

Regular Meeting – P.M.March 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, March 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: Acting-City Manager, R.L. Mattiussi; Deputy City Clerk, A.M. Flack; Current Planning Manager, A.V. Bruce*; Special Projects Planning Manager, H.M. Christy*; Subdivision Approving Officer, R.G. Shaughnessy*; Community Planning Manager, T. Eichler*; Director of Works & Utilities, J. Vos*; Acting-Cultural Services Manager, R. Oddleifson*; Transportation Manager, R.W. Westlake*; Waste Water Manager, W.J. Berry*; Roadways Engineer, G. Parker*; and Acting-Council Recording Secretary, L.M. Taylor.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 1:32 p.m.

2. Councillor Nelson to check the minutes of the meeting.

3. PLANNING

- 3.1 Planning & Development Services Department, dated March 20, 2002 re: Public Art Committee Membership (2300)

Moved by Councillor Given/Seconded by Councillor Shepherd

R269/02/03/25 THAT Council appoint Mr. Larry Foster to the Public Art Committee for the term ending December 2002.

Carried

- 3.2 Planning & Development Services Department, dated March 19, 2002 re: Transfer of Funds to the Housing Opportunities Reserve Fund (5040-20)

Moved by Councillor Given/Seconded by Councillor Shepherd

R270/02/03/25 THAT Council authorize transfer of the remaining \$5,148.80 in the Housing Study account (4105) under the Community Planning budget (170) to the Housing Opportunities Reserve Fund, established by Bylaw 8593.

Carried

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3.3 Planning & Development Services Department, dated March 20, 2002 re: Rezoning Application No. Z01-1069 – John & Sarina Weisbeck – 1494 Highway 33 and 1177 Oswell Drive

Councillor Day declared a conflict as he owns property within the notification area and left the Council Chamber at 1:40 p.m.

Staff:

- Application is to rezone the northern portion of the property to permit a 13-lot single family residential subdivision.
- Development complies with Strategic Plan, Highway 33 East Area Structure Plan and Official Community Plan.
- Ministry of Transportation requires a covenant to be registered against the southern portion of the property stating no development will occur until alternate access is available to these lands.
- Staff recommend support.

Council

- Requested information be provided at the public hearing as to how much development in the area is needed before a controlled intersection will be constructed at Loseth Road and Highway 33.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R271/02/03/25 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot 2, Sec. 13, Twp. 26, ODYD, Plan 14039 and part of Lot 1, Sec. 13, Twp. 26, ODYD, Plan 30654, as shown on Map "A" attached to the report of the Planning & Development Services Department, dated March 20, 2002, located on Highway 33 and Oswell Drive, Kelowna, B.C., from the A1 – Agriculture 1 and RR3 – Rural Residential 3 zones to the RU1 – Large Lot Housing zone;

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

Carried

Councillor Clark entered the Council Chamber at 1:45 p.m.

Councillor Day returned to the Council Chamber at 1:47 p.m.

3.4 Planning & Development Services Department, dated March 18, 2002 re: Rezoning Application No. Z01-1063 – Luigi Giovanni Russo (Tom Smithwick/Porter Ramsay) – 982 & 1040 Old Vernon Road

Staff:

- Rezoning would permit continued use of the sawmill operation. A development variance permit application has been submitted to vary any Zoning Bylaw and Subdivision Bylaw requirements related to the rezoning.
- Zoning Bylaw waivers include landscaping and screening requirements; outdoor dust-free storage areas and surfacing of parking, loading & access roads.
- Subdivision Bylaw waivers include road dedication and construction, provision of water service and comprehensive site drainage management plan.
- Staff do not support the application because of the potential risk that the City could face should the Land Reserve Commission relax restrictions of use that currently apply to property.

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- Staff have suggested that the applicant voluntarily file a restrictive covenant to recognize the restriction imposed by the LRC including limiting the sawmill operation to Lots 2 and 3, removing the sawmill operation from Lot 1 and returning it to agricultural use, and limiting the use of Lot 4 to agricultural purposes.

Moved by Councillor Blanleil/Seconded by Councillor Given

R272/02/03/25 THAT Council hear from the applicant.

Carried

Tom Smithwick, agent for the applicant,

- Problem with zoning issue is one of finance, bank requires the non-conforming status to be removed and proper zoning be in place in order to approve financing required to meet upgrading requirements imposed by Provincial environmental standards.
- If the offsite servicing requirements under the subdivision bylaw were met it would completely urbanize the property and this property is not contiguous with other urban areas.
- Propose a 3 or 4 foot berm with landscaping on top of it along the corner of Lot 1 and Lot 2 abutting Old Vernon Road
- Applicant is willing to register a restrictive covenant.

Council

- Requested information regarding the minimum level of fire protection that is required for the uses on the site and how that varies from a normal industrial zone.
- Requested information on if there is an alternative fire protection plan that would be acceptable to the Fire Department including water flow, road access, and road surfacing.
- Requested the information on the fire flow issues before first reading of bylaws.
- Requested that a representative from the Fire Department be present at the public hearing to answer questions.
- City needs to know if the applicant is willing to register a section 219 covenant on the property to formally recognize the restrictions imposed by the Land Reserve Commission and to save harmless the City regarding the deficiencies in the subdivision standards, specifically fire protection servicing.
- Requested that staff seek a legal opinion as to how binding the save harmless part of the covenant would be in light of the fact that both parties know there are deficiencies in the servicing requirements.

Moved by Councillor Blanleil/Seconded by Councillor Given

R273/02/03/25 THAT the City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Generalized Future Land Use Map 15.1 designation for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546, located on Old Vernon Road, Kelowna, BC, from Rural/Agricultural to Industrial;

AND THAT Rezoning Application No. Z01-1063, for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 located on Old Vernon Road, Kelowna, BC, to amend the zoning classification from the A1 – Agriculture 1 zone to the I2 – General Industrial zone be approved by the Municipal Council;

AND THAT after outstanding issues have been dealt with, the Official Community Plan and zone amending bylaws be given first reading and the bylaws be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be withheld pending the execution, by the owner of the subject property, a Servicing Agreement acceptable to the City of Kelowna;

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

Carried

3.5 Planning & Development Services Department, dated March 19, 2002 re: Rezoning Application No. Z01-1068 – Philip A. Flett – 2205 Bonn Road

Staff:

- Rezoning would permit the continued use of suite in basement of house.
- Proposed suite meets size requirements for secondary suites and site provides sufficient parking.
- Staff recommend support of the application.

Moved by Councillor Shepherd/Seconded by Councillor Given

R274/02/03/25 THAT Rezoning Application No. Z01-1068 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 4, Section 4, Twp. 23, ODYD, Plan 22394, located on Bonn Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the A1s – Agriculture 1 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 and to the applicant submitting confirmation from the Public Health Officer that the septic system meet their requirements for the main dwelling and the suite.

Carried

3.6 Planning & Development Services Department, dated March 19, 2002 re: Liquor Licensing Application No. LL01-014 – Warrigal Resources (Andrew Mercer/ Splash's Nite Club) – 275 Leon Avenue

Staff-

- Application is for Council support to increase seating capacity from 350 to 464 which is equivalent to building occupancy capacity.
- Increase from 217 to 232 seats on main floor and from 133 to 232 seats on second floor.
- Staff does not recommend support as immediate area has a number of Class "C" venues that already place significant demands on policing resources.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R275/02/03/25 THAT Council hear from the applicant.

Carried

Andrew Mercer, Owner Splash's Nite Club

- Facility can safely and adequately hold 464 people.
- This is not increase in floor space, it will bring liquor license up to building occupancy load permitted.
- It will provide seats for an additional 100 people that would otherwise be on the street as they cannot get into a night club.

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Council

- Staff to provide Council with information from City Solicitor as to what the City's powers will be for liquor licensing relating to the new liquor regulations and the new charter.
- Staff to outline the specific problems the City is encountering by having the cabarets located in the downtown core; and provide a recommendation as to the ideal location for cabarets if they are not located in the downtown area.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R276/02/03/25 THAT Council support the following amendments to the current operating restrictions as requested by Splash's Nightclub (Andrew Mercer), 275 Leon Avenue, Kelowna, BC:

- To increase the current person capacity from 217 persons to 232 persons on the main floor and from 133 persons to 232 persons on the second storey;

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

Carried

Councillors Hobson and Shepherd opposed.

4. REPORTS

- 4.1 Acting-Cultural Services Manager, dated March 19, 2002 re: City of Kelowna Arts Foundation Board of Directors Membership (0230-20)

Moved by Councillor Given/Seconded by Councillor Day

R277/02/03/25 THAT City Council appoint two new members, Judith Good Sky and Uldis Arajs to the City of Kelowna Art Foundation for a three-year period commencing April 1, 2002.

Carried

Councillor Given left the Council Chamber at 3:44 p.m.

- 4.2 Wastewater Manager, dated March 19, 2002 re: Award of Consulting Assignment – Byrns/Baron Trunk Sanitary Sewer Main (5340-07)

Staff:

- New trunk sewer is required as the North East trunk has reached its allowable limits of flow.
- New trunk will transport flows that will be redirected from Highway 97 trunk sewer.
- Terms of reference were prepared to define requirements of project and proposals were requested from 5 consulting engineering firms.
- Four proposals were received and were evaluated by review team.
- Associated Engineering was most qualified consultant that provided best service for price and will address project issues such as property owner input, access during construction and traffic control.

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Council:

- Questioned staff as to how the proposals were evaluated and what criteria was used.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R278/02/03/25 THAT Associated Engineering (BC) Ltd. be engaged to perform the design and construction engineering services for the Byrns/Baron Roads trunk sanitary sewer project for the estimated amount of \$357,232.00 which includes engineering services, geotechnical work and GST;

AND THAT the 2002 Financial Plan be amended to provide funding for this project.

Carried

4.3 Transportation Manager, dated March 12, 2002 re: Traffic Bylaw No. 8120

Staff:

- Amendments are required to deal with intersection sight-line requirements and placement of signs on Provincial arterial highways.

Moved by Councillor Nelson/Seconded by Councillor Hobson

R279/02/03/25 THAT Council approve the proposed amendments to Traffic Bylaw No. 8120 as outlined in the report of the Transportation Manager dated March 12, 2002.

Carried

4.4 Transportation Manager, dated March 20, 2002 re: Road Closures at Springfield Road – Sparrow Road, Kiniski Road, Irma Road, Crown Street and Creek Street (B/L 8829)

Staff:

- Proposed upgrading of Springfield Road requires reduction in number of intersecting roads.
- Turn around facilities will be constructed at closed portions of roads.
- Pedestrian links between roadways and Springfield Road will be provided and Parks Department will landscape the closed portion of the roads.

Moved by Councillor Nelson/Seconded by Councillor Clark

R280/02/03/25 THAT Council authorize staff to prepare a Road Closure Bylaw for Sparrow Road, Kiniski Road, Irma Road, Crown Street and Creek Street;

AND THAT Sparrow Road, Kiniski Road, Irma Road, Crown Street and Creek Street Road Closure Bylaw No. 8829 be advanced for reading consideration.

Carried

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5. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 5.1 Bylaw No. 8822 – Amendment No. 1 to Five Year Financial Plan Bylaw, 2002-2006, No. 8788

Moved by Councillor Blanleil/Seconded by Councillor Day

R281/02/03/25 THAT Bylaw No. 8822 be read a first, second and third time.

Carried

- 5.2 Bylaw No. 8829 – Road Closure Bylaw

Withdrawn from the Agenda.

(BYLAWS PRESENTED TO RESCIND 2ND & 3RD READINGS, AMEND THE BYLAW, AND GIVEN THE BYLAW, AS AMENDED, 2ND & 3RD READINGS)

- 5.3 Bylaw No. 8120 – Traffic Bylaw

Moved by Councillor Nelson/Seconded by Councillor Day

R282/02/03/25 THAT second and third readings given Bylaw No. 8120 on July 31, 2001 under Resolution No. R613/01/07/30 be rescinded and the bylaw be amended at first reading as outlined in the report from the Transportation Manager dated March 12, 2002.

Carried

Moved by Councillor Nelson/Seconded by Councillor Day

R283/02/03/25 THAT Bylaw No. 8120 be given second and third readings as amended.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 5.4 Bylaw No. 8826 – Amendment No. 25 to Traffic Bylaw No. 4495-78

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R284/02/03/25 THAT Bylaw No. 8826 be adopted.

Carried

6. COUNCILLOR ITEMS

- (a) Civic and Community Awards – April 12, 2002

Councillor Nelson read out the list of finalists for the 7 Civic and Community Awards to be presented at the dinner on April 12, 2002.

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(b) Dumping at Glenmore Landfill

Councillor Cannan questioned whether the 120 tandem truckloads of fill dumped at the Glenmore Landfill from a service station site in Merritt had been tested for toxicity. The Acting-City Manager will check with staff.

7. TERMINATION

The meeting was declared terminated at 4:45 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk