

Regular MeetingNovember 1, 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, November 1st, 2011.

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

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Manager, Real Estate Services, Jordan Hettinga*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:43 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 be offered by Councillor Stack.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - October 17, 2011
 Regular P.M. Meeting - October 17, 2011
 Public Hearing - October 18, 2011
 Regular Meeting - October 18, 2011
 Regular A.M. Meeting - October 24, 2011
 Regular P.M. Meeting - October 24, 2011

Moved by Councillor James/Seconded by Councillor Craig

R1078/11/11/01 THAT the Minutes of the Regular Meetings of October 17, 2011, October 18, 2011 and October 24, 2011 and the minutes of the Public Hearing of October 18, 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)

5.01 Bylaw No. 10611 (Z11-0064) - Gyula & Gyongi Schweigert (Gyula Schweigert) - 1340 Chichester Court

Moved by Councillor Hobson/Seconded by Councillor Stack

R1079/11/11/01 THAT Bylaw No. 10611 be read a second and third time.

Carried

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- 5.02 Bylaw No. 10612 (Z11-0044) - Reynald & Jennifer Grande - 410 Woods Road

Moved by Councillor Hobson/Seconded by Councillor StackR1080/11/11/01 THAT Bylaw No. 10612 be read a second and third time.Carried

- 5.03 Bylaw No. 10613 (TA11-0006) - City of Kelowna - Miscellaneous Housekeeping Text Amendments for City of Kelowna Zoning Bylaw No. 8000

Moved by Councillor Blanleil/Seconded by Councillor Reid-NagyR1081/11/11/01 THAT Bylaw No. 10613 be read a second and third time.Carried

- 5.04 Bylaw No. 10614 (Z11-0054) - Jonathan Wilson - 2539 Beetlestone Drive

Moved by Councillor Reid-Nagy/Seconded by Councillor BlanleilR1082/11/11/01 THAT Bylaw No. 10614 be read a second and third time.Carried

- 5.05 Bylaw No. 10615 (Z11-0068) - Ecer Construction Surveys (2005) Ltd. - 840 Raymer Avenue

Moved by Councillor Hodge/Seconded by Councillor RuleR1083/11/11/01 THAT Bylaw No. 10615 be read a second and third time.Carried

- 5.06 Bylaw No. 10616 (Z11-0067) - Miyuki & Randy Lindeboom (Randy Lindeboom) - 4634 Darin Place

Moved by Councillor Hodge/Seconded by Councillor RuleR1084/11/11/01 THAT Bylaw No. 10616 be read a second and third time.Carried

- 5.07 Bylaw No. 10617 (OCP11-0003) - OCORP Development Ltd. (PC Urban Properties) - 1966-1968 Kane Road - **Requires a majority of all Members of Council (5)**

- 5.08 Bylaw No. 10618 (Z11-0033) - OCORP Development Ltd. (PC Urban Properties) - 1966-1968 Kane Road

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R1085/11/11/01 THAT Council defers consideration of Bylaw No. 10617 (OCP11-0003) and Bylaw No. 10618 (Z11-0033) to the November 29, 2011 Public Hearing.

CarriedMoved by Councillor Hodge/Seconded by Councillor Craig

R1086/11/11/01 THAT Council directs staff to re-advertise Bylaw No. 10617 (OCP11-0003) and Bylaw No. (Z11-0033) for the November 29, 2011 Public Hearing.

Carried(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION)

- 5.09 Bylaw No. 10606 (OCP09-0017) - Natisa Development Corporation (City of Kelowna) - 3471 Lakeshore Road - Requires a majority of all Members of Council (5)

Moved by Councillor James/Seconded by Councillor Craig

R1087/11/11/01 THAT Bylaw No. 10606 be read a second and third time and be adopted.

Carried

- 5.10 Bylaw No. 10607 (Z09-0079) - Natisa Development Corporation (City of Kelowna) - 3471 Lakeshore Road

Moved by Councillor Craig/Seconded by Councillor James

R1088/11/11/01 THAT Bylaw No. 10607 be read a second and third time and be adopted.

Carried

6. THE CITY CLERK WILL PROVIDE INFORMATION AS TO HOW THE FOLLOWING ITEMS ON THE AGENDA WERE PUBLICIZED.

The City Clerk advised Notice of Council's consideration of the Liquor Primary License was advertised by being posted on the Notice Board at City Hall on October 14, 2011, and by being placed in the Kelowna Daily Courier issues of October 24, 2011 and October 25, 2011 and by sending out or otherwise delivering 60 letters to the owners and occupiers of surrounding properties between October 14, 2011 and October 21, 2011.

The City Clerk advised that Notice of Council's consideration of the Development Variance Permit Applications was given by sending out or otherwise delivering 368 letters to the owners and occupiers of the surrounding properties between October 14, 2011 and October 21, 2011.

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.

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7. LIQUOR LICENSE APPLICATION REPORTS

- 7.01 Land Use Management Department, dated October 7, 2011 re: Liquor Licensing Application No. LL11-0011 - Topiary Holdings Inc. (Tantalus Industries Inc.) - 1670 Dehart Road City Clerk to state for the record **any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

The City Clerk advised 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. The Applicant's Representative was present, but did not have anything further to add to staff's comments. No one else came forward.

Moved by Councillor Hobson/Seconded by Councillor Stack

R1089/11/11/01 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 Tantalus Industries Inc. at 1670 Dehart Road, Kelowna BC, (legally described as Lot B, Section 5, Twp. 26, ODYD, Plan 32728 Except Plan KAP75345) for a winery lounge endorsement for the existing winery, as the use would help support the winery and the proposed license would be in keeping with other wineries in the community and does not pose any negative effects to the surrounding area.
2. The Council's comments on the LCLB's prescribed considerations (bolded) are as follows:
 - a) **The location of the winery and special event areas:**
The location is in an agricultural area that is removed from nearby residents and is suitable for a lounge associated with the existing winery.
 - b) **The proximity of the establishment to other social or recreational facilities and public buildings:**
There is a minimum distance of 1.5km which should be suitable for the proposed use.
 - c) **The person capacity of the proposed areas:**
The size of the exterior patio with a maximum of 27 persons is reasonable for the proposed lounge.
 - d) **The hours of liquor service of the establishment:**
The proposed hours of service should not have any negative impact.
 - e) **Traffic, noise, parking and zoning:**
The establishment is not expected to negatively affect traffic patterns and noise is not expected to be an issue because of the small size and early hours. The potential for noise may increase, however noise has not been an issue at this location in the past. The patio area already exists and conforms to Zoning Bylaw NO. 8000.
 - f) **The impact on the community if the application is approved:**

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If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

3. 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"

Carried

8. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 8.01 Land Use Management Department, dated September 30, 2011 re: Development Variance Permit Application No. DVP11-0126 - Martin Tym & Heather White (Heather White) - 644 Armour Crescent 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 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. The Applicant was present, but did not have anything further to add to staff's comments. No else one came forward.

Moved by Councillor James/Seconded by Councillor Reid-Nagy

R1090/11/11/01 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0126, for Lot 5, Sec. 6, Twp. 26, O.D.Y.D., Plan 18510, located on Armour Crescent, Kelowna, BC;

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

Section 13.1.6(d) Development Regulations:

To vary the northern side yard setback from 2.3m required to 1.6m proposed (as per Schedule "A").

Carried

- 8.02 Land Use Management Department, dated October 7, 2011 re: Development Variance Permit Application No. DVP11-0157 - Bevin & Alvina Buehler - 620 Dougall Road 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.

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Staff:

- Given the fact that there is no perceived hardship to justify the proposed variance for the subject property, the Land Use Management Department recommends that the variance not be supported. The Applicant could pursue an accessory building design that conforms to the height requirements of the City's Zoning Bylaw.

The 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.

Bevin & Alvina Buehler, Applicants

- Displayed a diagram of the subject property including the proposed accessory building.
- Advised that the variance is being requested as a result of the sewer line hook up this is required for the accessory building.
- Expressed a concern with the topographical slope of the property. Because the lot slopes, the accessory building, with the height variance, will only be slightly higher than the principle dwelling.
- Believes that there are structures in the neighbourhood that are already higher than the proposed accessory building.
- Expressed a concern with the slope that will be required for the driveway access to the accessory building.
- Confirmed that she explained to her neighbours that there would be a height variance required for the accessory building.
- Confirmed that the neighbours didn't actually see the proposed drawings, but agreed to the variance based on what was described by Mrs. Buehler.

There were no further comments.

Moved by Councillor Hodge/Seconded by Councillor Blanleil

R1091/11/11/01 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0157 for Lot 11, Section 23, Township 26, ODYD, Plan 22418, located at 620 Dougall Road South, Kelowna, BC;

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

Section 9.5.1(e): To vary the maximum height of an accessory building from the lesser of 4.5m or the height of the existing principal dwelling unit (5.2m) on the same property to 5.5m proposed.

Section 13.1.6(b) - RU1 Development Regulations: To vary the maximum height of an accessory building from 4.5m to 5.5m proposed.

AND FURTHER THAT Development Variance Permit issuance be subject to staff consideration of a Development Permit for the form & character of the proposed accessory building.

Carried

9. REMINDERS

Mayor Shepherd noted that today was Annie Mays 101st Birthday and wished her a "Happy Birthday".

10. TERMINATION

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The meeting was declared terminated at 7:14 p.m.

Certified Correct:

Mayor

City Clerk

SLH/dld