

City of Kelowna

Regular Council Meeting

AGENDA



Monday, September 11, 2017
10:30 am
Knox Mountain Meeting Room (#4A)
City Hall, 1435 Water Street

Pages

1. **Call to Order**
2. **Confirmation of Minutes** 2 - 4
Regular AM Meeting - August 28, 2017
3. **Reports**
 - 3.1 **Good Neighbour Bylaw, Council Workshop** 45 m 5 - 23
To provide Council an overview of the proposed new Good Neighbour Bylaw.
4. **Resolution Closing the Meeting to the Public**
THAT this meeting be closed to the public pursuant to Section 90(1) (b) and (e) of the Community Charter for Council to deal with matters relating to the following:
 - Position Appointment
 - Acquisition, Disposition or Expropriation of Land or Improvements
5. **Adjourn to Closed Session**
6. **Reconvene to Open Session**
7. **Issues Arising from Correspondence & Community Concerns**
 - 7.1 **Mayor Basran, re: Issues Arising from Correspondence** 30 m
8. **Termination**



**City of Kelowna
Regular Council Meeting
Minutes**

Date: Monday, August 28, 2017
 Location: Council Chamber
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Gail Given, Tracy Gray, Charlie Hodge, Brad Sieben*, Mohini Singh and Luke Stack

Members Absent Councillor Ryan Donn

Staff Present Deputy City Manager, Joe Creron; City Clerk, Stephen Fleming, Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist*; Divisional Director, Infrastructure, Alan Newcombe; Planner Specialist, Ross Soward*; Long Range Policy Planning Manager, James Moore*; Integrated Transportation Department Manager, Rafael Villarreal*; Transportation Engineer Planning & Development, Chad Williams*; Transportation Engineering Manager, Gordon Foy*; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

Councillor Sieben joined the meeting at 10:05 a.m.

1. Call to Order

Mayor Basran called the meeting to order at 10:00 a.m.

2. Confirmation of Minutes

Moved By Councillor Hodge/Seconded By Councillor DeHart

R651/17/08/28 THAT the Minutes of the Regular AM Meeting of August 14, 2017 be confirmed as circulated.

Carried

3. Reports

3.1 Capri-Landmark Plan – Concept Plan Options

Staff:

- Displayed a PowerPoint presentation summarizing the Capri Landmark Concept Plan options.
- Confirmed that unit cost estimates should be used for comparison purposes between the two options.
- Responded to questions from Council.

Council:

- Provided individual comments on both concept plan options.

Moved By Councillor Gray/Seconded By Councillor DeHart

R652/17/08/28 THAT Council receives, for information, from the Planner Specialist dated August 28, 2017, with respect to the Concept Plan options for the Capri-Landmark Plan.

THAT Council directs staff to refine Concept Plan 2 as the preferred plan direction as outlined in the report from the Planner Specialist dated August 28, 2017.

AND THAT Council directs staff to further study the feasibility of the Daylighting Ritchie Brook as part of refinement of Concept Plan 2 as outlined in the report from the Planner Specialist dated August 28, 2017.

Carried

The meeting recessed at 11:08 a.m.

The meeting reconvened at 11:18 a.m.

4. Resolution Closing the Meeting to the Public

Moved By Councillor Sieben/Seconded By Councillor DeHart

R653/17/08/28 THAT this meeting be closed to the public pursuant to Section 90(1) (a) of the Community Charter for Council to deal with matters relating to the following:

- Position Appointment

Carried

5. Adjourn to Closed Session

The meeting adjourned to a closed session at 11:18 a.m.

6. Reconvene to Open Session

The meeting reconvened to an open session at 11:51 a.m.

7. Issues Arising from Correspondence & Community Concerns

7.1 Councillor Singh, re: Glenmore Road

Councillor Singh:

- Advised that the double solid road line prohibits left turn in and left turn out of the Glenmore Road Dog Park and will submit a Service Request.

7.2 Councillor Singh, re: Rezoning and Development Process

Councillor Singh:

- Inquired about a refresher on the appropriate process when considering rezoning and development permit applications.

Council:

- Made comment on the land use development process and legal implications of Council's decision making on development applications.

Moved By Councillor Singh/Seconded By Councillor Sieben

R654/17/08/28 THAT Council direct staff to provide a rezoning and development permit refresher workshop focusing on reasons the land use and development permit process are linked together.

Carried

7.3 Councillor Gray, re: Exterior of Library

Councillor Gray:

- Inquired as to who's responsibility it is to clean the exterior of the Kelowna Library and will submit a Service Request.

7.4 Councillor Stack, re: Vacation Rentals

Councillor Stack:

- Raised concerns with the vacation rental impacts on rental housing stock in the city and that the shift is to vacation rental properties for the summer months.
- Would like staff to present a report very soon.

Councillor Sieben:

- Made reference to meeting the Air B & B Representative Clare Schulte-Albert at UBCM.

Mayor Basran:

- Advised that a meeting has been booked with the Air B & B Representative during UBCM and all members of Council are welcome to attend.

Deputy City Manager:

- Will have staff confirm when the vacation rental report is coming to Council.

7.5 Councillor Hodge, re: Tenancy Rules – UBCM

Councillor Hodge:

- Made comment on the challenges with tenancy rules and that they may discourage property owners from renting.

7.6 Councillor Hodge, re: Abbott Street

Councillor Hodge:

- Made comment on the difficulties accessing downtown area from Abbott Street neighbourhood by vehicle.

Mayor Basran:

- Advised that it is a Ministry of Transportation requirement that vehicles cannot cross Highway 97 at Abbott Street as a condition of the new Bennett Bridge.

7.7 Councillor Given, re: Baron Road Crosswalk

Councillor Given:

- Made comment that a member of the public suggested an improved crossing facility on Baron Road between the Superstore and multi-family development as the current cross walk is not very safe, and will submit a Service Request.

8. Termination

The meeting was declared terminated at 12:14 p.m.

Mayor

City Clerk

/acm

Report to Council



Date: September 11, 2017
File: 00-500
To: City Manager
From: Lance Kayfish, Manager, Risk Management and Health & Safety
Subject: Good Neighbour Bylaw, Council Workshop

Recommendation:

THAT Council receive the Good Neighbour Bylaw, Council Workshop report for information.

AND THAT Council direct staff to bring forward to an afternoon meeting the Good Neighbour Bylaw for Council's consideration.

Purpose:

To provide Council an overview of the proposed new Good Neighbour Bylaw.

Background:

The proposed new Good Neighbour Bylaw is intended to update several existing bylaws under one umbrella and provide the City with a new authority to levy 'nuisance abatement fees' to serve as a new compliance tool when faced with properties where owners and occupants repeatedly fail to meet reasonable community standards set out in the bylaw and other legislation.

A. Good Neighbour Bylaws

Good Neighbour bylaws are bylaws that consolidate many different nuisance type activities into a single bylaw. They can include a wide variety of items such as street nuisances, noise regulations, property maintenance, smoke, blasting regulations, graffiti, odours, weed control, idling, fires, fireworks, firearms, health, panhandling and litter. They may also be referred to as Community Standards or Nuisance Bylaws.

Numerous municipalities across Canada and within the Province of BC have enacted Good Neighbour Bylaws. The scope and content of these bylaws is varied. In developing the draft bylaw, good neighbour (or equivalent) bylaws from Abbotsford, Armstrong, Calgary, Campbell River, Charlottetown, Clearwater,

Courtenay, Edmonton, Hope, Lake Country, Lloydminster, Mission, Nakusp, Nipawin, Oliver, Osoyoos, Penticton, Red Deer, Regina, Rossland, Surrey, Vernon, West Kelowna, West Vancouver, and Williams Lake and more were examined.

The proposed City of Kelowna Good Neighbour Bylaw amalgamates and updates the following current bylaws that would be rescinded when the new bylaw is adopted:

- Anti-Litter Bylaw, No. 3477
- Noise & Disturbances Control Bylaw, No. 6647
- Residential Nuisance Bylaw, No. 7782
- Unsightly Premises and Visual Nuisance Bylaw, No. 8217

B. Nuisance Abatement Fees

Nuisance abatement fees are charges imposed by municipalities on property owners when there are repeat calls for service to a property over a period of time. Criteria for applying nuisance abatement fees differ between municipalities. The proposed approach for Kelowna is more than one nuisance service call within a 24-hour period or more than three nuisance service calls within a 12-month period. This is consistent with: Abbotsford, Surrey, Hope, Oliver, Penticton, Rossland, Vernon, West Kelowna and Clearwater, among others.

Nuisance abatement fees are directly associated with the real property where the nuisance is present or manifesting from, accordingly they are charged to the owner of the property and can be added to the property tax roll if not paid. This serves the purpose of putting the onus on the property owner to perform their due diligence as the party responsible for ensuring the property is managed and cared for in a reasonable manner the prevents nuisances from occurring. The fee is intended to motivate property owners that reside on site as well as landlords that may not take an active role in the day to day conditions or activities on the property they are legally responsible for as an owner.

The proposed nuisance abatement fee is \$250 per response by either the RCMP, Bylaw Services or KFD. The fee represents an estimated average full cost of response to nuisance calls by the RCMP and/or Bylaw Services and/or the fire department, including attendance, equipment, report writing, management review and other costs. The proposed fee is intended to motivate owners to work diligently to obtain compliance at the property promptly. Prior to a nuisance abatement fee being charged owners will have a minimum of 30 days to achieve compliance before the first nuisance abatement fee would be charged against the property.

C. Application of Nuisance Abatement Fees

Properties causing significant ongoing nuisances can disrupt whole neighbourhoods and negatively affect the enjoyment and peace of residents in surrounding areas. Properties that may see the use of nuisance abatement fees include ongoing unsightly premises, those regularly causing disturbing levels of noise, those associated with criminal activities that cause nuisances and in instances where owners display an ongoing apathy for complying with reasonable community standards.

As with the application of all bylaws the nuisance abatement fee will be used as part of a balanced fair but firm enforcement strategy where appropriate. It may not be used in every instance where a

property attracts 3 or more service calls in 12 months. Consideration will be given to the circumstances of the service calls, possible neighbourhood disputes and the extent of the noncompliant nuisances.

The nuisance abatement fee may be applied when:

- There is evidence of a pattern of nuisance behavior on the property that is called in by complainants from the community (not self-generated files from proactive inspections)
- Multiple calls for service related to nuisances at the property are logged demonstrating a pattern of non-compliance. Properties subject to the fee will, at a minimum, have at least 3 separate nuisance files documented within a 12-month period or 2 calls in a 24-hour period.
- Prior to charging the fee the owner of the property will be provided with written notice of the City's intent to charge nuisance abatement fees for subsequent service calls, the notice will include:
 - The particulars of nuisances associated with the property in the last 12 months;
 - Notification of the fees that could be imposed;
 - Notification that other legal remedies may be undertaken in addition to the nuisance abatement fees
 - Provide the owner 30 days to remedy the situation prior to the first nuisance abatement fee being applied.
- If the property remains a nuisance after 30 days, then any service call for a new nuisance will be charged the appropriate fee;
- If identified as a nuisance property, that designation remains with the property for 12 months, regardless of ownership change;
- Abatement fees charged are placed on the property's taxes as taxes in arrears if not paid by December 31st of the year they are billed.

D. Panhandling

Regulating panhandling is an issue that is dealt with in some good neighbour bylaws in other jurisdictions. Staff considered amalgamating and updating the current Panhandling Bylaw, No. 8214, as part of this initiative but are recommending panhandling not be included in Kelowna's Good Neighbour Bylaw. Staff will come forward later in 2017 with a proposal to update the current panhandling bylaw.

E. Construction Noise

The new bylaw incorporates and updates the existing Noise & Disturbances Control Bylaw, No. 6647. Included in this section is the hours in which construction noise can occur in the City. Staff are recommending the allowed time be reduced by one hour in the evening changing the current allowed construction noise period of 7am to 10pm to a 9pm stopping time. Allowing construction to proceed until 10pm without an exemption puts Kelowna among the most relaxed municipalities in Canada with respect to construction noise. The majority of municipalities require construction noise to cease at 9pm or before with many being more restrictive.

In addition, the new bylaw will streamline the process for acquiring an exemption to construction times by removing the requirement for council approval and delegating the authority to the City Engineer. This should balance any concerns regarding the one-hour reduction.

Highlighted Changes & Updates:

- Graffiti – Specifies owners of distribution & utility boxes must comply with requirements for timely removal of graffiti
- Noise – Reduced Constriction period, 10pm to 9pm end
- Noise – Allows City Engineer to authorize construction noise outside 7:00-21:00
- Noise – Restricts any loud or explosive noise from vehicle engines & mufflers, including boats
- Composting / Vermin – requires organic material be in a closed & sealed composter

Financial/Budgetary Considerations:

Material changes in revenue are not expected by the introduction of nuisance abatement fees. Changes in fine amounts under the Bylaw Notice Enforcement, bylaw No. 10475 will not be required to change when the new bylaw comes into force. Fees collected under this bylaw will be placed in the General Fund. The financial impact of the new bylaw and fees will be reviewed in 2018 in preparation for the 2019 budget.

Internal Circulation:

Divisional Director, Corporate & Protective Services
Divisional Director, Human Resources
Development Services Director
City Clerk
Bylaw Services Manager
Manager Police Services
Superintendent RCMP

Legal/Statutory Authority:

- Anti-Litter Bylaw, No. 3477
- Noise & Disturbances Control Bylaw, No. 6647
- Residential Nuisance Bylaw, No. 7782
- Unsightly Premises and Visual Nuisance Bylaw, No. 8217
- Panhandling Bylaw, No. 8214

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

Submitted by:

L. Kayfish, Manager, Risk Management & Occupational Health & Safety

Approved for inclusion:



Divisional Director Corporate and Protective Services

cc:

Deputy City Manager

Divisional Director, Community Planning & Strategic Investments

Divisional Director, Corporate Strategic Services

Development Services Director

Development Engineering Manager

Bylaw Services Manager

Public Works Manager

Legislative Coordinator



Good Neighbour Bylaw: Best Practice & Nuisance Abatement Solution

September 2017



Agenda

- 1) Overview of Bylaw and drafting process
- 2) Nuisance Abatement Fee Use
- 3) Other Bylaws changed and repealed
- 4) Panhandling
- 5) Next Steps

Scope

- ▶ Nuisance Abatement Fees – New authority!
- ▶ Unsightly Premises
- ▶ Noise
- ▶ Parks & Roads – Public spaces
- ▶ Graffiti

Best Practice & Harm Reduction

- ▶ Consolidates nuisance related bylaws
- ▶ Related bylaws needed updating
- ▶ Good fit with nuisance abatement fees

Consultation, Research & Legal Review (how)

- ▶ Significant Internal Consultation
- ▶ Use of City Solicitor to develop content & wording
- ▶ Survey of similar bylaws in BC and Canada
- ▶ Interviews with Surrey Bylaw staff regarding the practical aspects of application & impacts

Nuisance Property Abatement Fees

- ▶ Imposed on property owners following repeated call
- ▶ More than 1 in 24hrs or more than 3 per year
- ▶ Proposed amount is: \$250 per call
- ▶ Includes attendance by RCMP, KFD or Bylaw
- ▶ Successfully being used in BC
- ▶ Fees can be applied to taxes
- ▶ Does not restrict other enforcement actions

Abatement Fees – When?

- ▶ Multiple calls for service related to nuisances at the property logged, its strongly **recommended a fine be issued for each call**
- ▶ At a minimum, have at least 3 separate nuisance files documented within a 12-month period or 2 calls in a 24-hours

Abatement Fee Procedures

- ▶ Prior to charging the fee the owner of the property will be provided with written notice of the City's intent to charge nuisance abatement fees for subsequent service calls, the notice will include:
 - ▶ The particulars of nuisances associated with the property in the last 12 months;
 - ▶ Notification of the fees that could be imposed;
 - ▶ Notification that other legal remedies may be undertaken in addition to the nuisance abatement fees
 - ▶ Provide the owner 30 days to remedy the situation prior to the first nuisance abatement fee being applied.

Abatement Fee Procedures

- ▶ RCMP, Bylaw & KFD to meet and communicate about properties on the 'watch list'
- ▶ If identified as a nuisance property, that designation remains with the property for 12 months, regardless of ownership change
- ▶ RCMP & KFD to provide Bylaw call details to log nuisance calls and trigger fees to be charged
- ▶ Unpaid fees placed on the property's taxes as taxes on December 31st
- ▶ Will not count medical calls (ODs), serious crime, false alarms, etc.

Bylaws: Repealed

- ▶ Anti-Litter Bylaw, No. 3477
- ▶ Noise & Disturbances Control Bylaw, No. 6647
- ▶ Residential Nuisance Bylaw, No. 7782
- ▶ Unsightly Premises and Visual Nuisance Bylaw, No. 8217
- ▶ Bylaw Notice Enforcement, bylaw No. 10475 (***amend***)

Notable Changes & Updates

- ▶ Graffiti – Includes distribution & utility boxes
- ▶ Noise – Reduced Constriction period, 10pm to 9pm end
- ▶ Noise – Allows City Engineer to authorize construction noise outside 7:00-21:00
- ▶ Noise – Restricts “roaring or explosive” engine or exhaust sounds from cars, motorbikes & boats
- ▶ Composting / Vermin – requires organic material be in a closed & sealed composter

Panhandling Bylaw Coming

- ▶ Most of the work has been done, revise before 2018
- ▶ Tone & detail required are a better fit outside GNB

Fines

- ▶ \$500 minimum for property nuisances, construction noise & “party” noise
- ▶ \$100 minimum for all other infractions
- ▶ Actual fine amounts for offences contained in Bylaw Notice Enforcement, bylaw No. 10475
 - ▶ Bylaw Notice amounts can be less than minimums



Questions?

For more information, visit kelowna.ca.