

Regular Meeting – P.M.March 11, 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, March 11, 2002.

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; Deputy City Clerk, A. Flack; Director of Planning & Development Services, R.L. Mattiussi*; Current Planning Manager, A.V. Bruce*; Long Range Planning Manager, S.K. Bagh*; Director of Parks & Leisure Services, D.L. Graham*; Parks Manager, J. Creron*; Wastewater Manager, W.J. Berry*; 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. CORRESPONDENCE

4.1 (a) Friends of Mission Creek, dated March 5, 2002 re: Mission Creek Greenway – Phase 2 Funding

Councillor Hobson entered the Council Chamber at 1:34 p.m. and took his place at the Council Table.

Harald Hall, Project Coordinator:

- The Friends of Mission Creek have applied for a grant of \$250,000 from the Canada-BC Infrastructure Program for phase 2 of the Mission Greenway. All requirements to allow the grant to be considered have been met with the exception of being able to show that the balance of the monies required for completion of the project are in place. Those funds are expected to be generated through fundraising efforts that would commence early next year.
- In order to meet the final requirement, the City of Kelowna is being asked to guarantee a loan of \$475,000 by the Bank of Montreal to the Friends of Mission Creek for phase 2 of the Mission Creek Greenway. Whether the Canada-BC Infrastructure grant is approved or not, the Friends of Mission Creek would never draw down on the loan nor would they be back to Council for any further funding of phase 2. Phase 1 of the Mission Greenway has proven to be a major contributor to the protection of the Mission Creek environment in addition to providing a public amenity that is used on average by 1,000 people a day. The Friends of Mission Creek are confident that there is support in the community for phase 2 of the project and that the full \$475,000 can be raised through fundraising efforts.
- Besides the loan guarantee, the Friends of Mission Creek are also asking for a resolution from Council authorizing phase 2 of the project to proceed, because the Greenway is built partly on City and partly on Regional District land, and amendment of the maintenance agreement so that it applies to phase 2 as well as phase 1 of the Greenway.

Moved by Councillor Hobson/Seconded by Councillor Day

R228/02/03/11 THAT the letter dated March 5, 2002 and verbal presentation by Harald Hall on behalf of Friends of Mission Creek regarding phase 2 funding for the Mission Creek Greenway be received by Council.

Carried

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- (b) Draft Resolution re: Mission Creek Greenway – Phase 2 (1855-20)

Moved by Councillor Cannan/Seconded by Councillor Given

R229/02/03/11 THAT the City of Kelowna guarantee a loan of \$475,000 for a term of less than 5 years from the Bank of Montreal to the Friends of Mission Creek Society for the Phase 2 Mission Greenway project, subject to the Friends of Mission Creek Society undertaking to raise the sum of \$475,000 from community donations;

AND THAT subject to confirmation that funding in the amount of \$1,000,000 is in place, the City of Kelowna authorize construction of the Phase 2 Mission Greenway project to proceed;

AND THAT the amended Mission Creek Greenway Management and Regulation Contract between the City of Kelowna and the Regional District of Central Okanagan to provide maintenance of the Mission Creek Greenway be approved;

AND FURTHER THAT the Mayor and City Clerk be authorized to sign the amended agreement on behalf of the City of Kelowna.

Carried

5. PLANNING

- 5.1 Planning & Development Services Department, dated March 5, 2002 re: Rezoning Application No. Z00-1012 – Edward & Kazimere Surowiec (Exclusive Investments) – Southeast Corner of Highway 33 and Taylor Road

Moved by Councillor Given/Seconded by Councillor Shepherd

R230/02/03/11 THAT Municipal Council authorize an extension to Rezoning application No. Z00-1012 (Bylaw No. 8587) for a period of not more than 180 days from March 12, 2002.

Carried

- 5.2 Planning & Development Services Department, dated March 5, 2002 re: Liquor Licensing Application No. LL02-002 – R-93 Enterprises Ltd./Hotel Eldorado (Jim Nixon/Hotel Eldorado) – 500 Cook Road

Moved by Councillor Shepherd/Seconded by Councillor Given

R231/02/03/11 THAT Council support the following amendments to the current operating restrictions as requested by the Hotel Eldorado:

- To increase the current seating capacity from 50 persons to 103 persons in the lounge area, subject to a decrease of seats in the Class “B” dining lounge area of 18 seats;
- To no longer deduct the seating capacity on the patio from the overall Class “A” capacity to be permitted to increase the seating capacity on the Class “A” patio from 13 to 26 seats;

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

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5.3 Planning & Development Services Department, dated March 6, 2002 re: Changes to Bed & Breakfast Regulations (TA02-001)

Staff:

- The proposed changes to the bed & breakfast regulations would reduce the maximum number of rooms permitted from 4 to 3 rooms, require provision of 1 parking stall per bedroom in addition to the parking required for the principle dwelling; and require that parking areas and open space areas to be used by the guests be oriented away from abutting development and be visually screened from abutting properties through fencing or landscaping.
- There are currently 5 bed and breakfast operations that are licenced for 4 bedrooms and they would become legally non-conforming as long as they do not let their existing business license go dormant for more than 6 months. Staff would explain to them how they would be impacted by this change and encourage them to comply with the new regulations.

Council:

- Discussed whether a specific zone is warranted for bed & breakfast operations in order to provide an opportunity for public input.
- Staff to notify the existing bed & breakfast operators and the Bed & Breakfast Association of the date of the Public Hearing for this text amendment.
- Staff to recommend to the Regional District that, for consistency between jurisdictions, they consider a similar amendment of their bylaws for licensing bed & breakfast operations.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R232/02/03/11 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by updating the provisions of Bylaw No. 8000 as detailed in Schedule "A" as outlined in the report of the Planning & Development Services Department dated March 6, 2002;

AND THAT the text amending bylaw be forwarded to a Public Hearing;

AND FURTHER THAT staff send a notice of the Public Hearing date to the 76 licenced bed & breakfast operations in the City of Kelowna as well as to the Bed & Breakfast Association.

Carried

5.4 Planning & Development Services Department, dated March 6, 2002 re: First United Church – 721 Bernard Avenue (6800-00)

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R233/02/03/11 THAT City Council consider designation of the building located at 721 Bernard Avenue, Kelowna B.C., commonly known as the 'First United Church' as a Municipal Heritage Site pursuant to Section 967 of the Local Government Act;

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

Carried

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- 5.5 Planning & Development Services Department, dated March 6, 2002 re: Development Guidelines Policy No. 303 (6480-30)

Staff:

- The development guideline documents are no longer in the OCP because they are too specific to be adopted by bylaw; however, the documents are still intended for use by staff.

Moved by Councillor Hobson/Seconded by Councillor Day

R234/02/03/11 THAT Council adopt Council Policy No. 303 - Development Guidelines, as attached to the report from the Planning & Development Services Department dated March 6, 2002;

AND THAT Council reaffirm the direction to staff that the following Development Guidelines are to be used as an evaluation tool for development permit applications:

North End Multiple Family Development Guidelines,
 South Central Multiple Family Development Guidelines,
 North Mission / Crawford Multiple Family Development Guidelines,
 Rutland Urban Town Centre Commercial Design Guidelines,
 Rutland Urban Town Centre Multiple Family Design Guidelines,
 North Mission Residential Urban Village Development Guidelines,
 Glenmore Valley Residential Urban Village and Neighbourhood Village Development Guidelines,
 Glenmore/Clifton/Dilworth Multiple Family Residential Development Design Guidelines,
 Downtown North Area Structure Plan Development and Design Guidelines,
 South Pandosy Urban Town Centre Sign Guidelines,
 Crime Prevention Through Environmental Design Guidelines,
 Wetland Guidelines.

Carried

6. REPORTS

- 6.1 Parks Manager, dated March 6, 2002 re: Request for Proposals – Dilworth Park Restaurant

Staff:

- Two options that were presented to the public for input were a trail system only, and a trail system with a roadway into the park, a parking area and a large restaurant.
- Of the 181 questionnaires that were completed by the public, 129 were opposed to the restaurant option.

Council:

- Noted that the existing P3 zoning allows restaurant as a secondary use and that the recommendation before Council does not eliminate the future potential for a restaurant in Dilworth Park from ever happening.

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Moved by Councillor Hobson/Seconded by Councillor Day

R235/02/03/11 THAT Council ***not*** authorize the issuance of a Request for Proposal for the private sector to develop or operate a restaurant at Dilworth Park, off Summit Road;

AND THAT Council endorse the Trail System Only option for development of the area and direct staff to bring forward appropriate budget requests for the 2003 budget;

AND THAT staff draft a special conservation park zone that would preserve the natural area but prevent a restaurant as a secondary use and report back to Council;

AND FURTHER THAT the concerns regarding public safety and the need for appropriate fencing along the ridge of Dilworth Park be addressed by staff.

Carried

6.2 Parks Manager, dated March 5, 2002 re: Mission District Park Sport and Recreation Facilities (6140-20)

Staff:

- Briefly outlined the proposal submitted by RG Properties and reviewed the project evaluation criteria that was used.
- Field and arena user groups are being consulted to ensure their needs are met in the proposed facilities.

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R236/02/03/11 THAT staff begin negotiations with RG Properties Ltd. for the design, financing, construction, ownership, operation and maintenance of the Mission District Park Sports and Recreation Facility;

AND THAT City Council appoint the Director of Parks and Leisure Services, the Director of Finance and Corporate Services, the Deputy Director of Finance and the Parks Manager as the City's Negotiating Team;

AND THAT the Negotiating Team develop the Main Business Terms subject to City Council's approval, prior to the preparation of legally binding agreements;

AND THAT the Negotiating Team has a goal to complete the Main Business Terms within two months and update City Council in-camera every two weeks on the status of negotiations;

AND THAT the Negotiating Team recommend an alternate process for development and ongoing maintenance and operation of the sport and recreation facilities in the event that the Negotiating Team is unsuccessful in developing main business terms within an acceptable time;

AND THAT the process of obtaining the necessary rezoning approvals and full exclusion from the ALR begin immediately;

AND FURTHER THAT the City of Kelowna ask the MKT Development Group to allow their proposal to be considered in the event negotiations with RG Properties ARE is not successful.

Carried

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6.3 Wastewater Manager, dated March 6, 2002 re: New Rules Governing Expanding or Adding Properties to Specified Areas (5340-20)

Councillor Clark declared a conflict of interest with respect to this report and the bylaw under agenda item No. 8.1 to which this proposed policy specifically refers because he owns one of the properties that, if this was approved, would be removed from Specified Sewer Area No. 17 and left the Council Chamber at 3:16 p.m.

Councillor Day declared a conflict of interest stating that the proposed policy would affect property that he owns and would be of definite benefit to him personally and left the Council Chamber at 3:16 p.m.

Councillor Hobson commented that the proposed policy would have no impact on properties that are fully within Sewer Specified Area No. 17 and therefore he would not be in a conflict of interest for this discussion.

Staff:

- Specified Areas are created in order to wrap a boundary around an already developed area that is to be retrofitted with sanitary sewer. However, as these areas are serviced with sanitary sewer, adjoining undeveloped lands benefit from the extension of sewer and become developable. Past practice, when these adjacent lands are developed, has been to require the developer to join the adjoining Specified Area and pay Specified Area fees in addition to paying all the costs of his own mains and services for the new subdivision.
- This past practice was questioned by the developer of the Steele Road subdivision when those properties were added to Specified Sewer Area No. 17 and staff agreed to review the current rules.
- Having considered the options staff are convinced that the proposed policy would be more fair and equitable and would provide the means to put a finite end to Specified Areas city-wide so that they are not continuously being added onto as surrounding areas develop.
- Explained how the policy would be applied.

Council:

- Development of the Steele Road properties was subject to a public process and approved based on certain requirements and costs that were known up-front and accepted by the developer. Staff to clarify the City's legal position to remove the properties from the Specified Area after the fact; provide background information on the pros and cons that were considered when the proposed policy was developed; and respond to how this could impact the broad city-wide objective to sewer the city.
- Agreed to proceed with first 3 readings of the bylaw to remove the Steele Road properties from Specified Sewer Area No. 17 on the basis that in so doing, no commitment is implied to adopt the bylaw.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R237/02/03/11 THAT further Council consideration of the proposed policy attached to the Wastewater Manager's report of March 6, 2002, to govern expanding or adding properties to Specified Areas be deferred to the Regular Meeting of Monday, March 18, 2002.

Carried

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Mayor Gray altered the order of business and advised that agenda item No. 8.1 would be dealt with next.

8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 8.1 Bylaw No. 8819 – Amendment No. 7 to Specified Sewer Area No. 17
Bylaw No. 6775 (Mission Flats)

Moved by Councillor Nelson/Seconded by Councillor Given

R238/02/03/11 THAT Bylaw No. 8819 be read a first, second and third time.

Carried

Councillors Cannan and Shepherd opposed.

Councillors Clark and Day returned to the Council Chamber at 4:41 p.m. and took their respective place at the Council Table.

- 6.4 City Clerk, dated March 6, 2002 re: Smoking Regulations (B/L 5980-86)

Staff:

- WCB regulations regarding smoking in a workplace must be complied with by employers, regardless of whether the City of Kelowna has a smoking regulation or not.
- If the City of Kelowna wishes to impose regulations that are more stringent than those imposed by the WCB regulations, the onus would be on the City to enforce those regulations. Present bylaw enforcement resources would not be sufficient to enforce any increased regulation by the City.
- The City has received no complaints about non-compliance with the City's smoking regulations to date.

Council:

- Discussed whether to amend the City's smoking regulation bylaw to meet or exceed the new WCB regulations that are expected to go into effect May 1, 2002.
- Agreed that for more stringent regulations to be effective, the regulations would have to be enforced region-wide.
- Agreed that Westbank First Nations be included in any dialogue regarding establishment of a regional standard of smoking regulations.

Moved by Councillor Hobson/Seconded by Councillor Given

R239/02/03/11 THAT the City of Kelowna continue to lobby both the Provincial and Federal Governments to have them enact legislation with the ultimate goal of having a 100% smoking ban in public areas and workplaces;

AND THAT the Regional District of Central Okanagan be asked to enter into dialogue with our municipal partners, including Westbank First Nations, to determine if there is interest in establishing a regional standard of smoking regulations that goes beyond WCB regulations as of May 1, 2002.

Carried

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- 7.1 Draft Resolution re: Appointment to Airport Advisory Committee (0540-30)

Moved by Councillor Hobson/Seconded by Councillor Given

R240/02/03/11 THAT Ms. Diana Cabott, Vice-Chair of the Economic Development Commission (Insurance) be appointed as the EDC representative on the Airport Advisory Committee for the remainder of the term ending December 2002.

Carried8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)**(BYLAWS PRESENTED FOR FIRST THREE READINGS)**

- 8.1 Bylaw No. 8819 – Amendment No. 7 to Specified Sewer Area No. 17
Bylaw No. 6775 (Mission Flats)

Dealt with after agenda item No. 6.3.

9. COUNCILLOR ITEMS

- (a)
- Amendment to Mission Flats Specified Sewer Area (B/L 8819)

The City Clerk to re-affirm to all members of Council whether or not they are in a conflict of interest, before the discussion resumes on the proposed policy to govern expanding or adding properties to specified areas and prior to adoption consideration of Bylaw No. 8819 – Amendment No. 7 to Mission Flats Specified Sewer Area No. 17.

10. TERMINATION

The meeting was declared terminated at 5:11 p.m.

Certified Correct:_____
Mayor_____
Deputy City Clerk

BLH/am