

Regular MeetingFebruary 8, 2011

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, February 8<sup>th</sup>, 2011.

Council members in attendance: Mayor Sharon Shepherd, Councillors Kevin Craig, Robert Hobson, Charlie Hodge, Graeme James, and Luke Stack.

Council members absent: Councillors Andre Blanleil, Angela Reid and Michele Rule.

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

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 8:40 p.m.

Mayor Shepherd advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio feed is being broadcast and recorded by CastaNet.

2. PRAYER

2. A Prayer was offered by Councillor Stack.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - January 24, 2011  
 Regular P.M. Meeting - January 24, 2011  
 Regular Meeting - January 25, 2011  
 Regular A.M. Meeting - January 31, 2011  
 Regular P.M. Meeting - January 31, 2011

Moved by Councillor Craig/Seconded by Councillor James

R131/11/02/08 THAT the Minutes of the Regular Meetings of January 24, 2011, January 25, 2011 and January 31, 2011 be confirmed as circulated.

Carried

4. Councillor Stack 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. 10464 (Z10-0098) - Mary Bell and Jennifer Bell (Mary Bell) - 900 Hickory Road

Moved by Councillor Hodge/Seconded by Councillor James

R132/11/02/08 THAT Bylaw No. 10464 be read a second and third time.

Carried

Regular Meeting

February 8, 2011

- 5.2 Bylaw No. 10467 (Z10-0099) - Jade and Erin Hollenbeck - 645 Fraser Road

Moved by Councillor James/Seconded by Councillor Hodge

R133/11/02/08 THAT Bylaw No. 10467 be read a second and third time.

Carried

- 5.3 Bylaw No. 10469 (Z10-0070) - Neil and Chantal Staerkle - 42-760 Highpointe Drive

Moved by Councillor James/Seconded by Councillor Stack

R134/11/02/08 THAT Bylaw No. 10469 be read a second and third time.

Carried

- 5.4 Bylaw No. 10470 (Z10-0029) - Jackie Scherle (Lynn Welder Consulting Ltd.) - 1096 Quesnel Road

Moved by Councillor Stack/Seconded by Councillor Hobson

R135/11/02/08 THAT Bylaw No. 10470 be read a second and third time.

Carried

- 5.5 Bylaw No. 10471 (Z09-0062) - 0775362 BC Ltd. - (W of) South Perimeter Way  
*To rezone portions of the property from the A1 - Agriculture 1 zone to the RU1 - Large Lot Housing zone and P3 - Parks and Open Space zone.*

Bylaw No. 10471 was not considered by Council as the Public Hearing was left open.

## 6. LIQUOR LICENSE APPLICATION REPORTS

- 6.1 Land Use Management Department, dated January 14, 2011 re: Liquor Licensing Application No. LL10-0017 - Wyn & Marion Lewis (Okanagan Estate Winery) - 3240 Pooley Road **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

Staff:

- Advised that the Winery Special Event Area Endorsement is being requested by the Applicant so that weddings, corporate functions and outdoor concerts can be held at the winery. The Winery Special Event Area Endorsement would eliminate the requirement for a Special Occasion License for each individual event happening at the winery.
- Confirmed that no interior areas are being proposed and that the outdoor deck has capacity of 200 persons.
- It is expected that all required parking will be accommodated on-site.

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

Regular Meeting

February 8, 2011

- Letters of Opposition:
  - Brian & Sylvia-Jo Meyers, 2947 East Kelowna Road
  - Henry B. Markgraf & Frieda Markgraf and Henry A. Markgraf & Darcel Margraf, 3480 & 3430 Pooley Road
- Petition of Opposition:
  - A Petition of Opposition signed by 35 owners/occupiers of the surrounding area.

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

Tony Lewis, Applicant's Representative

- Advised that he has had discussions with 4 or 5 neighbours over the past week and they have indicated support for this application.
- Advised that he did receive a copy of the Petition in Opposition and was surprised by the opposition.
- Expressed a concern with the Notice that was sent out by the City as he believed it contained some inaccurate information.
- Would like to be able to hold special events at the winery on the occasional weekend, but is not intending on holding a special event every weekend.
- When a special event is being held, it is his intent to have the music turned off by 7:00 pm and the patrons off the winery property by 8:00 pm.
- Advised that in 2008 there were 3 weddings held on the premises; however since 2008, there have not been any events at the winery expect for his mother's 60<sup>th</sup> Birthday party.
- Advised that weddings held at the winery will be limited to a 1 hour ceremony with an option of having a 3 hour reception in the tasting room area.
- Advised that another event being contemplated is Arts & Farmers Backyard Market.
- Believes that the agricultural lands are not viable to maintain them strictly as an apple orchard.
- Believes that the helicopters that were mentioned in the correspondence provided to Council were landing on another parcel of land adjacent to the winery.
- Believes that any parking concerns in the area are non-existent.
- Advised that he is proposing that the hours of operation for the Winery Special Event Endorsement be from 11:00 am to 8:00 pm, Fridays, Saturdays and Sundays only.
- Advised that a 100 vehicle parking lot has been created on the site in order to accommodate the parking that may be required for the special events.
- Advised that he did not canvass the neighbourhood with respect to this application.

Staff:

- Based on the Applicant's submission, it is suggested that the application to the Liquor Control & Licensing Branch be amended to reflect the newly proposed times and days.

Gallery:

Henry Markgraf, 3480 Pooley Road

- Expressed a concern with parking and noise.
- Advised that Pooley Road is used as a connector road to the Rutland area and therefore there is a lot of traffic in the area.
- Advised that he has been kept awake by noisy music coming from the vicinity of the subject property.
- He would only be in favour of the proposed application if there was no parking allowed on the road and no noise allowed past 8:00 pm.

Regular Meeting

February 8, 2011

Grant Alfonso, 3325 Dall Road

- Advised that his residence is 150 ft from the residence on the subject property.
- Advised that contrary to Mr. Lewis' statement, there were weddings held on the subject property in 2009 that were very noisy and disturbed him.
- Advised that, to the best of his knowledge, there weren't events held on the subject property in 2010.

Staff:

- Advised that, in general, the hours of operation endorsed by Council is the hours of operation the Liquor Control & Licensing Branch will apply to the license.

Darcel Margraf, 3430 Pooley Road

- Feels that the liquor license being requested is a form of agri-tourism and inquired whether or not the use of the property in this manner has been approved, or addressed, by the Agricultural Land Commission.

Ken Harvie, 3260 Pooley Road

- Believes that, given the proximity of his property to the subject property, he is most affected by the application.
- Advised that he spoke to Tony Lewis last week and was informed that the application would be amended so that the music would be turned off by 7:00 pm and the property vacated by 8:00 pm. He now feels that he was lied to by Mr. Lewis.
- Advised that he did not originally object to the application based on the discussions with Mr. Lewis; however, since receiving the City's notice regarding the application, he is now concerned and does not support the request for the Winery Special Event Area Endorsement.

Joe Graziano, 3455 Rose Road

- Advised that Mr. Lewis did not speak to him about this application.
- Likes the peace and quiet of the area and is not in favour of the application or the proposed amendments.
- Expressed a concern that the Agricultural Land Commission has not been consulted.

There were no further comments.

Moved by Councillor Stack/Seconded by Councillor Hodge

**R136/11/02/08** THAT Council DOES NOT endorse the application from Okanagan Estate Winery at 3240 Pooley Road, Kelowna BC, (legally described as Lot 2, Plan 3379, Section 15, ODYD, Township 26) for a Winery Special Event Area endorsement, for the following reasons:

- the proposed hours of operation are not acceptable;
- there is a concern with respect to the number of patrons (200) being allowed to occupy the outside deck;
- there is a concern with respect to on-site parking as is not clear where the parking will be located; and
- as this is a quiet rural farming community, there is a concern with the noise impacts from the proposed concerts and festivals.

Carried

Regular Meeting

February 8, 2011

Moved by Councillor Hobson/Seconded by Councillor Hodge

**R137/11/02/08** THAT Council directs staff to investigate Winery Special Event Area Endorsement applications to determine if they meet the rules and regulations of the Agricultural Land Commission with respect to agri-tourism;

AND THAT Council directs staff to include consideration of the Agricultural Land Commission's rules and regulations in future reports to Council.

Carried

Moved by Councillor Hodge/Seconded by Councillor Craig

**R138/11/02/08** THAT Council directs staff to identify all of the liquor licenses within the City that have been issued to wineries and report back to Council with respect to their conditions.

Carried

## 7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

7.1 Land Use Management Department, dated January 7, 2011 and revised January 26, 2011 re: Development Variance Permit Application No. DVP10-0163 - Birgit Bennett and William Bennett - 4760 Crighton Road Deputy City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.

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.

Shane Worman, Worman Resources Inc., Applicant's Representative  
- Nothing further to add, but willing to answer any questions.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Craig

**R139/11/02/08** THAT Council authorize the issuance of Development Variance Permit No. DVP10-0163 for Lot A Section 25 Township 28 ODYD Plan 6187, located at 4760 Crighton Road, Kelowna, BC;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 11.1.6(a) - Site Coverage - To vary the maximum site coverage for residential development from 10% permitted to 17% proposed.

Section 6.11.1 - Okanagan Lake Sight Lines - To vary the Okanagan Lake Sight Line to allow a structure to encroach, to a maximum of 49 degrees proposed, within the required 60 degree sight line from the northerly neighbour's residence.

Carried

Regular Meeting

February 8, 2011

- 7.2 Land Use Management Department, dated January 7, 2011 re: Development Variance Permit Application No. DVP10-0164 - Elsa Peters and Jakob Peters (Jakob Peters) - 3096 Appaloosa Road Deputy City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.

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.

Jakob Peters, Applicant

- Nothing further to add, but willing to answer any questions.

There were no further comments.

Moved by Councillor James/Seconded by Councillor Hodge

**R140/11/02/08** THAT Council authorize the issuance of Development Variance Permit No. DVP10-0164 for Lot A Section 3 Township 23 ODYD Plan 35661, located at 3096 Appaloosa Road, Kelowna, BC;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 12.2.6(b): Maximum Height - To vary the maximum height for an accessory building from 4.5 m permitted to 8.0 m proposed, as sited on "Schedule A."

Carried

## 8. COUNCILLOR ITEMS

- 8.1 Councillor Stack, re: Secondary Suites

Moved by Councillor Stack/Seconded by Councillor Hobson

**R141/11/02/08** THAT Council directs staff to explore ways to communicate more effectively to the public which land use zones permit secondary suites within the City;

AND THAT Council directs staff to investigate the actual impacts that secondary suites have within their neighbourhoods and report back to Council.

Carried

## 9. REMINDERS - Nil.

Regular Meeting

February 8, 2011

10. TERMINATION

The meeting was declared terminated at 10:19 p.m.

Certified Correct:

---

Mayor

SLH/dld

---

Deputy City Clerk