

Regular Meeting – P.M.

September 16, 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, September 16, 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; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi*; Current Planning Manager, A.V. Bruce*; Director of Parks & Development Services, D.L. Graham*; Civic Properties Manager, J. Waugh*; Financial Planning Manager, K. Grayston*; Electrical Manager, R. Carle*; Wastewater Manager, W.J. Berry*; Communications Manager, K. Cairns*; 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 Clark was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Teryn Buna, CIBC Youth Bid Ambassador re: Vancouver 2010 Olympic Bid

Teryn Buna:

- It is the duty of the CIBC 20 for 10 Youth Bid Ambassadors to build awareness and enthusiasm for the 2010 Olympic bid.
- The Ambassadors are visiting communities all around the Province asking the Council's to show their support by sending a letter.
- Further information is available on the www.winter2010.com website.
- Presented members of Council with a 2010 Olympic bid pin.

Moved by Councillor Nelson/Seconded by Councillor Blanleil

R792/02/09/16 THAT the Mayor send a letter to the Vancouver 2010 Bid Corporation to express Council's support of the Vancouver 2010 Olympic bid.

Carried

3.2 Consultant Presentation re: 2002 Citizens' Survey

- The survey was distributed to 2,500 randomly selected households in Kelowna to gauge public satisfaction with programs and services provided by the City; there was a forty percent response.
- Mayor Gray presented gifts to 2 of the 3 winners of prizes awarded for completing and returning the survey.

Cale Lewis, Discovery Research:

- Presented an overview of the survey results and reviewed a comparison of the yearly satisfaction levels of services provided by the City.
- Agreed to provide Council with a cross-tabulation of the respondents who shop downtown with those who indicated support/opposition to the changes proposed for Bernard Avenue.
- Agreed to provide Council with the demographics of the respondents to users of the City's sportsfields to show what parks are being used by what groups.

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4. PLANNING

- 4.1 Planning & Development Services Department, dated September 11, 2002 re: Official Community Plan Amendment No. OCP01-009, Zoning Bylaw Text Amendment No. TA01-008 and Rezoning Application No. Z01-1040 – City of Kelowna – Gordon Drive (Mission District Park)

Staff:

- The P5 - Municipal District Park zone is being created in order to accommodate the range of uses contemplated for the subject property and the two other existing District Parks in the city. If the proposed zone is approved, applications will come forward to also rezone the Parkinson Recreation Centre and Rutland Sportsfields to the P5 zone.

Council:

- For the Public Hearing, have available the ultimate design for Gordon Drive to Old Meadows Road, identify where the transit stops will be for this recreation facility, and have information available regarding the \$1.6 million spent on the drainage plan and how effectively it has been working.
- Emphasize at the Public Hearing and in the advertising that goes out that the new zone that is being created will limit the secondary uses that would be permitted within the zone.
- Inform the Mission District Park Committee members of the date of the Public Hearing.

Moved by Councillor Nelson/Seconded by Councillor Blanleil

R793/02/09/16 THAT Map 15.1 – *General Future Land Use* of Schedule “A” of the Kelowna Official Community Plan (1994 – 2013) Bylaw No. 7600 be amended by changing the Future Land Use designation of Part of Lot 1, DL 168, and of Sec. 6, Twp. 26, O.D.Y.D., Plan KAP46027 exc. Plan KAP49584, and Lot 2, DL 168, Sec. 6, Twp. 26, O.D.Y.D., Plan KAP46027, located on Gordon Drive, from “City Owned Lands” to “Parks and Open Space” as shown on Map “A” attached to the report of the Planning & Development Services Department dated September 11, 2002;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by adding the P5 – Municipal District Park zone to Schedule “B” of Zoning Bylaw 8000 as outlined in Schedule “B” attached to the Planning Department’s report;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by adding reference to the P5 – Municipal District Park zone to the section of Zoning Bylaw 8000 as outlined in Schedule “C” attached to the Planning Department’s report;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by adding the new definitions to the section of Zoning Bylaw 8000 as outlined in Schedule “D” attached to the Planning Department’s report;

AND THAT City of Kelowna Sign Bylaw, 1998, No. 8235 be amended by adding reference to the P5 – Municipal District Park zone to the section of Sign Bylaw 8235 as outlined in Schedule “E” attached to the Planning Department’s report;

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AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, Sec. 6, Twp. 26, O.D.Y.D., Plan 33324 exc. Plan KAP45692, Lot C, DL 168, and Sec. 6, Twp. 26, O.D.Y.D., Plan 41675 exc. Plan KAP46592, Lot 1, DL 168, and of Sec. 6, Twp. 26, O.D.Y.D., Plan KAP46027 exc. Plan KAP49584, and Lot 2, DL 168, Sec. 6, Twp. 26, O.D.Y.D., Plan KAP46027, located on Gordon Drive, Kelowna, B.C., from the A1 – Agricultural 1 and the P1 – Major Institutional zones to the P5 – Municipal District Park and A1 – Agricultural 1 zones as shown on Map "B" attached to the Planning Department's report;

AND THAT Text Amendment No. TA01-008, the Official Community Plan and zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction.

Carried

4.2 Planning & Development Services Department, dated September 4, 2002 re: Zoning Bylaw Text Amendment No. TA02-0003 – City of Kelowna

Staff:

- The text amendment is to permit second kitchens in single detached homes in certain zones provided that the overall dwelling unit is used as a single household.
- A covenant would be registered on title indicating that the second kitchen is not to be used as a separate unit.

Council:

- Staff to review the wording to clarify what is meant by 'barriers' between the second kitchen and the main dwelling unit and to reconsider the logic of asking for an additional parking stall for a second kitchen.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R794/02/09/16 THAT City of Kelowna Zoning Bylaw No. 8000 be amended by updating the provisions of Bylaw No. 8000 as detailed in Schedule "A" attached to the report of the Planning & Development Services Department dated September 4, 2002;

AND THAT Text Amendment No. TA02-0003 be forwarded to a Public Hearing;

AND FURTHER THAT Council consider a second kitchen enforcement process as detailed in Schedule "B" attached to the report of the Planning and Development Services Department dated September 4, 2002.

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- 4.3 Planning & Development Services Department, dated September 4, 2002 re: Rezoning Application No. Z00-1012 – Edward & Kazimierz Surowiec (Exclusive Investments) – Southeast Corner of Highway 33 and Taylor Road

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R795/02/09/16 THAT Municipal Council authorize an extension to Rezoning application No. Z00-1012 (Bylaw No. 8587 - Edward & Kazimierz Surowiec – SE corner of Highway 33/Taylor Road) for a period of 180 days from September 12, 2002.

Carried

- 4.4 Planning & Development Services Department, dated September 11, 2002 re: Liquor License Application No. LL02-0007 – Gordon and Ross Fitzpatrick – 5445 Lakeshore Road

Moved by Councillor Clark/Seconded by Councillor Shepherd

R796/02/09/16 THAT Council support the following amendments to the current operating restrictions as requested by Gordon Fitzpatrick of Cedar Creek Estate Winery:

- To extend the current winery licence to include a consumption area in an indoor winery lounge at 5445 Lakeshore Road;
- To permit a maximum seating capacity of 50 patrons in the indoor winery lounge;
- To allow the hours of use for the proposed indoor lounge to be the same as those of the outdoor consumption area: 9:00 a.m. to 12:00 midnight, 7 days a week;
- To extend the current winery licence allowing a picnic area of 700 m² located adjacent to the primary winery manufacturing facility and clearly defined by a natural boundary of shrubbery and rose arbour;
- To allow the hours of use for the picnic area to be from 10:00 a.m. until sunset;

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

Carried

5. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 5.1 Bylaw No. 8677 (Z01-1008) – Board of School Trustees, School District No. 23 (Judy Shoemaker) – 805-815, 895 Craig Road; 621 Hartman Road and 650 Webster Road

Moved by Councillor Nelson/Seconded by Councillor Given

R797/02/09/16 THAT Bylaw No. 8677 be adopted.

Carried

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- 5.2 Bylaw No. 8876 (Z02-1008) – John & Christine Hawkins – 4042 Finch Road

Moved by Councillor Shepherd/Seconded by Councillor Given

R798/02/09/16 THAT Bylaw No. 8876 be adopted.

Carried

Councillor Hobson opposed.

6. REPORTS

- 6.1 Electrical Manager, dated September 4, 2002 re: Electrical Utility Rates

Moved by Councillor Nelson/Seconded by Councillor Blanleil

R799/02/09/16 THAT Council approve a change to the City's electrical utility structure and rates resulting in a **4.6% increase** in annual residential customer revenues, a **1.9% increase** in annual commercial customer revenues and a **4.5% increase** in annual municipal and school revenues for an overall electrical utility revenue rate increase of 3.3%;

AND THAT the approved changes be implemented with the first billing cycle in November 2002.

Carried

- 6.2 Wastewater Manager, dated September 10, 2002 re: Vista Road Sewer Specified Area No. 22B

Moved by Councillor Day/Seconded by Councillor Cannan

R800/02/09/16 THAT the City of Kelowna initiate a Sewer Specified Area project pursuant to Section 646 of the Local Government Act for the area shown on the attached map which indicates the proposed service area of Vista Road;

AND THAT Council direct staff to take the necessary steps of advising and involving the affected property owners as required by the Local Government Act.

Carried

- 6.3 Civic Properties Manager, dated September 10, 2002 re: Proposed Queensway Marina Lease

Staff:

- Responded to the concerns expressed by the current and proposed operators when this was first presented to Council and referred back to staff for further review.
- Kelowna Marina has operated the marina for in excess of 28 years and no complaints have ever been received. The lease has been on a month-to-month basis for the past few years because of uncertainty about long term plans for development of the foreshore.
- The Turtle Bay proposal offers enhancements to the current operation and the staff recommendation to terminate the existing month-to-month lease with Kelowna Marina remains unchanged.
- It would be up to Kelowna Marina to remove the existing gas tanks from the park area, replace the soil and remove the existing pilings and wharves.
- Responded to questions of Council clarifying certain of the RFP requirements.

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Moved by Councillor Blanleil/Seconded by Councillor Day

R801/02/09/16 THAT Council approve a lease with 381713 BC Ltd. (Turtle Bay Marina Ltd.) for a three year period with potential for two additional one year extensions commencing April 1, 2003, at the rate of \$1,000 per month for the purpose of constructing and operating a marina at the foot of Queensway Avenue;

AND THAT the Mayor and City Clerk be authorized to execute the required lease documentation on behalf of the City of Kelowna;

AND THAT the current month to month lease with Kelowna Marina Ltd. Be terminated by giving them three months notice effective October 1, 2002.

DEFEATED

Mayor Gray and Councillors Clark, Given, Nelson and Shepherd opposed.

Council:

- Staff to ensure that the standard clause prohibiting the lobbying of Council by the proponents during the process is included in the new RFP.

Moved by Councillor Shepherd/Seconded by Councillor Given

R802/02/09/16 THAT the current month to month lease with Kelowna Marina Ltd. be terminated by giving them three month's notice effective October 1, 2002;

AND THAT the current Request for Proposals (RFP) for constructing and operating a marina at the foot of Queensway Avenue be closed and a new RFP be issued.

Carried

- 6.4 City Clerk, dated September 10, 2002 re: Proposed Community Charter Legislation (0135-20)

Moved by Councillor Hobson/Seconded by Councillor Clark

R803/02/09/16 THAT Kelowna City Council request that the Minister of State for the Community Charter provide clarification on, and support appropriate related amendments as outlined below, to the existing proposed Community Charter legislation prior to its introduction in the Legislative Assembly as a first reading bill:

- a) Provide clarification by amending the proposed subsection 2(2)(c) of the Charter, such that the implicit prohibition against downloading is clarified so as to specifically include a prohibition against passive downloading, and it is ensured that local governments will have the tools necessary to deal with the resultant increased regulatory, administrative and financial burdens;
- b) Delete section 8 of the proposed Division 1 (Purposes and Fundamental Powers) of Part 2 (Municipal Purposes and Powers) of the Charter, and simply leave the four areas of concurrent authority outlined under section 8 within the fundamental powers under section 7. The paramountcy of the Provincial regulatory powers over the same areas should be ensured via the operation of constitutional law and not via unnecessary beaurocratic approval processes built into the Charter;

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- c) Amend the proposed Division 5 (Highways) of Part 3 (Additional Powers and Limits on General Powers) of the Charter, to provide specifically for legislated protection for local governments against liability associated with existing contamination of highway property being vested in those local governments under the Charter;
- d) Add specific provisions to Part 7 (Municipal Revenue) of the Charter to permit the use of new stable and consistent revenue sources for local governments, which would not increase the overall tax burden on the average taxpayer, and which could be implemented without imposing disproportionate implementation and/or collection costs on local government;
- e) Delete the proposed section 209 (Tax exemption for certain industrial enterprises);
- f) Add specific provision to the Charter for protection of local governments against joint and several liability in legal matters;

AND THAT a copy of this resolution be forwarded to the Honourable Ted Nebbeling, Minister of State for the Community Charter, Deputy Minister Bob de Faye, Ministry of Community, Aboriginal and Women's Services, Assistant Deputy Minister Dale Wall, Ministry of Community, Aboriginal and Women's Services, the Union of B.C. Municipalities, and Kelowna Members of the Legislative Assembly.

Carried

7. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 7.1 Bylaw No. 8844 – Road Exchange Bylaw – 1940, 1945, 1955 & 1965 Haynes Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R804/02/09/16 THAT Bylaw No. 8844 be adopted.

Carried

- 7.2 Bylaw No. 8845 – Road Exchange Bylaw – 1945 & 1955 Haynes Road, 1950 Durnin Road and 2285 Baron Road

Moved by Councillor Day/Seconded by Councillor Blanleil

R805/02/09/16 THAT Bylaw No. 8845 be adopted.

Carried

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8. COUNCILLOR ITEMS

(a) Truck Routes

Councillor Shepherd asked when the Transportation and Finance issues to do with the OCP would be coming forward, noting concerns she has received about the truck routes would probably be most appropriately discussed at that time. City Manager to investigate and provide Council with a target date for the report.

(b) Notice of Motion – Clean Air Action Plan

Councillor Shepherd noted that the Federation of Canadian Municipalities has asked that municipalities support a model resolution to encourage the federal government to implement its commitment to clean air. Municipalities are asked to adopt the resolution and fax it back to the FCM before October 18, 2002. Councillor Shepherd submitted this as a Notice of Motion for the September 30th agenda.

(c) Sexual Exploitation of Youth

Councillor Given noted that recruitment for the sexual exploitation of youth is on the rise in Kelowna. He asked for information on how the Social Planning Board (SPB) is spending the grant money Council has allocated toward addressing the sexual exploitation of youth and asked that the SPB also consider whether there is anything else the City can do (i.e. education) to help combat this activity from going on in our city.

(d) Highway 33 Entrance to Kelowna Sign

Councillor Cannan noted that the Public Art Committee had been asked to reconsider the design of the proposed Entrance to Kelowna sign for Highway 33 but has not yet reported back to Council. City Manager to investigate.

(e) Left Turn Signal – Highway 97/Cooper Road

Councillor Cannan asked when Council could expect to hear back from staff regarding potentially adding a left turn signal at the intersection of Highway 97/Cooper Road. City Manager to investigate.

(f) Apple Bowl - Parking

Councillor Cannan noted that now that the property the City was allowed to use for parking for the Apple Bowl has been developed, parking has been a challenge. He suggested that there may be potential for providing parking on the northeast corner of the Apple Bowl just before the Bernard/Spall intersection. Staff to investigate.

(g) Brent's Grist Mill

Councillor Hobson commented that Brent's Grist Mill has now be moved to its new location and is on blocks but noted that it has not yet been fenced. Staff to investigate.

(h) Critical Accident Area Signs

Councillor Hobson commented that he has heard concerns from the public about vehicles speeding on Long Hill Road and Swamp Road. He suggested that staff investigate doing something similar to what the City of Edmonton has done which is to identify critical accident areas and put up signs to indicate when vehicles are entering one of those areas.

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(i) Left Turn Signal – Highway 97/Gordon Drive

Councillor Hobson suggested that staff look into adding a left turn signal that would allow vehicles to turn west onto Highway 97 from Gordon Drive while vehicles turning east are on their advanced turning arrow at that intersection.

9. TERMINATION

The meeting was declared terminated at 5:09 p.m.

Certified Correct:

Mayor

BLH/am

City Clerk