

Regular Meeting – P.M.

November 24, 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, November 24, 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.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi*; Manager of Development Services, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Wastewater Manager, W.J. Berry*; Environment Manager, M. Watt*; Transportation Demand Supervisor, J. Dombowski*; Licence & Bylaw Enforcement Supervisor, A. Dixon*; 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 Clint McKenzie, Executive Director, Downtown Kelowna Association re: Downtown Patrol Program 2003

Clint McKenzie:

- Outlined the role and responsibilities of the downtown patrol and presented an overview of downtown patrol activities in 2003.

3.2 Presentation by Walley Lightbody re: Waterfront Walkway Concept Plan

Walley Lightbody, 2320 Abbott Street:

- Is opposed to the walkway in front of the properties between Strathcona and Kinsmen Park and has no intention of ever selling the portion of his property that the City would require in order to extend the walkway along his waterfront.
- Access is already unrestricted, all the way from Strathcona to Kinsmen Park.
- The waterfront property owners have never restricted the public's ability to walk along the waterfront in front of their property and do not want a 20 ft. wide constructed walkway with lights and bikeway, etc.
- The ecological integrity of Maude Roxby Bird Sanctuary would be put in jeopardy with the proposed walkway. The proposed walkway corridor would also disrupt current activities in Strathcona Park.
- Abbott Street recreational corridor is very well done and is highly used. Suggest that this corridor be extended along Abbott Street down to Cedar Avenue and eventually down to Gyro Park, and enhance the existing beach accesses. Could be achieved at less cost because would not have to acquire waterfront property.
- Asked that the concept plan not be adopted into the OCP and allow the public use of the waterfront to be left as it is.

Brent Therrien, 2500 Abbott Street:

- Reiterated comments from the previous speaker.
- Concerned that the proposed parking lot would be a breeding ground for criminal activity and suggested the KGH parking lot be used when not at peak times.
- Asked that Council reconsider before adopting the walkway concept plan into the OCP.

Regular Meeting – P.M.

November 24, 2003

Council:

- The OCP amendment will be considered in January.
- Staff to provide a response to the points raised in this submission prior to then.

4. PLANNING

4.1 Planning & Corporate Services Department, dated November 19, 2003
re: Agricultural Land Reserve Appeal No. A03-0011 – Kathy Feth – 1601
Morrison Road

Staff:

- The application is to subdivide to create 2 parcels, 1 ha and 3 ha in size.
- The Agricultural Advisory Committee recommends support as the property has been in ownership of the family for over 40 years and it was because of poor health that the applicant's father did not apply for a homesite severance.
- Staff cannot recommend support because creating additional lots within the Agricultural Land Reserve is contrary to planning policies unless as a homesite severance. However, the application is submitted in lieu of a homesite severance, and because of the unique circumstances, if supported by Council staff would recommend approval to the Land Reserve Commission (LRC) based on compassion.
- If approved by the LRC, the City's Approving Officer would consider creating a smaller size parcel for the applicant.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R961/03/11/24 THAT Agricultural Land Reserve Appeal No. A03-0011, South 1/2, Lot 5, Plan 425, Sec. 36, Twp. 26, O.D.Y.D., located at 1601 Morrison Road, Kelowna, B.C. for subdivision within the Agricultural Land Reserve be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Reserve Commission.

Carried

4.2 Planning & Corporate Services Department, dated November 14, 2003
re: Development Permit Application No. DP03-0022 - Emil Anderson
Construction Co. Ltd. – 1005 Dilworth Drive

Staff:

- The applicant is requesting amendments to the existing Dilworth Mountain Land Use Contract in order to facilitate the development of the last neighbourhood within the LUC area. The LUC is 30 years old and standards have changed.
- The Local Government Act makes provision for a LUC to be amended by Development Permit provided the permitted use or density is not being altered.
- The LUC will be discharged upon completion of the last phase of the development.

Regular Meeting – P.M.

November 24, 2003

Moved by Councillor Shepherd/Seconded by Councillor Given

R962/03/11/24 THAT Council authorize the issuance of Development Permit No. DP03-0022 for Lot A, Secs. 28 & 33, Twp. 26, ODYD, Plan 31716 except Plans 33462, 39791, 40570, 42232, 42525, 43480, KAP46337, KAP48179, KAP50737, KAP50742, KPA50743, KAP56071, KAP60291, KAP67806, KAP72143 and KAP72643, located on Dilworth Drive, Kelowna, B.C, to amend the Dilworth Mountain Land Use Contract by:

- i. Amending Schedule 3 of Dilworth Mountain Land Use Contract No. 74-57 by reducing the required front yard setback for those lots shown on Schedule "A" attached to the report from the Planning and Corporate Services Department dated November 14, 2003, from 6.0 metres to 3.5 m from the front property line and 6.45 m from back of curb;
- ii. Amending Schedule E – Specifications for Water Supply of Dilworth Mountain Land Use Contract No. 74-57 by deleting pages 1-7 inclusive and replacing with the following:
 - o The water supply system is to be designed and constructed in accordance with the City's Subdivision, Development and Servicing No. 7900 as amended.

Carried

- 4.3 Planning & Corporate Services Department, dated November 18, 2003 re: Rezoning Application No. Z01-1063 – Luigi Giovanni Russo (Tom Smithwick/Porter Ramsay) – 982 & 1040 Old Vernon Road

Staff:

- There has been no meaningful dialogue with the applicant on the servicing issues since the Public Hearing and have had complaints from neighbours about ongoing nuisance issues (burning); but recommend at least one more extension of the bylaw.
- If the extension is not granted, then because the use is legally non-conforming, staff would have to try to determine how large the operation was at the time it became non-conforming and then take action to get the sawmill operation scaled back to that original size.

Moved by Councillor Blanleil/Seconded by Councillor Day

R963/03/11/24 THAT in accordance with the Development Application Procedures Bylaw No. 8140 the deadline for adoption of Official Community Plan Amending Bylaw No. 8832 and Zone Amending Bylaw No. 8833 (Tom Smithwick/Porter Ramsay for Russo) Old Vernon Road be considered for extension to April 30, 2004.

Carried

4.4 (a) **BYLAWS PRESENTED FOR ADOPTION**

- (i) Bylaw No. 8987 (OCP02-0013) – Ivanhoe Cambridge Inc. (IBI Group) – 2430 Highway 97 North **requires majority vote of Council (5)**

Moved by Councillor Given/Seconded by Councillor Horning

R964/03/11/24 THAT Bylaw No. 8987 be adopted.

Carried

Regular Meeting – P.M.

November 24, 2003

- (ii) Bylaw No. 8988 (Z02-1045) – Ivanhoe Cambridge Inc. (IBI Group) – 2430 Highway 97 North

Moved by Councillor Given/Seconded by Councillor Horning

R965/03/11/24 THAT Bylaw No. 8988 be adopted.

Carried

Councillor Cannan opposed.

- (b) Planning & Development Services Department, dated November 19, 2003 re: Development Permit Application No. DP02-0093 - Ivanhoe Cambridge Inc. (IBI Group) – 2430 Highway 97 North

Staff:

- The previous site plan reviewed by Council during the Public Hearing showed future development that included 4 large spaces long the east property line and 4 additional buildings next to Banks Road with parking in the middle of the site.
- The current Development Permit has been rearranged to show the first phase of a Walmart Building and an adjacent area for a future addition to Walmart and 4 pad buildings.
- The bylaw just adopted has a covenant tied to it that deals with the vehicle trip generation during peak hours. That covenant restricts development on the site to 660 peak hour trips which limits the amount of development on the site to the first phase of Walmart at this time.

Moved by Councillor Given/Seconded by Councillor Horning

R966/03/11/24 THAT Council authorize the issuance of Development Permit No. DP02-0093 for Lot 8, DL 125, O.D.Y.D., Plan KAP69740, located on Highway 97 North, 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. The Signage to be constructed on the land be in general conformance 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;
6. The development of the site is restricted to conditions of an existing Restrictive Covenant that will not permit full build-out of the site until alternate off-site transportation solutions have been agreed to by the City of Kelowna, Ministry of Transportation, and the applicant;

Regular Meeting – P.M.

November 24, 2003

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

Councillors Blanche, Cannan and Clark opposed.

- 4.5 Planning & Corporate Services Department, dated November 19, 2003 re: Text Amendment No. TA02-0005 – City of Kelowna (BL9120; BL9121)

Moved by Councillor Hobson/Seconded by Councillor Cannan

R967/03/11/24 THAT City of Kelowna Zoning Bylaw No. 8000 be amended as detailed in Schedule “A” attached to the report of the Planning & Corporate Services Department dated November 19, 2003;

AND THAT City of Kelowna Sign Bylaw No. 8235 be amended as detailed in Schedule “B” attached to the report of the Planning & Corporate Services Department dated November 19, 2003;

AND FURTHER THAT Text Amendment No. TA02-0005 be forwarded to a Public Hearing for further consideration.

Carried

- 4.6 Planning & Corporate Services Department, dated November 19, 2003 re: Appointments to Advisory Planning Commission (0540-00)

Moved by Councillor Shepherd/Seconded by Councillor Horning

R968/03/11/24 THAT Council consider an amendment to the Advisory Planning Commission Bylaw No. 8546 to allow for the appointment of two alternate members;

AND THAT staff prepare the necessary amending bylaw for reading consideration by Council.

Carried

5. REPORTS

- 5.1 Councillor Colin Day, Chair of Kelowna Parking Committee, dated November 5, 2003 re: Free Saturday Parking in December (5480-08)

Moved by Councillor Day/Seconded by Councillor Hobson

R969/03/11/24 THAT Council approve free on-street parking in the Downtown area during Saturdays in December, 2003.

Carried

Regular Meeting – P.M.

November 24, 2003

- 5.2 Licence & Bylaw Enforcement Supervisor, dated November 12, 2003 re: Parking Fine Rates – New Bylaw Violation Notices (4000-00)

Moved by Councillor Day/Seconded by Councillor Cannan

R970/03/11/24 THAT Council approve the updated format of the City of Kelowna Bylaw Violation Notice, including the penalty reductions, as attached to the report of the Licence and Bylaw Enforcement Supervisor dated November 12, 2003, with Council's suggested change to make the incentives for early payment more prominent;

AND THAT Council Policy 105 (Parking Policy – Fees and Penalties) be rescinded.

Carried

- 5.3 Environment Manager, dated November 19, 2003 re: Pesticide Notification Registry (5280-05)

Staff:

- Earthcare has been consulted on three separate occasions regarding the registry.

Moved by Councillor Shepherd/Seconded by Councillor Given

R971/03/11/24 THAT Council receives the Pesticide Registry report from the Environment Manager;

AND THAT Council endorses the continuation of the existing notification for the Road Weed Control Program;

AND FURTHER THAT Council endorses a program for private land owners to register their property for notification from Commercial Operators during spray applications on adjacent properties.

Carried

- 5.4 Wastewater Manager, dated November 19, 2003 re: Okaview Sewer Specified Area No. 28A – Special Provisions (5340-09-28A)

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R972/03/11/24 THAT Council accept the report dated November 19, 2003 from the Wastewater Manager and direct staff to allow a 2-year time period for the participants of Okaview Sewer Specified Area project to connect to the new sewer system, in accordance with the terms specified within the report, if the project proceeds to construction.

Carried

6. RESOLUTIONS

- 6.1 Draft Resolution re: Western Aerial Applications Ltd. – Aerial Seeding

Moved by Councillor Given/Seconded by Councillor Hobson

R973/03/11/24 THAT Council grant approval to Western Aerial Applications Ltd. to land helicopters in Cedar Creek Park from mid-November to mid-December, 2003.

Carried

Regular Meeting – P.M.

November 24, 2003

7.0 BYLAWS OTHER THAN ZONING & DEVELOPMENT

(BYLAW PRESENTED FOR ADOPTION)

7.0.1 Bylaw No. 9092 – Road Exchange Bylaw – Portion of North End Connector

Moved by Councillor Shepherd/Seconded by Councillor Given

R974/03/11/24 THAT Bylaw No. 9092 be adopted.

Carried

7. COUNCILLOR ITEMS

(a) Residential Insurance to Cover Floods

Councillor Shepherd noted that flooding has occurred as a result of the Okanagan Mountain Provincial Park forest fire and expressed concern that flood insurance is not available to residents in British Columbia. She suggested that Council lobby through OMMA and UBCM for the ability to buy flood insurance. The City Manager agreed to have staff ask the insurance industry for something in writing outlining what their position is with respect to flood insurance, and why, and report back with a recommendation for Council.

(b) Age of consent for Sexual Exploitation of Youth

Councillor Shepherd referred to a letter from the City of Coquitlam regarding sexual exploitation of youth and noted that back in 1998 Kelowna City Council received a report from the Social Planning Board with a number of recommendations for legislative changes to address the problem. One of the recommendations was to lobby for changes to the Criminal Code to raise the age of consent from 14 to 18 years of age. Councillor Shepherd asked that Council reconfirm their commitment to raising the age of consent, this time to the age of 16, and advised that a copy of the resolution would then be sent to the City of Richmond, along with copies of all the letters from other B.C. municipalities and Regional Districts that responded with motions of support.

Moved by Councillor Shepherd/Seconded by Councillor Given

R975/03/11/24 THAT Kelowna City Council re-affirm their position that the age of consent to sexual relations with an adult be raised from 14 to 16 years of age.

Carried

(c) Public in Attendance Presentations to Council

Councillor Clark commented that a policy is needed for who shall or shall not have a right to speak to Council. The decision on who gets scheduled to meeting agendas to address Council should be the decision of Council, not a decision of staff.

The City Manager advised that staff will be bringing forward a new Council Bylaw in the near future. The bylaw includes procedures for scheduling public in attendance items; the procedures can be debated by Council when the bylaw comes forward.

Regular Meeting – P.M.

November 24, 2003

(d) Public Art Committee

Councillor Cannan asked when the annual report will be coming forward from the Public Art Committee.

(e) Dream Lift for Kids

Mayor Gray noted that the next Dream Lift for Kids is on December 2nd and suggested that the families including brothers and sisters that come to Kelowna while their handicapped sibling is on this one-day trip be provided with a bus that would tour them to Scandia and other areas of interest.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R976/03/11/24 THAT \$600 be appropriated from Council Contingency to cover the costs of a bus on December 2, 2003 to tour the families and siblings of the children going on the Dream Lift for Kids to Scandia and other areas of interest on that day.

Carried

8. TERMINATION

The meeting was declared terminated at 4:48 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk