

Public HearingJune 15, 2010

A Public Hearing of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, June 15th, 2010.

Council members in attendance: Mayor Sharon Shepherd, Councillors Andre Blanleil, Kevin Craig*, Charlie Hodge, Graeme James*, Angela Reid, Michele Rule and Luke Stack.

Council members absent: Councillor Robert Hobson.

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; City Clerk, Stephen Fleming*; Director, Land Use Management, Shelley Gambacort; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:04 p.m.
2. Mayor Shepherd advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "*Kelowna 2020 - Official Community Plan Bylaw No. 7600*" and "*Zoning Bylaw No. 8000*", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

The Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on May 28, 2010, and by being placed in the Kelowna Daily Courier issues of June 7, 2010 and June 8, 2010, and in the Kelowna Capital News issue of June 5, 2010, and by sending out or otherwise delivering 2610 letters to the owners and occupiers of surrounding properties between May 28, 2010 and June 4, 2010.

The correspondence and/or petitions received in response to advertising for the applications on tonight's agenda were arranged and circulated to Council in accordance with Council Policy 309.

Councillor Craig joined the meeting at 6:06 p.m.

3. INDIVIDUAL BYLAW SUBMISSIONS
- 3.1 Bylaw No. 10269 (TA09-0006) - City of Kelowna - THAT Bylaw No. 10269 (TA09-0006) be amended at first reading as outlined in Schedule "1" and Schedule "2" of the report of the Land Use Management Department dated April 19, 2010;

AND THAT Bylaw No. 10269 (TA09-0006) be forwarded to a Public Hearing for further consideration.

Councillor James declared a conflict of interest as he has a direct pecuniary interest in this matter as the owner of an agri-tourism business and left the meeting at 6:07 p.m.

Staff:

- Clarified the terms of the Text Amendment being considered.
- Confirmed that the thirty (30) day stay restriction was based on the Agricultural Land Commission's policies.
- The review of the Bylaw was, in part, lead by complaints regarding agri-tourist accommodation sites.
- Advised that any grandfathered site would not have to apply to be rezoned to the "T" zone.

City Clerk:

- Advised that there are approximately fourteen (14) agri-tourist accommodation sites with active business licenses, plus two (2) more that are pending.
- If the current operations apply for a 2011 Business License, then staff will need to determine whether or not they meet the "grandfathering" criteria on a case-by-case basis. There are numerous factors that will determine the "grandfathering" criteria.
- Provided clarification with respect to the wording of the City's Bylaw regarding agri-tourism accommodation.
- Confirmed that any site that does not currently meet the requirements of the City's Bylaw, will be allowed to bring their site into compliance.

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

- o Letters of Opposition:
 - Bob Schneider, Acres RV Sites, 1896 Morrison Road
 - Reg Tomiye, Apple Orchard RV Park, 4410 Wallace Hill Road
 - Robert & Karen Hatch, Kelowna RV and Cabins, 2940 McCulloch Road
 - Bruce & Kathy Wiebe, Orchard Hill RV, 2351 Rojem Road
- o Letters of Support:
 - Darlene Green, 4110 Seddon Road
 - Paula Morrison, 760 Cornish Road
 - Irene Huyskamp, 5550 Rittich Road
 - Guy Leclerc, 206 Magic Drive
 - Allen & Shelah Pansegrau, 425 Cornish Road
 - Trevor Reynolds, 180 Mountain Circle SE, Airdrie, AB
 - Karol & Elizabeth Saplywy, 111-915 Saskatoon Road
 - Ken Morrison, 760 Cornish Road

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

Gallery:

Robert Hatch, 2940 McCulloch Road

- Owns 4 cabins and 6 RV sites.
- Believes that the new Bylaw will prevent him from making a living.
- Agri-tourism will help the farmer survive without the need for subsidies.
- Believes that issues with agri-tourism need to be dealt with on an individual basis.
- Believes that the changes being proposed are not "minor housekeeping amendments" but are a "major reconstruction" of the Bylaw.
- His property is 9.1 acres; and therefore would not qualify under the new Bylaw.
- He was unaware that he required a business license to operate his agri-tourism business. He was made aware that the requirement approximately three (3) weeks ago and at that time, he came to City Hall to apply for a business license. When at City Hall, he was advised that he would not be given a business license at this time nor would his site qualify under the "grandfathering" criteria.
- Was given a building permit to renovate an already existing building on the site.

Staff:

- Advised that the information on record indicates that the building permit was for the renovation of pickers cabins.

Allan Fraser, 2332 Rojem Road

- Lives in an agricultural/residential area.
- Expressed a concern that only the first 100 feet of Rojem Road is owned by the City. The remainder of the road is owned by GEID. The 10 residences on Rojem Road have an access easement over the GEID right-of-way.

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- Concerned about the owners of Rojem Road being liable for any incidents that occur on the road.
- If agri-tourism accommodations are allowed in the area, he is concerned about increased liability with respect to pedestrian traffic, vehicle traffic and other issues.
- Advised that he is neither for nor against RV parks on farm land.

Ray Gagnon, 575 Rifle Road

- Expressed a concern with enforcing the 30 day stay clause.
- Expressed a concern with the agri-tourism accommodation that is located adjacent to his property as that site often has tenants that reside in mobile homes or RV's for very long periods of time.
- Believes that if you do not live on the site, you should not be allowed to operate agri-tourism accommodations.
- Is in agreement with the changes being proposed and expressed a concern that the existing rules are not being followed or enforced.

City Clerk:

- Clarified the role of the City's Bylaw Department with respect to enforcement of Bylaws.
- The Bylaw amendments being proposed today provides for a better regulatory regime.

Robert Schneider, 1896 Morrison Road

- Has a ten (10) unit RV agri-tourism site.
- Is in favour of agri-tourism accommodation as he believes that this helps the farmer out financially.
- His property is just under 9 acres and therefore his site would not longer qualify under the new Bylaw.
- He has retained farm status on the site for the past 20 years.
- Has not abided by the 30 day restriction and has had a Bylaw Officer attend at the site in order to address a Bylaw complaint.
- Will not tolerate any of his tenants upsetting the surrounding neighbourhood with their actions.

Bruce & Kathy Wiebe, Orchard Hill RV Park, 2351 Rojem Road

- Have grown up on the site and he and his wife bought into the farm so that it could be kept in the family.
- Believes that agri-tourism RV parks are in high demand in the area and should be welcomed as accommodation alternatives for tourists within the City.
- They place a high value on the neighbourhood and they have always made sure that all of their decisions take into consideration their surrounding neighbours.
- Currently have 9 RV sites and do not operate year round.
- Has a third party indemnity clause with GEID with sets out that they are liable for any incidents as a result of their agri-tourism site and they have also agreed to pay for any maintenance upgrades to the Rojem Road.
- Concerned about the 30 day limit, but is agreeable to the "seasonal" restriction and definition.
- The closest part of the park is approximately 200 feet from the nearest neighbour.
- Have addressed their neighbours concerns with respect to driveway access issues and privacy issues by planting landscaping to alleviate those concerns.
- Confirmed that they actively farm the lands.
- They reside on the site.
- Believe that longer term tenants are easier to deal with than shorter term tenants.

City Clerk:

- Confirmed that the City's current Bylaws do not require the business license holder to reside on the site.

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City Manager:

- Will have staff look into whether or not Council can require a business license holder to reside on the site.

Paula Morrison, 760 Cornish Road

- Has been farming hay for the past 10 years.
- Displayed a map of her property and indicated that it is surrounded by 3 agri-tourist accommodation sites.
- Advised that that one of the RV parks has long term tenants that occupy the site for over a 30 day period.
- She is personally being impacted by the RV parks in her area.
- Does not support this type of agri-tourism accommodation.
- Concerned that RV parks create conflict with neighbours and farmers.
- This is not about commercial land, it is about farm land.
- Believes that there isn't enough infrastructure in place to support these types of RV parks.
- The City needs to protect the primary use of most agricultural lands, which is agriculture.
- If the Bylaw is adopted, it needs to be strictly enforced.
- Cannot support agri-tourism accommodation in its present form.
- Concerned about septic fields on the RV sites affecting the food production on the farm land.

Ken Morrison, 760 Cornish Road

- Displayed a Google map of the surrounding area.
- Advised that farm status does not necessarily mean that the owner of the property is actually farming the land.
- Expressed a concern with grandfathering businesses that already do not comply with the ALC regulations.
- Started calling the City's Bylaw Department and the ALC enforcement unit in April of 2009 and was advised that the City's Bylaw Department could not do anything unless he could prove the 30 day stay restriction.
- Likes the "seasonal" definition being proposed.
- Believes that the farm and the land should be grandfathered, not the operation of the RV site.

City Clerk:

- Advised that the seasonal clause in the new Bylaw will be easy to enforce.

Jennifer McKenzie, 4575 Bonjou Court

- She consumes food that is grow locally.
- Has serious concerns about the intent of the Bylaw.
- Supports the option of prohibiting all agri-tourism accommodation sites within the City of Kelowna.
- She supports farmers farming the land, not commercializing it.
- Feels that RV parks will erode the agricultural lands.
- Concerned about infrastructure not being in place to accommodate RV parks.
- Concerned that the RV residents do not contribute the City's tax base.
- Does not believe that the amendments should be allowed as she feels that even greater abuse will occur.

Linda Erickson, Verna Court

- Expressed a concern about the agri-tourism accommodation on Union Road.
- Expressed a concern that the current Bylaw is not being enforced.
- Does not understand the "grandfather" conditions.

Kathy Dudka, 2105 Morrison Road

- Has been farming her land for the past 35 years.
- Applied for an RV park for 2010.

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- Believes that RV park operators and the City need to work together to come up with a better set of solutions.
- Believes that the size of the lots should be reduced as most land owners will not be able to meet the 12 acres restriction.
- Concerned about not allowing sanitary hook-ups for the RV's.
- Does not have a concern with the "seasonal" definition and would adhere to that regulation.
- Her site is hooked up directly to the City's sewer system.
- Her site is 20 acres in size.

Staff:

- Confirmed that adequate bathroom facilities with hot and cold running water are required for agri-tourist accommodation campsites.

Reg Tomiye, 4250 Wallace Hill Road

- Owns Apple Orchard RV Park.
- Is a third generation Kelowna resident and his family has been farming for over 30 years.
- His site is 20 acres in size.
- Believes that farming is no longer viable financially as he is losing approximately \$2,000 per year per acre.
- Is concerned about the 30 day stay clause as he often has cancer patients who stay on his RV site, and those cancer treatments often last anywhere from 6-8 weeks. He also has students who are enrolled in short-term programs at the local college/university who often stay on site longer than 30 days.
- Believes that agri-tourism provides an economic benefit to the community.
- Would be willing to assist City staff in drafting wording for the Bylaw which would promote agri-tourism.
- Confirmed that he has 10 RV sites on his property.

City Clerk:

- If a site is grandfathered and already has hook ups in place, the infrastructure would be allowed to remain.

Sam DeMaria, Local Area Farmer

- He is a bonafide farmer who makes 100% of his living farming his land.
- Believes that the amount of infrastructure required for RV parks will make it difficult to convert that land back to agricultural use and he believes that land will be lost for agricultural purposes forever.
- He believes that agri-tourism accommodation is designed to help the land owner not the actual farmer of the land.
- The location of the RV parks is absolutely critical and should be situated so that they do not impact the area's residents or farm practices.

Arnold Lundin, Downtown Resident

- Believes that RV's require sanitary sewer hookups and should be allowed.
- Would like the City to consider how other municipalities in other countries have dealt with respect to agri-tourism accommodation issues.

Michael Coulthard, 4020 Field Road

- He is the owner of Canyon Farms and has an agri-tourism accommodation operation on the site.
- Does not want to be open year round.
- Believes that the new regulations will kill the viability of agri-tourism sites.
- He currently has 8 sites, when 10 are allowed.
- He has actually increased the lands agricultural viability since developing the RV site on the property.
- SEKID has a water system pipe running right through his site.
- Believes that the real problem is with enforcement.

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- He is the only property owner that is farming in the Field Road area.
- Has an engineered septic system which required IHA approval.
- The property is just over 2 hectares and therefore he would not be allowed to operate the RV site under the proposed new Bylaw.

Barb Pennington, 2379 Rojem Road

- Her property is situated right between 2 RV parks that will be grandfathered under the new Bylaw.
- One of the RV parks is trying to work with her in order to address her concerns.
- Not confident that the City will be able to enforce the Bylaw and feels that it is very important to ensure that the rules are followed and enforced.

Darlene Green, 4110 Seddon Road

- Concerned that some of the RV operators are referring to their "clientele" as "tenants" which would lead her to believe that they are permanent residents.
- Inquired as to whether or not the 2% Hotel Tax is being charged by operators of the RV sites.
- Believes that the City should regulate how many RV parks can be located within a certain area.

City Clerk:

- Will investigate whether or not the 2% Hotel Tax can be charged by the RV site operators.

Rob Pennington, 2379 Rojem Road

- Would like Council to consider restricting density by restricting the number of RV parks that can be located within the same area of the City.

Robert Schneider, 1896 Morrison Road

- Believes that Kelowna's climate and amenities make Kelowna a year round destination for tourists.
- He does have people who want to remain on his site for more than 30 days.
- Would like to be open all year round if permitted to do so as the winter season brings tourists who like to ski and snowmobile and those people want to come to Kelowna and stay in their own RV.
- Has never had more than 9 trailers on his site at one time.
- The race track on his property has been approved by the City and is used occasionally on the weekends.

Robert Hatch, 2940 McCulloch Road

- Advised that the 2% Hotel Tax is not apply to the RV sites, but does apply to the cabins on the site.

City Clerk:

- Clarified the process that staff will follow once Council has made a decision on this matter.
- Would be willing to report back to Council with respect to the number of agri-tourism business licenses applied for, how many were granted and how many were denied and why.
- Will investigate whether or not there can be a restriction imposed on the business license that requires either the owner or operator of the RV site to reside on the property.
- Advised that it is beyond Council's ability not to grandfather the existing RV sites.
- Provided advice regarding the procedure for keeping the Public Hearing open and amending the Bylaw.

Staff:

- Clarified the criteria that will be followed with respect to the site coverage.
- Clarified why staff are restricting the number of RV sites as well as the number of agri-tourist accommodation sites, rather than incorporating both into the same figure.

Council:

- Would like to discuss the length of stay and the 30 day restriction.
- Would like to discuss RV hook ups on the site.
- Would like to discuss reducing the lot size.
- Would like to discuss changing the current dates in the seasonal definition.
- Would like to discuss simplifying the current distinction between the number of units and RV sites.

Moved by Councillor Rule/Seconded by Councillor Hodge

R551/10/06/15 THAT the Public Hearing with respect to Bylaw No. 10269 (TA09-0006) be kept open.

Carried

Moved by Councillor Hodge/Seconded by Councillor Craig

R552/10/06/15 THAT the Public Hearing be continued past 11:00 p.m. in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

Carried

The meeting recessed at 10:50 p.m. The meeting reconvened at 11:00 p.m. Councillor James rejoined the meeting at 11:00 p.m.

- 3.2 Bylaw No. 10343 (Z10-0024) - Larry Plett - 860 Saskatoon Road - THAT Rezoning Application No. Z10-0024 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1 Section 22 Township 26 ODYD Plan 20473, located at 860 Saskatoon Road, Kelowna, B.C. from the 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.

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

- 3.3 Bylaw No. 10344 (Z09-0067) - Cheryl Meyer/Ken and Cheryl Meyer - 1738 Joe Riche Road - THAT Rezoning Application No. Z09-0067 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 167, Sec. 18, Twp. 27, ODYD, Plan 24361, located at 1738 Joe Riche Road, Kelowna, BC, from the RR3 - Rural Residential 3 zone to the RR3s - Rural Residential 3 with a secondary suite zone be considered by Council;

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

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AND THAT a building permit for the suite be applied for prior to final adoption of the zone;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of Black Mountain Irrigation District being completed to their satisfaction.

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

- 3.4 Bylaw No. 10345 (Z10-0012) - Alfred and Gabriele Geismayr/Fred Geismayr - 2085 Inkar Road - THAT Rezoning Application No. Z10-0012 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot A, Section 19, Township 26, ODYD, Plan 23622, located at Inkar Road, Kelowna, BC, from the RU2s - Medium Lot Housing with Secondary Suite zone to the RU6 - Two Dwelling Housing zone be considered by Council;

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

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering being completed to their satisfaction;

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

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

- 3.5 Bylaw No. 10346 (Z10-0020) - John and Joan Dreher - 175 Bornais Street - THAT Rezoning Application No. Z10-0020 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 7, Section 23, Twp 26, ODYD, Plan 32836, located at 175 Bornais Street, Kelowna, BC, from the RU1 - Large Lot Housing zone to the RU1s Large Lot Housing with a secondary suite zone be considered by Council;

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

THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Rutland Waterworks District Department being completed to their satisfaction;

AND FURTHER THAT a building permit for the suite be applied for prior to final adoption of the zone.

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

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Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

- 3.6 Bylaw No. 10306 (Z09-0077) - Rex Jardine and Jardine Investments Inc./Rex Jardine - 4064 Lakeshore Road - THAT Rezoning Application No. Z09-0077 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1, Section 1, Township 25 and Section 6, Township 26, ODYD Plan KAP89719, located at 4064 Lakeshore Road, from the RU1 - Large Lot Housing zone to the RU2 - Medium Lot Housing zone to facilitate a two lot subdivision be considered by Council;

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

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Department being completed to their satisfaction.

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

4. TERMINATION:

The Hearing was declared terminated at 11:08 p.m.

Certified Correct:

Mayor

Deputy City Clerk

SLH/dld