



City of Kelowna Regular Council Meeting Minutes

Date: Monday, November 4, 2013
 Location: Council Chamber
 City Hall, 1435 Water Street

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

Council Members Absent: Councillor Mohini Singh

Staff Present: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; Divisional Director, Corporate & Protective Services, Rob Mayne*; Manager, Urban Planning, Ryan Smith*; Director, Subdivision, Agriculture & Environment Services, Shelley Gambacort*; Manager, Subdivision, Agriculture & Environment Services, Todd Cashin*; Manager, Long Range Planning, Gary Stephen*; Planner Specialist, Graham March*; Parking Operations Coordinator, Dave Duncan*; Manager, Public Works, Darryl Astofooroff*; Traffic Technician, Laurens Campbell*; Director, Development Services, Mo Bayat*; Fire Chief, Jeff Carlisle*; Manager, Parks Services, Ian Wilson*; Urban Forest Health Technician, Andrew Hunsberger*; Manager, Property Management, Ron Forbes*; and Council Recording Secretary, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 1:37 p.m.

Mayor Gray 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 and a delayed broadcast is shown on Shaw Cable.

2. Confirmation of Minutes

Moved By Councillor Zimmermann/Seconded By Councillor Given

R694/13/11/04 THAT the Minutes of the Regular PM Meetings of October 21, 2013 and October 28, 2013, and the Chauffeur's Permit Appeal Hearing of October 22, 2013 be confirmed as circulated.

Carried

3. Development Application Reports & Related Bylaws

3.1. Official Community Plan Bylaw Amendment Application No. OCP13-0012 and Rezoning Application No. Z13-0019 - 2049 Byrns Road, Margarita Littley

Staff:

- Displayed a PowerPoint Presentation and summarized the application before Council.

Councillor Blanleil joined the meeting at 1:40 p.m.

Staff:

- Responded to questions from Council.
- Clarified what staff is proposing with the 'alternate' recommendation in the Report to Council.
- Expressed a concern with the public consultation process proposed by the Applicant.

Mayor Gray invited the Applicant, or Applicant's Representative, to come forward.

Tony Lockhurst, Applicant's Representative:

- Thanked staff for their work on the file.
- Advised that the recommendation proposed by staff does not meet the family's requirements at this time. He wants to provide affordable housing for the family as well as financial support.
- Advised that the suite has been updated and is very nice.
- Expressed a concern with the recommendation to decommission the suite as he believes that the suite provides needed affordable housing.
- Responded to questions from Council.
- Believes that the suite is legally, non-conforming based on the regulations in place at the time of the purchase of the property.
- Advised that currently his son occupies the suite downstairs and the objective is to move him into one of the new duplexes.
- Believes that the duplex and carriage house meets the BC Building Code.
- Confirmed that a family member would be residing in the lower portion of the duplex and that he will not necessarily rent the suite to a non-family member.
- The whole reason for the application is to keep the family together and to provide affordable housing for his family members.

Staff:

- It is staff's understanding that the Building Permit for the carriage house was issued prior to 1973.
- There are a number of Affidavits from neighbours confirming that the carriage house was constructed and occupied in 1972.
- The units in the front are legal, non-conforming; however, the unit in the back has never been legalized. The Building Permit in 1972 was issued for a garage.
- Clarified that anything that is non-conforming must be brought into conformity with current regulations and that is why this application is before Council.

Margarita Littley, Applicant:

- Advised that she purchased the property because of the suites so that she could keep her family together and provide affordable housing for her children.
- Didn't think that the proposal would cause such a big deal until she made application to the City.

Deputy City Clerk:

- Provided clarification on procedure with respect to the alternate recommendation and responded to questions from Council.

Moved By Councillor Stack/Seconded By Councillor Hobson

R695/13/11/04 THAT Council defers consideration of Official Community Plan Bylaw Amendment Application No. OCP13-0012 and Rezoning Application No. Z13-0019 for the property located at 2049 Byrns Road;

AND THAT Council directs staff to work with the Applicant on an alternate proposal and report back to Council.

Carried

3.2. Agricultural Land Reserve Appeal Application No. A13-0007 - 700 Hwy 33 E, Hillcrest Farm Market Inc./Chanchal Bal

Councillor Basran declared a conflict of interest as the Applicant is a direct relative and left the meeting at 2:13 p.m.

Staff:

- Displayed a PowerPoint Presentation and summarized the application before Council.
- Provided an overview of the history of the property.
- Advised that the café has been in operation since 2012 without a Business Licence.

Mayor Gray invited the Applicant, or Applicant's Representative, to come forward.

Chancel Bal, Applicant:

- His family has been farming the subject property since the early 1940's. For years the property sat idle until his branch of the family purchased the property and decided to farm it.
- Believes that the farm and café should be considered an 'agri-tourism' operation.
- Advised that some of the facts stated in the Report to Council are incorrect.
- Advised that he applied for a Building Permit in early Spring of 2010 and that it took City staff approximately 7-8 months to approve the project. He was issued a Building Permit in November of 2010.
- Stated that it is incorrect that he constructed the building contrary to the Building Permit that was issued. The commercial kitchen was constructed in a way that was approved by City Building Inspectors.
- Displayed a drawing of the café that was submitted to City staff.
- Thought he was developing the site in accordance with the City's and Agricultural Land Commission's regulations.
- Expressed a concern that the City and Agricultural Land Commission's regulations are not clearly defined.
- Stated that he grows 98% of the stuff that is sold at the Farmer's Market on the site.
- Believes that he is preserving land just like wineries and cideries and therefore he should be allowed the same type of operation on farm land that is currently being allowed on wineries and cideries sites.
- Believes that he is preserving agriculture.
- Responded to questions from Council.

- Believes that he followed all of the City and Agricultural Land Commission's rules that were in place, but that there was a misunderstanding as to 'interpretation' of those rules.
- Advised that his contractor lead him to believe that a sign permit was not required as the site is on agricultural lands.
- Noted that the City's Agricultural Advisory Committee supported the application.

Staff:

- Responded to questions from Council.
- Clarified the City's records with respect to the Building Permit that was originally applied for.
- Displayed a copy of the original Building Permit that was issued.
- Provided clarification regarding the original Building Permit that was applied for. Once the Building Permit was submitted and staff understood that a commercial kitchen was proposed, staff worked with the Applicant to ensure that commercial kitchen was constructed to code.
- In 2010, when the original Building Permit was issued, there was no discussion of a potential café being considered for the site.

City Manager:

- Provided comment regarding the next steps in the process.

Moved By Councillor Zimmermann/Seconded By Councillor Blanleil

THAT Agricultural Land Reserve Appeal Application No. A13-0007 for Lot A, Section 24, Township 26 Osoyoos Division Yale District Plan EPP7145, located at 700 Highway 33 E, Kelowna, B.C. for a non-farm use of agricultural land in the Agricultural Land Reserve, pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council;

AND THAT the Municipal Council directs staff to forward the subject application to the Agricultural Land Commission for consideration.

Amendment Moved By Councillor Hobson/Seconded By Councillor Stack

R696/13/11/04 THAT Council's support for Agricultural Land Reserve Appeal Application No. A13-0007 be subject to compliance with all City of Kelowna Bylaws, including applying for any necessary variances to City of Kelowna Zoning Bylaw No. 8000.

Carried

The original motion, as amended, was then voted on as follows:

Moved By Councillor Zimmermann/Seconded By Councillor Blanleil

R697/13/11/04 THAT Agricultural Land Reserve Appeal Application No. A13-0007 for Lot A, Section 24, Township 26 Osoyoos Division Yale District Plan EPP7145, located at 700 Highway 33 E, Kelowna, B.C. for a non-farm use of agricultural land in the Agricultural Land Reserve, pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council subject to compliance with all City of Kelowna Bylaws, including applying for any necessary variances to City of Kelowna Zoning Bylaw No. 8000;

AND THAT the Municipal Council directs staff to forward the subject application to the Agricultural Land Commission for consideration.

Carried
Councillors Given and Stack - **Opposed.**

3.3. Rezoning Application No. Z13-0033 - 868 Liban Ct, Laryn & Judith Penner

Councillor Basran rejoined the meeting at 3:27 p.m.

Staff:

- Displayed a PowerPoint Presentation and summarized the application before Council.

Moved By Councillor Stack/Seconded By Councillor Basran

R698/13/11/04 THAT Rezoning Application No. Z13-0033 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 4, Section 29, Township 26, Osoyoos Division Yale District, Plan 25918, located on 868 Liban Court, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1c- Large Lot Housing with Carriage House zone be considered by Council;

AND THAT the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER 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

3.3.1. Bylaw No. 10894 (Z13-0033) - 868 Liban Court, Laryn & Judith Penner

Moved By Councillor DeHart/Seconded By Councillor Zimmermann

R699/13/11/04 THAT Bylaw No. 10894 be read a first time.

Carried

3.4. Official Community Plan Bylaw Amendment Application No. OCP13-0015, Proposed Housekeeping Amendments (BL10887)

Staff:

- Summarized the housekeeping amendments.
- Displayed maps indicating the proposed Official Community Plan Land Use Amendments.
- Provided an overview of the public consultation process followed by staff in addition to the Public Hearing.

Moved By Councillor Zimmermann/Seconded By Councillor Basran

R700/13/11/04 THAT OCP Bylaw Text Amendment No. OCP13-0015 to amend Kelowna 2030 - Official Community Plan Bylaw No. 10500 as outlined in the Report of the Planner Specialist dated November 4, 2013 be considered by Council;

AND THAT Council considers the public process outlined in the Report of the Planner Specialist dated November 4, 2013 to be appropriate consultation for the purpose of Section 879 of the Local Government Act;

AND FURTHER THAT OCP Bylaw Text Amendment No. OCP13-0015 be forwarded to a Public Hearing for further consideration;

Carried

3.4.1. Bylaw No. 10887 - OCP13-0015 Housekeeping Amendments

Moved By Councillor Stack/Seconded By Councillor Given

R701/13/11/04 THAT Bylaw No. 10887 be read a first time;

AND THAT the Bylaw has been considered in conjunction with the City's Financial Plan and Waste Management Plan.

Carried

3.5. Official Community Plan Bylaw Amendment Application No. OCP13-0016, Proposed Miscellaneous Amendments (BL10888)

Staff:

- Summarized the miscellaneous amendments being proposed.

Moved By Councillor Hobson/Seconded By Councillor Given

R702/13/11/04 THAT OCP Bylaw Text Amendment No. OCP13-0016 to amend Kelowna 2030 - Official Community Plan Bylaw No. 10500 as outlined in the Report of the Planner Specialist dated November 4, 2013 be considered by Council;

AND THAT Council considers the public process outlined in the Report of the Planner Specialist dated November 4, 2013 to be appropriate consultation for the purpose of Section 879 of the Local Government Act;

AND FURTHER THAT OCP Bylaw Text Amendment No. OCP13-0016 be forwarded to a Public Hearing for further consideration;

Carried

3.5.1. Bylaw No. 10888 - OCP13-0016 Miscellaneous Amendments

Moved By Councillor Hobson/Seconded By Councillor Basran

R703/13/11/04 THAT Bylaw No. 10888 be read a first time;

AND THAT the Bylaw has been considered in conjunction with the City's Financial Plan and Waste Management Plan.

Carried

4. Non-Development Reports & Related Bylaws

4.1. Free Downtown Parking

Moved By Councillor Hobson/Seconded By Councillor Blanleil

R704/13/11/04 THAT Council receives for information, the report from the Director of Real Estate dated October 21, 2013, with respect to Free Downtown Parking on Saturdays in December;

AND THAT Council approves free on-street parking in the Downtown area on the following Saturdays in 2013:

December 7,
December 14,
December 21, and
December 28.

Carried

4.2. Rio Drive

Staff:

- Provided an overview of the proposed temporary speed bumps and responded to questions from Council.
- The permanent road will be constructed in 2014.

City Manager:

- Will have staff report back to Council with respect to the transportation network planning for the Wilden development area.

Moved By Councillor Hobson/Seconded By Councillor Stack

R705/13/11/04 THAT Council receives, for information, the report from the Public Works Manager dated November 4, 2013 with respect to Rio Drive;

AND THAT Council directs staff to install two (2) temporary speed humps on Rio Drive as outlined in the Report of the Public Works Manager dated November 4, 2013.

Carried

4.3. RCMP 2013 2014 Priorities - General

Divisional Director, Corporate & Protective Services:

- Advised that this is a housekeeping item and provided an overview of the 2013/2014.
- Responded to questions from Council.

Moved By Councillor Given/Seconded By Councillor Stack

R706/13/11/04 THAT Council receives, for information, the Report from the Divisional Director, Corporate & Protective Services dated October 30, 2013 regarding the 2013/2014 RCMP Priorities;

AND THAT the priorities set for 2013/2014 collectively be Organized Crime, Police and Community Relations, Road Safety and Family Violence;

AND FURTHER THAT Council directs staff to continue to include Council, City Staff and key stakeholders in discussions regarding the setting of future policing priorities.

Carried

4.4. Balcony Sprinklers

Staff:

- Summarized the legislative options and staff's course of action for improving the fire protection requirements of the BC Building Code for balconies in new construction.
- Responded to questions from Council.

Moved By Councillor Hobson/Seconded By Councillor Zimmermann

R707/13/11/04 THAT Council receives, for information, the Report from Development Services Director dated November 04, 2013, with respect to the condominium fires and balcony sprinklers update for new constructions.

Carried**4.5. Fire Prevention for Multi-Residential Structure Balconies**

Fire Chief:

- Provided an overview of the Fire Department's analysis and recommended approach to reduce the occurrences of balcony fires in multi-residential structures.
- Responded to questions from Council.
- Will follow up with insurance companies in order to determine whether or not insurance premiums increase if strata complexes and condominiums allow barbeques and smoking on balconies.

Moved By Councillor Given/Seconded By Councillor Basran

R708/13/11/04 THAT Council receives, for information, the Report from the Fire Chief dated November 4, 2013 with respect to the Kelowna Fire Department's (KFD) approach to reducing multi-family residential building balcony fires on existing structures;

AND THAT Council directs the Kelowna Fire Department to expand the public education focus to include workshops for strata managers, strata councils and building owners with an emphasis on balcony fire safety.

Carried**4.6. Wildfire Fuel Mitigation Program**

Staff:

- Displayed a PowerPoint Presentation.

Moved By Councillor Blanleil/Seconded By Councillor Hobson

R709/13/11/04 THAT Council receives, for information, the Report of the Urban Forest Health Technician dated November 4, 2013 regarding the status of the Wildfire Fuel Mitigation Program.

Carried**4.7. Rutland Skate Shop Lease**

Staff:

- Provided an overview of the Lease.

Moved By Councillor Basran/Seconded By Councillor DeHart

R710/13/11/04 THAT Council approves the City entering into a two (2) year Lease Agreement, with Ms. Una Mak, for the Rutland Arena Skate Shop, with three (3) further one (1) year renewals, in the form attached to the report of the Manager, Property Management, dated October 30, 2013;

AND THAT the Mayor and City Clerk be authorized to execute the Lease document.

Carried

4.8. Stuart Park Skating Rink Contract

Staff:

- Provided an overview of License of Occupation.

Moved By Councillor Blanleil/Seconded By Councillor Stack

R711/13/11/04 THAT Council approves the City entering into a one (1) year License of Occupation, with Bladez Skate Shop and Mr. Kevin Laflamme, for the Stuart Park Ice Rink, with four (4) further one (1) year renewals, in the form attached to the Report of the Manager, Property Management, dated October 30, 2013;

AND THAT the Mayor and City Clerk be authorized to execute the License of Occupation.

Carried

4.9. Regional District of Central Okanagan, Community Police Office

Staff:

- Provided an overview of the Lease Agreement with the Regional District of Central Okanagan.
- Noted that the subject property would not comply with the RU1 zoning and therefore advised that the recommendation in the staff report should reflect that the property should be rezoned from the P1 - Major Institutional zone to the RU2 - Medium Lot Housing zone.

Deputy City Clerk:

- Clarified the amendment to the staff's recommendation.

Moved By Councillor Hobson/Seconded By Councillor Zimmermann

R712/13/11/04 THAT Council approves the City entering into a five (5) year Lease Agreement, with the Regional District of the Central Okanagan with the option to renew for an additional five (5) year term, in the form attached to the Report of the Manager, Property Management, dated October 30, 2013;

AND THAT the 2013 Financial Plan be amended for the monthly lease cost and estimated \$81,000 of improvements with funding from existing RCMP contract budget, and that the on-going lease requirements be included in the 2014 Provisional Budget;

AND THAT Council reaffirms the future use of a portion of 4065 Lakeshore Road as parkland as designated in the Official Community Plan for the extension of Belmont Park;

AND THAT Council directs staff to demolish the current building using funds from the Land Sales Reserve;

AND THAT Council directs staff to bring forward the necessary subdivision and rezoning applications in order to subdivide the remainder portion of 4065 Lakeshore Road and to rezone that portion of 4065 Lakeshore Road from the P1 - Major Institutional zone to the RU2 - Medium Lot Housing zone;

AND THAT Council directs staff to dispose of the subdivided and rezoned parcel at a price of no less than market value as determined by the Manager, Real Estate Services with the proceeds being used to replenish the Land Sales Reserve for demolition costs and any remainder to the Water Utility;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents to complete the transactions.

Carried

5. Mayor and Councillor Items

Councillor Stack:

- Commented on the Drive for Life Challenge and noted that Kelowna beat Prince George.

Councillor Zimmermann:

- Commented on his attendance at the Rutland Parks Society's Annual General Meeting on October 30, 2013. Advised that a new executive was elected for the Society, that includes Todd Sanderson as President and Al Horning as Vice-President.

Councillor DeHart:

- Commented on her attendance at the local Ringette Tournament last week and noted that 'Team DeHart' beat 'Team Letnick'.

Councillor Basran:

- Commented on the Rutland Parks Society's Annual General Meeting and the election of a new executive.

Mayor Gray:

- Commented on his recent trip to Kasugai, Japan.
- Displayed a photo of a fire caldron from Scottsdale, Arizona and suggested that something similar be erected near the Stuart Park Skating Rink.

6. Termination

This meeting was declared terminated at 4:58 p.m.

Mayor

/slh

Deputy City Clerk