

Regular Meeting – P.M.

October 7, 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, October 7, 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.M. Flack; Director of Planning & Development Services, R.L. Mattiussi*; Current Planning Manager, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Director of Parks & Leisure Services, D.L. Graham*; Civic Properties Manager, J. Waugh*; Parks Manager, J. Creron*; Director of Finance & Corporate Services, C.P. Kraft*; Deputy Director of Finance, P.A. Macklem*; Director of Works & Utilities, J. Vos*; Transportation Manager, R.W. Westlake*; Traffic & Transportation Engineer, H. Thompson*; Wastewater Manager, W.J. Berry*; Drainage/Solid Waste Manager, A. Newcombe*; Roadways Engineer, G. Parker*; 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 Cannan was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Nancy Cameron, Tourism Kelowna re: Developing Sport Tourism in Kelowna 1998-2002

Nancy Cameron, Tourism Manager, Market Development:

- Summarized how Sport Tourism evolved and outlined the objectives of the Sport Tourism initiative.

Councillor Blanleil entered the Council Chamber at 1:39 p.m. and took his place at the Council Table.

Council:

- The Sports Tourism Advisory Committee has fulfilled its mandate and their work is now over; therefore, a Council representative is no longer needed for that committee.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R853/02/10/07 THAT the presentation by Nancy Cameron of Tourism Kelowna regarding sports tourism in Kelowna be received;

AND THAT letters of appreciation be sent to the members of the Sports Tourism Advisory Committee which has now fulfilled its mandate.

Carried

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4. UNFINISHED BUSINESS

4.1 Planning & Development Services Department, dated September 20, 2002 re: Rezoning Application No. Z02-1002 (OCP02-0001) – 647160 BC Ltd. (David Batten) - 1677 McKinley Road

- This application was on the Regular Meeting agenda of September 30, 2002 at which time Council accepted the staff recommendation and adopted a resolution to deny the application. On negative recommendations, the applicant is usually given an opportunity to address Council; however, the applicant was not in attendance. Later in the meeting, Council was told that the applicant had intended to be at the meeting but had misunderstood the time that the meeting started. Council directed staff to give the applicant an opportunity to state his case at this meeting.
- The requested rezoning would facilitate a 14-lot rural residential subdivision of minimum 1 ha lot sizes.
- The existing A1 zoning requires minimum 4 ha parcel sizes for non-ALR lands.

Moved by Councillor Blanleil/Seconded by Councillor Hobson

R854/02/10/07 THAT Council hear from the applicant.

Carried

David Batten, representing Clark Smith:

- Apologized for not being at the last meeting and explained that the notification went to the former owner, before Clark Smith, and Mr. Smith did not receive the message.
- Suggested that the requested 1 ha parcel size versus the permitted 4 ha parcel size should not pose a problem for controlling urban sprawl; the higher density could still be achieved eventually.
- In early stages, Mr. Smith was asked by City staff to change his application to hillside development and immediately a letter was sent to the City to do that. Within 48 hours Mr. Smith received a letter from City staff rescinding that – why?

Staff:

- The initial subdivision proposal required a private easement road for access. However, an alternate access was identified that did not infringe on the 30% sloped area negating the need to amend the application. The lot yield would be no different whether under hillside development zoning or the zoning under this application.

David Batten:

- If this application is not approved, the City would lose out on taxes and McKinley Road would not get realigned.
- Mr. Clark has dedicated a 5 acre portion of his land for the McKinley Road realignment and he has posted bonding for straightening the road even though there would be minimal traffic impact on that portion of road as a result of his development because the switchback is east of the subject property and that is not the direction the majority of the traffic would be headed.
- Showed photos of an accident that occurred on McKinley Road in July 2002 and submitted letters from area residents expressing concern about the road.
- Asked that the application be advanced to Public Hearing.
- Clarified that Mr. Clark has owned the subject property for about 2 years.

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Staff:

- Under the current zoning, at minimum 4 ha parcel sizes the property would probably yield no more than 3 lots.
- The subject application was in-stream when the minimum lot size in the A1 zone was increased from 2 ha to 4 ha. Accordingly, the application was grandfathered for one year from August 12, 2002 when the text amendment was adopted.
- Mr. Smith's initial subdivision created 15 2-ha lots and the \$300,000 bonding that was taken was not considered to be excessive as the lots were high-end at between \$500,000 to \$1.5 million each in value.
- City Works & Utilities staff recommend that the realignment of McKinley Road be development driven. The City could construct the McKinley Road realignment now, but it would cost about \$300,000 over and above the bonding that is now in place.

Council:

- The issue is whether to maintain the plan of development envisaged in the OCP or to vary that plan. Agreed that further development of the property would be premature at this time.
- The road is a separate issue that would be more appropriately discussed at budget time.

5. PLANNING

- 5.1 Planning & Development Services Department, dated October 2, 2002 re: Rezoning Application No. Z02-1028 (OCP02-0007) – 616507 BC Ltd, et al (Dave Batten) – 2750 to 2930 Shayler Court

Staff:

- The subject property is located to the north of the property just discussed under agenda item No. 4.1. above and is also not projected for urban development within the 20 year time horizon of the OCP.
- The requested zoning would facilitate the creation of twelve 1 ha lots.
- The Advisory Planning Commission recommends non-support as do staff as the application sets a precedent for premature residential development of the area.
- The subject property was only recently subdivided under the present A1 zone with 2 ha lot sizes and the owner (Mr. Smith) was told it could not be resubdivided but already the new owner (Mr. Batten) is wanting to subdivide further into 1 ha lots.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

R855/02/10/07 THAT Council hear from the applicant.

Carried

David Batten, applicant:

- Submitted and reviewed a memo offering his comments on the staff report that was considered by the Advisory Planning Commission regarding this application.
- Suggested that it makes no sense to preserve property for future urban reserve that could only be developed with cliff-hanging condos and the OCP should be reviewed.
- Most of the traffic would be heading east not west to the lake and the additional lots would add significant tax dollars.
- Suggested that with or without approval of this rezoning, additional traffic will be introduced into the area because secondary suites will be added on all the lots.
- Volunteered to put a covenant on the lots to say there would be no secondary suites if Council would approve the requested rezoning.

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Moved by Councillor Day/Seconded by Councillor Clark

R856/02/10/07 THAT OCP Bylaw Amendment No. OCP02-0007 to amend Map 19.1 of the Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 by changing the Future Land Use designation of Lot 2, Section 20, Township 23, ODYD, Plan KAP70569 except Plan KAP70818, Lots 3 to 5, Section 20, Township 23, ODYD, Plan KAP70569, and Lots 6 & 7, Section 20 & 29, Township 23, ODYD, Plan KAP70569 located on Shayler Court, Kelowna, B.C., from the Future Urban Reserve designation to the Rural Agricultural designation, as shown on Map "A" attached to the report of Planning & Development Services Department dated October 2, 2002, **not** be supported by Council;

AND THAT Rezoning Application No. Z02-1028 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, Section 20, Township 23, ODYD, Plan KAP70569 except Plan KAP70818, Lots 3 to 5, Section 20, Township 23, ODYD, Plan KAP70569 and Lots 6 & 7, Section 20 & 29, Township 23, ODYD, Plan KAP70569, located on Shayler Court, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RR1 – Rural Residential 1 zone **not** be supported by Council.

Carried

- 5.2 Planning & Development Services Department, dated October 3, 2002 re: Rezoning Application No. Z95-1015 – Canyon Creek Joint Venture (Grant Maddock/Protech Consultants Ltd.) – 5050 McCulloch Road (B/L 8517)

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R857/02/10/07 THAT in accordance with the Development Application Procedures Bylaw No. 8140 the deadline for the adoption of Zone Amending Bylaw No. 8517 (Z95-1015 – Canyon Creek Joint Venture - John Steil/Stantec Consulting Group Ltd. – 5050 McCulloch Road) be extended to March 21, 2003.

Carried

- 5.3 Planning & Development Services Department, dated September 30, 2002 re: Rezoning Application No. Z00-1052 – Bradshaw Enterprises Ltd. (Rob Archibald) – 1561 Sutherland Avenue (B/L 8726)

Moved by Councillor Blanleil/Seconded by Councillor Nelson

R858/02/10/07 THAT in accordance with the Development Application Procedures Bylaw No. 8698 the deadline for the adoption of Zone Amending Bylaw No. 8726 (Z00-1052/Rob Archibald - 1561 Sutherland Avenue) be extended for a six-month period to April 2, 2003.

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- 5.4 Planning & Development Services Department, dated September 27, 2002 re: Development Permit No. DP01-10,042 and Development Variance Permit No. DVP01-10,043 – Pasadena Estates Ltd. (Gary Dober) – 1950 Durnin Road

Staff:

- There is a typo on the agenda. The development permit is for a 17-storey residential tower not a 7-storey tower.

Moved by Councillor Given/Seconded by Councillor Shepherd

R859/02/10/07 THAT Council authorize the extension of the 180 day period for issuance of Development Permit DP01-10,042 and Development Variance Permit DVP00-10,043 for Lot CP, Section 20 & 29, Township 26, Plan K2046, ODYD, located on Durnin Road, for a period of 180 days.

Carried

6. REPORTS

- 6.1 Mission District Park Recreation & Sports Facility Negotiating Team, dated October 3, 2002 re: Mission District Park Recreation & Sports Centre (0760-20)

Staff:

- The Master Plan for Mission District Park envisages phased development of the site.
- RG Properties was selected for the public/private partnership for this phase of development and details of the agreements with RG were approved with the Memorandum of Understanding (MOU) that was presented to Council several months ago.
- Outlined the terms that are in the agreements that were not in the MOU.
- Summarized the various agreements before Council.
- The facility will result in a 1.8% tax impact or an approximate \$21 impact on the average residential unit.
- Noted the following typos that have come to light in the documents:
 - Partnering Agreement, section 31 – the date should be September 30, 2003 not September 30, 2002.
 - Design/Build Agreement, section 21.9 – the clause had been negotiated out of the agreement but was inadvertently left in the final draft and so should be removed.
 - Operating Agreement, section 4.10 to 4.15 - requires re-wording to make it grammatically correct and refer to “Capital Items” (which is the defined term) rather than “Capital Repairs”.

Councillor Hobson left the meeting at 3:44 p.m.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R860/02/10/07 THAT City Council approve the design of the Mission District Park Recreation and Sports Centre (the Facility) as presented in the October 3, 2002, report from the Negotiation Team;

AND THAT the proposed cost of \$15.987 Million be approved as the Agreed Guaranteed Price for the design, construction, equipping, and commissioning of the Facility by RG Properties and its affiliates;

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AND THAT City Council authorize the Mayor and the City Clerk to execute the Detailed Design Agreement and Partnering Agreement immediately;

AND THAT City Council authorize the Mayor and City Clerk to execute the Design-Build agreement with RG Construction Ltd. and the Operation, Maintenance, and Management Agreement with RG Facilities Ltd. subject to a counter petition process and the receipt of all required approvals for the Mission District Park Sports Facility Loan Authorization Bylaw No. 8887;

AND THAT upon adoption of these recommendations, the Mission District Parks Sports Facility Loan Authorization Bylaw No. 8887 be presented to Council for reading consideration;

AND FURTHER THAT Wednesday, November 20, 2002, at 4 p.m., be set as the deadline for receipt of Counter Petitions by the City Clerk in relation to the Mission District Park Sports Facility Loan Authorization Bylaw No. 8887 and the Partnering Agreement.

Carried

Mayor Gray altered the order of business and advised that the bylaw under agenda item No. 7.0 would be dealt with next.

(BYLAW PRESENTED FOR FIRST THREE READINGS)

7.0 Bylaw No. 8887 – Mission District Park Sports Facility Construction Loan Authorization Bylaw

Moved by Councillor Blancheil/Seconded by Councillor Day

R861/02/10/07 THAT Bylaw No. 8887 be read a first, second and third time.

Carried

6.2 Drainage/Solid Waste Manager dated October 2, 2002 re: Expanded Free Residential Yard Waste Program (5360-03)

Staff:

- Year round drop off of material at the landfill is currently to maximum ½” diameter. This increases the maximum size of prunings to 8” in diameter year-round.

Council:

- Staff to consider an education program and ways to improve enforcement of the requirement for loads to the landfill to be covered by a tarp.
- Existing signage on Glenmore Road advising the public that the landfill is not open on Sundays is hidden behind a fence now that the Conservatory is under development. More visible signage is needed.

Moved by Councillor Shepherd/Seconded by Councillor Given

R862/02/10/07 THAT year round drop off of yard and garden waste materials, up to eight inches in diameter, be provided for residents of the City of Kelowna at the Glenmore Landfill, at no charge.

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6.3 Transportation Manager, dated October 1, 2002 re: Impact of Abbott Street Closure (5400-20)

Staff:

- When Council agreed to close left turns from Abbott Street onto the bridge while the Abbott Street recreational corridor was under construction, staff were asked to monitor the impact and report back prior to reinstating the left turns.
- The project should be completed by early November and staff are recommending that the left turns from Abbott Street onto Highway 97 be reinstated so that all traffic turning movements are accommodated at this intersection.

Moved by Councillor Blanleil/Seconded by Councillor Day

R863/02/10/07 THAT Council approve the re-opening of the left turns from Abbott Street northwards to Highway 97 westbound and through traffic movements to Downtown upon completion of the Abbott Street Recreational Corridor.

DEFEATED due to tie vote

Councillors Cannan, Clark, Nelson and Shepherd opposed.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

THAT once the Abbott Street Recreation Corridor construction work is complete, Abbott Street south of Highway 97 be opened only to right-in/right-out and straight through traffic with no left turns permitted onto the bridge.

Moved by Councillor Given/Seconded by Councillor Nelson

R864/02/10/07 THAT further consideration of the Transportation Manager's report dated October 1, 2002 regarding the impact of permanently removing left turning movements from Abbott Street onto Highway 97 be deferred to the Regular Meeting of October 21, 2002.

Carried

Councillors Blanleil, Cannan and Shepherd opposed.

6.4 City Clerk, dated October 2, 2002 re: Petitioned Work – Sewer Specified Area No. 30 – Acland Road/Old Vernon Road (B/L 8917)

Moved by Councillor Nelson/Seconded by Councillor Day

R865/02/10/07 THAT Council receive the Certificate of Sufficiency dated October 2, 2002 pertaining to Sewer Specified Area No. 30 – Acland Road/Old Vernon Road.

Carried

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- 6.5 Director of Works & Utilities, dated September 25, 2002 re: Acland/Old Vernon Sewer Specified Area No. 30 (5340-05; B/L 8917)

Staff:

- The 4 properties are all part of the Argus Properties group. Normally staff would not recommend support for a specified area that effectively services one company's properties; however, in this case there is a benefit to the Utility by having the portion of Old Vernon Road serviced by gravity and removing a high volume customer from the Edwards lift station.

Moved by Councillor Blanleil/Seconded by Councillor Nelson

R866/02/10/07 THAT the City of Kelowna initiate a Sewer Specified Area project pursuant to Section 646 of the Local Government Act, for the properties shown on Map A attached to the report dated September 25, 2002 from the Director of Works & Utilities, which indicates the proposed service area on Acland Road and Old Vernon Road;

AND THAT Council authorizes the single source consultant selection of Protech Engineering Ltd. subject to an acceptable fee and work plan proposal.

Carried

- 6.6 Roadways Engineer, dated October 2, 2002 re: Springfield Road Landscaping Restoration Contract T02-10 (5400-20)

Moved by Councillor Given/Seconded by Councillor Shepherd

R867/02/10/07 THAT the tender for the Springfield Road Landscaping Restoration Contract be awarded to the low bidder, West-Wind Nursery Ltd. in the amount of Two Hundred Eighty Thousand, Three Hundred Seventy-three Dollars and Sixty-five Cents (\$280,373.65 including GST).

Carried

- 6.7 Civic Properties Manager, dated October 3, 2002 re: Queensway Marina Request for Proposals (RFP) (0870-20)

Staff:

- Kelowna Marina was given their notice on October 1, 2002 that their lease would be terminated in 3 month's time.
- Highlighted the proposed changes from the last Request for Proposals.
- Expect to be back to Council on December 2, 2002 for approval of the contract award.

Moved by Councillor Blanleil/Seconded by Councillor Day

R868/02/10/07 THAT the Request for Proposal for the Queensway Marina dated October 7th, 2002 attached to the Civic Properties Manager's report of October 3, 2002 be approved by Council with the following amendments:

- remove the 5 cents per litre share of the fuel sales; and
- reduce the relative weighting for rent offered.

Carried

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- 6.8 City Clerk, dated October 1, 2002 re: Counter Petition – BC Gas Legacy Opportunity Fund – 2001 Additions (BL8660)

Moved by Councillor Nelson/Seconded by Councillor Day

R869/02/10/07 THAT Council receive the Certificate of Sufficiency dated October 1, 2002 in relation to lease of the BC Gas Distribution system 2001 additions.

Carried

7. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 7.0 Bylaw No. 8887 – Mission District Park Sports Facility Construction Loan Authorization Bylaw

Dealt with after agenda item No. 6.1.

- 7.1 Bylaw No. 8911 - Sewer Specified Area No. 22B (Vista Road)

Moved by Councillor Blanleil/Seconded by Councillor Day

R870/02/10/07 THAT Bylaws No. 8911, 8912, 8913, 8915 and 8916 be read a first, second and third time.

Carried

- 7.2 Bylaw No. 8912 - Sewer Specified Area No. 22C (Hein Road)

See resolution under agenda item No. 7.1.

- 7.3 Bylaw No. 8913 - Hein Road Local Improvement Construction Bylaw (LI File No. 651)

See resolution under agenda item No. 7.1.

- 7.4 Bylaw No. 8915 – Amendment No. 7 to Sewer Connection Charge Bylaw No. 8469

See resolution under agenda item No. 7.1.

- 7.5 Bylaw No. 8916 – Amendment No. 8 to Sewer Connection Charge Bylaw No. 8469

See resolution under agenda item No. 7.1.

(BYLAWS PRESENTED FOR ADOPTION)

- 7.6 Bylaw No. 8886 – Water Specified Area No. 16 - Byrns/Benvoulin Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R871/02/10/07 THAT Bylaw No. 8886 be adopted.

Carried

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- 7.7 Bylaw No. 8908 – Amendment No. 7 to City of Kelowna Electricity Regulation Bylaw No. 7639

Moved by Councillor Given/Seconded by Councillor Nelson

R872/02/10/07 THAT Bylaw No. 8908 be adopted.

Carried

- 7.8 Bylaw No. 8909 – Amendment No. 14 to Solid Waste Management Bylaw No. 7173

Moved by Councillor Nelson/Seconded by Councillor Given

R873/02/10/07 THAT Bylaw No. 8909 be adopted.

Carried

- 7.9 Bylaw No. 8910 – Amendment No. 7 to Sign Bylaw No. 8235

Moved by Councillor Shepherd/Seconded by Councillor Clark

R874/02/10/07 THAT Bylaw No. 8910 be adopted.

Carried

8. COUNCILLOR ITEMS

- (a) Kelowna Arts Foundation

Moved by Councillor Shepherd/Seconded by Councillor Given

R875/02/10/07 THAT letters of appreciation be sent from the Mayor to the following members of the Kelowna Arts Foundation who will be leaving the board following completion of their respective terms of office:

Victoria Crompton
Wendy McCracken
Daphne Stanley.

Carried

- (b) Entrance to Kelowna Sign - Highway 33

Councillor Cannan referenced a memo from the Public Art Committee withdrawing from active participation in the design and creation of the Gateway sign for Highway 33 and asked what happens now. City Manager to follow-up.

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9. TERMINATION

The meeting was declared terminated at 5:40 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk