconded by Councillor Given

R187/02/02/25 THAT City Council re-appoint Yvonne Topf and Bob Huff to the City of Kelowna Art Foundation for a three year period commencing January 1, 2002;

AND THAT City Council appoint the four new members, Earla Henderson, John Mutter, Angela de Burger, and Anette Lemieux to the City of Kelowna Art Foundation for a three-year period commencing April 1, 2002;

AND FURTHER THAT City Council receive the information on the Executive Committee officials and the remaining Board members for the City of Kelowna Art Foundation.

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- 5.4 Airport General Manager, dated February 19, 2002 re: Consent to Commercial Second Mortgage of Sub-Lease – A.O.G. Air Support Inc. (2380-20-8089)

Moved by Councillor Given/Seconded by Councillor Blanleil

R188/02/02/25 THAT Council consent to a Commercial Second Mortgage of Sub-Lease between A.O.G. Air Support Inc., Debra Lynn Barron, and the Business Development Bank of Canada;

AND THAT the Mayor and City Clerk be authorized to execute the Consent to Second Mortgage of Sub-Lease on behalf of the City.

Carried

6. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 6.1 Bylaw No. 8754 – Utility Billing Customer Care Bylaw

Moved by Councillor Nelson/Seconded by Councillor Given

R189/02/02/25 THAT Bylaw No. 8754 be read a first, second and third time.

Carried

- 6.2 Bylaw No. 8809 – Amendment to Sewerage System User Bylaw, 1972, No. 3480

Moved by Councillor Nelson/Seconded by Councillor Given

R190/02/02/25 THAT Bylaw No. 8809 be read a first, second and third time.

Carried

- 6.3 Bylaw No. 8810 – Amendment to Water Regulation, 1960, Bylaw No. 2173

Moved by Councillor Nelson/Seconded by Councillor Given

R191/02/02/25 THAT Bylaw No. 8810 be read a first, second and third time.

Carried

- 6.4 Bylaw No. 8811 – Amendment No. 6 to City of Kelowna Electricity Regulation Bylaw No. 7639

Moved by Councillor Nelson/Seconded by Councillor Given

R192/02/02/25 THAT Bylaw No. 8811 be read a first, second and third time.

Carried

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6.5 Bylaw No. 8813 – 2002 Local Improvement Assessment Bylaw

Moved by Councillor Nelson/Seconded by Councillor Given

R193/02/02/25 THAT Bylaw No. 8813 be read a first, second and third time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

6.6 Bylaw No. 8808 – Amendment No. 9 to Building Bylaw, 1993, No. 7245

Moved by Councillor Given/Seconded by Councillor Nelson

R194/02/02/25 THAT Bylaw No. 8808 be adopted.

Carried

6.7 Bylaw No. 8723 – Okanagan Mission Community Hall Association Loan Authorization Bylaw

Deferred to a future agenda.

6.8 Bylaw No. 8724 – Okanagan Mission Community Hall Association Agreement Authorization Bylaw

Deferred to a future agenda.

6.9 Bylaw No. 8725 – Okanagan Mission Community Hall Association Lease Authorization Bylaw

Deferred to a future agenda.

7. COUNCILLOR ITEMS

(a) Appreciation for Olympic Athletes

Councillor Shepherd suggested that Council consider sending a letter of thanks to the athletes that participated and those that did well in the Winter Olympics in Salt Lake City. Mayor Gray suggested that it may be more meaningful to the athletes if Council wrote to the Prime Minister telling him how proud we are of the Olympic athletes and asking that the federal government provide more support and recognition for Canada's more elite athletes. Council agreed to send that letter.

(b) Veendam Sister City Relationship

Councillor Clark put Council on notice that he intends to bring forward a letter from the Veendam Association at the March 4, 2002 Council meeting asking for funding to help with exchange visits.

(c) Utilicorp

Councillor Clark commented that to his recollection Utilicorp had voluntarily told Council that they would not be closing their customer service office in Kelowna but now he has heard they are. The City Manager confirmed that Utilicorp is closing the customer service office at Guisachan Centre and moving that service to Calgary. The Benvoulin site will remain open but will not be for walk-in, face to face operations. City Manager to check to see if Utilicorp had committed to keeping the customer service office in Kelowna.

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(d) Bed & Breakfast Operations

Councillor Cannan commented that staff were asked to undertake a policy review of Bed & Breakfasts and report back to Council in February but the report is yet to come forward. City Manager to investigate.

(e) Smoke Bylaw

Councillor Hobson commented that the Regional District of Central Okanagan (RDCO) has been asked to take a position on tobacco smoke and asked if the City will be taking a position soon. Councillor Shepherd advised that the City's Clean Air and Smoking Bylaw does not meet WCB requirements and staff are looking into that and the possibility of bringing back a non-smoking bylaw for the community. She noted that implementation of the WCB regulations with respect to smoking is to start in May and that if the City is going to be changing our bylaw to go beyond the WCB regulation, we need to get on with it so that the businesses impacted only have to make the necessary changes for compliance to the new rules once. Councillor Hobson added that the City and the RDCO should work together toward consistent regulations Valley wide.

8. TERMINATION

The meeting was declared terminated at 3:30 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk