

Regular Meeting – P.M.

May 5, 2003

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, May 5, 2003.

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, A.M. Flack; Director of Planning & Corporate Services, R.L. Mattiussi*; Manager of Development Services, A.V. Bruce*; Manager of Policy, Research & Strategic Planning, S.K. Bagh*; Urban Design Planner, P.J. McCormick*; Director of Parks & Leisure Services, D.L. Graham*; Director of Financial Services, P.A. Macklem*; Financial Planning Manager, K. Grayston*; Financial Accounting & Systems Manager, R. Mayne*; Revenue Supervisor, G. Davidson*; Environmental Manager, M. Watt*; Drainage/Solid Waste Manager, A. Newcombe*; Wastewater Manager, W.J. Berry*; Roads & Equipment Superintendent, D. Beaudry*; 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 Hobson was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1. Presentation of Interim Report dated April 30, 2003 - Mayor's Entertainment District Task Force

Norm Letnick, Mayor's Entertainment District Task Force:

- Introduced the members of the task force.
- Outlined the scope of work mandated to the task force.
- Presented the key research findings so far.
- Presented the interim recommendations of the task force from page 9 of their report.
- Outlined the outstanding issues yet to be dealt with by the committee.

Staff:

- The task force wanted their recommendations on the table for public information but some are land use related and may impact the public hearings on certain liquor license related zoning amendment bylaws currently in process. Those related to land use are recommended to be received for information at this time, rather than for actual endorsement by Council today.

Council:

- Agreed to remove "thereby allowing Liquor Primary establishments to remain open until 3:00 a.m." from the portion of the motion extending the length of time for clearing out Liquor Primary establishments from ½ hour to 1 hour giving the opportunity for the closing time for LP establishments outside the targeted area of the downtown to still be extended beyond 3:00 a.m.
- Suggested the Task Force consider sending their interim and final reports to the three Regional Districts and member municipalities in the Okanagan Valley.

Moved by Councillor Hobson/Seconded by Councillor Given

R420/03/05/05 THAT Council receive the Interim Report of the Mayor's Entertainment District Task Force (the "Task Force"), dated April 30, 2003, and forward the report for the information of Council and the public at the public hearings on Bylaw No.8960, Bylaw No. 8980, and Bylaws No. 9016 to 9025 inclusive;

AND THAT Council endorse the following recommendations from the Interim Report, at this time:

- That the hours of liquor service for Liquor Primary establishments within the City of Kelowna remain at 2:00 a.m. at this time;
- That Kelowna City Council request the General Manager of the Liquor Control and Licensing Branch to extend the period to clear patrons to one hour from the one half hour currently permitted for all large scale Liquor Primary establishments in the City of Kelowna;

AND THAT Council direct the Task Force to examine later liquor service hours for establishments located outside of the area identified in the Downtown Plan as Zone 2, as part of the Task Force's examination of the outstanding issues for its Final Report to Council.

AND FURTHER THAT the task force also be directed to address the following issues raised by Council at this meeting:

- Good Neighbour Agreements (including the Bar Watch Program);
- Potentially also applying the Good Neighbour Agreements to Retail Liquor Sales outlets;
- Potentially allowing Liquor Primary establishments to be open for lunch;
- Whether the increased seating capacity already approved by Council for Liquor Primary establishments within the target area of the Downtown has addressed the problems with line-ups;
- Whether Council can require off-sales of beer to be cans rather than bottles.
- Examine whether there is a role for business licensing to set conditions of operation for Liquor Primary establishments (i.e. closing times for sidewalk cafes connected to a LP establishment).

Carried

4. UNFINISHED BUSINESS

- 4.1 Deferred from the Regular Meeting of April 1, 2003: Planning & Development Services Department, dated February 24, 2003 re: Liquor Licensing Application No. LL03-0001 – 475872 BC Ltd. (Gotcha Nightclub) – 238 Leon Avenue

Staff:

- Council deferred their consideration of this application pending the report from the Mayor's Entertainment District Task Force that Council just received.
- The Gotcha Nightclub is within the downtown area identified by the Task Force as 'Zone 2'. Based on the recommendations of the Task Force, the staff recommendation remains non-support of the subject application to expand the seating capacity of the nightclub.
- There is also an application to change the hours of operation for Gotcha Nightclub. That application has been advertised for consideration by Council at the Regular Meeting on May 13, 2003.

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Moved by Councillor Hobson/Seconded by Councillor Given

R421/03/05/05 THAT Council ***not*** support the licensed person capacity increase (from 313 to 405 persons) proposed by Gotchas Nightclub for 238 Leon Avenue;

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

Carried

Councillors Blanleil and Horning opposed.

Mayor Gray asked Deputy Mayor Clark to assume the Chair and left the meeting at 2:41 p.m.

4.2 Deferred from the Regular Meeting of April 29, 2003: Planning & Development Services Department, dated March 10, 2003 re: LL03-0003 - Flashbacks Entertainment Ltd. – 1250 & 1298 Ellis Street

Staff:

- The subject application was deferred pending receipt of the interim report from the Mayor's Entertainment District Task Force.
- The applicant is seeking approval to increase seating capacity in Flashbacks cabaret by 195 persons and to extend the hours of operation.

Moved by Councillor Horning/Seconded by Councillor Blanleil

THAT Council support the person capacity increase (from 491 to 686 persons) proposed by Flashbacks Entertainment Ltd for 1250-1298 Ellis Street;

AND THAT Council support an extension to the permitted hours of liquor sales from 9:00 a.m. to 2:00 a.m., Monday to Sunday, proposed as the second option by Flashbacks Entertainment Ltd. for 1250-1298 Ellis Street;

AND FURTHER THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Branch in Victoria subject to the following:

- The applicant meeting the parking requirement or arranging for a cash in-lieu payment to the City of Kelowna
- Sprinkler testing and upgrading throughout the building.

Council:

- Agreed to defer further consideration of this application until after the Task Force reports back.

Moved by Councillor Day/Seconded by Councillor Cannan

R422/03/05/05 THAT further consideration of Liquor Licensing Application No. LL03-0003 (Flashbacks, 1250-1298 Ellis Street) be deferred until after Council receives the final report of the Mayor's Entertainment District Task Force.

Carried

Councillors Blanleil and Horning opposed.

Deputy Mayor Clark altered the order of business and advised that agenda item No. 7.4 would be dealt with next.

Mayor Gray returned to the Council Chamber at 3:03 p.m. and resumed the Chair.

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7.4 Environmental Manager, dated April 30, 2003 re: West Nile Virus Prevention & Control (5280-01)

- The City's Environmental Coordinator and Mr. Ken Cooper of the Interior Health Authority gave a joint powerpoint presentation on the health risk and symptoms of the West Nile Virus and what is being done in response to the expected arrival of the virus in our area this summer or fall.

Moved by Councillor Shepherd/Seconded by Councillor Given

R423/03/05/05 THAT the Environment Manager's report of April 30, 2003 regarding prevention and control of the West Nile Virus be received for Council's information;

AND THAT City staff be directed to work with the Health Region and the Regional District of Central Okanagan in the implementation of the Interior Health Region Surveillance and Response Plan.

Carried

5. PLANNING

5.1 Planning & Development Services Department, dated April 29, 2003 re: Rezoning Application No. Z00-1013 – Vince & Giovannia Magaldi – 2131 Scenic Road (BL 8714)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R424/03/05/05 THAT Municipal Council authorize an extension to Rezoning Application No. Z00-1013 – Magaldi – 2131 Scenic Road (Bylaw No. 8714) for a period of not more than 180 days from February 28, 2003, to lapse on August 28, 2003.

Carried

5.2 Planning & Development Services Department, dated April 29, 2003 re: Outdoor Food & Beverage Programs (6530-12)

Staff:

- Presented a synopsis of the report and the changes being recommended.
- The Kelowna Parking Committee recommends that the right of first refusal for holders of sidewalk/roadway occupancy permits be limited to four years subsequent to the initial year (5 years) and that permit holders be formally notified when their permit period is expiring.

Council:

- Discussed the recommendation from the City's Risk Manager to increase the liability insurance for mobile vendors from \$2 million to \$5 million. Staff to report back prior to Council's consideration of adoption of the related Traffic Bylaw amendments.

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Moved by Councillor Day/Seconded by Councillor Hobson

R425/03/05/05 THAT Council receive the report of the Planning and Development Services Department dated April 29, 2003 regarding the Outdoor Food and Beverage Programs;

AND THAT Council endorse the Terms of Reference for the Program for Seasonal Extension for Sidewalk Cafes as set out in Attachment 1 to the Planning Department's report, amended to also include the recommendations from the Kelowna Parking Committee to (1) limit the right of first refusal to four years subsequent to the initial year of operation and (2) require City staff to formally notify property owners when their permit period is expiring;

AND FURTHER THAT Council forward the related amendments to Traffic Bylaw No. 8120, as outlined in the report, for reading consideration.

Carried

6. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

6.1 Bylaw No. 8990 (Z03-0001) – Darrell Helfrich – 240 Sadler Road

Moved by Councillor Horning/Seconded by Councillor Given

R426/03/05/05 THAT Bylaw No. 8990 be adopted.

Carried

7. REPORTS

7.1 Mayor Gray, Chairman, Audit Committee, dated April 25, 2003 re: Financial Statements for the Year Ending December 31, 2002 (1830-20; 0540-20)

Moved by Councillor Day/Seconded by Councillor Cannan

R427/03/05/05 THAT the Statement of Financial Position, Statement of Financial Activities and Auditor's Report, for the City of Kelowna, for the year ending December 31, 2002 be received;

AND THAT Council approve the appropriation of \$2,717,000 of surplus generated from all general fund operations in 2002 to general reserves as detailed in the body of the Audit Committee's report dated April 25, 2003;

AND THAT the Statement of Financial Position, Statement of Financial Activities and Auditor's Report be reprinted in booklet form;

AND FURTHER THAT the Council Remuneration and Expenses, Employee Remuneration and Payment for Provision of Goods and Services report be received.

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- 7.2 City Manager, dated April 29, 2003 re: 2003 Financial Plan – Final Budget (BL9027, BL9028, BL9029; 1700-20)

Staff:

- The Planning & Corporate Services Department will be bringing forward a report to Council in the next month or so regarding the Community Liaison Officer position currently identified as a Priority 2 item.
- The Regional Dog Advisory Committee will be reporting to Council at the Regular Meeting of May 12, 2003 and requests for budget amendments for the Dogs in Parks program will come forward for consideration at that time.
- The requests for additional lighting to improve security at Guisachan Heritage Park will be handled through a budget transfer within the existing 2003 budget.
- Displayed slides giving a tax comparison analysis to show the impact of the tax increase on an average residential property and on an average business property.

Council:

- Staff to look for the \$5,000 in the existing 2003 Parks budget to allow the City Tree Inventory currently identified as a Priority 2 item to proceed.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R428/03/05/05 THAT the 2003-2007 Financial Plan be approved by Council and Bylaw No. 9027 (Five Year Financial Plan, 2003-2007) be advanced for reading consideration by Council;

AND THAT Bylaw No. 9028 (Tax Structure Bylaw, 2003) and Bylaw No. 9029 (Annual Rates Bylaw, 2003) be advanced for reading consideration to set the tax rates for 2003 Property Taxes, formulated to raise \$62,236,000 from General Taxation, resulting in an average net property owner impact of 1.90%.

Carried

- 7.3 Director of Financial Services, dated April 23, 2003 re: Bylaw to Charge the 2003 Sterile Insect Release (SIR) Parcel Tax to Specific Rolls (BL 9009; 1970-02)

Moved by Councillor Day/Seconded by Councillor Cannan

R429/03/05/05 THAT Sterile Insect Release Program Parcel Tax Bylaw 2003 No. 9009 to charge the 2003 Sterile Insect Release (SIR) Parcel Tax to individual rolls in accordance with the 2003 SIR Parcel Tax Assessment Roll provided to the City of Kelowna by the Regional District of North Okanagan be advanced for reading consideration by Council.

Carried

Councillor Blanleil opposed.

- 7.4 Environmental Manager, dated April 30, 2003 re: West Nile Virus Prevention & Control (5280-01)

Dealt with after item No. 4.2.

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- 7.5 Transportation Manager, dated April 28, 2003 re: Purchase of Landfill Compactor (1280-01)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R430/03/05/05 THAT the City purchase a CMI Terex, Model 3-75E landfill compactor from RayMax Equipment Sales, the low bidder in response to RFP T03-20, for the amount of \$526,025.60 (including GST).

Carried

- 7.6 Drainage/Solid Waste Manager, dated April 29, 2003 re: Award of Construction Contract Tender TE03-11 – Recreation Avenue Drainage Upgrade (5225-40)

Moved by Councillor Given/Seconded by Councillor Shepherd

R431/03/05/05 THAT the tender for the Recreation Avenue Drainage Upgrade be awarded to the low bidder, Hayter Construction Ltd., in the amount of Four Hundred Forty-nine Thousand, Three Hundred Fifty-eight dollars and Eighty-one cents (\$449,358.81) including GST;

AND THAT the Mayor and City Clerk be authorized to execute the Contract on behalf of the City of Kelowna.

Carried

- 7.7 Wastewater Manager, dated April 30, 2003 re: Award of Construction Contract TE03-01 – North Rutland Sanitary Sewer Specified Area No. 20 – Zone A (5340-09-20)

Moved by Councillor Horning/Seconded by Councillor Day

R432/03/05/05 THAT the Contract for construction of the Sanitary Sewer Specified Area No. 20 – Zone A be awarded to Acres Enterprises Ltd. for the amount of \$3,400,042.06 GST included;

AND THAT the Wastewater Manager be authorized to make necessary Change Orders to this Contract as contingent items arise, up to a maximum Contract value of \$3,600,000.00;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the Contract on behalf of the City.

Carried

- 7.8 Director of Parks & Leisure Services, dated May 1, 2003 re: Kelowna Regatta Request for Assistance (0360-20)

Staff:

- Some of the Regatta Society's fundraising programs from 2002 did not meet expectations. Asking for a loan from the City that would be used to pay off outstanding accounts. The loan would be repaid over time.
- Outlined the options for Council to consider.

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Council:

- Suggested the Regatta Society use the \$5,000 to hire a coordinator to assist with this year's Regatta.

Moved by Councillor Cannan/Seconded by Councillor Given

R433/03/05/05 THAT Council hear from the Regatta Society.

Carried

Ken Wall, Treasurer:

- This year's Regatta is in full production. Do not need a staff person this year but could bring a coordinator in for next year.
- The Society is planning on making money this year. If an event looks like it will not generate revenue the event be cancelled.
- The Society is not looking for a hand-out, but is looking for help. The loan would be paid back from the money that is made at this year's Regatta.
- Revenue from the Friday night concert, if it proceeds, would be used to pay past creditors.
- Will report back to Council after this year's Regatta.

Moved by Councillor Hobson/Seconded by Councillor Clark

R434/03/05/05 THAT City Council receive the request for financial assistance from the Kelowna International Regatta Society attached to the May 1, 2003, report from the Director of Parks and Leisure Services;

AND THAT Council approve a loan to the Regatta Society in the amount of \$30,028.38 using funds from General Reserves and a \$5,000 increase in the annual budget allocation to the Regatta Society (from \$15,000 to \$20,000) with this year's funding being appropriated from Council Contingency;

AND THAT the Regatta Society be requested to provide a report back to Council after this year's event;

AND FURTHER THAT the Kelowna International Regatta Society be asked to apply through the Outdoor Events Committee to seek approval for the Friday Night Kick-Off Concert.

Carried

7.9 Airport General Manager, dated April 24, 2003 re: Major Air Terminal Expansion – Relocate Gate 6 (0550-05; 6640-20)

Moved by Councillor Blanleil/Seconded by Councillor Hobson

R435/03/05/05 THAT Council approve awarding a contract in the amount of \$540,786.00 to Peters Bros. Construction for construction of a heavy aircraft parking gate and related work at the Kelowna International Airport;

AND THAT the Mayor and City Clerk be authorized to execute the Contract on behalf of the City.

Carried

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8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

8.1 Bylaw No. 9009 – 2003 Sterile Insect Release Program Parcel Tax

Moved by Councillor Shepherd/Seconded by Councillor Given

R436/03/05/05 THAT Bylaw No. 9009, 9012, 9026, 9027, 9028, 9029, 9030, 9031, 9032, 9033 and 9036 be read a first, second and third time.

Carried

8.2 Bylaw No. 9012 – Amendment No 1 to Traffic Bylaw No. 8120

See resolution adopted under item No. 8.1.

8.3 Bylaw No. 9026 – Road Exchange Bylaw – Union Road

See resolution adopted under item No. 8.1.

8.4 Bylaw No. 9027 – Five Year Financial Plan, 2003-2007

See resolution adopted under item No. 8.1.

8.5 Bylaw No. 9028 – Tax Structure Bylaw, 2003

See resolution adopted under item No. 8.1.

8.6 Bylaw No. 9029 – Annual Rates Bylaw, 2003

See resolution adopted under item No. 8.1.

8.7 Bylaw No. 9030 – Parking Reserve Fund Expenditure Bylaw, 2003 **requires 2/3 majority vote of Council (6)**

See resolution adopted under item No. 8.1.

8.8 Bylaw No. 9031 – Development Cost Charge Reserve Fund Expenditure Bylaw, 2003 **requires 2/3 majority vote of Council (6)**

See resolution adopted under item No. 8.1.

8.9 Bylaw No. 9032 – Capital Works, Machinery and Equipment Reserve Fund Expenditure bylaw, 2003 **requires 2/3 majority vote of Council (6)**

See resolution adopted under item No. 8.1.

8.10 Bylaw No. 9033 – Sale of City-Owned Land Reserve Fund Expenditure Bylaw, 2003 **requires 2/3 majority vote of Council (6)**

See resolution adopted under item No. 8.1.

8.11 Bylaw No. 9036 – Amendment No. 16 to Solid Waste Management Bylaw No. 7173

See resolution adopted under item No. 8.1.

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(BYLAWS PRESENTED FOR ADOPTION)

8.12 Bylaw No. 8917 – Sewer Specified Area No. 30 – Acland Road

Moved by Councillor Day/Seconded by Councillor Cannan

R437/03/05/05 THAT Bylaw No. 8917 be adopted.

Carried

8.13 Bylaw No. 9011 – Amendment No. 10 to Building Bylaw No, 7245

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R438/03/05/05 THAT Bylaw No. 9011 be adopted.

Carried

8.14 Bylaw No. 9015 – Amendment No. 4 to Five Year Financial Plan Bylaw No. 8788

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R439/03/05/05 THAT Bylaw No. 9015 be adopted.

Carried

9. COUNCILLOR ITEMS

(a) Mission District Park

Councillor Shepherd expressed disappointment at the removal of trees from the Mission District Park site and asked for a report from staff updating Council on how work is progressing on the Recreation & Sports Complex.

(b) Citizens Patrol

Councillor Shepherd noted that the City does not provide funding for the Citizens Patrol and the volunteers are having to pay for their own gas and other expenses. Councillor Cannan commented that about a month ago he had asked for information from the Citizens Patrol regarding their expenses but they have not yet responded. Councillor Clark submitted that they probably will not make a request for financial assistance and suggested that staff bring forward a recommendation on how the City can be of help.

(c) Drug Use

Councillor Shepherd commented that she had viewed the documentary, FIX: The Story of an Addicted City and in her opinion someone needs to take leadership and initiate discussions regarding drug and alcohol treatment in the Kelowna area. She suggested that the Health Region be asked to provide an update on what is being done in Kelowna to address the problem.

(d) Noise Control

Councillor Cannan asked for a report from staff on their proposed bylaw enforcement of summer noises such as loud boats, boom boxes, etc. for this year.

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10. TERMINATION

The meeting was declared terminated at 5:45 p.m.

Certified Correct:

Mayor

Deputy Mayor Clark

City Clerk

BLH/am