

Regular Meeting – P.M.

May 10, 2004

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 10, 2004.

Council members in attendance were: Mayor Walter Gray, Councillors R.D. Cannan, B.A. Clark, C.B. Day, B.D. Given, R.D. Hobson*, E.A. Horning and S.A. Shepherd.

Council members absent: Councillor A.F. Blanleil.

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*; Manager of Community Development & Real Estate, D.L. Shipclark*; Community Planning Manager, T.E. Eichler*; Subdivision Approving Officer, R.G. Shaughnessy*; Planner-Long Range, G. Stephen*; Director of Works & Utilities, J. Vos*; Wastewater Manager, W.J. Berry*; Electrical Utilities Manager, R. Carle*; Director of Parks & Leisure Services, D.L. Graham*; Cultural Services Manager, L. Gunn*; 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 1:32 p.m.

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

3. UNFINISHED BUSINESS

3.1 Community Planning Manager, dated May 6, 2004 re: 4 Pillars Strategy Funding Request

Staff:

- The City was approached by a coalition last year regarding the Four Pillars strategy for dealing with drug addiction. Mayor Gray helped get the program initiated by hosting a workshop and a steering committee has been meeting ever since. The Community Planning Manager and Councillor Shepherd, as a community volunteer, have been attending as many of the steering committee meetings as possible, but were unable to attend the last couple of meetings.
- Last week the Steering Committee asked Council for \$49,500. The funding request has since been redirected to include Regional financial participation, based on population.
- The committee calls themselves the Central Okanagan 4-pillars Coalition as well as the Mayor's Task Force on Community Safety and Harm Reduction.
- It would be appropriate for the coalition to make a formal presentation to the Social Planning & Housing Committee.

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Moved by Councillor Cannan/Seconded by Councillor Hobson

R450/04/05/10 THAT Council authorize payment from the Strategic Plan Reserve Fund of an initial instalment towards the immediate costs of scheduling, advertising and holding neighbourhood focus “input” meetings to the 4 Pillars Steering Committee to be administered through the Living Positive Resource Centre, subject to receipt of a budget that specifically outlines these costs;

AND THAT Council authorize further payments to the 4 Pillars Steering Committee to be administered through the Living Positive Resource Centre subject to receiving detailed budgets outlining consulting costs in terms of tasks and hours, as needed, the total amount not to exceed \$30,000;

AND THAT Council require the 4 Pillars Steering Committee to submit details of local allocations from the National Drug Strategy administered by Health Canada as soon as this information becomes available;

AND THAT Council require a letter of funding agreement to be prepared and signed between the City and the Living Positive Resource Centre outlining the responsibilities of each and requiring that reporting on actual expenditures on the 4 Pillars Program be submitted to the City, including a requirement that any unused money be returned to the City;

AND FURTHER THAT Council direct that the City continue to assist the 4 Pillars Initiative with in-kind costs, including meeting space, minor administrative costs and staff time from existing, approved budgets, and cooperation with the Social Planning and Housing Committee, wherever feasible.

Carried

Council:

- Calling themselves the Mayor's task force does not suggest that the program is regional. It may be more appropriate to go by the Central Okanagan Four-Pillars Coalition.

Moved by Councillor Cannan/Seconded by Councillor Horning

R451/04/05/10 THAT Council hear from the committee.

Carried

Allen Lueck, Chair, Central Okanagan Four Pillars Coalition.

- The committee understands Council's concern and will take into consideration their suggestion regarding the naming of the committee.

Moved by Councillor Cannan/Seconded by Councillor Hobson

R452/04/05/10 THAT instead of referring to themselves as the Mayor's Task Force on Community Safety and Harm Reduction, the official name of the committee be changed to the Central Okanagan Four Pillars Coalition or something similar;

AND THAT Councillor Shepherd be appointed as a non-voting liaison member of the Committee.

Carried

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4. PLANNING

- 4.1 Planning & Corporate Services Department, dated April 23, 2004 re: Liquor Licensing Application No. LL04-0006 – Do Gi Enterprises Ltd. (Gotcha Nightclub) – 238 Leon Avenue

Staff:

- The Provincial liquor authority allows temporary changes to liquor licensing and the authority to approve those changes has been delegated by Council to the Director of Planning & Corporate Services.
- The request to increase the operating hours for the Gotcha Nightclub from 2 a.m. closure to 4 a.m. closure for two nights on the May long-weekend. The request was denied by the Director of Planning & Corporate Services because of the already heavy demand on RCMP resources to police the Memorial Cup events in addition to the usual long weekend events.
- The applicant elected to appeal the staff decision; however, just this morning the applicant advised that he is considering withdrawing the request but would like to address Council on the issue.

Moved by Councillor Given/Seconded by Councillor Shepherd

R453/04/05/10 THAT Council hear from the applicant.

Carried

Doug McMnniman, Manager of Gotcha Nightclub:

- The later hour would allow patrons to stay in the nightclub later so as to avoid congestion in the street at 2:30 a.m. when they usually have to leave.
- The Liquor board still has not received the information they need from the City for approving the extra half hour clearing time that Council approved some time ago.
- Is withdrawing the request, in respect for the opinion of Council and the RCMP that the later hours would not be good for this long-weekend, and in hopes that having done so, a similar request for the next long weekend would be approved.

Staff:

- The Liquor board will not take any direction without an application process initiated by the applicant; the City is not the applicant.
- Will need to poll the club owners to see who wants to participate and then get a good neighbour agreement in place in order to allow for the additional half hour clearing time.
- Withdrawing this appeal is a good gesture on behalf of the applicant, and the gesture will be taken into consideration if they apply for a temporary change to their liquor license again. However, cannot guarantee that any future application would be approved.

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- 4.2 Planning & Corporate Services Department, dated April 28, 2004 re: Rezoning Application No. Z00-1012 – Edward and Kazimere Surowiec/ Exclusive Investments – 145, 1555, 165 Taylor Road, 1315, 1325 and 1345 Highway 33 West

Staff:

- It has been 3½ years since the Public Hearing on this application. This is the last extension that staff would support.

Moved by Councillor Given/Seconded by Councillor Hobson

R454/04/05/10 THAT in accordance with the Development Application Procedures Bylaw No. 8140 the deadline for adoption of zone amending Bylaw No. 8587 (Z00-1012 – Exclusive Investments/Edward & Kazimere Surowiec – southeast corner of Highway 33/Taylor Road) be extended to September 12, 2004.

Carried

- 4.3 Planning & Corporate Services Department, dated May 5, 2004 re: Bylaw No. 9236 – Amendment to Official Community Plan Bylaw No. 7600

Staff:

- The proposed amendments are primarily housekeeping in nature. However, they also include provision for when Council can require a Development Permit for Institutional developments, and for requiring a 10 m dedication for shorezone public route of access with all rezonings including residential.

Councillor Hobson advised that he owns property on the shorezone that is subdividable under its current zoning and so does not feel comfortable participating in the debate of the shorezone public route of access. Councillor Hobson left the Council Chamber at 2:40 p.m. because of the stated conflict of interest.

Councillor Day advised that he owns property on the shorezone but the property is not subdividable.

Moved by Councillor Shepherd/Seconded by Councillor Given

R455/04/05/10 THAT OCP Text Amendment Bylaw No. 9236 be revised by removing the proposed amendment to Parks and Leisure Policy 14.1.40 regarding Shore Zone Route of Access.

Carried

Councillor Day asked that before the Public Hearing, a legal opinion be obtained to determine whether or not he would be in a conflict of interest on the shorezone issue.

Moved by Councillor Shepherd/Seconded by Councillor Given

R456/04/05/10 THAT OCP Bylaw Text Amendment Bylaw No. 9236 to amend *Kelowna 2020* Official Community Plan Bylaw No. 7600 as outlined in Schedule 1 attached to the Planning & Corporate Services Department's report dated May 5, 2004 and revised by Council to exclude the proposed amendment to the Shore Zone Route of Access be considered by Council;

AND THAT the revised OCP Bylaw Text Amendment No. 9236 be forwarded to a Public Hearing for further consideration.

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Moved by Councillor Shepherd/Seconded by Councillor Clark

R457/04/05/10 THAT the proposed amendment to replace the existing Parks and Leisure Policy 14.1.40 in *Kelowna 2020* Official Community Plan No. 7600 for Shore Zone Route of Access, outlined as item No. 11 in Schedule 1 attached to the report dated May 5, 2004 from the Planning & Corporate Services Department be considered by Council;

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

Carried

Councillor Cannan opposed.

Councillor Hobson returned to the Council Chamber at 2:48 p.m. and took his place at the Council Table.

5. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 5.1 Bylaw No. 9064 (OCP03-0008) – Telus Communications (Kasian Kennedy, P.J. Mallen) – 1500 Hardy Street, and City of Kelowna Official Community Plan Amendment **Requires majority vote of Council (5)**

Moved by Councillor Given/Seconded by Councillor Horning

R458/04/05/10 THAT Bylaw No. 9064 be adopted.

Carried

- 5.2 Bylaw No. 9073 (Z03-0027) – Telus Communications (Kasian Kennedy, P.J. Mallen) – 1500 Hardy Street

Moved by Councillor Horning/Seconded by Councillor Given

R459/04/05/10 THAT Bylaw No. 9073 be adopted.

Carried

- 5.3 Bylaw No. 8978 (Z02-1056) - 417860 Alberta Ltd. (Robert Bennett) – 5065 Frost Road

Moved by Councillor Given/Seconded by Councillor Horning

R460/04/05/10 THAT Bylaw No. 8978 be adopted.

Carried

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6. REPORTS

- 6.1 Transportation Manager, dated April 28, 2004 re: Monthly Parking Rate – Waterfront Park Lot (5480-06)

Moved by Councillor Hobson/Seconded by Councillor Day

R461/04/05/10 THAT City Council approve the implementation of a Monthly Parking rate of \$51.70 per month (including GST), per stall to a maximum of 22 stalls or 20% of the lot at the Waterfront Park Lot to facilitate tenants of the new building at 1180 Sunset Drive.

Carried

- 6.2 Director of Parks & Leisure Services, dated May 5, 2004 re: Okanagan Symphony Society (0230-20)

Staff:

- The Society's existence was being threatened because of problems of accumulating deficit. The organization was able to retrench with a new group of dedicated people at the helm and the assistance of a consultant. Their difficulty now is cash flow and the proposed loan would address that. Without the proposed financial assistance it would be virtually impossible for them to continue.
- Council should be aware that the loan amount would not be recoverable if the Society's business plan should fail.
- The City could guarantee a bank loan, as opposed to loaning the money. However, that would require a longer approval process. Therefore, staff recommend that Council still approve the loan so that the money can be made available to the Society as soon as possible.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R462/04/05/10 THAT Council hear from the Okanagan Symphony Society.

Carried

Domenic Petroia, president, Okanagan Symphony Society:

- Gave an overview of what they have done over the past while in order to keep the Society solvent and allow programs to continue.
- Appointment of a new Executive Director will be announced after this meeting, dependent upon the outcome of this request.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R463/04/05/10 THAT City Council approve a financial assistance loan to a maximum of \$75,000 for use by the Okanagan Symphony Society subject to the conditions set out in the May 6, 2004 report from the Director of Parks and Leisure Services;

AND THAT the loan be funded from and repaid to the Major Facilities Reserve.

Carried

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6.3 Licence and Bylaw Enforcement Supervisor, dated April 23, 2004 re: Second-Hand Dealer and Pawnbroker Regulation Bylaw (4000-00)

Staff:

- Displayed the wording of two paragraphs that he advised need to be added to the recommendation in the staff report in order to address the provisions of the Community Charter.
- Since 1999 numerous meetings have taken place regarding the various reporting systems. All the concerns expressed at those meetings have been addressed.

The City Clerk advised that the bylaw would be presented for first three readings next week and for adoption on June 7, 2004. The Community Charter requires that the City provide notice and invite persons to make presentations at final adoption.

Moved by Councillor Hobson/Seconded by Councillor Clark

R464/04/05/10 THAT the report of the Licence & Bylaw Enforcement Supervisor dated April 23, 2004 be received;

AND THAT staff prepare a bylaw based on the draft Second-Hand Dealer and Pawnbroker Regulation Bylaw attached to the staff report, and advance the bylaw for reading consideration by Council;

AND THAT staff prepare a bylaw to rescind the current Schedule 27 of the Ticket Information Utilization Bylaw No. 6550 and replace it with the new Schedule 27 as outlined in the staff report, and advance the amending bylaw for reading consideration by Council;

AND THAT staff be directed to provide notice of Council's intention to consider adoption of Bylaw No. 9227 by, following third reading of the bylaw but prior to adoption consideration, publishing that intention in the newspaper once each week for two consecutive weeks and by posting that intention on the public notice board at City Hall;

AND FURTHER THAT the notice shall include the location at which the proposed bylaw can be obtained or read, contact information for the appropriate staff member(s) who can answer questions about the proposed bylaw, and the date on which Council intends to consider adoption.

Carried

6.4 Wastewater Manager, dated May 4, 2004 re: Award of Construction Contract TE04-03 – Okaview Sanitary Sewer Specified Area No. 28A – Contract 2 (5340-099-28A)

Moved by Councillor Shepherd/Seconded by Councillor Day

R465/04/05/10 THAT the Contract for construction of the second phase of the Sanitary Sewer Specified Area No. 28A (Contract 2) be awarded to Greenleaf Enterprises Ltd. for the amount of \$ 2,250,079.00 which includes GST;

AND THAT the 2004 Financial Plan be amended by increasing total expenditures by \$1,000,000 with \$750,000 funded from the MFA Sewer Debt Reserve and a \$250,000 contribution from the Non-Arterial Roads Reserve;

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

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6.5 Electrical Utility Manager, dated May 5, 2004 re: Undergrounding of Wires – Rutland Road (Highway 33 to Leathead Road) (5520-01)

Staff:

- Aquila has a capacity constraint because of all the growth in the area and as a result the overhead line has to be upgraded.
- Recommend continuing with overhead wiring because of the costs associated with burying the system.

Moved by Councillor Horning/Seconded by Councillor Shepherd

R466/04/05/10 THAT further consideration of the Electrical Utility Manager's report of May 5, 2004 be deferred to the Regular Meeting of May 17, 2004 for staff to report back with costs of a hybrid of Alternate 3 that would provide for underground wiring on Rutland Road from Highway 33 to McIntosh Road.

Carried

6.6 Director of Works & Utilities, dated May 5, 2004 re: Roads Task Force (0540-20)

Staff:

- The staff report recommends appointing Bob Whitehead as the representative from the KLO Residents Association; however, Mr. Whitehead has advised that he cannot accept the appointment. Recommend Judy Dickson be appointed in his place.

Council:

- Committee members to select their own name for the Task Force.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R467/04/05/10 THAT Council approve the Terms of Reference attached to the report dated May 5, 2004 from the Director of Works & Utilities, for the Roads Task Force that will evaluate roadway alternatives to the one-way couplet system;

AND THAT the following representatives be appointed to the Task Force:

Chair – Bill Redmond
 KLO Residents Association – Judy Dickson
 Kelowna South Central Association of Neighbourhoods – David Lovell
 North End Residents Association – Cherie Hansen
 Urban Development Institute – Grant Maddock
 Chamber of Commerce – Ken Bessason
 Downtown Kelowna Association – Gail James
 Residents at Large - Norm Letnick, W.J. Cooke, and Clarence Johnson.

Carried

Councillors Clark and Horning opposed.

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7. RESOLUTIONS

- 7.1 Draft Resolution re: Appointment of Deputy City Clerk as Acting City Clerk (2630-40)

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R468/04/05/10 THAT Stephen Fleming be appointed as Acting City Clerk during the period of Allison Flack's maternity leave which is anticipated to be from May 17, 2004 to May 13, 2005.

Carried

8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 8.1 Bylaw No. 9237 – Amendment No. 2 to Nuisance Trees & Shrubs Bylaw No. 6469-89

Moved by Councillor Clark/Seconded by Councillor Shepherd

R469/04/05/10 THAT Bylaw No. 9237 be read a first, second and third time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 8.2 Bylaw No. 9216 – Sterile Insect Release Program Parcel Tax Bylaw 2004

Moved by Councillor Shepherd/Seconded by Councillor Clark

R470/04/05/10 THAT Bylaw No. 9216 be adopted.

Carried

- 8.3 Bylaw No. 9220 – Five Year Financial Plan, 2004-2008

Moved by Councillor Clark/Seconded by Councillor Shepherd

R471/04/05/10 THAT Bylaw No. 9220 be adopted.

Carried

- 8.4 Bylaw No. 9221 – Tax Structure Bylaw, 2004

Moved by Councillor Day/Seconded by Councillor Hobson

R472/04/05/10 THAT Bylaw No. 9221 be adopted.

Carried

- 8.5 Bylaw No. 9222 – Annual Tax Rates Bylaw, 2004

Moved by Councillor Hobson/Seconded by Councillor Day

R473/04/05/10 THAT Bylaw No. 9222 be adopted.

Carried

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- 8.6 Bylaw No. 9223 – Parking Reserve Fund Expenditure Bylaw, 2004
requires 2/3 majority vote of Council (6)

Moved by Councillor Day/Seconded by Councillor Hobson

R474/04/05/10 THAT Bylaw No. 9223 be adopted.

Carried

- 8.7 Bylaw No. 9224 – Development Cost Charge Reserve Fund Expenditure
Bylaw, 2004 **requires 2/3 majority vote of Council (6)**

Moved by Councillor Day/Seconded by Councillor Cannan

R475/04/05/10 THAT Bylaw No. 9224 be adopted.

Carried

- 8.8 Bylaw No. 9225 – Capital Works, Machinery and Equipment Reserve
Fund Expenditure Bylaw, 2004 **requires 2/3 majority vote of Council**
(6)

Moved by Councillor Cannan/Seconded by Councillor Day

R476/04/05/10 THAT Bylaw No. 9225 be adopted.

Carried

- 8.9 Bylaw No. 9226 – Sale of City-Owned Land Reserve Fund Expenditure
Bylaw, 2004 **requires 2/3 majority vote of Council (6)**

Moved by Councillor Cannan/Seconded by Councillor Day

R477/04/05/10 THAT Bylaw No. 9226 be adopted.

Carried

9. COUNCILLOR ITEMS

- (a) Letter of Congratulations - John Woodworth

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R478/04/05/10 THAT a letter be sent to John Woodworth congratulating him on being recognized by the Architectural Institute of British Columbia award for community services.

Carried

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(b) Public Record – Correspondence on Items Scheduled to Public Hearing

Councillor Shepherd noted that correspondence regarding Public Hearing applications is received to the City by various means including emails sent to members of Council, under the assumption that it will become part of the public record.

The City Clerk outlined the process dictated by the Council Procedure Bylaw for circulation of correspondence.

The City Manager advised that staff will send a letter to each of the residents associations clarifying the procedure, and will ensure that the response from the City to correspondence received early in the process also advises the writer that they will have to resubmit if they want the letter to be part of the public record at the Public Hearing.

(c) Unsightly Premises – Residence at Highway 33/Gibbs Road

Councillor Horning commented that he has been receiving complaints about a property on the corner of Highway 33 and Gibbs Road becoming unsightly again. The owner was ordered by the courts to clean up the site; however, there is a lot of clutter collecting again, including some old cars. Staff to investigate.

(d) Meeting with Agricultural Land Reserve Commission

Councillor Horning asked that a meeting be arranged with members of Council and the Land Reserve Commission, to discuss their criteria for dealing with ALR applications.

10. TERMINATION

The meeting was declared terminated at 5:26 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am