

Regular MeetingMarch 22, 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, March 22, 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: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; Supervisor, Urban Land Use, Danielle Noble*; Planner, Luke Turri*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 8:19 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

A Prayer was offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - March 7, 2011
 Regular P.M. Meeting - March 7, 2011
 Public Hearing - March 8, 2011
 Regular Meeting - March 8, 2011
 Regular A.M. Meeting - March 14, 2011
 Regular P.M. Meeting - March 14, 2011

Moved by Councillor Craig/Seconded by Councillor Hobson

R292/11/03/22 THAT the Minutes of the Regular Meetings of March 7, 2011 March 8, 2011 and March 14, 2011 and the Minutes of the Public Hearing of March 8, 2011 be confirmed as circulated.

Carried

4. Councillor Rule 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. 10488 (Z11-0005) - Kevin Lavigne and Amanda Telfer (Kevin Lavigne) - 1483 Ayre Avenue

Regular MeetingMarch 22, 2011Moved by Councillor Hodge/Seconded by Councillor RuleR293/11/03/22 THAT Bylaw No. 10488 be read a second and third time.Carried

- 5.2 Bylaw No. 10489 (Z11-0001) - Peter and Marie Baigent (Manzanita Homes Inc.) - 433 West Avenue

Moved by Councillor Rule/Seconded by Councillor HodgeR294/11/03/22 THAT Bylaw No. 10489 be read a second and third time.Carried

- 5.3 Bylaw No. 10491 (Z11-0002) - Kenneth Chung (Ken Chung) - 2055 Golfview Road

Council:

- Expressed a concern that the size and scale of the structure is so large that it does not follow the City's policy of sensitive integration into the community.
- Noted that there are too many neighbourhood concerns that need to be addressed.

Moved by Councillor Craig/Seconded by Councillor JamesR295/11/03/22 THAT Bylaw No. 10491 be read a second and third time.DEFEATED

Mayor Shepherd and Councillors Craig, Hobson, Hodge, James, Reid-Nagy, Rule and Stack - Opposed.

- 5.4 Bylaw No. 10492 (OCP09-0018) - Watermark Developments Ltd. and Academy Apartments Ltd. (Watermark Developments Ltd.) - 899 Academy Way and 285 and (N of) Arab Road - **Requires a majority of all Members of Council (5)**

Moved by Councillor Stack/Seconded by Councillor HobsonR296/11/03/22 THAT Bylaw No. 10492 be read a second and third time.Carried

- 5.5 Bylaw No. 10493 (Z09-0069) - Watermark Developments Ltd. and Academy Apartments Ltd. (Watermark Developments Ltd.) - 899 Academy Way and 285 and (N of) Arab Road

Moved by Councillor Hobson/Seconded by Councillor StackR297/11/03/22 THAT Bylaw No. 10493 be read a second and third time.Carried

6. The Deputy City Clerk advised that Notice of the Amendments to the Liquor Primary Licences were advertised by being posted on the Notice Board at City Hall on March 4, 2011 and by being placed in the Kelowna Daily Courier issues of March 14, 2011 and March 15, 2011, and by sending out or otherwise delivering 3,072 letters to the owners and occupiers of surrounding properties between March 4, 2011 and March 11, 2011.

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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.

7. LIQUOR LICENSE APPLICATION REPORTS

- 7.1 Land Use Management Department, dated February 25, 2011 re: Liquor Licensing Application No. LL09-0006 - J.Q. Developments Inc. (QB Habitat Resources) - 248 Leon Avenue **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

Staff:

- Advised that the "event-driven" Liquor Primary License was only established by the Liquor Control Branch in 2009.

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

- o Letter of Support:
 - Airlie Pinkerton, 475 Cascia Drive
- o Letters of Opposition:
 - Gino Panucci, Bob Audy & Eddie Racano, Pupus Enterprises/Sapphire Night Club, 238 Leon Avenue
 - Danelle Clark, 109-1760 Ellis Street
 - Chris Charron & Rita Pluta, Travelodge Kelowna, 1627 Abbott Street

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

Quinn and Katrina Best, J.Q. Developments Inc., Applicant's Representatives

- Confirmed that the liquor license being applied for does not include a "minor endorsement".
- Advised that due to The Habitat's contravention history with the patron participation endorsement, they decided to move forward with a classification that the Liquor Control Branch is comfortable with; however, they will revisit the "minor endorsement" at a later date.
- Advised that "all ages events" will be hosted at The Habitat on Sundays as the liquor license being requested prohibits liquor being served on Sundays.
- Advised that the Liquor Control Branch does not define "weddings" as an event and therefore, it will be very unlikely that The Habitat will host weddings.
- Advised that the Liquor Control Branch defines "public speaking" as an event.
- Advised that they are working closely with the Liquor Control Branch with respect to the terms and conditions of the "event-driven" Liquor Primary License.
- Confirmed that food will be served on site as The Habitat currently has a Food Primary License.
- Clarified the Liquor Control Branch's concerns and procedures regarding the potential of serving liquor in the "green room", should one be constructed.

Gallery:

Idris Hudson, 981 Manhattan Drive

- Advised that he is an event publicist and has worked very closely with the operators of The Habitat over the last month.
- Believes that the operators are very responsible and very good at what they do and therefore, he fully supports their liquor license application.

There were no further comments.

Moved by Councillor Hodge/Seconded by Councillor Craig

R298/11/03/22 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy No. 359, be it resolved THAT:

Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application from QB Habitat Resources at 248 Leon Avenue, Kelowna BC, (legally described as Lot 6, Block 10, District Lot 139, ODYD, Plan 462) for a Liquor Primary license, are as follows:

- a) **The location of the establishment:**
The establishment is located in an existing late-night entertainment area, with a high density of liquor seats.
- b) **The proximity of the establishment to other social or recreational facilities and public buildings:**
The establishment is located in close proximity to some social facilities, including the Kelowna Gospel Mission, however, it is not anticipated that the application will create a negative impact on these facilities.
- c) **The person capacity and hours of liquor service of the establishment.**
The proposed person capacity of 225 persons would add an additional 92 potential patrons compared to the existing Food Primary license, which is acceptable. The hours of liquor service proposed from 11:00am-1:00am are considered appropriate given that hours are limited to live events only.
- d) **The number and market focus or clientele of liquor primary establishments within a reasonable distance of the proposed location:**
The surrounding liquor primary establishments are predominately nightclubs, pubs and lounges, with a focus on the consumption of alcohol. The proposed event-driven license would add variety to this area, in the interests of providing alternative entertainment options within Kelowna's downtown.
- e) **The impact of noise on the community in the immediate vicinity of the establishment:**
The proposed Liquor Primary license would not change the impact of noise on the community compared to the existing Food Primary license.
- f) **The impact on the community if the application is approved:**
The application would be adding liquor primary seats to an area that is already well-serviced by other establishments. However, the proposed license should have an overall positive impact on the community, adding to a vibrant, culturally-active area.
- 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 Policy & Procedures."

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Council recommends that the application for a Liquor Primary license be approved, subject to the license being for an "event-driven" establishment.

Carried

- 7.2 Land Use Management Department, dated February 25, 2011 re: Liquor Licensing Application No. LL11-0001 - City of Kelowna (Kelowna Visual & Performing Arts Centre Society) - 421 Cawston Avenue (1315 Water Street), Rotary Centre for the Arts 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 the following correspondence and/or petitions had been received:

- o Letter of Support:
 - Gail & Craig Sandford, 105-1289 Ellis Street

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

Tracy Ward, Executive Director, Rotary Centre for the Arts, Applicant's Representative

- Advised that the main reason for this liquor license application is to consolidate the two (2) existing licenses into one.
- Confirmed that the Rotary Centre for the Arts cannot serve wine at lunch or dinner only during a scheduled event at the Centre.

Gallery:

Quinn Best, Owner/Operator of The Habitat, 206-286 McQueen Road

- Supports the application.

Idris Hudson, 981 Manhattan Drive

- Is an event publicist and a journalist for Examiner.com.
- Supports the application.
- Advised that he personally approached approximately thirty (30) of his neighbours, as well as approximately twelve (12) of the businesses in the area and advised that there is no opposition to the request liquor license.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Craig

R299/11/03/22 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy No. 359, be it resolved THAT:

Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application from Kelowna Visual & Performing Arts Centre Society at 421 Cawston Avenue, Kelowna BC, (legally described as Lot A, District Lot 139, ODYD, Plan KAP67454) for an expansion to the existing Liquor Primary Establishment, are as follows:

a) The potential for noise if the application is approved:

The potential for noise is of little concern in this location. Only incremental increases in noise from the existing operation are anticipated.

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- b) **The impact on the community if the application is approved:**
No negative impacts are anticipated.
- 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) **Recommendation:**
Council recommends that the application for a structural change to increase the capacity of the existing Liquor Primary establishment, including the addition of outdoor patio space, be approved.

Carried8. REMINDERS - Nil.8.1 Deputy City Clerk, re: Public Hearing Correspondence - Procedures

Deputy City Clerk:

- Clarified the process with respect to Public Hearing correspondence being available to the applicants.

9. TERMINATION

The meeting was declared terminated at 9:32 p.m.

Certified Correct:_____
Mayor_____
Deputy City Clerk

/slh