

Regular Meeting – P.M.

April 12, 2010

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 Monday, April 12<sup>th</sup>, 2010.

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

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; General Manager, Corporate Sustainability, Paul Macklem\*; Manager, Urban Land Use, Danielle Noble\*; Subdivision Approving Officer, Ryan Smith\*; Manager, Policy & Planning, Gary Stephen\*; Planner Specialist, Pat McCormick\*; Community Planning Manager, Theresa Eichler\*; Director, Recreation & Cultural Services, Jim Gabriel\*; Director, Civic Operations, Joe Creron\*; Solid Waste Supervisor, Ken Muller\*; Manager, Development Engineering, Steve Muenz\*; Manager, Park Services, Ian Wilson\*; Parks, Beaches & Sports Fields Supervisor, Ted Sophonow\*; Manager, Property Management, Ron Forbes\*; Property Officer, Tammy Abrahamson\*; Director, Corporate Services, Rob Mayne\*; and Council Recording Secretary, Sandi Horning.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 1:36 p.m.

2. Councillor Rule was requested to check the minutes of the meeting.

Mayor Shepherd advised that Item No. 5.02 has been pulled from the Agenda as the applicants are unavailable to speak to the application.

Mayor Shepherd advised that Item 7.02 will be moved forward on the Agenda as members of the Kelowna Lawn Bowling Club are in attendance.

3. COMMITTEE REPORTS

3.01 Public Art Committee, dated April 7, 2010, re: Public Art Committee Annual Report for 2009

Staff:

- Gave a presentation to regarding the Public Art Committee's activities for 2009.

Moved by Councillor Hobson/Seconded by Councillor Hodge

R276/10/04/12 THAT Council receive for information the 2009 Annual Report of the Public Art Committee dated April 7, 2010.

Carried

3.02 Community Planning Manager, dated April 7, 2010, re: Housing Committee Appointment

Councillor Stack joined the meeting at 2:06 p.m.

Moved by Councillor James/Seconded by Councillor Craig

R277/10/04/12 THAT Council accept, with regret, the resignation of Joanne Adamson from the Housing Committee;

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AND THAT City Council appoint Emmanuel Lavoie as a member of the Housing Committee to fill the existing vacancy;

AND FURTHER THAT the Mayor be authorized to write a letter of thanks to Joanne Adamson.

Carried

7. NON-DEVELOPMENT APPLICATION REPORTS

7.02 Director, Recreation & Cultural Services, dated April 6, 2010, re: Funding Support for the Kelowna Lawn Bowling Club

Moved by Councillor Hodge/Seconded by Councillor Rule

**R278/10/04/12** THAT Council approves a one-time grant of \$10,000 to the Lawn Bowling Society for a turf rehab program as outlined in the report from the Director, Recreation & Cultural Services dated April 6, 2010;

AND THAT the 2010 Financial Plan be amended to provide for the \$10,000 grant with funding from the Major Facilities Reserve;

AND THAT staff submit a \$5,000 one-time operating grant for the Kelowna Lawn Bowling Club as part of the 2011 Provisional Budget;

AND FURTHER THAT staff report back by September 2010 the results of the operational review of the Kelowna Lawn Bowling Club as outlined in the report from the Director, Recreation & Cultural Services, dated April 6, 2010.

Carried

4. UNFINISHED BUSINESS

4.01 Community Sustainability Division, dated March 31, 2010, re: Supplemental Report No. 2 for TA09-0006

Councillor James declared a conflict of interest as he has a direct pecuniary interest in this matter as he is the owner of an agri-tourism business and left the meeting at 2:18 p.m.

City Clerk:

- Advised that the Public Hearing needs to be re-opened as the Bylaw will require amendments that cannot be done after the Public Hearing has been closed.

Moved by Councillor Hobson/Seconded by Councillor Rule

**R279/10/04/12** THAT Council re-open the Public Hearing for Bylaw No. 10269 (TA09-0006) in order to receive, at a later date, the requested additional information from staff.

Carried

5. DEVELOPMENT APPLICATION REPORTS

5.01 Community Sustainability Division, dated March 19, 2010, re: Agricultural Land Reserve Appeal Application No. A09-0018 – Damiano & Ann Caruso – 1524 Pioneer Road Mayor to invite the Applicant or the Applicant's Representative to come forward.

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Councillor James returned to the meeting at 2:22 p.m.

Staff:

- Confirmed that variances to density cannot be granted; and therefore a variance for density cannot be supported by staff.
- An additional dwelling on the site can only be achieved for farm help and this structure will not be used for that purpose.
- The A1 zone only allows for one (1) principal family dwelling on agricultural lands.

Mayor Shepherd invited the applicant or the applicant's representative to come forward.

Ann Caruso, Applicant

- Would like Council to take into consideration that she wants to subdivide the property so that she can farm a smaller piece of land and transfer the remaining parcel to her children for their personal use.
- Confirmed that she purchased the property in 1998.

Moved by Councillor Stack/Seconded by Councillor James

**R280/10/04/12** THAT Agricultural Land Reserve Appeal No. A09-0018 for Lot 9, District Lot 132, O.D.Y.D., Plan 2021 Except Plan KAP55871, located on Pioneer Road, Kelowna, B.C. for a two lot subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, not be supported by Municipal Council;

AND THAT Municipal Council direct staff to forward the subject application to the Agricultural Land Commission.

Carried

- 5.02 Community Sustainability Division, dated April 1, 2010, re: Agricultural Land Reserve Appeal Application No. A09-0019 – Beverly Druitt Hazzard (Porter Ramsay) – 1565 Lewis Road Mayor to invite the Applicant or the Applicant's Representative to come forward.

This Agenda Item was pulled from the Agenda by staff as the applicants were unable to attend the Council Meeting in order to address Council. As staff were unable to determine the availability of the applicants, Council was unable to defer consideration of this application to a specific Council meeting date.

- 5.03 Community Sustainability Division, dated March 30, 2010, re: Rezoning Application No. Z10-0014 – Zhen Hong Luo and Min He (Robert Zhen Hong Luo) – 471 Fizet Avenue

- (a) Community Sustainability Division report dated March 30, 2010.

Moved by Councillor Hobson/Seconded by Councillor Stack

**R281/10/04/12** THAT Rezoning Application No. Z10-0014 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 39, Section 26, Township 26, ODYD, Plan KAP52738, located at Fizet Avenue, Kelowna, BC, from the RU1 – Large Lot Housing zone to the RU1s Large Lot Housing 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.

Carried

(b) **BYLAW PRESENTED FOR FIRST READING**

Bylaw No. 10321 (Z10-0014) - Zhen Hong Luo and Min He (Robert Zhen Hong Luo) - 471 Fizet Avenue

Moved by Councillor James/Seconded by Councillor Craig

**R282/10/04/12** THAT Bylaw No. 10321 be read a first time.

Carried

5.04 Community Sustainability Division, dated April 1, 2010, re: Rezoning Application No. Z10-0001 and Text Amendment Application No. TA10-0004 - T252 Enterprises Ltd. (John Adams) - 435 Harvey Avenue

(a) Community Sustainability Division report dated April 1, 2010.

Moved by Councillor Stack/Seconded by Councillor Craig

**R283/10/04/12** THAT Rezoning Application No. Z10-0001 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, D.L. 139, ODYD, Plan 35149 located at 435 Harvey Avenue, Kelowna, B.C. from C4 - Urban Centre Commercial to C3 - Community Commercial be considered by Council;

THAT Text Amendment No. TA10-0004 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule "A" of the report of the Land Use Management Department dated April 1<sup>st</sup>, 2010 be considered by Council;

THAT Text Amendment No. TA10-0004 and the zone amending bylaw be forwarded to a Public Hearing for further consideration;

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

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

Carried

(b) **BYLAWS PRESENTED FOR FIRST READING**

(i) Bylaw No. 10320 (TA10-0004) - T252 Enterprises Ltd. (John Adams) - 435 Harvey Avenue

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Moved by Councillor Craig/Seconded by Councillor James

R284/10/04/12 THAT Bylaw No. 10320 be read a first time.

Carried

- (ii) Bylaw No. 10311 (Z10-0001) – T252 Enterprises Ltd. (John Adams) – 435 Harvey Avenue

Moved by Councillor Hodge/Seconded by Councillor James

R285/10/04/12 THAT Bylaw No. 10311 be read a first time.

Carried

- 5.05 Community Sustainability Division, dated February 18, 2010, re: Development Permit Application No. DP06-0141 – Ca’Solare Developments Inc. (G Group of Companies) – 4760 Lakeshore Road

Moved by Councillor Craig/Seconded by Councillor James

R286/10/04/12 THAT in accordance with Development Application Procedures Bylaw No. 8140 the deadline for the adoption of Development Permit Application DP06-0141 for 4760 Lakeshore Road be extended for a period of 180 days to October 27, 2010.

Carried

- 5.06 Community Sustainability Division, dated March 29, 2010, re: Official Community Plan Bylaw Amendment Application No. OCP08-0027 and Rezoning Application No. Z08-0104 – 0823250 BC Ltd. (Architecturally Distinct Solutions) – 695 Webster Road

Moved by Councillor James/Seconded by Councillor Stack

R287/10/04/12 THAT in accordance with Development Application Procedures Bylaw No. 8140 the deadline for the adoption of Zone Amending Bylaw No’s. 10161 (OCP08-0027) and 10162 (Z08-0104), Block 35 Section 26 Township 26 ODYD Plan 264 Except: (1) Plans B991, B4202 and B4348 (2) Parcel A on Plan CG 157, located at 695 Webster Road, Kelowna, B.C.) be extended from April 4, 2010 to October 4, 2010.

Carried

- 5.07 Community Sustainability Division, dated March 29, 2010, re: Rezoning Application No. Z08-0012 – 703941 BC Ltd. (Robert Bennett) – 3665 McCulloch Road

Moved by Councillor Hodge/Seconded by Councillor Craig

R288/10/04/12 THAT in accordance with Development Application Procedures Bylaw No. 8140 the deadline for the adoption of Zone Amending Bylaw No. 9998 (Z08-0012 – 703941 BC Ltd. – 3665 McCulloch Road) be extended from November 27, 2009 to May 27, 2010.

Carried

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6. BYLAWS (ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 6.01 Bylaw No. 10209 (Z08-0014) - Elizabeth & Armogan Odiyar - 380 Taylor Road

Moved by Councillor Blanleil/Seconded by Councillor Reid

R289/10/04/12 THAT Bylaw No. 10209 be adopted.

Carried

- 6.02 Bylaw No. 10276 (Z09-0058) - Various Owners (0722955 BC Ltd.) - 5127 Chute Lake Road and 5268-5348 Upper Mission Drive

Moved by Councillor Reid/Seconded by Councillor Blanleil

R290/10/04/12 THAT Bylaw No. 10276 be adopted.

Carried

7. NON-DEVELOPMENT APPLICATION REPORTS

- 7.01 General Manager, Community Sustainability, General Manager, Community Services and General Manager, Corporate Sustainability, dated April 7, 2010, re: Quarterly Report Update

Staff:

- Presented the Quarterly Report.

Moved by Councillor Craig/Seconded by Councillor Hodge

R291/10/04/12 THAT Council receives, for information, the Quarterly Report from the General Manager, Community Sustainability, General Manager, Community Services and General Manager, Community Sustainability dated April 7, 2010.

Carried

- 7.02 Director, Recreation & Cultural Services, dated April 6, 2010, re: Funding Support for the Kelowna Lawn Bowling Club

This Agenda Item was considered by Council directly after Agenda Item No. 3.02.

- 7.03 Utility Services Manager, dated April 9, 2010, re: Gypsum Recycling - Award of Contract

Moved by Councillor Hobson/Seconded by Councillor Reid

R292/10/04/12 THAT Council receives, for information, the report of the Utility Services Manager, dated April 9, 2010 with respect to removal and recycling of gypsum from the Glenmore Landfill;

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AND THAT the contract for Gypsum Removal and Recycling be awarded to Okanagan Gypsum Recycling Enterprises Corp. (OGRE) for a period of up to three years at a cost of \$862,000 (\$115.00/tonne).

Carried

7.04 Development Engineering Manager, dated April 6, 2010, re: Latecomer Charges – ESA 12 Grainger Reservoir Expansion

Moved by Councillor Stack/Seconded by Councillor Hodge

**R293/10/04/12** THAT the Municipal Council requires the owner of Lot 1 PI 76392 Sec 29/30/31, Twp 26 SDYD which is to be subdivided or developed, to provide the excess or extended services shown in Schedule D of the Latecomer Agreement No. 2250-70-84 attached to the report of the Director of Works & Utilities, dated April 6, 2010.

AND THAT the Municipal council consider the cost to provide the excess or extended services shown in Schedule D of the Latecomer Agreement no. 2250-70-84 in whole or in part, to be excessive:

AND THAT the Latecomer charges be imposed for excess or extended services, as show in Schedule D of Latecomer Agreement No. 2250-70-84, which are required to be installed as part of the referenced Development Project;

AND THAT Latecomer charges be imposed on the benefiting lands listed in Schedule D of Latecomer Agreement No. 2250-70-84

AND THAT the City enter into Latecomer Agreement No. 2250-70-84 with the owner to be effective upon Substantial Performance of the Excess or Extended Services, and the Mayor and City Clerk be authorized to execute and affix the corporate seal to this Latecomer Agreement;

AND FURTHER THAT the owners of the benefiting lands be advised in writing of the Latecomer charge to be imposed on their land.

Carried

7.05 Development Engineering Manager, dated April 6, 2010, re: Latecomer Charges – Chute Lake Crescent – Sewer

Moved by Councillor Craig/Seconded by Councillor Hodge

**R294/10/04/12** THAT the Municipal Council requires the owner of Lot A KAP 18646 Twp 28 Sec 24, which is to be subdivided or developed, to provide the excess or extended services shown in Appendix E of the Latecomer Agreement No. 2250-70-86 attached to the report of the Director of Works and Utilities, dated April 6, 2010.

AND THAT the municipal Council consider the cost to provide the excess or extended services shown in Appendix E of the Latecomer Agreement No. 2250-70-86 in whole or in part, to be excessive:

AND THAT the Latecomer charges be imposed for excess or extended services, as shown in Appendix E of Latecomer Agreement No. 2250-70-85, which are required to be installed as part of the referenced Development Project;

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AND THAT Latecomer charges be imposed on the benefiting lands listed in Appendix E of Latecomer Agreement No. 2250-70-86

AND THAT the City enter into Latecomer Agreement No. 2250-70-86 with the owner to be effective upon Substantial Performance of the Excess or Extended Services, and the Mayor and City Clerk be authorized to execute and affix the corporate seal to this Latecomer Agreement;

AND FURTHER THAT the owners of the benefiting lands be advised in writing of the Latecomer charge to be imposed on their land.

Carried

7.06 Parks, Beaches and Sport Fields Supervisor, dated April 6, 2010, re: Park Maintenance Contract Extension

Moved by Councillor James/Seconded by Councillor Craig

R295/10/04/12 THAT Council approve a one year extension to the park maintenance contract for Royale Landscaping Ltd. in the amount of \$566,107.05;

AND THAT Council approve a one year extension to the park maintenance contract for Royal Star Enterprises Inc in the amount of \$1,090,394.53.

Carried

7.07 Manager, Property Management, dated April 7, 2010, re: Lease Renewal - Kelowna Bocce Club

Moved by Councillor Blanleil/Seconded by Councillor Hodge

R296/10/04/12 THAT Council approve the City entering into the attached Lease renewal with the Kelowna Bocce Club for the use of City-owned property legally described as Remainder Lot A, DL 136 ODYD, Plan 9012, to be used for a Bocce Club for a five (5) year term commencing March 1, 2010;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the attached Lease renewal agreement.

Carried

7.08 Manager, Property Management, dated April 7, 2010, re: Gertsmar Park Lease Agreement

Staff:

- Advised that the lease is for five (5) years; not three (3) as noted in the Council Report recommendation.
- Advised that the subject property crosses Mission Creek and only a portion of the property will be leased by the Regional District.

Moved by Councillor Hobson/Seconded by Councillor Stack

R297/10/04/12 THAT City Council approve a five (5) year Lease Agreement based on the attached criteria with Central Okanagan Regional District for the lease of a portion of the Mission Creek Greenway located at the south end of Gertsmar Road for the purposes of a neighbourhood park;



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AND FURTHER THAT the Mayor and City Clerk be authorized to execute the lease.

Carried

7.09 Manager, Property Management, dated April 7, 2010, re: Farm Lease (Airport) – Evan Chase

Moved by Councillor James/Seconded by Councillor Craig

R298/10/04/12 THAT Council approve the City entering into a Lease, in the form attached, between the City of Kelowna and Evan Chase for the use of City-owned property as shown on the plan attached, to be used for farming practices for a three (3) year term from March 1, 2010 at a rate of \$1.00 per Term, and renewal of two further one (1) year terms at the sole discretion of the City;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the attached Lease agreement.

Carried

7.10 Director, Corporate Services, dated April 6, 2010, re: Municipal Insurance Association Delegate

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R299/10/04/12 THAT City Council appoints the Director of Corporate Services as the City of Kelowna delegate to the Municipal Insurance Association of British Columbia;

AND FURTHER THAT Council appoints the Manager of Risk management and the Claims Analyst as alternate delegates to the Municipal Insurance Association of British Columbia.

Carried

7.11 Subdivision Approving Officer, dated April 7, 2010, re: South Mission/Kettle Valley Road Network

Staff:

- Gave a presentation regarding the South Mission/Kettle Valley Road Network Overview.

Moved by Councillor Hobson/Seconded by Councillor Stack

R300/10/04/12 THAT Council receives for information a report from the Subdivision Approving Officer dated April 7, 2010 relating to the South Mission/Kettle Valley Road Network;

AND THAT Council authorizes the Mayor, on behalf of Council, to write a letter to the Provincial Government requesting that the Province keep the Gillard Forest Service Road as an industrial access beyond the City of Kelowna's boundaries and that they manage dust control along the industrial access;

AND FURTHER THAT the Province not allow Route #1 to become a truck route.

Carried

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- 7.12 Policy & Planning, dated April 7, 2010, re: RDCO Referral - Ministry of Energy & Mines Application

Moved by Councillor Hobson/Seconded by Councillor James

**R301/10/04/12** THAT Council receive for information the report from the Policy & Planning Department dated April 7, 2010 on the proposed mineral exploration south of the City in the vicinity of the Gillard Forest Service Road;

AND THAT Council direct staff to respond to the Regional District with a recommendation of support for the proposed mineral exploration with the understanding that the truck access would be continued in the current location along the Gillard Forest Service Road and that the impacts on Bellevue Creek be considered.

Carried

8. BYLAWS (OTHER THAN ZONING & DEVELOPMENT)

(BYLAWS PRESENTED FOR ADOPTION)

- 8.01 Bylaw No. 10316 - Road Closure Bylaw - A Portion of Lane South of Groves Avenue **Mayor to invite anyone in the public gallery who deems themselves affected by the proposed road closure to come forward.**

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the proposed road closure to come forward. No one came forward.

Moved by Councillor Hobson/Seconded by Councillor Reid

**R302/10/03/12** THAT Bylaw No. 10316 be adopted.

Carried

9. MAYOR & COUNCILLOR ITEMS

- 9.01 Mayor Shepherd, re: "Spirit of Kelowna" Acknowledgment

Mayor Shepherd:

- Acknowledged Eric Franz, who is the Development Director for the Kelowna Gospel Mission.

10. TERMINATION

The meeting was declared terminated at 4:04 p.m.

Certified Correct:

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Mayor

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City Clerk

SLH/dld