

Minutes of the *REGULAR BOARD MEETING* of the Regional District of Central Okanagan held at Regional District Offices, 1450 KLO Road, Kelowna, B.C. on Monday, October 24, 2011

Directors:

J. Baker (District of Lake Country)
J. Edgson (Central Okanagan West Electoral Area)
K. Fielding (District of Peachland)
D. Findlater (District of West Kelowna)
K. Hayes (Central Okanagan East Electoral Area)
C. Hodge (City of Kelowna)
R. Hobson (City of Kelowna)
G. James (City of Kelowna)
D. Ophus (District of West Kelowna)
A. Reid-Nagy (City of Kelowna)
M. Rule (City of Kelowna)
S. Shepherd (City of Kelowna)
M. Werstuik (Westbank First Nation)

Staff:

H. Reay, Chief Administrative Officer
R. Fralick, Manager of Current Planning
R. Mueller, Chief Bylaw Enforcement Officer
D. Plamondon, Director of Development Services
M. Rilkoﬀ, Director of Administration and Financial Services
M. Drouin, Corporate Services Coordinator (recording secretary)

1. CALL TO ORDER

Chair Hobson called the meeting to order at 7:00 p.m.

2. ADDITION OF LATE ITEMS

There were no late items to the agenda.

3. ADOPTION OF THE AGENDA

It was noted that staff had notified the Board earlier in the day that 9.3 a)i)ii) would be withdrawn from the agenda as all the conditions for final approval have not been met. The question was raised as there was no public notification of the withdrawal, that the Regional District's solicitor, Barry Williamson, is in attendance and that the Board may wish to hear background information on what condition has not been met whether this item should remain on the agenda. It was agreed it would remain.

#244/11

BAKER/SHEPHERD

THAT the agenda be adopted as circulated.

4. ADOPTION OF MINUTES

4.1 Board Meeting – October 13, 2011

#245/11

SHEPHERD/OPHUS

THAT the Board meeting minutes of October 13, 2011 be adopted as circulated.

CARRIED

5. DELEGATIONS

No delegations

6. CORRESPONDENCE

6.1 Sterile Insect Release Board Highlights – Sept 2011 (*for information only*)

#246/11

BAKER/RULE

THAT the Sterile Insect Release Board highlights of September 23, 2011 be received for information.

CARRIED

6.2 Okanagan Basin Water Board Highlights – October 2011 (*for information only*)

#247/11

FIELDING/OPHUS

THAT the Okanagan Basin Water Board highlights of October 6, 2011 be received for information.

CARRIED

7. UNFINISHED BUSINESS

7.1 Terms of Reference for Review of the Dog Control Function (*All Directors - Unweighted Vote*)

Staff report dated October 18, 2011 provided a draft Request for Proposal for an independent review of the dog control function. \$50,000 will be budgeted in 2012 for the review. Staff noted that the review will compare other dog control services within BC as legislation is comparable. It was noted other models such as Calgary may offer valuable information and should also be considered, keeping in mind legislative differences. In addition, the review should take into account the bylaw—we want to ensure it is the best it can be, as well as information on cost recovery of the service. It was noted that the RFP should refer to a valid local government business license not just the City of Kelowna. The Board was reminded that the review has arisen in part to the large amount of dangerous/aggressive dog reports within the Central Okanagan and the costs associated with the service.

Director Findlater arrived at 7:15 p.m.

#248/11

SHEPHERD/EDGSON

THAT the Regional Board approve the Terms of Reference dated October 18, 2011 for a full independent review of the dog control function with the following amendments:

- Project objectives #1, # 2 and #5 – remove the reference 'other jurisdictions in BC' and change to 'other jurisdictions' keeping in mind legislative differences;
- Business licenses to be inclusive – change to a valid local government business license;
- Include review of the cost of the function and cost recovery of the service.

CARRIED

8. FINANCE

No Board action required/requested.

9. DEVELOPMENT SERVICES

Inspection: (Unweighted Vote)

9.1 Building Statistics – September 2011 & Year-to-date January-September 2011 (for information)

#249/11

RULE/BAKER

THAT the building statistics for the month of September 2011 and year-to-date January-September 2011 be received.

CARRIED

Planning: (Unweighted Vote)

9.2 Report regarding FrontCounter BC referral application for a License of Occupation for General Commercial Land Use to permit a remote outdoor gaming business located adjacent to Philpott Road (CL-11-01) Central Okanagan East Electoral Area (All Directors)

Staff report dated October 18, 2011 outlined the referral application from FrontCounter BC to consider issuance of a license of occupation up to a 30-year term for general commercial use to permit an outdoor gaming business. The rationale for non-support of the application was reviewed, including:

- Proposal is not in keeping with the objectives and policies of the Joe Rich Rural Land Use Bylaw (RLUB) (ie: will conflict with existing recreational uses such as the Philpott Flume & High Rim Trails);
- Proposed outdoor gaming site and parking is in close proximity to the Philpott Road/Highway 33 intersection adding to the existing traffic and safety concerns at this location;

- The site is located within a Sensitive Terrestrial Ecosystem Development Permit Area under the Joe Rich RLUB. An environmental management plan has not been completed to addresses potential impacts on sensitive ecosystems and wildlife and monitoring of any development of the site;
- The application and intended use is being opposed by area residents, RDCO Parks Department, the Environmental Advisory Commission, and the Joe Rich Fire Department;
- It has not been demonstrated by the applicant as to whether more appropriate locations have been thoroughly investigated (ie: Joe Rich Sportsman's Field which is appropriately designated Recreation Commercial in the Joe Rich RLUB);
- Based on existing information and comments provided, the proposed outdoor gaming business is not in the public interest.
- Staff reviewed the proposed parking area which is to be located on the side of Philpott Road. This area is also used as parking for accessing the High Rim and Philpott Trail.

Staff noted that eight pieces of correspondence in opposition have been received highlighting concerns with parking and traffic, impact to hiking trails, fire hazard and servicing of the site. As well, a petition with 128 signatures in opposition has been sent to the Province.

It was noted the applicant was advised of the Board meeting but was not in attendance.

#250/11

HAYES/EDGSON

THAT FrontCounter BC referral application CL-11-01 for the purpose of General Commercial land use to permit an outdoor gaming business on 1 ha (2.5 acres) of Crown land adjacent to Philpott Road not be supported by the Regional District of Central Okanagan;

AND FURTHER THAT the Development Services Department report dated October 18, 2011 be forwarded to FrontCounter BC for their information and consideration.

CARRIED

Bylaws: (Reconsideration & Adoption) *(Unweighted Vote)*

It is noted that early in the bylaw process the applicant had committed to provide funds in the form of a letters of credit before final reading of the bylaws. Staff noted to this hour, the Regional District had not received any of the payments previously agreed to by the proponent. Staff noted that should these monies not be received in full and in the appropriate format, in accord with Board policy and procedure the application should not presented for final consideration.

Staff reviewed the conditions which needed to be met prior to final reading. All conditions have been met except the letters of credit (LOC). The applicant has requested the LOC be changed to a performance bond. Staff noted this is a lesser form of security and questioned whether accepting this would represent a material change in the conditions of the bylaw and whether the bylaw could then be challenged or moved back to first reading.

The Regional District's solicitor was in attendance and reviewed the difference between a performance bond and letters of credit--an irrevocable LOC is secure and is in the hands of the RDCO, whereas with a performance bond it is necessary to go through a bonding agency taking control out of the hands of the RDCO and placing it in the hands of the third party. Difficult technical defenses could be raised with a bond company--these issues cannot be raised with a LOC. As well a bond cannot be unilaterally acted on.

The applicant has been aware of the process from beginning and had agreed in writing to those conditions being met prior to final approval of the bylaw. The LOC provides security in the future as the Regional District may or may not be dealing with same applicant in the future.

Staff noted that the provincial subdivision approving officer will not enforce the LOC requirement before providing final subdivision approval. The RDCO has no authority to require the LOC after adoption of the bylaw. Covenants are in place for park land and limiting the number of lots in the subdivision. The Board cannot put a 'subject to' when adopting a bylaw. Once the bylaw is adopted no legal obligations can be enforced. This is in accord with Board policy and is the same process the RDCO has followed for approximately 20 years. No exception has ever been made to this since implementation of the policy.

The question was raised if there is anything the Board can do to provide the financial institution some assurance prior to final approvals? The LOC is for approximately \$2.2mil. The Board was reminded that their function is legislative and that discussion cannot be reopened on land use. The Board cannot bind the applicant contractually with respect to Board's exercise of legislative powers.

- 9.3 a) i) Official Community Plan Amendment Bylaw No. 1274-02 (formerly Bylaw No. 785-15) for Southern Okanagan Land Developments Inc. (owner) and Urban Systems Ltd. (agent) to amend the Rural Westside Official Community Plan from Large Holdings to Residential-Low Density and Parks and Recreation located adjacent to Westside Road. Central Okanagan West Electoral Area (*All Directors*)

The question was raised whether the OCP amendment can be adopted at this time. Staff noted that yes, the Board could choose to do this--the letters of credit are tied to approval of the zoning amendment.

#251/11

EDGSON/BAKER

THAT the Official Community Plan Amendment Bylaw No. 1274-02 be adopted this 24th day of October, 2011.

CARRIED (Ophus opposed)

- ii) Zoning Amendment Bylaw No. 871-170 for the above to amend the zoning from RU1 (Rural 1) and RU4 (Country Residential) to R1 (Single Detached Housing) and P1 (Park and Open Space). (Z07/26) Central Okanagan West Electoral Area (*Electoral Areas, West Kelowna Fringe Area and Kelowna Fringe Area*)

#252/11

SHEPHERD/EDGSON

THAT Zoning Amendment Bylaw No. 871-170 be adopted.

#253/11 FINDLATER/SHEPHERD

THAT consideration of the main motion be *POSTPONED* until the November 10th Regional Board meeting.

The motion to postpone was CARRIED (Edgson, Reid-Nagy opposed)

The main motion was POSTPONED

10. ENVIRONMENTAL SERVICES

No Board action required/requested.

11. NEW BUSINESS

11.1 Approval of 2012 Meeting Schedule (*All Directors - Unweighted Vote*)

#254/11

OPHUS/BAKER

THAT the 2012 schedule for Regional Board, Public Hearings and Governance & Services Committee meetings be approved.

CARRIED

12. OTHER BUSINESS

12.1 Director Items

a) Southern Interior Beetle Action Coalition (SIBAC)

Director Edgson noted SIBAC funds have been provided to various communities in BC but not to the Central Okanagan. Coalition staff has been asked to look at projects in the Central Okanagan including heritage projects.

b) Length of Court Dates – Impounded Dogs

It was noted that it often takes a very long time to get court dates for impounded dog destruction orders, sometimes up to a year, and that while waiting the dog is impounded at taxpayer's expense. The question was raised whether there are any legislative changes that can be considered in order to facilitate earlier court hearings.

#254/11

SHEPHERD/HODGE

THAT staff forward a letter to the provincial court requesting earlier court dates for when a dog has been impounded and waiting a destruction order;

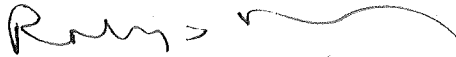
AND FURTHER THAT staff research possible legislative changes to facilitate earlier resolution of destruction orders.

CARRIED

13. ADJOURN

There being no further business the meeting was adjourned at 8:50 p.m.

CERTIFIED TO BE TRUE AND CORRECT



R. Hobson (Chair)



H. Reay (Chief Administrative Officer)