

Regular Meeting – P.M.February 21, 2005

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, February 21, 2005.

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 Deputy City Clerk, D.M. Fediuk; Manager of Development Services, A.V. Bruce*; Subdivision Approving Officer, R.G. Shaughnessy*; Acting Manager of Policy, Research & Strategic Planning, G.L. Stephen*; Director of Works & Utilities, J. Vos*; Transportation Manager, R.W. Westlake*; Water/Drainage Engineer, R. Barnes*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 1:31 p.m.

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

3. PUBLIC IN ATTENDANCE

3.1 Presentation by Downtown Rotary Club Assistant Governor Jeff Harte and President Bruce Wilson re: Rotary International's Centennial Celebration

Jeff Harte and Bruce Wilson, Downtown Rotary Club:

- Rotary International is celebrating 100 years of outstanding community and international service this week.
- Over the last five years, the six Rotary Clubs within the Kelowna boundary and nine Clubs within the Regional District have put \$1.2 million put into the area.

3.2 Heritage Week 2005 – February 21-27 (6800-00)

- Celeste Ganassin and Colleen Cornock, Heritage Week Committee re: Overview of Events
- Lorri Dauncey, Kelowna Heritage Foundation re: Acknowledgement of 2004 Kelowna Heritage Foundation Grant Recipients

Colleen Cornock and Celeste Ganassin:

- The nation wide theme for Heritage Week this year is Heritage of Faith.
- Acknowledged the supporters of this year's celebration.
- Overview of calendar of events for this year.

Lorri Dauncey, president, Kelowna Heritage Foundation:

- Acknowledged the two past presidents, Mike Culos and Michael Hill.
- Acknowledged the five 2004 grant recipients for restoration projects at 768 Dehart Avenue; 3430 Pooley Road; 806 Bernard Avenue; 1931 Abbott Street and 730 Lawson Avenue.

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4. DEVELOPMENT APPLICATIONS

- 4.1 Planning & Corporate Services Department, dated February 15, 2005 re: Agricultural Land Reserve Appeal No. A05-0001 – Clarke Orchards Contracting Ltd. – 1980-1984 Union Road

Staff:

- The applicant is seeking Council's support of an application to the Agricultural Land Commission (ALC) for exclusion from the Agricultural Land Reserve (ALR) based on his Agricultural tax assessment being changed to Commercial.
- The Agricultural Advisory Committee does not recommend in support based on City's agricultural development policies.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

R150/05/02/21 THAT Council hear from the applicant.

Carried

Al Clarke, applicant:

- His family started farming in the Glenmore Valley in 1909.
- Developed an agri-tourism direct farm marketing facility based on Class '9' being the criteria that had to be met for such a project within the ALR.
- On July 23, 2003, found he could no longer get insurance for the agri-tourism business and the ALC facilitated subdivision of the property so he could differentiate between the agri-tourism and his personal residence. As a result, BC Assessment declassified his agri-tourism operation (cold storage facility and fruit stand/restaurant) from Farm to Commercial. The driveway to his house was measured and assessed as Commercial even though it accesses a farm that is still classified as a Farm.
- In total, his property is 13.54 acres in size, of which 1.01 acres is developed with the agri-tourism operation which includes the 20 pad RV Park and 278 fruit trees and 114 vines.
- His property is zoned A1 – Agriculture, within the Agricultural Land Reserve, yet part is being assessed as Commercial. Had he known this would happen, he would have pursued a larger RV Park instead of the agri-tourism.
- His appeal of the declassification was unsuccessful.
- The ALC suggested he apply for exclusion. If the exclusion is successful, he could rezone the whole property to C9 – Tourist Commercial.
- The \$300,000 he was paying in taxes as a Farm has gone up considerably with the agri-tourism part of his operation being taxed as Commercial.
- 140 other farmers in Kelowna have just had their lands declassified as Agricultural and assessed as Commercial for 2005 taxation because they are waiting for trees.

Staff:

- Clarified that as long as the land is within the ALR, it does not matter what the zoning is, the uses are still limited to what are permitted under the ALR Act.
- BC Assessment looks at the use of the property as opposed to zoning.
- The ALC has approved certain commercial uses within the confines of the ALR, but to BC Assessment they are commercial.
- The applicant is asking to be able to continue with the commercial uses without the confines of the ALR. Once no longer protected by the farm exemptions, the use gets taxed as other than farm.

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Council:

- Agreed to add the second paragraph of the recommendation by the Agricultural Advisory Committee to the Council resolution.
- Need to clarify the ALC and BC Assessment position as to their treatment of the uses on this property.
- If appropriate, could ask that another tax class be established to allow municipalities to vary the rate for land within the ALR that is being used for commercial; or ask BC Assessment to make changes in their field interpretation.
- Could also consider developing a resolution to the Union of British Columbia Municipalities.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R151/05/02/21 THAT Agricultural Land Reserve Appeal No. A05-0001, Lot B, Sec. 4, Twp. 23, ODYD, Plan KAP75150, located on Union Road, in Kelowna, B.C. for exclusion from the Agricultural Land Reserve pursuant to section 30(1) of the Agricultural Land Commission Act, **NOT** be supported by Municipal Council.

AND THAT Municipal Council forward the subject application to the Agricultural Land Reserve Commission for their consideration;

The following two paragraphs were deleted by Resolution R179/05/02/28 adopted at the Regular Meeting of February 28, 2005:

AND THAT the Agricultural Land Commission and the BC Assessment Authority be requested to jointly discuss and resolve the issue of agri-tourism operations being assessed as Commercial instead of farm;

AND FURTHER THAT this resolution be forwarded to the Central Okanagan MLAs, the Minister of Agriculture and the Minister of Sustainable Development with a covering letter from the Mayor explaining the reason for sending the letter and asking that the need for legislative change be addressed.

Carried

Councillors Blanleil and Horning opposed.

4.2 Planning & Corporate Services Department, dated January 21, 2005 re: Agricultural Land Reserve Appeal No. A04-0011 – 622664 BC Ltd. (Grant Gaucher) – 2010 McKinley Road, end of Slater Road, 1595 Glenmore Road North

Staff:

- The applicant is seeking Council's support of an appeal to the Agricultural Land Commission for a partial exclusion of the property from the ALR, a partial inclusion into the ALR, and a partial non-farm use within the ALR.
- Existing planning documents including the City of Kelowna Strategic Plan, Official Community Plan, and Kelowna Agriculture Plan do not support the proposed exclusion from the ALR or the proposed non-farm use. On that basis staff recommend non-support of the application.

Moved by Councillor Blanleil/Seconded by Councillor Given

R152/05/02/21 THAT Council hear from the applicant.

Carried

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Brian French, Agrologist representing the applicant:

- Carried out a detailed agricultural assessment of the lands. His ratings differ from the mapping done previously by the Province but the other was at a much less detailed level so not comparing apples with apples.
- Briefly summarized his findings. His objective was to come up with no net loss to agriculture. The land proposed for inclusion has significantly higher agricultural capability than what is requested for exclusion.
- This is basically a process of refining the ALR boundary.
- The applicant would bring water to the area.
- Sees this as a win/win situation and that there is merit in this proposal from an agricultural point of view.
- The applicant needs at least approval in principal from the ALC before he can go any further.

Moved by Councillor Given/Seconded by Councillor Blanleil

R153/05/02/21 THAT Agricultural Land Reserve Appeal No. A04-0011, N.W. ¼ of Sec. 21, Twp. 23, ODYD, Except Plans DD 24364 & 18402; The S.W. ¼ of Sec. 28, Twp 23, ODYD; and the W ½ of the S.E. ¼ Sec 28, Twp 23, ODYD, Except part shown as road on plan 20134, located on McKinley Road, Kelowna, B.C. for partial exclusion, partial inclusion and partial non-farm use from/within the Agricultural Land Reserve pursuant to Sections 30(1), 17(3), and 25(1) of the Agricultural Land Commission Act, be supported by Municipal Council.

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

Carried

Councillors Clark, Hobson and Shepherd opposed.

5. NON-DEVELOPMENT APPLICATION REPORTS

5.1 Planning & Corporate Services Department, dated February 16, 2005 re: City of Kelowna 2004 Development Statistics (0655-20)

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R154/05/02/21 THAT the Planning and Corporate Services report dated February 16, 2005 and the attached City of Kelowna 2004 Development Statistics document be received for Council's information.

Carried

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- 5.2 Planning & Corporate Services Department, dated February 16, 2005 re: Kelowna Heritage Register and the Canadian Register of Historic Places (6800-02)

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R155/05/02/21 THAT the properties located at 1931 Abbott Street, 2083 Abbott Street, 334 Beach Avenue and 809 DeHart Avenue be added to the Kelowna Heritage Register;

AND THAT the owners of these properties be notified in accordance with Sections 954 and 974 of the Local Government Act;

AND THAT the Minister responsible for the Heritage Conservation Act be notified in accordance with Sections 954 and 977 of the Local Government Act;

AND FURTHER THAT the City of Kelowna continue to commit to bringing the documentation standards of the Kelowna Heritage Register up to the documentation standards of the Canadian Register of Historic Places.

Carried

- 5.3 Financial Planning Manager, dated February 15, 2005 re: Wastewater – 20-Year Servicing Plan and Financing Strategy (3150-20)

Moved by Councillor Given/Seconded by Councillor Horning

R156/05/02/21 THAT Council consider a proposed extension to the Development Cost Charge Sectors for Wastewater Trunks and Treatment boundaries to include the north east corner of the City (extending from the current north boundary of Sector A to the City of Kelowna northern boundary);

AND THAT Council direct staff to advertise for a public meeting to obtain stakeholder input into the proposed extension;

AND FURTHER THAT staff consolidate the public input and prepare an amended bylaw for consideration by Council.

Carried

- 5.4 Director of Works & Utilities, dated February 15, 2005 re: Trench Place Earth Movement (5210-07)

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R157/05/02/21 THAT Council authorize the restoration of the slope above Trench Place as outlined in the report of the Director of Works and Utilities dated February 15, 2005;

AND THAT Council approve funding of \$600,000 with \$300,000 from the Permit Revenue Averaging Reserve and \$300,000 from the Insurance Deductible Reserve;

AND FURTHER THAT the 2005 Financial Plan be amended to provide for these expenditures.

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- 5.5 Water/Drainage Engineer, dated February 16, 2005 re: Water Valves Replacement (5600-04)

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R158/05/02/21 THAT Council approves the expenditure of \$75,000 for the replacement of water valves on Dehart Road at the intersections of Gordon Drive and Lakeshore Road;

AND THAT funding come from the Water Utility Main Failure Reserve;

AND FURTHER THAT the amendments to the 2005 Financial Plan be brought forward to accommodate this project.

Carried

- 5.6 Transportation Manager, dated February 16, 2005 re: Valley Road Bike Lanes – Provincial Funding Conditional Agreement (6320-20)

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R159/05/02/21 THAT the Mayor and City Clerk be authorized to execute the Conditional Grant Agreement with the Ministry of Transportation for Provincial funding on the 2005 Valley Road Cycling Facilities project.

Carried

6.0 RESOLUTIONS

- 6.0.1 Draft Resolution re: Flight Authorization – Wildcat Helicopters – February 25 & 26, 2005 (8400-01)

Moved by Councillor Day/Seconded by Councillor Cannan

R160/05/02/21 THAT Council grant approval to Wildcat Helicopters Inc. to operate a Bell 212 Helicopter out of the Kelowna Ford Lincoln rear parking lot between 8:00 a.m. and 5:00 p.m. on Friday and Saturday, February 25 & 26, 2005, subject to the approval of Transport Canada and compliance with all related flight requirements.

Carried

6. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR FIRST THREE READINGS)

- 6.1 Bylaw No. 9358 – Road Closure Bylaw – Brandt's Creek at Kane Road and Glenmore Road

Moved by Councillor Horning/Seconded by Councillor Given

R161/05/02/21 THAT Bylaw No. 9358 be read a first, second and third time.

Carried

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7. COUNCILLOR ITEMS

(a) Transit Benches

Councillor Shepherd noted that much of the advertising on transit benches is covered in graffiti and wondered how the costs of removing the graffiti would compare to the revenue derived from that advertising. Councillor Shepherd further noted that the wire backed benches in City Park discourage graffiti and suggested that staff investigate the cost implications of putting that type of bench at the transit stops. Referred to staff.

(b) Demolition Permit – 474 Cadder Avenue

Councillor Shepherd expressed concern about an application that is currently instream for demolition of the dwelling at 474 Cadder Avenue. The house is within the Abbott Street Heritage Conservation Area but has not been evaluated by the Community Heritage Commission (CHC) and is not on the Heritage Register. The property has subdivision potential and the neighbourhood is concerned that subdividing the lot would destroy the ambience of the area. Staff have been delegated the authority to handle this type of application without it coming forward to Council.

The City Manager confirmed that the property at 474 Cadder Avenue is one of only a very few properties within the area with subdivision potential. In the opinion of staff the property would not qualify for inclusion on the Heritage Register; staff shared the results of their evaluation with the CHC and further independent evaluation was not deemed to be required. The Director of Planning & Corporate Services put a letter stating this in Council's mailbox this afternoon. The letter also advises that the application is still being processed and invites feedback from Council.

Councillor Cannan read excerpts of a letter from the chair of the CHC saying the Commission did not support the application for demolition because of the potential impact on the overall area. He also noted that people are saying the home has to be demolished because it was used for a grow op, and asked for an update on the work the Acting City Clerk is doing with respect to Occupancy Permits and grow ops.

Moved by Councillor Given/Seconded by Councillor Hobson

THAT staff be instructed not to issue a demolition permit at 474 Cadder Avenue.

Moved by Councillor Hobson/Seconded by Councillor Day

R162/05/02/21 THAT the motion be tabled and staff requested to provide Council with relevant background information before proceeding with issuance of a demolition permit at 474 Cadder Avenue;

AND THAT the matter of this demolition permit be brought back for further consideration by Council at the Regular Meeting of February 28, 2005.

Carried

(c) Sand Removal from Sidewalks

Councillor Horning commented on the amount of sand on the sidewalks along Highway 33 and asked when street/sidewalk sweeping will be starting. Referred to staff.

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(d) Resolution for UBCM re Agricultural Land Being Assessed as Commercial

Councillor Shepherd suggested that Council consider whether a resolution is warranted for debate at the next Union of British Columbia Municipalities convention concerning the assessment of farm lands as commercial, as in the case of the Clarke ALR Appeal (No. A05-0001) dealt with earlier in this meeting. Referred to staff to ensure a draft resolution is brought forward for consideration by Council, depending on the outcome of the responses from the Agricultural Land Commission and the MLAs and Ministries.

8. TERMINATION

The meeting was declared terminated at 5:01 p.m.

Certified Correct:

Mayor

Acting Deputy City Clerk

/blh