

Regular MeetingMay 31, 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, May 31<sup>st</sup>, 2011.

Council members in attendance: Mayor Sharon Shepherd, Councillors Kevin Craig, Robert Hobson, Charlie Hodge, Graeme James, Angela Reid-Nagy, Michele Rule and Luke Stack.

Council members absent: Councillor Andre Blanleil.

Staff members in attendance were: Acting City Manager, John Vos; 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 7:09 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 - May 16, 2011  
 Regular P.M. Meeting - May 16, 2011  
 Public Hearing - May 17, 2011  
 Regular Meeting - May 17, 2011

Moved by Councillor Rule/Seconded by Councillor Stack

R571/11/05/31 THAT the Minutes of the Regular Meetings of May 16, 2011 and May 17<sup>th</sup>, 2011 and the minutes of the Public Hearing of May 17, 2011 be confirmed as circulated.

Carried

4. Councillor James 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. 10533 (Z10-0103) - T & A Synergy Enterprises Ltd. (Worman Commercial) - 1810-1824 Gordon Drive

Moved by Councillor James/Seconded by Councillor Hodge

R572/11/05/31 THAT Bylaw No. 10533 be read a second and third time.

Carried

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- 5.2 Bylaw No. 10534 (Z11-0010) - Dwayne & Gayle Forster (Axel Hilmer) - 914 Kennedy Street

Moved by Councillor Hodge/Seconded by Councillor Rule

R573/11/05/31 THAT Bylaw No. 10534 be read a second and third time.

Carried  
Mayor Shepherd - Opposed.

- 5.3 Bylaw No. 10535 (Z10-0038) - Norman and Michael Major - 5500 McCulloch Road

Moved by Councillor Stack/Seconded by Councillor Reid-Nagy

R574/11/05/31 THAT Bylaw No. 10535 be read a second and third time.

Carried

- 5.4 Bylaw No. 10536 (Z11-0018) - Gwynne Johnson - 1500 Friesen Road

Moved by Councillor Stack/Seconded by Councillor Hobson

R575/11/05/31 THAT Bylaw No. 10536 be read a second and third time;

Carried

Moved by Councillor Hobson/Seconded by Councillor Reid-Nagy

R576/11/05/31 THAT Council directs staff to add the Development Permit for 1500 Friesen Road as a condition of adoption of Bylaw No. 10536;

AND THAT the Development Permit be forwarded to Council for consideration.

Carried

7. LIQUOR LICENSE APPLICATION REPORTS

- 7.1 Land Use Management Department, dated May 6, 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 Applicant has revised the application to address the concerns raised by the neighbours and Council when the application first came before Council for consideration.
- Advised that this would be the first winery in Kelowna to obtain the Winery Special Event Area Endorsement.
- Confirmed that the Agricultural Land Commission's regulations allow for a Winery Special Event Area Endorsement.

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

- o Letter of Support:
  - Balbir & Prem Wariache, 3071 Pooley Road

- Letter of Concern:
  - Letter of Concern submitted jointly by:
    - Satvinder K. Shergill, 3329 East Kelowna Road
    - Partap S. Shergill, 3329 East Kelowna Road
    - Heather Hrasko, 3349 East Kelowna Road
    - Gurdev Ban, 3496 Fitzgerald Road
    - Grant Alfonso, 3329 Dall Road
    - Surinder S. Shergill, 3329 East Kelowna Road
    - Serafina Graziano, 2877 East Kelowna Road
    - Joe Graziano, 3455 Rose Road
    - Henry & Darcel Markgraf, 3430 Pooley Road

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

Anthony Lewis, Applicant's Representative

- Advised that as a result of the last public meeting, he contacted the neighbours to discuss the application and believes that he has addressed their concerns.
- Advised that the following changes were made the application:
  - The closing time was changed from 11:00 p.m. to 8:00 p.m.;
  - The deck area was eliminated;
  - Signs will be erected on Pooley Road directing guests to the appropriate on-site parking area; and
  - Wedding receptions will no longer be held at the winery.

Gallery:

Darcel Markgraf, 3430 Pooley Road

- Advised that she is speaking on behalf of various neighbours and the neighbourhood has been reassured that their concerns have been addressed given the change the Applicant has made to the application.
- Seeking reassurance that the land use is in keeping with the Agricultural Land Commission's rules and regulations and was satisfied with the information provided by staff.

There were no further comments.

Staff:

- Confirmed that any changes to the proposed license will require Council's endorsement.

Moved by Councillor Craig/Seconded by Councillor Stack

**R577/11/05/31** THAT in accordance with Section 53 of the *Liquor Control and Licensing Regulation* and City of Kelowna Council Policy #359:

1. Council recommends support for 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, as the request is considered an appropriate form of agri-tourism in the area. In addition, the applicant has revised their original application to address public concerns.
2. The Council's comments on the LCLB's prescribed considerations (bolded) are as follows:
  - a) **The location of the winery special event area:**  
The winery is located within a well-established rural/agricultural community which includes other agri-tourism operations. The

proposed special event areas surround the property owner's personal residence within private, secure, landscaped areas.

- b) **The proximity of the establishment to other social or recreational facilities and public buildings:**  
There are no significant social or recreational facilities in the immediate area.
- c) **The person capacity of the deck area:**  
The deck is no longer included as part of the endorsement application.
- d) **The hours of service of the establishment:**  
The proposed hours of service from 11:00am-8:00pm, Thursday-Saturday is considered appropriate given the types and frequency of events being proposed.
- e) **Traffic, noise, parking and zoning:**  
The Special Event Area endorsement may enhance the intensity of activity on-site. However, the area already sees tourist traffic from various agri-tourism operations, and any increase in parking and traffic would be incremental. There may be potential for increased noise from the licensed special events. Wineries and cideries are allowed within the A1 - Agriculture 1 zone.
- f) **The impact on the community if the application is approved:**  
Opportunities to increase the viability and awareness of agri-tourism operations should be seen as a benefit to the tourism industry and the greater community. Noise impacts on surrounding property owners could be mitigated by the proposed hours.
- g) **View of residents.**  
The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Procedures - Liquor Primary and Retail Liquor Sales."

Carried

- 7.2 Land Use Management Department, dated May 5, 2011, re: Liquor Licensing Application No. LL11-0003 - Canada West Tree Fruits Ltd. (McCulloch Station Pub) - 2789 KLO Road Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application 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.

Steve Turton, Applicant's Representative

- Advised that he is the General Manager of McCulloch Station Pub.
- Advised that his family has leased the building from Canada West Tree Fruits Ltd. since 1985.

There were no further comments.

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**R578/11/05/31** THAT in accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy #359:

1. Council recommends support of the application from McCulloch Station Pub at 2789 KLO Road (legally described as Lot A, Sections 9 and 10, Township 26, ODYD, Plan 43297) for a change to the licensed hours of sale from 10:00am-midnight to 11:00am-1:00am Monday-Saturday, as the hours would be consistent with other similar Liquor Primary establishments, and the licensee has been a long-standing, good neighbour operator in the area.
2. The Council's comments on the LCLB's prescribed considerations (bolded) are as follows:
  - a. **The potential for noise if the application is approved:**  
The potential for noise may increase due to the additional hour of evening service; however, noise has not been an issue at this location in the past.
  - b. **The impact on the community if the application is approved:**  
Significant negative community impacts are not anticipated. The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Policy & Procedures"

Carried8. REMINDERS

Mayor Shepherd:

- Reminded Council that there is no Council Meeting scheduled for Monday, June 6, 2011 due to the FCM Convention.

9. TERMINATION

The meeting was declared terminated at 7:56 p.m.

Certified Correct:\_\_\_\_\_  
Mayor\_\_\_\_\_  
Deputy City Clerk

SLH/dld