



City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, July 16, 2013
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Colin Basran, Maxine DeHart*, Gail Given, Robert Hobson, Mohini Singh, Luke Stack and Gerry Zimmermann

Council Members Absent: Councillor Andre Blanleil

Staff Present: Acting City Manager, Doug Gilchrist; City Clerk, Stephen Fleming; Manager, Urban Planning, Danielle Noble; Planner, Greg Sauer*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 7:05 p.m.

2. Prayer

A Prayer was offered by Councillor Singh.

3. Confirmation of Minutes

Moved By: Councillor Basran/Seconded By: Councillor Zimmermann

R503/13/07/16 THAT the Minutes of the Public Hearing and Regular Meeting of June 18, 2013 be confirmed as circulated;

AND THAT the Minutes of the Public Hearing and Regular Meeting of July 2, 2013 be confirmed as circulated.

Carried

4. Bylaws Considered at Public Hearing

- 4.1. Bylaw No. 10843 (OCP13-0006) - 3510 Landie Road and 3505 Lakeshore Road, Northern Lights Land Development Corporation

Moved By: Councillor DeHart/Seconded By: Councillor Zimmermann

R504/13/07/16 THAT Bylaw No. 10843 be amended at first reading by deleting the words "RU6 - Two Dwelling Housing zone" and replacing it with the words "RU1 - Large Lot Housing zone";

AND THAT Bylaw No. 10843 be read a second and third time.

Carried

- 4.2. Bylaw No. 10844 (Z13-0007) - 3503 & 3505 Lakeshore Road, 602, 620, 630 & 640 Swordy Road and 3510 Landie Road, Northern Lights Land Development Corporation

Moved By: Councillor DeHart/Seconded By: Councillor Zimmermann

R505/13/07/16 THAT Bylaw No. 10844 be read a second and third time.

Carried

- 4.3. Bylaw No. 10860 (OCP13-0010) - Various Addresses on Central Avenue, Richter Street and Cambridge Avenue, Provincial Rental Housing Corporation

Moved By: Councillor Given/Seconded By: Councillor Stack

R506/13/07/16 THAT Bylaw No. 10860 be read a second and third time.

Carried

- 4.4. Bylaw No. 10861 (Z13-0018) - Various Addresses on Central Avenue, Richter Street and Cambridge Avenue

Moved By: Councillor Singh/Seconded By: Councillor Basran

R507/13/07/16 THAT Bylaw No. 10861 be read a second and third time.

Carried

- 4.5. Bylaw No. 10862 (Z11-0051) - 2641 Longhill Road, Richard & Walter Denman

Moved By: Councillor Hobson/Seconded By: Councillor Singh

R508/13/07/16 THAT Bylaw No. 10862 be read a second and third time.

Carried

5. Notification of Meeting

The City Clerk advised that Notice of Council's consideration of the Liquor License Application was advertised by being posted on the Notice Board at City Hall on July 2, 2013 and by being placed in the Kelowna Capital News issues on July 5, 2013 and July 9, 2013 and by sending out or otherwise delivering 365 letters to the owners and occupiers of the surrounding properties between July 2, 2013 and July 5, 2013.

The City Clerk advised that Notice of Council's consideration of the Temporary Use Permit Applications was given by sending out or otherwise delivering 426 letters to the owners and occupiers of the surrounding properties between July 2, 2013 and July 5, 2013.

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 No. 309.

6. Liquor License Application Reports

6.1. Liquor License Application No. LL13-0007 - 4870 Chute Lake Road, Stephen Cipes (Summerhill Estate Winery)

Councillor DeHart declared a conflict of interest as she works in the hotel/motel industry and is in direct competition with the Applicant with respect to wedding receptions and other such events and left the meeting at 7:19 p.m.

Staff:

- Summarized the application before Council.

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

- **Letters of Support:**
 - Lambert Schmaltz, 4870B Chute Lake Road
 - Levente Fodor, 4833 Lakeshore Road, carriage house
 - Susanne Zimmermann, 4849 Lakeshore Road
 - Vreni and Bernard Morel, 457 Avery Road
- **Letter of Concern:**
 - Ria York, 4869 Lakeshore Road
- **Letters of Opposition:**
 - Patrick Keeney and Angela Dereume, 497 Okaview Road
 - Paul Havens, 4877 Lakeshore Road
 - Harvey and Shirley Hubscher, 466 Okaview Road

Mayor Gray invited the Applicant, and anyone in the public gallery who deemed themselves affected by the proposed application to come forward, followed by comments from Council.

Stephen & Ezra Cipes, Summerhill Estate Winery, Applicant

- Advised that this is the end of a 4 year process with respect to changing the liquor license for Summerhill Estate Winery.
- Confirmed that the business is not changing, just how they do business. Summerhill currently holds weddings and other events through Special Occasion Liquor Licenses. With this License, Summerhill will be able to control these events better.
- Agreed that in the past they did not engage their neighbours that well in the process, however there are now policies in place to manage traffic, smoking areas and noise concerns.

- Confirmed that there is a clause in Summerhill's contracts that the DJ's are personally liable if there is a noise complaint. Since that clause was incorporated into Summerhill's contracts, they have not had a noise complaint.
- Advised that they have been working with their abutting neighbours to mediate any of their concerns or complaints.
- Believes that the developments in the Kettle Valley Area would impact traffic in the area more than the types of events Summerhill hosts.
- Believes that this License will help Summerhill operate and manage wedding and other events better.
- Explained the process for dealing with events.
- Responded to questions from Council.

Gallery:

Ron Heinz, 4817 Lakeshore Road

- Summarized the history of the noise complaints in the area.
- Advised that Ezra Cipes has been very responsive to any noise concerns.
- Expressed a concern that he does not completely understand the Liquor License and how Summerhill will operate.
- Expressed a concern regarding what would happen should the winery be sold to another operator.
- Understands the need for going forward with this liquor license, but has a concern with the consequences should 'things go wrong'. Does not want Summerhill to turn into a 'nightclub'.
- Responded to questions from Council.

City Clerk:

- Advised that the City has jurisdiction with respect to issues such as a business license, zoning and land use.
- Confirmed that the Liquor Control Branch issues the actual Liquor License.
- Spoke to the Bylaw Complaint process.

Ria York, 4869 Lakeshore Road

- Confirmed that she submitted a letter summarizing her experiences over the past few years with Summerhill.
- Expressed a concern that she does not understand what the Liquor License Application means.
- Advised that no one has attended her property to speak to her about this liquor license.
- Expressed a concern with the proposed change to the Liquor License.

Stephen & Ezra Cipes, Summerhill Estate Winery, Applicant

- Believes that they have addressed every concern Mr. Heinz brought forward.
- Responded to Ms. York's concerns and advised that they are willing to meet with Ms. York to address the concerns raised in her correspondence to Council.
- Confirmed that the hours of operation will remain the same.

Erin Urquart, Events & Catering Coordinator, Summerhill Estate Winery

- Summarized Summerhill's policy with respect to liquor license events.
- Advised that the Liquor License being sought will simplify Summerhill's events business.

There were no further comments.

Moved By: Councillor Basran/Seconded By: Councillor Zimmermann

R509/13/07/16 THAT Council directs staff to forward the following recommendation to the Provincial Liquor Control and Licensing Branch (LCLB):

In accordance with Section 53 of the Liquor Control and Licensing Regulation and Council Policy #359, BE IT RESOLVED THAT:

Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application from at address: 4870 Chute Lake Road, Kelowna BC, (legally described as Lot 1, Sections 24 and 25, Township 28, SDYD, Plan KAP78562) for a patron participation Liquor License endorsement, are as follows:

- a) **The potential for noise if the application is approved:**
There will be an increase in noise associated with the application due to live music and DJ's playing associated with the weddings, conferences and private parties. The owner has built a sound barrier wall and enclosed the "Banquet Room" area to help mitigate the increase in noise.
- b) **The impact on the community if the application is approved:**
The potential for negative impacts is considered to be minimal.
- c) **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 Policy & Procedures."
- d) **The person capacity and hours of liquor service of the establishment:**
The total person capacity proposed for liquor primary service is 517 seats with operating hours of 9:00am to 12:00 midnight 7 days a week.
- e) **Traffic and parking:**
There is no increase in traffic or parking associated with this application, no additional space or seating is being added as part of the application. Therefore the parking and traffic situation should remain unchanged.
- f) **The proximity of the establishment to other social or recreational facilities and public buildings:**
Surrounding social or recreational facilities would not conflict with the proposed establishment. However, given the rural location and proximity to other residences there is a history of bylaw complaints predominantly related to noise.
- g) **Recommendation:**
Council recommends that the application for a patron participation Liquor License endorsement be approved, excluding the patio, for a total of 402 person capacity.

Carried

7. Development Permit and Development Variance Permit Reports

7.1. Temporary Use Permit Application No. TUP12-0002, Extension - 4493 Stewart Road East, Becky & Andrew Habib and Sally Bloomfield (CrocTalk)

Councillor DeHart rejoined the meeting at 8:07 p.m.

Staff:

- Summarized the application before Council.
- Advised that as a result of further discussions with the land owner, staff are recommending that condition (e) be removed from the Temporary Use Permit conditions.
- Responded to questions from Council.
- Confirmed that the 'temporary zoo permit' expires on June 30, 2014 and this extension coincides with that permit.

City Clerk:

- Provided comment regarding any extension of the Temporary Use Permit and confirmed that the land owner, not the Applicant, would have to agree to a longer extension term.

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

Mayor Gray invited the Applicant, and anyone in the public gallery who deemed themselves affected by the proposed application to come forward, followed by comments from Council.

Doug Illman & Brenda Bruce, CrocTalk, Applicant

- Confirmed that the zoo permit is temporary and that the extension to the Temporary Use Permit is required due to new Provincial Regulations that came into effect on April 1, 2010.
- A Temporary Zoo Permit is required due to the type of animals that are managed by CrocTalk and explained the process for a Temporary Zoo Permit.
- Confirmed that this Temporary Use Permit is a direct-result of the new Provincial Rules & Regulations and that CrocTalk requires the extension in order to move forward with any relocation.
- Confirmed that the Temporary Zoo Permit expires on June 30, 2014 and advised that if CrocTalk is not in a permanent location by that date, CrocTalk will have to be disbanded
- Responded to questions from Council.

There were no further comments.

Moved By: Councillor Hobson/Seconded By: Councillor Singh

R510/13/07/16 THAT Council authorizes the extension of Temporary Use Permit No. TUP12-0002 to allow an "Exotic Animal Rescue/Conservation Facility" on Lot 182, Section 33, Township 29, ODYD, Plan 1247, located at 4493 Stewart Road East, Kelowna BC, as shown on Map "A" attached to the Report of the Land Use Management Department dated June 10, 2013, subject to the following conditions:

- a) No expansion of the existing facility (or any additional buildings/structures) or parking is permitted during the term of the Temporary Use Permit;
- b) The Temporary Use Permit will expire on June 30, 2014;
- c) That on-site disposal of water, waste and other related activities be in accordance with Best Management Practices of both the Ministry of Environment and the Interior Health Authority;
- d) Remediation of the site following expiration of the Temporary Use Permit to a viable agricultural standard;
- e) (Removed); and
- f) General requirements for obtaining a Business License are to be met.

Carried

7.2. Temporary Use Permit Application No. TUP13-0001 - 2045 Begbie Road & 990 Glenmore Road, Michael & Latisha Dawson

Staff:

- Summarized the application before Council and responded to questions from Council.
- Clarified the Agricultural Land Commission's position with respect to the business being operated on the lands and the non-farm use.

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

- o **Letter of Opposition:**
 - J.P. Squire, 2163 Galiano Road, Kelowna, BC

Mayor Gray invited the Applicant, and anyone in the public gallery who deemed themselves affected by the proposed application to come forward, followed by comments from Council.

Sean Dawson, 3242 Hall Road, Applicant

- Advised that he is the owner of 990 Glenmore Road and Advanced Powerlines.
- Advanced Powerlines employs approximately 20 people and provided the history of the business operation.
- Confirmed that he has been actively searching for industrial lands within the City in which to relocate the business operation to.
- Advised that he has spoken with his neighbours and they are happy with the remediation that have taken place on the site.
- Advised that the mobile home on the site is currently rented and the rental income is being used to support the upgrades to the site.
- Advised that the tenant of the mobile home assists with the safety and security of the site. He believes that the assistance provided by the tenant does support the farm-business use of the property.
- Responded to questions from Council.

Staff:

- Responded to questions from Council regarding the mobile home and tenancy on the subject property.
- Explained the outcome of the previous non-farm use application with respect to the subject property. The Agricultural Land Commission did not grant approval for a non-farm use of the mobile home as the mobile home has to be occupied by a family member or farm help.

Acting City Manager:

- Responded to questions from Council regarding the mobile home and tenancy on the subject property.

City Clerk:

- Advised that Council can set its own definition of 'farm help' by way of a Bylaw.

There were no further comments.

Moved By: Councillor Stack/Seconded By: Councillor Basran

R511/13/07/16 THAT Council authorizes the issuance of Temporary Use Permit No. TUP13-0001 to allow the continued operation of Advanced Powerlines (a Contractor Services General use) on a portion of Lot 16, Block 4, Section 9, Township 23, ODYD, Plan 896, Except Plans KAP64694 and KAP85916, located at 2045 Begbie Road, Kelowna, BC as shown on Map "A" attached to the Report of the Land Use Management Department dated June 10, 2013, subject to the following conditions:

- a) The Temporary Use Permit will expire on February 4, 2014;
- b) Issuance of a Business License for Advanced Powerlines at the subject property; and
- c) The applicant be required to bring the residential uses (i.e. Mobile Home) into compliance with ALC and City regulations.

Carried

7.3. Temporary Use Permit Application No. TUP13-0002 - 278 Leon Avenue and 1620 & 1630 Water Street, Kelowna Motors Holdings Limited

Staff:

- Summarized the application before Council.

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

Mayor Gray invited the Applicant, and anyone in the public gallery who deemed themselves affected by the proposed application to come forward, followed by comments from Council.

Gary August, Kelowna Motors Holdings Limited

- Thanks City staff for being very supportive of the Temporary Use Permit.
- Believes that the temporary use permit is better than leaving the property vacant.
- Responded to questions from Council.

There were no further comments.

Moved By: Councillor Hobson/Seconded By: Councillor DeHart

R512/13/07/16 THAT Council authorizes the issuance of Temporary Use Permit No. TUP13-0002 to allow the "Automotive and Equipment Repair Shop" use for North ½ Lot 1 & 2, Block 10, District Lot 139, ODYD, Plan 462, and South ½ lot 1 & 2, Block 10, District Lot 139, ODYD Plan 462, and Lot 3 Block 10, District Lot 139, ODYD Plan 462, located on 1620 & 1630 Water Street and 278 Leon Avenue, Kelowna, BC as shown on Map "A" attached to the Report of the Land Use Management Department dated June 13, 2013 for a maximum of a three (3) year period commencing from the date of Council consideration.

Carried

8. Reminders - Nil.

9. Termination

The meeting was declared terminated at 9:14 p.m.

Mayor

/slh

City Clerk