

Regular Meeting – P.M.June 28, 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, June 28, 2004.

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; Acting City Clerk, S.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi*; Manager of Development Services, A.V. Bruce*; Director of Parks & Leisure Services, D.L. Graham*; Civic Properties Projects Supervisor, B. Germaniuk*; Wastewater Manager, W.J. Berry*; Financial Accounting & Systems Manager, R. Mayne*; Recreation Manager, R. Oddleifson*; Water Manager, D. Degen*; Special Projects Planning Manager, H.M. Christy*; Cultural Services Manager, L. Gunn*; Electrical Utilities Manager, R. Carle*; Community Planning Manager, T. Eichler*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 1:33 p.m.

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

3. UNFINISHED BUSINESS

BYLAW PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION

- 3.1 Bylaw No. 9235 (OCP03-0002) – 622664 BC Ltd. (Grant Gaucher) – Finch/Slater/Glenmore North/McKinley Roads **requires majority vote of Council (5) Last considered at May 25, 2004 Public Hearing when Hearing was closed but due to the extent of input received no bylaw readings were considered**

Councillor Day and Councillor Horning stated, for Council's information, that an allegation of a conflict of interest had been made against them. However, the City Manager and the City Solicitor have reviewed the allegation and determined that there is no conflict of interest. Therefore they would both be participating in the vote on this item.

Council:

- These types of allegations could result in mounting legal bills for the City.
- City Manager to review the Conflict of Interest policy with a view to including the name of the person raising the question when notifying a member of Council that they are subject of an allegation of conflict.

Moved by Councillor Given/Seconded by Councillor Horning

R637/04/06/28 THAT Bylaw No. 9235 be read a second and third time, and be adopted.

Carried

Councillors Cannan, Clark, Hobson and Shepherd opposed.

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Doug Findlater, volunteer chair of the Westside Governance Committee:

- Responded to questions of Council regarding costs associated with the Phase 2 process. The Province underwrote the costs of the Phase 1 study and is prepared to pay for Phase 2.
- Could build into the Terms of Reference that the City of Kelowna will be part of the process for selecting the consultant for the committee. However, cannot provide assurance that the Province will pay the costs if City Council decides to do its own due diligence.

Moved by Councillor Shepherd/Seconded by Councillor Clark

R638/04/06/28 THAT the Minister of Community, Aboriginal and Women's Services be advised that the City of Kelowna is willing to consider the Westside joining the City of Kelowna through a City boundary extension and to participate in the Westside Governance Phase 2 study;

AND THAT any associated costs to the City of Kelowna be covered by the Ministry of Community, Aboriginal and Women's Services;

AND THAT Mayor Gray, Councillor Day and Councillor Hobson be appointed to represent the City of Kelowna on the Westside Governance Committee in an ex-officio capacity;

AND FURTHER THAT the staff representative on the Committee be the City Manager or his alternate.

Carried4. PLANNING4.1 Planning & Corporate Services Department, dated June 23, 2004 re: HRA04-0002 - Heritage Revitalization Agreement – Cheryl McKenzie (Tammy Moore/Scott Davis) – 770 Bernard Avenue

Staff:

- The applicant is proposing to use a portion of the house for a design and advertising studio and have one residential unit on the main floor in the rear of the house. Parking requirements can be met on-site.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R639/04/06/28 THAT Council consider a bylaw which would authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for Lot 9, Block 12, DL 138, ODYD Plan 202, located on Bernard Avenue, Kelowna, B.C., in the form of such agreement attached as 'Schedule A' to the report of the Planning & Corporate Services Department dated June 23, 2004;

AND THAT the Heritage Revitalization Agreement Authorization Bylaw be prepared and forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Heritage Revitalization Agreement be considered subsequent to the requirements of the Inspection Services Department being completed to the Department's satisfaction.

Carried

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- 4.2 Planning & Corporate Services Department, dated June 21, 2004 re: Rezoning Application No. Z04-0038 – Dawn & Darryl Cairney – 3588 Spiers Road

Moved by Councillor Hobson/Seconded by Councillor Given

R640/04/06/28 THAT Rezoning Application No. Z04-0038 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, Section 8, Township 26, ODYD, Plan 11176, located on Spiers Road, Kelowna, B.C. from the RR3 - Rural Residential 3 to RR3s – Rural Residential 3 with Secondary Suite zone be considered by Council;

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

Carried

- 4.3 Planning & Corporate Services Department, dated June 22, 2004 re: Rezoning Application No. Z04-0015 – Maurice & Marlene Hitchcock – 850 Kinneer Court

Moved by Councillor Hobson/Seconded by Councillor Given

R641/04/06/28 THAT Rezoning Application No. Z04-0015 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 52, DL 135, ODYD, Plan 26296 located on Kinneer Court, Kelowna, B.C. from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone be considered by Council;

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

Carried

- 4.4 Planning & Corporate Services Department, dated June 18, 2004 re: Rezoning Application No. Z04-0035 – Hugh Culver – 3967 Bluebird Road

Councillor Day declared a conflict of interest because he owns property within the notification radius for this application and left the Council Chamber at 2:37 p.m.

Moved by Councillor Shepherd/Seconded by Councillor Given

R642/04/06/28 THAT Rezoning Application No. Z04-0035 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, Sec.1, Twp. 25, ODYD Plan 7334, located on Bluebird Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone be considered by Council;

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

Carried

Councillor Day returned to the Council Chamber at 2:39 p.m.

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- 4.5 Planning & Corporate Services Department, dated June 22, 2004 re: Rezoning Application No. Z04-0013 – 672499 BC Ltd. (Don Lloyd) – 3690 Gordon Drive

Staff:

- The applicant has submitted two conceptual plans; one for a conventional 4-storey RM5 development, the other for 2-storey townhouses around the perimeter of the site stepping up to two 4-storey buildings and one 10-storey building in the middle of the site. The applicant is seeking feedback before deciding which option to pursue.
- Staff support the rezoning but do not support the concept for taller buildings on the site.

Council:

- Concerned about the process and whether the Public Hearing is the right place to be discussing what form of development is appropriate. The applicant needs to commit to a concept prior to the Public Hearing being scheduled.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R643/04/06/28 THAT Rezoning Application No. Z04-0013 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, D.L. 134 O.D.Y.D. Plan KAP56005, located at 3690 Gordon Drive, Kelowna, B.C. from A1 – Agriculture 1 zone to RM5 – Medium Density Multiple Housing zone be considered by Council;

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

AND FURTHER THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit on the subject property.

Carried

- 4.6 Planning & Corporate Services Department, dated June 17, 2004 re: Rezoning Application No. Z04-0033 – Michael Reibin (City of Kelowna) – 345-365 Mills Road

Moved by Councillor Hobson/Seconded by Councillor Cannan

R644/04/06/28 THAT Rezoning Application No. Z04-0033 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lots 1 and 2, DL 125, ODYD Plan 9504, located on Mills Road, Kelowna, B.C. from the RM3 – Low Density Multiple Housing zone to the RM4 – Transitional Low Density Housing zone be considered by Council;

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

Carried

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- 4.7 Planning & Corporate Services Department, dated June 23, 2004 re: Rezoning Application No. Z04-0024 – Eugene Weisbeck and Katherine Kraushar (Peter Chataway) – 1324 St. Paul Street

Staff:

- The rezoning would bring the property into conformity with the future land use designation in the OCP.
- The applicant is proposing to construct an addition to provide a residential unit on the upper floor of the building.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R645/04/06/28 THAT Rezoning Application No. Z04-0024 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 15, D.L. 139, O.D.Y.D. Plan 645, located at 1324 St. Paul Street, Kelowna, B.C. from I2 – General Industrial zone to C7 – Central Business Commercial zone be considered by Council;

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

AND FURTHER THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit on the subject property.

Carried

- 4.8 Planning & Corporate Services Department, dated June 22, 2004 re: Rezoning Application No. Z04-0025 – Donald & Rosemary Bigham – 160 Bryden Road

Moved by Councillor Day/Seconded by Councillor Given

R646/04/06/28 THAT Rezoning Application No. Z04-0025 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 9, Sec. 27, Twp. 26, ODYD, Plan 11286 located at 160 Bryden Road, Kelowna, B.C. from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone be considered by Council;

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

Carried

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

- (i) Bylaw No. 9238 (TA04-0001) – City of Kelowna Zoning Bylaw Amendment to Add the CD16 – Bingo and Gaming Zone

Councillor Day declared a conflict of interest for agenda item No. 4.9 because the adjoining property is owned by a direct family member, and for agenda item No. 4.10 because he owns property that is within the notification radius for that application and left the Council Chamber at 2:58 p.m.

Councillor Given declared a conflict of interest because his employer derives funds from the facility and left the Council Chamber at 2:58 p.m.

Staff:

- The B.C. Lottery Commission has submitted a letter addressing Council's concerns.

Moved by Councillor Horning/Seconded by Councillor Shepherd

R647/04/06/28 THAT Bylaw No. 9238 be adopted.

Carried

Councillors Cannan and Clark opposed.

- (ii) Bylaw No. 9239 (Z04-0011) – Springfield Plaza Inc. – 1585 Springfield Road

Moved by Councillor Shepherd/Seconded by Councillor Horning

R648/04/06/28 THAT Bylaw No. 9239 be adopted.

Carried

Councillors Cannan and Clark opposed.

- (b) Planning & Corporate Services Department, dated June 23, 2004 re: Development Permit Application No. DP04-0023 – Springfield Plaza Inc. – 1585 Springfield Road

Staff:

- The proposed phase 2 addition has always been contemplated for the Bingo Kelowna site. The addition would be 2-storeys with about a 4 ft. difference in height from the existing building. The main floor of the addition would be used for bingo and off-track betting, washrooms, and table seating. The final use of portions of the second floor are yet to be determined.
- At the Public Hearing Council heard comments from the residents of the adjacent development about being disturbed by the sound of engines starting from vehicles parked along their shared property boundary. The applicant has responded to those concerns by providing a letter signed by Mr. McAfee and Mr. Walt and addressed to Mr. Sellers, a resident of Burtch Estates, committing to restrict and enforce 'no parking' beyond 10 p.m. along the common property boundary. The letter has not yet been signed by Mr. Sellers to indicate that he is in agreement.

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Moved by Councillor Shepherd/Seconded by Councillor Horning

R649/04/06/28 THAT Council adopt a resolution supporting the expanded gaming uses on the Bingo Kelowna site as described in a letter from the BC Lottery Corporation dated June 18, 2004;

AND THAT Council authorize the issuance of Development Permit No. DP04-0023 for Lot A, District Lot 129, ODYD Plan KAP70110, located on Springfield Road, 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";

AND FURTHER 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 Cannan and Clark opposed.

Councillor Given returned to the Council Chamber at 3:14 p.m.

4.10 (a) **(BYLAW PRESENTED TO RESCIND SECOND READING)**

Bylaw No. 9211 (OCP03-0014) – John & Ingrid Paavilainen (Keith Funk/New Town Planning) – 1170 Band Road **requires majority vote of Council (5)**

Councillor Day declared a conflict of interest because he owns property that is within the notification radius for this application and left the Council Chamber at 2:58 p.m.

Staff:

- The applicants have submitted a letter dated June 23, 2004 indicating they would connect the facility to sewer but would not agree to provide the legal access agreements or road reservations.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R650/04/06/28 THAT second reading given OCP Amending Bylaw No. 9211 under Resolution No. R498/04/05/18 be rescinded.

Carried

Councillor Blanleil opposed.

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- (b) Planning & Corporate Services Department, dated June 16, 2004 re: Rezoning Application No. Z03-0071, OCP03-0014 – John & Ingrid Paavilainen (Keith Funk/New Town Planning Services) – 1170 Band Road (B/L 9211 and 9212)

Moved by Councillor Cannan/Seconded by Councillor Given

R651/04/06/28 THAT OCP Amending Bylaw No. 9211 and Zone Amending Bylaw No. 9212 (Paavilainen – 1170 Band Road) be rescheduled to a new Public Hearing;

AND THAT final adoption of the OCP amending Bylaw No. 9211 and Zone Amending Bylaw No. 9212 be withheld pending the connection of the proposed congregate care facility to the sanitary sewer system and the registration of legal access agreements in favour of the adjacent properties;

AND THAT final adoption of the zone amending bylaw be considered following registration of a Road Reservation Agreement in the Land Title Office;

AND FURTHER THAT final adoption of the OCP and zone amending bylaws be considered subsequent to the provision of an executed Housing Agreement.

Carried

Councillor Day returned to the Council Chamber at 3:33 p.m.

- 4.11 Manager of Community Development & Real Estate, dated June 22, 2004 re: Cultural District Design Charrette (1853-20)

Ed Graphone, Urban Systems, representing the Charrette team:

- Presented the highlights of the Charrette document.
- The Charrette was an intense exercise held February 27-29, 2004 at the Rotary Centre for the Arts. The participants went through three competing themes for the town centre, each headed up by design teams.

Staff:

- The vision is generally consistent with the OCP direction for the downtown town centre other than keeping the building heights within the cultural district proper to 3-6 storeys. The City owns two vacant properties with future development potential that is inconsistent with the Charrette building height.

Council:

- Page 93 of the Charrette document under Section 8.0 Summary calls for maintaining Ellis Street as the main north/south route into the Cultural District. This should not be assumed because such a premise could hamper the options that the Roads Task Force may discuss.

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Moved by Councillor Hobson/Seconded by Councillor Shepherd

R652/04/06/28 THAT Council endorse the Design Directions for the Cultural District generated in the Cultural District Charrette held February 27-29, 2004 at the Rotary Centre for the Arts;

AND THAT Council direct the Planning and Corporate Services department to review the Design Directions identified in the Cultural District Charrette and bring forward any necessary Zoning Bylaw and OCP Development Permit Guideline amendments that will achieve the form and character goals articulated in the Cultural District Charrette;

AND FURTHER THAT Council extend appreciation, on behalf of the City of Kelowna, to the Real Estate Foundation for its financial assistance in holding the Design Charrette.

Carried

5. BYLAWS (ZONING & DEVELOPMENT)

(BYLAW PRESENTED FOR ADOPTION)

5.1 Bylaw No. 9229 (Z03-0022) - R 354 Enterprises Ltd. – 2355/2455 Acland Road

Withdrawn from the agenda at the applicant's request.

6. REPORTS

6.1 Director of Financial Services, dated June 22, 2004 re: 2003 Annual Financial Report (1900-20)

Moved by Councillor Shepherd/Seconded by Councillor Given

R653/04/06/28 THAT the Annual Financial Report for the year ended December 31, 2003 be received;

AND THAT the Statement of Municipal Objectives be received for the reporting year 2005;

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

Carried

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- 6.2 Civic Properties Projects Supervisor, dated June 23, 2004 re: Award of Contract for Athans Pool Roof and Siding Replacement 2004 (0760-20-24)

Moved by Councillor Shepherd/Seconded by Councillor Given

R654/04/06/28 THAT the contract for the Athans Pool Roof and Siding Replacement 2004 be awarded to Tomtar Roofing Sheet Metal Ltd. for the amount of \$263,550.00 (GST excluded);

AND THAT the 2004 Financial Plan be amended to fund an additional \$96,500 from the Building Repair Reserve to the Athans Pool Roof and Siding Replacement project (242-C525-5022).

Carried

- 6.3 Wastewater Manager, dated June 23, 2004 re: Award of Construction Contract TE04-09 – North Rutland Local Sewer Service Area No. 20 – Zone E (5340-09-20)

Moved by Councillor Given/Seconded by Councillor Day

R655/04/06/28 THAT the Contract for the construction of Local Sewer Service Area No. 20 – **Zone E** be awarded to Peter's Bros. Construction Ltd. for the amount of \$3,313,273.19, which includes GST that will be fully rebated,

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

Carried

- 6.4 Water/Drainage Manager, dated June 23, 2004 re: Zone E Specified Area Drainage Works (5340-09-20)

Moved by Councillor Horning/Seconded by Councillor Day

R656/04/06/28 THAT Council authorizes the expenditure of \$170,000 for drainage works as part of the **Zone E** North Rutland Sanitary Sewer Project;

AND THAT Council approves a budget transfer of \$170,000 from the Gully Road Drainage Project (10-4000-D4110).

Carried

- 6.5 Recreation Manager, dated June 21, 2004 re: Watson Road Community School Agreement with School District No. 23 (2280-20-853)

Staff:

- A further report will be coming forward to initiate the required Alternate Approval process.

Moved by Councillor Given/Seconded by Councillor Shepherd

R657/04/06/28 THAT Council approve the Joint Use Agreement with School District No. 23 for Watson Road Community School as attached to the report from the Recreation Manager dated June 21, 2004.

Carried

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- 6.6 Electrical Manager, dated June 22, 2004 re: Electrical Utility Rates (1824-02)

Moved by Councillor Hobson/Seconded by Councillor Cannan

R658/04/06/28 THAT Council approve a change to the City's electrical utility rates resulting in a 4.4% increase in annual residential customer revenues, a 4.3% increase in municipal and school customer revenues and a 4.2% increase in commercial customer revenues;

AND THAT staff be instructed to prepare the required bylaw;

AND FURTHER THAT the approved changes be implemented with the first billing cycle in August, 2004.

Carried

- 6.7 Manager of Community Development & Real Estate, dated June 8, 2004 re: Development Objectives and Disposition Process for the "Old KSS" Property (0710-20; 0550-01)

Staff:

- Presented the development objectives for the former school site for Council's endorsement.
- Recommend placing a restrictive covenant on title to say no development without a comprehensive development plan, and to advertise the property as widely as possible. The sales package would include objectives, process to be followed, background information and an Option agreement that the City would enter into. Then acceptance of bids with preliminary concept plans that staff would review and recommend to Council the proposal that best meets the objectives. The Option agreement would give the developer time to pursue a more detailed Concept plan and make appropriate development applications to commence the first phase. Sale would become final upon rezoning of the entire property and issuance of a Development Permit and Building Permit on the first phase.

Council:

- Discussion regarding the recommendation for 10% of the net revenue from the sale of the site to be added to the City's Housing Reserve Fund. Agreed to omit the percentage amount.

Moved by Councillor Clark/Seconded by Councillor Shepherd

R659/04/06/28 THAT Council endorse the development objectives for the "Old KSS" site, as recommended by the Urban Centres Implementation Committee, for use as a basis for soliciting and reviewing offers to purchase the subject property;

AND THAT staff be directed to commence marketing activity according to the process outlined in the report from the Manager of Community Development & Real Estate dated June 8, 2004;

AND FURTHER THAT the matter of a portion of the net revenue from the sale of the site from the Housing Reserve Fund be deferred for future Council consideration.

Carried

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- 6.8 Community Planning Manager, dated June 22, 2004 re: Affordable Housing Forum Held May 18, 2004 – Update on Affordable Housing Initiatives (5040-20)

Moved by Councillor Shepherd/Seconded by Councillor Given

R660/04/06/28 THAT the report dated June 22, 2004 from the Community Planning Manager regarding an Affordable Housing Forum held on May 18, 2004 and providing an update on affordable housing initiatives be received for Council's information.

Carried

7. RESOLUTIONS

- 7.1 Draft Resolution re: Appointments to Westside Governance Committee (0482-30)

Dealt with after agenda item No. 3.1.

8. COUNCILLOR ITEMS

- (a) Councillor Cannan re: Notice of Motion – Kiwanis Families Against Drunk Driving (KFADD) (0530-01)

Moved by Councillor Cannan/Seconded by Councillor Shepherd

R661/04/06/28 THAT the brief compiled by Kiwanis Family Against Drunk Driving (KFADD), a Task Force committee struck by Kiwanis International Pacific Northwest District – Division 7 to ensure that justice is served when dealing with alcohol/drug impaired drivers, be received;

AND THAT Kelowna City Council provide Division 7 of Kiwanis International Pacific Northwest District with a letter of support for the KFADD brief.

Carried

- (b) Property Tax Exemption – Food Bank

Councillor Shepherd referred to a letter that members of Council received from the Kelowna Food Bank asking that Council waive the property taxes on the site they purchased. Councillor Shepherd noted that staff would first need to ensure that the Food Bank qualifies for the exemption and that if they did, the exemption could only be on the municipal portion of the taxes. She suggested that the request be dealt with by a Notice of Motion to allow staff time to do that.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

THAT Council approve an exemption of the municipal portion of the 2004 property taxes for the Food Bank property at 1265 Ellis Street;

AND THAT the Food Bank submit the required tax exemption application for future years.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R662/04/06/28 THAT consideration of the 2004 property tax exemption request by the Kelowna Food Bank be deferred to a future date.

Carried

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9. TERMINATION

The meeting terminated at 5:23 p.m.

Certified Correct:

Mayor

Acting City Clerk

BLH/am