

Regular Meeting – P.M.

December 9, 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, December 9, 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\*; Long Range Planning Manager, S.K. Bagh\*; Subdivision Approving Officer, R.G. Shaughnessy\*; Special Projects Planning Manager, H.M. Christy\*; Urban Design Planner, P.J. McCormick\*; Director of Parks & Leisure Services, D.L. Graham\*; Cultural Services Manager, R. Oddleifson\*; Deputy Director of Finance, P.A. Macklem\*; 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 2:30 p.m.

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

3. PUBLIC IN ATTENDANCE

3.1 Laurie Sianchuk, President, Royal Canadian Legion re: Presentation of Plaque

Laurie Sianchuk, president, Royal Canadian Legion, Branch 26:

- Branch 26 of the Legion found themselves in poor financial condition about 4 years ago. With the help of the City the Branch relocated to 1380 Bertram Street in downtown Kelowna. Since then membership has increased by 300 members and last August the Branch was able to pay off their \$200,000 mortgage. Branch 26 now has a great future ahead.

The Chair of the Poppy Campaign and other Legion delegates came forward and presented the Mayor and citizens of Kelowna with a plaque in appreciation for continued support of veterans in Kelowna and interest in the annual poppy campaign.

3.2 Kelowna Art Gallery Interim Business Plan and Operating Agreement (7780-01)

- Presentation by Rick Dowding, President of the Art Gallery Board of Directors
- Report dated December 2, 2002 from the Cultural Services Manager

Rick Dowding, president, Art Gallery Board of Directors:

- Commented on the challenges of achieving a balanced operating budget and the Art Gallery's move toward becoming more of a user pay facility.
- Asked for Council's support of the interim business plan and the two funding increases noted in the staff report.

Regular Meeting – P.M.

December 9, 2002

Council:

- Suggested implementation of a 'passport' that would allow people to buy a single pass that would also permit entrance to the venues in the downtown arts and cultural district.
- Staff to build a mechanism in the agreement for keeping the business plan and operating agreement current (i.e. annual review).
- The Military Museum may be in danger of losing some grants if an admission charge was implemented.

Moved by Councillor Shepherd/Seconded by Councillor Given

**R475/02/12/09** THAT Council receive the Kelowna Art Gallery – Interim Operations Service Plan as attached to the report from the Cultural Services Manager dated December 2, 2002;

AND THAT this Interim Operations Service Plan be a guide for the preparation of the management and operating agreement between the Kelowna Art Gallery Association and the City of Kelowna.

Carried

4. PLANNING

4.1 Planning & Development Services Department, dated November 25, 2002 re: Rezoning Application No. Z02-1055 – David & Monica Russelle – 510 El Camino Road

Staff:

- The applicant is proposing to develop a secondary suite in the basement of the existing home.
- The home will be connected to sanitary sewer.

Moved by Councillor Given/Seconded by Councillor Shepherd

**R476/02/12/09** THAT Rezoning Application No. Z02-1055 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of that part of Lot 8, Sec. 25, Twp. 26, ODYD, Plan 20308, located on El Camino 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 forwarded to a Public Hearing for further consideration.

Carried

4.2 Planning & Development Services Department, dated December 4, 2002 re: Rezoning Application No. Z01-1043 – Marlene Collinson (William Ed Collinson) – 551 Sherrydale Crescent

Moved by Councillor Cannan/Seconded by Councillor Shepherd

**R477/02/12/09** THAT Municipal Council authorize an extension to OCP Amendment application OCP01-010 (Bylaw No. 8776) and Rezoning application No. Z01-1043 (Bylaw No. 8777) for a period of not more than 180 days from January 8, 2003.

Carried

Regular Meeting – P.M.

December 9, 2002

- 4.3 Planning & Development Services Department, dated November 26, 2002 re: Rezoning Application No. Z99-1049 – R127 Enterprises Ltd. (Tony Markoff/Planning Solutions Consulting Inc.) – Mission Ridge Road/Westpoint Drive

Moved by Councillor Horning/Seconded by Councillor Cannan

**R478/02/12/09** THAT in accordance with the Development Application Procedures Bylaw No. 8140 the deadline for adoption of Zone Amending Bylaw No. 8603 (Z99-1049 – R127 Enterprises, Mission Ridge Road/Wespoint Drive) be extended to June 12, 2003.

Carried

Councillors Clark, Hobson and Shepherd opposed.

- 4.4 Planning & Development Services Department, dated November 29, 2002 re: Rezoning Application No. Z02-1039 (OCP02-0012) – Kiyomatsu & Toshiye Yamaoka and R & B Construction Ltd. (Grant Maddock/Protech Consultants Ltd.) – 908 El Paso Road and 650 McKenzie Road

Staff:

- The applicant proposes to rezone the two properties to facilitate a 31-lot subdivision.

Council:

- Staff to clarify at the Public Hearing whether the stub road in the middle of the adjacent lots is required for a driveway or if it can be closed.

Moved by Councillor Horning/Seconded by Councillor Given

**R479/02/12/09** THAT OCP Bylaw Amendment No. OCP02-0012 to amend Map 19.1 of the Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 by changing the Future Land Use designation of part of Lot B Sec. 25, Twp. 26, ODYD, Plan KAP49886, located on El Paso Road, Kelowna, B.C., from the Rural/Agricultural designation to the Single/Two Unit Residential designation, as shown on Map "A" attached to the report of Planning & Development Services Department dated November 29, 2002, be considered by Council;

AND THAT Rezoning Application No. Z02-1039 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Sec. 25, Twp. 26, ODYD, Plan KAP49886, located on McKenzie Road, Kelowna, B.C. from the RR1 – Rural Residential 1 zone to the RU2 – Medium Lot Housing zone be considered by Council;

AND THAT Rezoning Application No. Z02-1039 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of part of Lot B Sec. 25, Twp. 26, ODYD, Plan KAP49886, located on El Paso Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the RU2 – Medium Lot Housing zone as shown on Map "B" attached to the report of Planning & Development Services Department dated November 29, 2002, be considered by Council;

AND FURTHER THAT the OCP Bylaw Amendment No. OCP02-0012 and zone amending bylaw be forwarded to a Public Hearing for further consideration.

Carried

Regular Meeting – P.M.

December 9, 2002

- 4.5 Planning & Development Services Department, dated November 29, 2002 re: Rezoning Application No. Z02-1040 – Antony & Tracy Hutton – 3668 Luxmoore Road

Staff:

- The applicant is proposing to subdivide the property to create two 1-ha lots so that the proposed new lot can be developed with a handicapped accessible home for his disabled son.
- The application was reviewed and supported by the Advisory Planning Commission with no conditions.
- City Planning staff cannot recommend support because the City development policies do not support further parcelization of lots in rural peripheral locations.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

**R480/02/12/09** THAT Council hear from the applicant.

Carried

Antony Hutton, applicant:

- Has talked to every neighbour and encountered no opposition.
- Proposing to build the house on one level with ramps and a sunken garage so a wheelchair can go straight into the back of the car.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

**R481/02/12/09** THAT Rezoning Application No. Z02-1040 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Plan 37950, Sec. 34 & 35, Twp. 29, ODYD, located on Luxmoore Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RR1 – Rural Residential 1 zone be considered by Council;

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

Carried

- 4.6 Planning & Development Services Department, dated December 5, 2002 re: Ability to Require Development Permits for Institutional Uses (6480-00)

Staff:

- The City Solicitor has recently advised that the Local Government Act in fact provides for municipalities to require a Development Permit for any development, including Institutional in commercial revitalization areas (Urban and Village Centres).
- The proposed OCP amendment would clarify that institutional uses within Urban and Village Centre Development Permit Areas are subject to a Development Permit application; broaden the definitions of commercial, industrial and multiple family uses beyond zoning categories; and clearly define mixed use development that includes commercial, industrial or multiple family residential components as requiring a Development Permit regardless of zoning.

Regular Meeting – P.M.

December 9, 2002

Council:

- Considered adopting a policy to withhold issuance of Building Permits for proposed institutional uses until Council was satisfied with the form and character of the project but were advised that was not an option. If a proposed building meets B.C. Code requirements, staff are obligated to issue the permit.
- Staff to send a notice of the Public Hearing on this OCP amendment to stakeholders such as the Urban Development Institute and the Homebuilders' Association in order to generate input on what is being proposed.

Moved by Councillor Clark/Seconded by Councillor Shepherd

**R482/02/12/09** THAT Municipal Council direct staff to prepare an amendment to the City of Kelowna Official Community Plan as described in the report from the Planning and Development Services Department dated December 5, 2002;

AND THAT the OCP amending bylaw be advanced to public hearing;

AND FURTHER THAT Council's Task Force on the Community Charter be instructed to include in their review of the draft Charter, a request that local governments be given the ability to require development permits for all Institutional uses.

Carried

4.7 Director of Planning & Development Services, dated November 20, 2002 re: Urban Centre Development Incentives Recommendations (6480-40)

Staff:

- Updated Council on initiatives being considered as incentives to encourage the achievement of OCP objectives for development in the urban cores.
- Incentives being recommended include grants, tax relief, reduction of parking requirements, land assembly, and pro-active marketing.
- Possible targets would be 3-4 storey affordable apartments, apartments above existing commercial space (i.e. artist's live/work space), at-grade retail in heritage buildings.
- A copy of the subject report has been forwarded to the Urban Development Institute and there will also be discussion with various other groups interested in the report.

Moved by Councillor Given/Seconded by Councillor Shepherd

**R483/02/12/09** THAT the November 20, 2002 report from the Planning and Development Services Department be received for information;

AND THAT staff undertake pro forma analyses of representative properties to determine the extent of grants that would be necessary to initiate Urban Centre development of affordable market housing;

AND THAT staff prepare a plan for an Urban Centre tax incentive program for the rehabilitation and/or restoration of commercial buildings on the Heritage Register to promote upgrading of commercial retail space and/or the conversion of upper floors to residential occupancies;

AND THAT the impact of reducing or eliminating Urban Centre parking requirements triggered by conversion of upper floors, or construction of additional floors of residential occupancy to older buildings, be examined in conjunction with possible grant and/or tax incentive programs for such types of development;

Regular Meeting – P.M.

December 9, 2002

AND THAT staff identify and review with Council, Urban Centre sites suitable for City acquisition to foster development consistent with OCP objectives where the redevelopment of such sites is critical and unlikely to happen without a City role in land assembly;

AND FURTHER THAT staff identify and forward for Council's consideration, Urban Centre sites that could benefit from being more pro-actively marketed to implement the OCP vision.

Carried

4.8 Planning & Development Services Department, dated November 26, 2002 re: 2002 Public Art Committee Report (7800-01)

Council:

- The Public Art Committee to call a meeting once a year to obtain direct feedback from the public on what has been done and get suggestions for the future (themes, locations, etc.)

Moved by Councillor Given/Seconded by Councillor Cannan

**R484/02/12/09** THAT the 2002 annual report of the Public Art Committee dated November 26, 2002 be received for Council's information.

Carried

## 5. BYLAWS (ZONING & DEVELOPMENT)

### **(BYLAWS PRESENTED FOR ADOPTION)**

5.1 Bylaw No. 8758 (Z01-1044) – Okanagan Mission Community Hall Association and City of Kelowna – 4409 Lakeshore Road and 639 Dehart Road

Staff:

- The Okanagan Mission Community Hall Association's proposal to develop indoor tennis courts has been in limbo since the necessary Development Variance Permit that would have allowed a reduced setback for the indoor tennis courts was denied by Council.
- New outdoor tennis courts were to be developed on this City property, had the project proceeded.
- Adoption of the subject bylaw rezones the City property for the uses envisaged by City of Kelowna Official Community Plan, and makes no commitment whatsoever for the tennis courts.

Moved by Councillor Given/Seconded by Councillor Horning

**R485/02/12/09** THAT Bylaw No. 8758 be adopted.

Carried

Regular Meeting – P.M.

December 9, 2002

6. REPORTS

- 6.1 Deputy Director of Finance, dated December 2, 2002 re: Revision of Schedules “A” and “B” to Local Improvement Bylaw 6600-90 (BL8944; 3900-20; 1950-03)

Moved by Councillor Day/Seconded by Councillor Given

**R486/02/12/09** THAT Council approve the revised Schedules “A” and “B” which form part of bylaw 8944, amendment No. 13 to Local Improvement Charges Bylaw 6600-90.

Carried

- 6.2 City Clerk, dated November 28, 2002 re: Petitioned Work – Sewer Specified Area – Elwyn Road (B/L 8914)

Moved by Councillor Given/Seconded by Councillor Blanleil

**R487/02/12/09** THAT Council receive the Certificate of Sufficiency dated October 2, 2002 pertaining to Sewer Specified Area No. 22D – Elwyn Road;

AND THAT Sewer Specified Area No. 22D Bylaw No. 8914 (Elwyn Road) be advanced for reading consideration.

Carried

- 6.3 Wastewater Manager, dated November 29, 2002 re: Elwyn/Gramiak Sewer Specified Area No. 22D (B/L 8914; 5340-09-22D)

Moved by Councillor Horning/Seconded by Councillor Hobson

**R488/02/12/09** THAT the City of Kelowna undertake the installation of a sewer system as a specified area, as petitioned for by the property owners, for the Elwyn/Gramiak area shown on the map attached to the report from the Wastewater Manager dated November 29, 2002;

AND THAT the City of Kelowna 2002 Financial Plan be amended to reflect budgeted expenditures of \$243,100 with funding from Debenture Borrowing.

Carried

- 6.4 Chief Election Officer, dated December 4, 2002 re: 2002 General Local Government Elections

Staff:

- Presented the report providing a summary of the voting opportunities and the official results and ballot account for the 2002 civic election.

Council:

- Need to find ways to improve the voter turnout before the next civic election.

Moved by Councillor Given/Seconded by Councillor Horning

**R489/02/12/09** THAT the final report from the Chief Election Officer for the 2002 General Local Government Election be received.

Carried

Regular Meeting – P.M.

December 9, 2002

7. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

**(BYLAWS PRESENTED FOR FIRST THREE READINGS)**

7.1 Bylaw No. 8914 – Sewer Specified Area No. 22D – Elwyn Road

Moved by Councillor Horning/Seconded by Councillor Given

**R490/02/12/09** THAT Bylaw No. 8914 and 8944 be read a first, second and third time.

Carried

7.2 Bylaw No. 8944 – Amendment No. 13 to Local Improvement Charges  
Bylaw No. 6600

See resolution under agenda item No. 7.1.

**(BYLAWS PRESENTED FOR ADOPTION)**

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

Moved by Councillor Hobson/Seconded by Councillor Day

**R491/02/12/09** THAT Bylaw No. 8912 be adopted.

Carried

7.4 Bylaw No. 8913 - Hein Road Local Improvement Construction Bylaw  
(L.I. File No. 651)

Moved by Councillor Day/Seconded by Councillor Hobson

**R492/02/12/09** THAT Bylaw No. 8913 be adopted.

Carried

8. COUNCILLOR ITEMS

(a) Exotic Animal Bylaw No. 8318

Councillor Cannan noted that a gentleman who has been handling crocodiles for many years and does educational workshops with live animals at local schools, the Library and the Parkinson Recreation Centre (PRC) is now being prevented from using live animals as a result of the City's Exotic Animal Bylaw. Councillor Cannan suggested that the bylaw be amended to allow live animals for educational purposes.

Councillor Shepherd noted that the Regional District has just recently struck a committee to review the Exotic Animal Bylaw and the individual with the crocodiles actually sits on that committee. The committee will be meeting in January 2003. Opposed amending the bylaw in advance of the committee review.



Regular Meeting – P.M.December 9, 2002

The City Manager advised that City staff were not aware of the bylaw contravention when they booked and advertised a live presentation at PRC for January 25, 2003. The presentation could still go ahead without live animals.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R493/02/12/09** THAT staff prepare an amendment to Exotic Animals Bylaw No. 8318 to exempt animals used for educational purposes from the bylaw;

AND THAT the amending bylaw be brought forward to the Regular Meeting of Monday, December 16, 2002 for initial reading consideration by Council.

**DEFEATED**

Mayor Gray and Councillors Day, Given, Hobson and Shepherd opposed.

(b) Agricultural Advisory Committee

Councillor Cannan noted that the Agricultural Advisory Committee is having difficulty achieving a quorum and that is resulting in delays in their consideration of appeals to the Land Reserve Commission. City Manager to investigate.

(c) Provincial Downloading – Keeping of Prisoners

The City Manager reported that Provincial funding for keeping of prisoners has been reduced by 39% for 2002 and is proposed to be reduced by 50% for 2003. This action has been taken with no consultation whatsoever. The amount of impact varies between communities and is more significant for Kelowna because we do not have a provincial prison. Would like to write letter to Premier and president of UBCM asking that this matter be dealt with.

Moved by Councillor Clark/Seconded by Councillor Shepherd

**R494/02/12/09** THAT a strong letter be sent to the Solicitor General and to the Premier of British Columbia with a copy to our three MLAs, the president of the Union of British Columbia Municipalities, and to the UBCM's Justice Committee, protesting the reduction in Provincial funding for keeping of prisoners despite provision in the Draft Community Charter that downloading is not to occur without consultation and identification of a revenue source.

Carried

## 9. TERMINATION

The meeting was declared terminated at 5:27 p.m.

Certified Correct:

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Mayor

BLH/am

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City Clerk