

Regular MeetingDecember 17, 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 Tuesday, December 17, 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, E.A. Horning 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; Subdivision Approving Officer, R.G. Shaughnessy\*; and Assistant City Clerk, L.M. Taylor acting as Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the Meeting to order at 8:20 p.m.

2. Prayer will be offered by Councillor Given.

3. CONFIRMATION OF MINUTES

Statutory Inaugural Meeting, December 2, 2002  
Public Hearing, December 3, 2002  
Regular Meeting, December 3, 2002  
Regular Meeting, December 9, 2002

Moved by Councillor Given/Seconded by Councillor Horning

**R519/02/12/17** THAT the Minutes of the Regular Meetings of December 3<sup>rd</sup> and 9<sup>th</sup>, 2002 and the Minutes of the Public Hearing of December 3, 2002 be confirmed as circulated.

4. Councillor Clark requested to check the minutes of this meeting. Carried

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)**

5.1 Bylaw No. 8941 (Z02-1034) – Markui Contracting Ltd. (David Pauls/D.E. Pilling & Associates Ltd.) – 1504 Highway 33 East

Moved by Councillor Given/Seconded by Councillor Horning

**R520/02/12/17** THAT Bylaw No. 8941 be read a second and third time.

Carried

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5.2 Bylaw No. 8942 (Z02-1033) – Robert (Bob) Harasin – 1665 Begley Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R521/02/12/17** THAT Bylaw No. 8942 be read a second and third time and be adopted

Carried

5.3 Bylaw No. 8943 (Z02-1041) – Peter & Marlene Sieben (M105 Enterprises Ltd.) – 1915 Enterprise Way

Moved by Councillor Horning/Seconded by Councillor Given

**R522/02/12/17** THAT Bylaw No. 8943 be read a second and third time.

Carried

**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**

5.4 Bylaw No. 8938 (Z02-1043) – 569726 BC Ltd. (Hans Neumann) – 1358 St. Paul Street

Moved by Councillor Given/Seconded by Councillor Horning

**R523/02/12/17** THAT Bylaw No. 8938 be read a second and third time, and be adopted.

Carried

6. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATION:

6.1 Planning & Development Services Department, dated December 4, 2002 re: Liquor Licencing Application No. LL02-0011 – 614030 BC Ltd. (David Habib/Quail Place Estates) – 274 Lawrence Avenue

Staff:

- RCMP does not support the application as additional drinking establishments in the downtown core will stretch limited policing resources.
- Application is for a transfer of a liquor primary (cabaret class “C”) license from 540 Leon Avenue to 247 Lawrence Avenue.
- Applicant is currently operating a non-licensed after-hours and special event dance club in the new premises but wishes to operate both a restaurant and a cabaret at the new premises.
- Operation of the restaurant is to address Council’s and neighbourhood concerns of “dead space” created by cabarets during the day.
- Current license permits an occupancy of 304 persons but useable cabaret area in new location would limit occupancy load to 200 persons.
- Hours of operation for cabaret would be from 7:00 p.m. to 2:00 a.m.
- Planning department has concerns with concentration of liquor primary licenses in downtown core as it has the effect of creating “dead zones” during daytime hours and as common closing times provide challenges for police.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Regular MeetingDecember 17, 2002David Habib, applicant

- Will be a pub type establishment along the lines of Doc Willoughby's or Kelly O'Bryans
- It is not a new establishment in the downtown core but rather a transfer of an existing license.
- Plan to close the cabaret at 4:00 a.m. but will quit serving liquor at 2:00 a.m. to allow patrons time to eat and wind down.
- The hours of operation will be 11:00 a.m. to 4:00 a.m. with liquor only being served until 2:00 a.m. and the cabaret opening at 7:00 p.m.

Staff

- Noted that if the applicant wishes to alter the hours of operation from what is permitted under the current license, he will have apply to the Liquor Control Board and have a resolution supporting the amended operating hours from Council.

Sean Ellis, 469 Bernard Avenue, Manager, Boomtown Clothing Company

- In support of transfer of liquor license.
- Never been approached by DKA for comments on the proposed transfer of the license.

Dan Crocket, Manager, 1155 St. Paul Street & 38 Leon Avenue

- Would welcome having such an establishment beside his property rather than having homeless people living beside both businesses.

Wayne Baron, 4693 McCulloch Road

- Think that the city should be pro-business and that Council's role is to act and react based on community votes, opinions, comments and issues.

Rob Howe, 239 Bernard Avenue

- Is in favour of the establishment being located across the alley from his business.

Gordon Abogoush, Lessee, 1630 Water Street

- In support of the liquor license transfer as is his landlord.

Kelly Molstad, Manager, 366 Bernard Avenue & 1567 Pandosy

- In full support.

Sean Felix, Lakeview Heights

- If most of the concern is from the RCMP why didn't they have someone here to answer questions.

Council:

- Council gets an official response from the RCMP in the form of a report so they do not need to have a representative present.

Shane Barry, 106-391 Tilley Road

- Questioned whether the RCMP had objected to the increased capacity at Splashes Nite Club and was advised that they had.

Len Pollack, 1761 Kloppenberg road

- In support of the transfer of the license

Andreas Kessler – 1468 Bankhead Crescent

- Questioned why the RCMP were not present.

Sean Taylor, 1631 Elm Street East

- If the establishment were open for lunch it would improve the street.

Regular MeetingDecember 17, 2002James Franklin, 4535 Stewart Road East

- Support the liquor license transfer.

Doug Welder, 586 Leon Avenue

- Applicant could open the business on Leon Avenue at any time.
- Should not be any difference to the RCMP whether the business is on Leon Avenue or Lawrence Avenue.

Jim Klassen, 396 Klassen Rod

- Have worked on the plumbing in Mr. Habib's former establishment and have observed that the establishment was clean and had very good security.

David Habib, applicant

- Asked several weeks ago to meet with the executive of the DKA to explain his plans to them but was not given the opportunity.
- Submitted a petition of support containing 150 signatures and a letter of support from Lawrence Salloum of Salloum Dirk, 327 Bernard Avenue

Rita Milne, Past President of DKA

- Mr. Habib did ask to be allowed to speak to the Board but was advised the next Board meeting was in January 2003. He then asked to meet with the executive but was not permitted to.
- Did not canvass the DKA members before writing the letter of non-support for the application.

The City Clerk advised that the following correspondence opposing the application had been received:

Downtown Kelowna Association, 101-389 Queensway Avenue

Richard Sharpe, 505-1585 Abbott Street

- Would degrade the downtown core
- Adverse effect on neighbouring property owners

Moved by Councillor Horning/Seconded by Councillor Blanleil

**R524/02/12/17** THAT Council support the relocation of the Liquor Primary (Class "C") liquor license from 540 Leon Avenue to 274 Lawrence Avenue;

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

Carried

Councillor Clark opposed.

Regular MeetingDecember 17, 2002Moved by Councillor Horning/Seconded by Councillor Blanleil

**R525/02/12/17** THAT the Rules of Procedure be suspended and the meeting be continued beyond 11:00 p.m.

Carried7. PLANNING

7.1 Planning & Development Services Department, dated December 4, 2002 re: Development Permit Application No. DP02-0090 and Development Variance Permit Application No. DVP02-0100 – 564913 BC Ltd. (Hans Neumann) – 1358 St. Paul Street

Staff:

- Variance is to permit the provision of 19 small car stalls instead of 10 stalls maximum permitted.
- To accommodate the reduction in full size parking stalls the applicant has agreed to increase the width of the small car stalls.
- Recommend support.

The City Clerk advised that no correspondence or petitions had been received.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

The applicant indicated he had nothing to add at this time.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R526/02/12/17** THAT Council authorize the issuance of Development Permit No. DP02-0090 for Lot 2, District Lot 139, Plan KAP68461, ODYD; located on St. Paul Street, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. Signage on the building to be in general accordance with Schedule "D";
5. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

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AND THAT Council authorise the issuance of Development Variance Permit No. 02-00; Hans Neumann, Lot 2, District Lot 139, Plan KAP68461, ODYD;

AND THAT variance to the following section of City of Kelowna Zoning Bylaw No. 8000 be granted:

Section 9: Parking and Loading: Size: 8.1.11

- Vary the 40% maximum for parking spaces less than 6 m in length (small car stalls) to a requested maximum of 70%.

Carried

7.2 (a) BYLAWS PRESENTED FOR ADOPTION

- (i) Bylaw No. 8903 (OCP02-0008) - H. Benson Electric Ltd. (Patrick McCusker) – 1229 & 1239 KLO Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R527/02/12/17** THAT Bylaw No. 8903 be adopted.

Carried

- (ii) Bylaw No. 8904 (Z02-1031) - H. Benson Electric Ltd. (Patrick McCusker) – 1229 & 1239 KLO Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R528/02/12/17** THAT Bylaw No. 8904 be adopted.

Carried

- (b) Planning & Development Services Department, dated November 20, 2002 re: Development Permit Application No. DP02-0064 and Development Variance Permit Application No. DVP02-0065 – H. Benson Electric Ltd. (Patrick McCusker) – 1229 & 1239 KLO Road

Staff:

- Permit an increase in the building height from 3 storeys to 3 ½ storeys.
- Variance is required as the underground parkade is raised more than .6 m above ground level thereby making it a half storey.
- Development permit is for a 33 unit condominium building containing 24 two-bedroom units and 9 one-bedroom units.

Moved by Councillor Shepherd/Seconded by Councillor Given

**R529/02/12/17** THAT Council authorize the issuance of Development Permit No. DP02-0064; Patrick McCusker, Lots 2&3, ODYD, Plan 17528(Except Plan H17514); to obtain a Development Permit for the form and character of a 33 unit condominium building subject to the following conditions:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";

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3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;
5. Registration of the easement with Lot 4, Plan 17528 (1249 KLO Rd.) for future cross access;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP02-0065; Patrick McCusker, Lots 2&3, ODYD, Plan 17528 (Except Plan H17514);

AND THAT variances to the following section of City of Kelowna Zoning Bylaw No. 8000 be granted:

Section 13: Specific Zone Regulations: RM4 – Transitional Low Density Housing

- Vary the height of the proposed condominium building from three storeys permitted to 3.5 storeys requested.

Carried8. REMINDERS9. TERMINATION

The meeting was declared terminated at 11:20 p.m.

Certified Correct:


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 Mayor

LMT/am

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 City Clerk