

Regular Meeting – P.M.

June 9, 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, June 9, 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; Deputy City Clerk, S. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi*; Manager of Development Services, A.V. Bruce*; Director of Parks & Leisure Services, D.L. Graham*; Manager, Policy, Research & Strategic Planning, S.K. Bagh*; Special Projects Planning Manager, H.M. Christy*; Subdivision Approving Officer, R.G. Shaughnessy*; Transportation Manager, R.W. Westlake*; Development Engineering Manager, S. Muenz*; Electrical Manager, R. Carle*; Sports & Facilities Manager, J. Gabriel*; Parks & Landscape Planning Supervisor, D. Lange*; Parks Coordinator, R. Zahara*; 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 Horning was requested to check the minutes of the meeting.

3. PUBLIC IN ATTENDANCE

3.1 Presentation by Ron LeRoy and Art Brown, Veendam Sister City Society

Ron LeRoy, Veendam Sister City Society:

- Reported on his recent visit to Veendam, along with Art Brown of the Society, to participate in the May 4th commemoration march/presentation of wreaths and the May 5th Liberation Day celebrations.

Councillor Day joined the meeting at 1:33 p.m.

4. UNFINISHED BUSINESS

4.1 Parks Manager, dated June 4, 2003 re: Paws in Parks Program (6130-02)

Council:

- Staff have been asked to bring forward a recommendation in response to requests to allow dogs in City Park in early and late hours for joggers wishing to run with their dogs and/or take them on fundraising walks, and during special events (i.e. the Regatta has a Frisbee contest for dogs that is held in City Park).
- This is the season when there are a lot of these activities. Staff to report back as soon as possible with a recommendation for Council to consider.

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Moved by Councillor Given/Seconded by Councillor Cannan

R520/03/06/09 THAT pursuant to Section 801.4 of the *Local Government Act*, Kelowna City Council, on behalf of the electors of the City of Kelowna, consents to the adoption of the Regional District of Central Okanagan Dog Control Services Establishment Amendment Bylaw that expands the service area to include Kelowna;

AND THAT staff be directed to notify the Regional District of Central Okanagan of the consent to the dog control service area expansion;

AND THAT Bylaw No. 9043 to repeal City of Kelowna Dogs Regulation and Impounding Bylaw No. 5880-88 be advanced for reading consideration by Council;

AND THAT the 2003 Financial Plans be amended by \$35,000 with funding of \$25,000 from the Parks Development Reserve and \$10,000 from Community Contributions for implementation of the Paws-in-Parks-Program;

AND FURTHER THAT Council Policy No. 258 – Dog Walking and Dog Off-Leash Parks be amended as outlined by Enclosure I in the June 4, 2003 report from the Parks Manager.

Carried

- 4.2 Planning & Corporate Services Department re: Development Permit Application No. DP03-0011 and Development Variance Permit Application No. DVP03-0012 – The Grand Okanagan Resort Ltd. (Brian Kilpatrick/BKDI Architects) – 1310 Water Street
- report dated May 12, 2003 (DVP)
 - report dated May 21, 2003 (DP)

Staff:

- The applicant is proposing to develop a 5-storey, 61-unit apartment hotel on the northern portion of The Grand Okanagan Hotel site.
- Variances are required for an additional parking deck on the existing parkade and for relaxation of setback requirements from the water because of the height of the building.
- The existing vacation homes are 3-storeys with units within the roof line. This proposal is for 4th storeys outside the roof line, a loft within the roof line, and the 5th storey height for a dome feature.
- If the variance is denied, the applicant could build to the maximum permitted height of the zone which is 12 storeys without requiring variances.

The Deputy City Clerk advised that the following correspondence had been received since the Regular Meeting of May 27, 2003 when the application was last considered:

Opposition:

- form letter of opposition from shareholders of Hennessey Cup Development Ltd., owner of 602-1160 Sunset Drive
- form letter of opposition from William & Marilyn Booth, 504-1160 Sunset Drive opposed because of loss of lake view for the Dolphins residents, and the increase in density will add to the already frustrating level of pedestrian and vehicular traffic in the immediate area, both of which will have a negative impact on property values.

Support:

- letter from Dale Knowlan, Project Manager, Canada Lands Company stating they have no objections to the proposal.

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Kirsten Bell, partner with BKDI Architects, applicant:

- Standing in for Brian Kilpatrick who is unable to be here; but is familiar with the project having worked on various components of it over the years.
- Gave a powerpoint presentation showing renderings of the Private Residence Club, how it would impact the view corridors for residents of the Dolphins, and the similarities to and subtle changes from the building design of the vacation townhomes adjacent to the hotel.
- In response to the concerns raised (at the Regular Meeting of May 27th), the 60-seat restaurant and the basement have both been deleted from the project and the swimming pool and amenity space will now be in the 5th floor dome.
- Eliminating the basement reduced the height of the project by 1 m and the dome height has also been reduced by a further 1 m. As a result, the dome height from the tip has dropped by 2 m and the ridgeline of the building has dropped by 1 m.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Clifford Aimes, 1160 Sunset Drive:

- A member of the Dolphins Strata Council and owner of two units in the building, one on the 4th floor and one on the 11th floor.
- Not opposed to the increased height of the parking structure, but opposed to the variance to allow the 5th storey building height which would obliterate the view of the residents in the Dolphins from the 9th storey down. The Dolphins residents purchased their units on the understanding that the subject property would be developed with 3-storey townhouses similar to those by the hotel. The higher building will affect the Dolphins residents' lifestyle, lake view and seriously compromise the value of their units.
- Need more time to come up with an appropriate design.

John Gough, 8th floor 1160 Sunset Drive:

- The Dolphins Strata Council met with the developer a couple of days ago. There was no mention at that time that they could go to 12 storeys without need for variances and so that was not taken back to the strata members. They had asked to see the detailed drawings but were told by the developer that they had been given to City Planning staff yet the drawings have not been brought forward at this meeting.
- The consensus from the meeting with the developer was appreciation for the concessions made but that the residents would still like the zoning bylaw requirements adhered to.
- The revisions do not address the concerns and it feels like the process is being rushed.

Larry Lefebure, 9th floor 1160 Sunset Drive:

- Showed cross sections in support of his position that the proposed development would actually be a 5+ storey building with a 6 to 7 storey dome feature.
- The residents will accept whatever is permitted by the Zoning Bylaw but the developer should have to proceed based on the setbacks set out in the bylaw.

Staff:

- Clarified that the difference between the required setback and the setback that is being requested is 11 m.

Pat Doyle, 9th floor 1160 Sunset Drive:

- Willing to accept whatever can be done within the existing Zoning regulations.
- The dome would have to be substantially different in size from the light house tower on the existing vacation homes if a pool and amenity space are to be within the dome.

Kirsten Bell, partner with BKDI Architects, applicant:

- The existing vacation homes are 3-storeys with a 4th storey mezzanine area and the mechanical room enclosed within the light house space is at the 5th storey level. However, the 4th and 5th storey space does not get counted as a storey and so the building is considered to be 3-storeys.
- The proposed building is 5 storeys at the highest point.
- The development has not been tied to an actual building height, but rather to a maximum number of storeys.
- The developer would want at minimum the same volume of development as phase 1.
- Showed photos with the proposed building sketched in to show that the view of the lake would not be obliterated for the Dolphin's residents.
- There has been a tent up on the site and it was assumed that people in the area would come to find out what was happening.
- Has tried to address all the issues that were raised at the last meeting, thinking that those issues were all that needed to be addressed in order to obtain approval for this project to proceed.

Staff:

- The zone created for this development does not refer to building height it refers only to number of storeys. However, removing the basement lowers the overall building height by 1 m and the dome height has been reduced by 1 m. Taking that into consideration, measured from the existing grade, the dome height would be 21.5 m and the rest of the building would be 17.5 m measured to the peak of the roof.

Council:

- It is not likely that removal of the restaurant (which is only for residents of the project) from the proposal would lessen any impact on traffic in the area.
- The revisions made to the proposal subsequent to initial consideration may have been too rushed.

Moved by Councillor Hobson/Seconded by Councillor Day

R521/03/06/09 THAT further consideration of Development Permit Applications No. DP03-0011 and DVP03-0012 for Lot B, D.L. 139, 3454 & 4082, O.D.Y.D., Plan KAP47378 (The Grand Okanagan Resort), located on Water Street, Kelowna, B.C. be adjourned to the Regular Meeting of Monday, July 7, 2003 to allow for more dialogue between the Dolphins residents and the applicant in an to attempt to find an option that the residents can support.

Carried

Councillor Given left the meeting at 4:10 p.m.

5. PLANNING

5.1 Planning & Development Services Department, dated May 23, 2003 re: Development Permit Application No. DP03-0020 – Authentech Developments Ltd. (Bill Stuart) – 1910 Capistrano Drive

Staff:

- The application is for 22 semi-detached units within a conventional strata layout.
- The majority of the information in the package that Council received in opposition to the application came from two of the residents in the adjacent neighbourhood and did not come through staff. Cross-sections indicate the impacts would not be as bad as the residents portray.

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- The development as proposed does not compromise any of the City's requirements.
- Normal construction practice is for the applicant to find ways to control dust during construction and install the landscaping after construction.
- The trees were removed from the ridge before the current owners initiated discussions with staff about developing the property.

Council:

- According to the residents, they were told that the trees along the ridge would remain as a buffer for privacy, and it was the current developer who removed the trees.

Moved by Councillor Clark/Seconded by Councillor Shepherd

R522/03/06/09 THAT further consideration of Development Permit No. DP03-0020 (Authentech Developments Ltd. – 1910 Capistrano Drive) be deferred until differences have been resolved between the applicant and the adjacent residents regarding the removal of trees and growth from the ridge and the current development proposal.

Carried

Mayor Gray suggested that Council consider deferring consideration of the report under agenda item No. 6.7 to a future agenda when more time is available.

- 6.7 Parks & Facilities Committee, and Future Aquatic Facility Staff Investigation Team, dated June 2, 2003 re: Future Aquatic Facility Preliminary Investigation Report (6240-20)

Moved by Councillor Shepherd/Seconded by Councillor Horning

R523/03/06/09 THAT consideration of the report dated June 2, 2003 from the Parks & Facilities Committee and the Future Aquatic Facility Staff Investigation Team regarding their preliminary investigation of a future aquatic facility on the Mission District Park site be deferred to a future agenda.

Carried

- 5.2 Planning & Corporate Services Department, dated June 4, 2003 re: Lease Agreement No. LA01-011 – Patricia Vineyards Ltd. (Wageman Glazier & Polley, Barristers & Solicitors) – 1690 Saucier Road (BL8706; BL9050)

Moved by Councillor Shepherd/Seconded by Councillor Day

R524/03/06/09 THAT Municipal Council approve in principle an amended Tenancy Agreement from 30 years to 99 years on Lot 228, Section 32, Township 29, ODYD, Plan 1247 pursuant to the provisions of Section 3(3) of the Residential Tenancy Act;

AND THAT Bylaw No. 9050 - Patricia Vineyards Ltd. Tenancy Agreement be forwarded for reading consideration by Council.

Carried

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- 5.3 Planning & Development Services Department, dated June 4, 2003 re: Rezoning Application No. Z00-1026 - Total Mechanical Systems Inc. – 700 McCurdy Road

Staff:

- The applicant is aware of and supports the staff recommendation to defeat the bylaw.

Moved by Councillor Hobson/Seconded by Councillor Horning

R525/03/06/09 THAT a further extension of the deadline for adoption of Zone Amending Bylaw No. 8573 (Z00-1026 – Total Mechanical Systems Inc. – 700 McCurdy Road) not be granted;

AND THAT Zone Amending Bylaw No. 8573 be DEFEATED.

Carried

- 5.4 Planning & Development Services Department, dated May 27, 2003 re: Rezoning Application No. Z03-0018 – Jacob & Irene Welder (Lynn Welding Consulting) – 1299 Rodondo Place

Staff:

- There is currently one residence on the property. The applicant is proposing to subdivide the property to create one additional lot.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R526/03/06/09 THAT Rezoning Application No. Z03-0018 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 3, Plan 29771, Sec. 6, Twp. 23, ODYD, located on Rodondo Place, Kelowna, B.C. from the RR1 – Rural Residential zone to the RU1 – Large Lot Housing zone be considered by Council;

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

Carried

- 5.5 Planning & Development Services Department, dated June 2, 2003 re: Ensuring Sensitive “Second Unit” Infill Development (6800-00)

Staff:

- The Heritage Conservation Area (HCA) used to be the only tool available to local government to control infill development of first and second units. Now more tools are available.
- A high percentage of our RU6 zoned areas north and south of Highway 97 already have a second unit on them. Not all have been done sensitively.

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Moved by Councillor Hobson/Seconded by Councillor Cannan

THAT staff initiate preparation of voluntary design guidelines and identify any Zoning Bylaw amendments that would assist in achieving sensitive “second unit” infill development within RU6-zoned areas, including the Bay Avenue and the Bernard and Lawrence Avenue areas of the North End and South Central neighbourhoods.

Council:

- The decision on whether the design guidelines should be voluntary or mandatory can be made when the guidelines come forward for debate.

Amendment Moved by Clark/Seconded by Shepherd

R527/03/06/09 THAT the word ‘voluntary’ be removed from the motion.

Carried

The original motion, as amended, was then voted on and carried as follows:

Moved by Councillor Hobson/Seconded by Councillor Cannan

R528/03/06/09 THAT staff initiate preparation of design guidelines and identify any Zoning Bylaw amendments that would assist in achieving sensitive “second unit” infill development within RU6-zoned areas, including the Bay Avenue and the Bernard and Lawrence Avenue areas of the North End and South Central neighbourhoods.

Carried

Moved by Councillor Shepherd/Seconded by Councillor Clark

R529/03/06/09 THAT staff investigate the process for moving forward with declaring the Bernard and Lawrence Avenue area as a Heritage Conservation Area and report back to Council.

Carried

5.6 Planning & Development Services Department, dated May 29, 2003 re: Strategic Plan Update (6430-20)

Moved by Councillor Hobson/Seconded by Councillor Day

R530/03/06/09 THAT staff be directed to issue a proposal call for consultant preparation of a Strategic Plan which incorporates the scope of work summarized in the Planning and Corporate Services Department’s report dated May 29, 2003.

Carried

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6. REPORTS

- 6.1 Transportation Manager, dated May 28, 2003 re: Award of Contract – Craig Road and Hartman Road Improvements (5400-20)

Moved by Councillor Blanleil/Seconded by Councillor Day

R531/03/06/09 THAT Council approve the award of a contract to R & L Contracting Ltd. to urbanize Craig Road and Hemlock Road between Hartman Road and Bach Road and undertake roadworks and sanitary sewer installation on Hartman Road west of Craig Road for Four Hundred Thirty-Two Thousand, Seven Hundred Forty-Five dollars and Three cents (\$432,745.03);

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

Carried

- 6.2 Electrical Manager, dated May 30, 2003 re: Electrical Utility Rates (1824-02)

Moved by Councillor Hobson/Seconded by Councillor Clark

R532/03/06/09 THAT Council approve a change to the City's electrical utility rates resulting in a **4.3% increase** in annual residential customer, municipal and school customer revenues and a **4.1% increase** in commercial customer revenues;

AND THAT the approved changes be implemented with the first billing cycle in July, 2003.

Carried

- 6.3 Development Engineering Manager, dated June 4, 2003 re: Subdivision Bylaw – Hillside Development Updates (BL7900)

Moved by Councillor Hobson/Seconded by Councillor Cannan

R533/03/06/09 THAT City of Kelowna Subdivision Bylaw No. 7900/Hillside Guidelines – Schedule 7 Section 4 be amended by the addition of the cross sections attached to the report of the Development Engineering Manager dated June 4, 2003;

AND THAT the required amending bylaw be advanced for reading consideration by Council.

Carried

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- 6.4 Sports & Facilities Manager, dated June 3, 2003 re: Canadian Baseball League Lease Agreement (0230-20)

Councillor Horning advised that he is no longer involved in the CBL but because there could still be a perception of conflict of interest in the community he would withdraw for this item and left the Council Chamber at 5:36 p.m.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R534/03/06/09 THAT City Council approve the lease agreement with the Canadian Baseball League (Canada) Inc. as attached to the report dated June 3, 2003 from the Sports and Facilities Manager;

AND THAT the Mayor and City Clerk be authorized to execute the lease agreement.

Carried

Councillor Horning returned to the Council Chamber at 5:40 p.m. and took his place at the Council Table.

- 6.5 Parks Manager, dated June 4, 2003 re: Proposed Park Development Partnership – Southwest Mission – Neighbourhood 2 (5820-00)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R535/03/06/09 THAT Council endorse a partnership to develop a Neighbourhood park with sport field opportunities at the Quarry Development site in Neighbourhood 2 of the Southwest Mission,

AND THAT the partnership be based on the principles outlined within the report from the Parks Manager dated June 4, 2003.

Carried

- 6.6 Director of Parks & Leisure Services, dated June 4, 2003 re: Okanagan Mission Hall Society Lease for the Operation and Development of Tennis Courts at Dehart Park (0870-20)

Moved by Councillor Shepherd/Seconded by Councillor Horning

R536/03/06/09 THAT City Council approve the lease agreement with the Okanagan Mission Community Hall Association for the operation and development of tennis courts at Dehart Park as attached to the June 4, 2003 report from the Director of Parks and Leisure Services;

AND THAT the Mayor and Clerk be authorized to execute the lease.

Carried

Councillor Clark opposed.

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- 6.7 Parks & Facilities Committee, and Future Aquatic Facility Staff Investigation Team, dated June 2, 2003 re: Future Aquatic Facility Preliminary Investigation Report (6240-20)

Deferred via resolution adopted after agenda item No. 5.1.

7. RESOLUTIONS

- 7.1 Draft Resolution re: Signing Officers (1610-01)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R537/03/06/09 THAT cheques written on behalf of the City that are in excess of fifteen thousand dollars (\$15,000) be countersigned by the Mayor or Deputy Mayor, or a Member of Council and the Director of Financial Services, or the Financial Accounting & Systems Manager or the Investments and Payroll Manager.

Carried

8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 8.1 Bylaw No. 9048 – Amendment No. 8 to City of Kelowna Electricity Regulation Bylaw No. 7639

Moved by Councillor Shepherd/Seconded by Councillor Horning

R538/03/06/09 THAT Bylaws No. 9048, 9049 and 9050 be read a first, second and third time.

Carried

- 8.2 Bylaw No. 9049 – Byrns Road Water Specified Area No. 16 Security Issuing Bylaw

See resolution adopted under 8.1 above.

- 8.3 Bylaw No. 9050 – Tenancy Agreement Approval Bylaw - Patricia Vineyards Ltd. – 1690 Saucier Road

See resolution adopted under 8.1 above.

9. COUNCILLOR ITEMS

- (a) Noise & Disturbances Control Bylaw No. 6647

Councillor Shepherd advised that she has been hearing complaints to do with Noise Bylaw issues (loud motor bikes, construction noise). She noted that the bylaw is up for review and that there are people in the public who want an opportunity to have input on what gets changed. The City Manager agreed to have staff look into a process for receiving public input into the bylaw.

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(b) Veendam Display Case – City Hall

Councillor Clark noted that an area has been identified in City Hall for a Veendam Sister City display case and asked that Council be informed of the proposed timing for getting the display case built and installed.

(c) Unightly Premises

Councillor Horning commented that a premises at Gibbs Road and Highway 33 that was recently under court order to be cleaned up is already becoming unsightly again. The City Manager agreed to relay the concern to the Regional District for appropriate action.

(d) Vacant Service Station Premises

Moved by Councillor Cannan/Seconded by Councillor Shepherd

R539/03/06/09 THAT staff look into beautification options for vacant service station sites to be landscaped while and/or after remedial work is underway.

Carried

(e) Provincial Review of Liquor Distribution Policies and Practices

Moved by Councillor Hobson/Seconded by Councillor Cannan

R540/03/06/09 THAT the Mayor send a letter on behalf of Council to the Hon. Rich Coleman, Minister of Public Safety and Solicitor General, supporting the current system of government liquor stores and asking that the comments in the letter be taken into consideration in his review of the Provincial Government's approach to privatize liquor distribution.

Carried

(f) Court Decision – Surveillance Cameras

The City Manager reported that the Supreme Court of British Columbia has ruled that the Federal Privacy Commissioner does not have the capacity to challenge the RCMP's use of surveillance cameras in Kelowna and that his statement of claim is a nullity. Court costs are to be paid by the Federal Privacy Commissioner.

10. TERMINATION

The meeting was declared terminated at 5:56 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk