

Regular MeetingJanuary 8, 2008

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 Tuesday, January 8th, 2008.

Council members in attendance: Mayor Sharon Shepherd, Councillors Barrie Clark, Brian Given, Carol Gran, Robert Hobson, Norm Letnick and Michele Rule.

Council members absent: Councillors Andre Blanleil and Colin Day.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Allison Flack; Director of Financial Services/Interim Director of Planning & Development Services, Paul Macklem; Current Planning Supervisor, Shelley Gambacort; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:21 p.m.

2. PRAYER

2. A Prayer was offered by Councillor Given.

3. CONFIRMATION OF MINUTES

Regular Meeting A.M. - December 10, 2007
Regular Meeting P.M. – December 10, 2007
Public Hearing – December 11, 2007
Regular Meeting – December 11, 2007

Moved by Councillor Rule/Seconded by Councillor Letnick

R023/08/01/07 THAT the Minutes of the Regular Meetings of December 10th, 2007 and December 11th, 2007 and the minutes of the Public Hearing of December 11th, 2007 be confirmed as circulated.

Carried

4. Councillor Given was requested to check the minutes of this meeting.

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS)

5.1 Bylaw No. 9902 (Z07-0066) – Victor & Denise Clay (Anne Squair) – 1704 Joe Riche Road

Moved by Councillor Given/Seconded by Councillor Letnick

R024/08/01/08 THAT Bylaw No. 9902 be read a second and third time.

Carried

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- 5.2 Bylaw No. 9903 (Z07-0055) – Albert Hardy, Bomar Distributors Inc. & Norcar Enterprises (Norcar Enterprises) – 1030 & 1040 Tataryn Road

Moved by Councillor Clark/Seconded by Councillor Letnick

R025/08/01/08 THAT Bylaw No. 9903 be read a second and third time.

Carried

6. LIQUOR LICENSE APPLICATION REPORTS

- 6.1. Planning & Development Services Department, dated December 4, 2007 re: Liquor Licensing Application No. LL07-0010 – Blue Gator Bar & Grill 2005 Ltd. (Larry Smith) – 441 Lawrence Avenue **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

Staff:

- The Planning & Development Services Department has concerns with the applicant's request for the extension of hours of liquor service from 11:00 a.m. earlier to 9:00 a.m. and with the extension of the hours of liquor service on the patio beyond 11:00 p.m.
- Staff are unaware of any other establishment similar to this that is open at 9:00 a.m.
- This property is not located within the downtown "yellow zone" identified by the former Mayor's Entertainment District Task Force.
- There is no policy that liquor service to patios not be extended beyond 11:00 p.m.

The City Clerk advised that the following correspondence and/or petitions had been received:

- Letters of Support:
 - Ken Faulkner, 4172 Gallagher's Grove
 - Dan Matheson, The Okanagan Golf Club
 - Scott Jackson, Local Business Owner
 - Garry Fowler
 - Dave McClellan (2)
 - Gary Parks
 - Rick Pushor, #301 – 1665 Ellis Street
 - Larry Wallace
- Letter of Opposition:
 - Melissa Sharp

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Larry Smith, Owner of the Blue Gator:

- Believes that Mickie's Pub, RJ McMaster's and North Forty Saloon are already allowed to be open at 9:00 a.m.
- Not going to open at 9:00 a.m. all the time, just when special events are on (ie. sporting events).
- The patio is currently used as their smoking area.
- Wants to be able to use the patio past 11:00 p.m. similar to other pubs in the area.
- The full service kitchen is open from 11:00 a.m. to 9:00 p.m.
- There will not be any live music on the patio after 11:00 p.m.; however there is quiet music piped into the patio during the day.

There were no further comments.

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The following motion by Councillor Letnick was lost for lack of a seconder:

In compliance with Section 53 of the *Liquor Control and Licensing Regulation* be it resolved THAT:

1. Council **SUPPORTS** an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of hours of liquor service** because no change to licensed area has been proposed and the extended hours will be confined to the interior of the establishment currently under license.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved is anticipated to remain relatively unchanged;
 - b) The impact on the community if the application is approved is considered minimal as the establishment is currently located within a predominantly commercial area.
 - c) It is not anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

AND FURTHER THAT:

1. Council **SUPPORTS** an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of hours of liquor service on the exterior patio** because the character of the establishment's business is not anticipated to increase the potential for noise and rowdy behaviour in the area.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved is not anticipated to increase significantly;
 - b) The impact on the community if the application is approved is not considered significant over the long term as the character of the establishment's business is not expected to result in the same issues that have arisen at other late night patios; and
 - c) It is not anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

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Moved by Councillor Letnick/Seconded by Councillor Hobson

R026/08/01/08 THAT further consideration of Liquor Licensing Application No. LL07-0010 be deferred to the January 22, 2008 Council meeting to allow staff to provide the following information to Council:

- A listing of establishments in the area that are open prior to 11:00 a.m. in the morning;
- A listing of establishments in the area that have patios open after 11:00 p.m. in the evening; and
- Information regarding whether or not food service is available at all times that liquor is served.

Carried

7. REMINDERS

8. TERMINATION

The meeting was declared terminated at 6:41 p.m.

Certified Correct:

Mayor

SLH/dld

City Clerk