

Town of Drumheller COUNCIL MEETING MINUTES

February 1, 2010 at 4:30 PM
Council Chamber, Town Hall
703-2nd Ave. West, Drumheller, Alberta



PRESENT:

MAYOR:

Bryce Nimmo

COUNCIL:

Andrew Berdahl

Karen Bertamini

Blaine McDonald

Sharel Shoff

Terry Yemen

CHIEF ADMINISTRATIVE OFFICER/ENGINEER:

Ray Romanetz

DIRECTOR OF INFRASTRUCTURE SERVICES:

Allen Kendrick

DIRECTOR OF CORPORATE SERVICES:

Michael Roy

DIRECTOR OF COMMUNITY SERVICES:

Paul Salvatore

RECORDING SECRETARY:

Linda Handy

ABSENT: Councillor Don Guidolin

1.0 CALL TO ORDER

2.0 MAYOR'S OPENING REMARK

- 2.1 Mayor Bryce Nimmo advised that the February 8th 2010 Council Committee Meeting is cancelled due to Municipal Sustainability Plan Workshop.
- 2.2 Mayor Bryce Nimmo advised that Councillor Don Guidolin is recovering from his surgery and is doing well.

3.0 PUBLIC HEARING

- 3.1 Mayor Bryce Nimmo called the Public Hearing to order at 4:32 PM.

Mayor Bryce Nimmo stated that the purpose of the public hearing is to consider Bylaw 03.10 being a bylaw to amend the Land Use Bylaw No. 10.08 Section 25 "CR - Country Residential District" by adding kennel to the list of discretionary uses.

Brad Wiebe, Palliser Regional Municipal Services provided the planning report with comments as follows:

"The application proposes to allow 'Kennel' as a permissible land use within the Country Residential Land Use District. This amendment would allow for an application to be made within the Town of Drumheller municipal boundaries for a Kennel operation in Country Residential designated area.

A kennel is defined as any place where three or more dogs and / or 5 or more cats over the age of 90 days are cared for, maintained, boarded, bred, or trained whether or not the owner receives compensation for such activities.

The Land Use Bylaw 10.08 currently provides for 'Kennel' as a discretionary use within the 'A' - Agriculture Land Use District. The purpose of the Country Residential Land Use District is listed as follows: The purpose and intent of this district is to accommodate residential development, free from incompatible uses at rural densities."

He concluded by stating that "in consideration of the purpose and intent of the Country Residential Land Use District to be residential at rural densities free from incompatible uses, the nature of kennels and the potential land use conflicts of uncontrollable day and night noise due to barking dogs, and the clustering nature of country residential designated areas, it is the recommendation of Palliser Regional Municipal Services that kennels are not a compatible land use within the Country Residential Land Use District. It may also be a good option to review General regulations related to kennel operations to provide more specific criteria when considering development permit applications for kennels in the "A' - Agriculture Land Use District such as minimum distances from an adjacent residence and other requirements as above."

Kate Lima, Development Officer provided the following report from the Municipal Planning Commission:

"On November 26, 2009, the MPC reviewed an application submitted by Mike and Brandi Yavis to amend Land Use Bylaw 10.08 to add 'kennels' as a discretionary use within a Country Residential "CR" district. K. Lima read the application which states that the Town of Drumheller needs this service and that they have the support of the Drumheller Humane Society. The closest neighbouring house is approximately 1500 ft. from the proposed

property and currently the nearest 'kennel' is half an hour drive from the Town of Drumheller. B. Wiebe advised that 'kennel' development should be situated a specific distance from residential neighbourhoods and that the proposed application is not an appropriate location. The MPC discussed that 'kennels' are currently listed as a discretionary use under the Agricultural District and this seems to be a more appropriate district. They also discussed whether it would be an appropriate location under one of the districts described as Industrial Use. The MPC agreed that land zoned as 'CR' Country Residential is not an appropriate place for the placement of 'kennels' and they recommend that Council not approve the application for amendment to the Land Use Bylaw 10.08 submitted by Mike and Brandi Yavis to add 'kennels' as a discretionary use."

Mayor asked if there were any items of correspondence. Secretary, L. Handy advised there were no items of correspondence.

Mayor asked if there were speakers in favour of or against the proposed amendment.

Mike Yavis stated that he is the applicant and he has discussed his proposal with Ray Romanetz. He stated that he intends to control the noise with the construction of an 6 ft. fence. He stated that he will cooperate with all the regulations to break the noise levels.

There were no further speakers.

Mayor asked for questions from Council:

Councillor K. Bertamini asked M. Yavis if he talked with his neighbor, Rona McIver. M. Yavis stated no. He stated that he does not foresee that Rona would have a problem with the proposal as she is 1500 ft. away and he would construct a 6 ft. fence around the kennel area.

CAO, R. Romanetz clarified that by adding 'kennels' as a discretionary use under 'CR' - Country Residential it would affect all CR Districts within any part of the community. B. Wiebe provided an example of a CR district (being the Paarup Subdivision) where a kennel would not be suitable. He stated that if the change was approved, a property owner in that area could apply for a kennel, opening it up for a potential use in that district. Councillor K. Bertamini asked if the Yavis property could be spot zoned or another solution put forward. B. Wiebe stated that the area was designated CR when it was subdivided and the property is in close proximity to a neighbour. Councillor K. Bertamini asked if a temporary permit could be issued. B. Wiebe stated that a temporary permit could be issued but the addition of kennels in the CR District would still have to be approved to allow for the issuance of a temporary permit. In response to a question from Council, B. Wiebe stated that the property does not meet the criteria for an 'A' - Agriculture District. Councillor A. Berdahl stated that the key word is

discretionary and a kennel may not be appropriate in all CR Districts. B. Wiebe stated that standards would have to be set for kennels in the CR District. R. Romanetz stated that a kennel was situated in a residential area in past years and ongoing problems resulted. Councillor T. Yemen stated that the proposal is for kennel in the country. B. Wiebe stated that the property is close to a residential area and he stated that he does not feel it would be appropriate. M. Yavis stated that the closest house is 700 metres from the proposed. He further stated that if the kennel does not work, he will close the kennels not the campground. He stated that half the campground trailers stay their long term - located to the west end. On a question from R. Romanetz, M. Yavis advised that the campground stalls rented on a full time basis are located to the far west end of the campground.

Mayor Nimmo closed the Public Hearing at 4:50 PM.

3.2 Mayor Nimmo called the Public Hearing to order 4:50 PM.

Mayor Nimmo stated that the purpose of the public hearing is to consider Bylaw 04.10 being a bylaw to amend Land Use Bylaw No. 10.08 by redesignating Lot 14, Block 2, Plan 3324ER from "R-1" - Residential District to "R-2" Residential District (Nacmine).

Brad Wiebe, Palliser Regional Municipal Services provided the planning report with comments as follows:

"The purpose of the land use change is to fulfill a condition of the resubdivision of the existing lot as shown on the sketch. The existing lot contains a semi-detached dwelling (two dwelling units side-by-side) with the proposed new property line acting as the boundary between the two units.

Surrounding land uses include mostly single detached dwelling units within the Nacmine neighbourhood and is zoned R1 Residential. The area proposed for the land use change received conditional subdivision approval in October 2009. As the current "R-1" Residential District does not allow for semi-detached dwellings as either a permitted or discretionary use, these parcels will require a reclassification to "R-2" - Residential District.

He concluded by stating that *"the proposed subdivision application contains a pre-existing situation and does not change the density or uses within the area. Taking this into condition no significant negative impacts or land use conflicts are anticipated to the existing neighbourhood resulting from the proposal."*

Mayor asked if there were any items of correspondence. Secretary, L. Handy advised there were no items of correspondence.

Mayor Nimmo asked if there were speakers in favour of or against the proposed amendment:

There were no speakers present.

Mayor asked for questions from Council.

Councillor K. Bertamini asked why the property could not remain non conforming. She further stated that she disagreed with spot zoning of a higher density in a single density neighborhood. B. Wiebe stated that the subdivision would not proceed if the zoning remains as is. He explained that the property owner could not sell the parcels separately. The two lots would be incorporated into Lot 14a and 14b. Councillor K. Bertamini stated that R2 would allow for semi attached or two duplexes on each parcel. B. Wiebe stated that one duplex on each parcel would be permitted.

Mayor closed the Public Hearing at 4:58 PM.

3.3 Mayor Bryce Nimmo called the public hearing to order at 4:58 PM.

Mayor Nimmo stated that the purpose of the public hearing is to consider Bylaw 05.10 being a bylaw to amend the Land Use Bylaw 10.08 by redesignating Lot 2, Block 10, Plan 9911605 from "CR - Country Residential District to "R1a" - Residential District (Bankview Area)

Brad Wiebe, Palliser Regional Municipal Services provided a planning report with comments as follows:

"The purpose of the land use change is to fulfill a condition of the subdivision of the existing lot as shown on the sketch. Surrounding land uses include mostly single detached dwelling units within the R-1a - Residential Land Use District. A second 'CR' - Country Residential parcel is located to the west of the proposed land use change. The area to the east of the proposed land use change include 'R-4' - Residential and is currently vacant land. The purpose of this subdivision is to create eight (8) single detached residential parcels from one (1) existing country residential lot. Proposed lot 1, which is to be the remainder, will contain existing dwelling. The area proposed for the land use change received conditional subdivision approval in December 2009. As the current 'CR' does not allow for the density proposed in this application as either a permitted or discretionary use, these parcels will require a re-classification to 'R1a' to be compatible with the surrounding neighbourhood."

He concluded by stating that *"the proposed subdivision application is consistent with the Municipal Development Plan to provide infill development. Consideration should also be given to extending the land use change to Lot 1, Block 10, Plan 9911605 located adjacent to the west of the proposed area. This change would allow for future infill subdivision and development of the remainder of the area in the future without any significant change to the permissible land uses within the existing property. This*

change would also provide overall consistency with regards to the surrounding land use districts. No negative impacts or land use conflicts are anticipated to the existing neighbourhood resulting from the proposal."

R. Romanetz asked B. Wiebe if the property owner to the west responded to the Town's inquiry if they would like to be considered in the land reclassification. B. Wiebe stated that although he and Kate have left repeated messages, there has been no response from the adjacent landowner. He further explained that there are duplexes and fourplexes to the north end of the parcel, and the area of land to the east is vacant.

Mayor asked if there were any items of correspondence. Secretary, L. Handy advised there were no items of correspondence.

Mayor asked if there were any speakers in favour of or against the amendment. There were no speakers.

Questions from Council:

Councillor K. Bertamini asked the lot size which had one dwelling. R. Romanetz advised that it was approximately 40-50 metres in width with a depth of 84 metres. He further advised that the lane between the park and the property in question will remain as a public lane. He stated that the access to the subdivision will be directly from 3rd Street. R. Romanetz advised that the access to the existing house would be from 4th Street. Councillor A. Berdahl stated that the property to the west should be included in the reclassification. Council agreed that the property owner be contacted by writing.

Mayor closed the Public Hearing at 5:12 PM.

3.4 Mayor Nimmo called the public hearing to order at 5:12 PM.

Mayor Nimmo stated that the purpose of the public hearing is to consider Bylaw 06.10 being a bylaw to close a portion of undeveloped original road allowance from use and sell and incorporate same with the adjacent Lot 1, Plan 3946ET (Nacmine)

R. Romanetz advised that the bylaw was advertised to determine concerns and in accordance with provincial procedure, letters were mailed to the utility companies asking for their comments. He advised from the responses to date, ATCO has indicated that they have no objections, Telus requests a further timeframe to check the proposed closure location as they feel there is a non energized cable in the area and AltaGas has not provided a response as of yet. He further advised that the Town has a sewer force main and water main down the front of the property and the Town will require an easement to ensure interests are protected. He further explained that in speaking today with Mr. Walker who wishes to close the undeveloped roadway, the bylaw

suggests that this roadway will be closed and consolidated with his adjacent property however Mr. Walker feels that it may be in his best interests to develop as a separate lot.

Mayor asked if there were any items of correspondence. Secretary, L. Handy advised there were no items of correspondence.

Mayor asked if there were any speakers in favour of or against the proposed road closure.

Kent Walker advised that he has been trying to obtain this property for several years. He stated that he was not aware of Telus' concern and hopes that the lot will still be developable. He stated that he understands the need for the Town's request for an easement. He stated that he would like a separate title rather than consolidate the parcel. R. Romanetz stated that there will be an opportunity to hear Telus' position before advancing to the Province for their approval. He stated that the area would be zoned similarly to the surrounding area being R-1 - Residential District. He asked B. Wiebe if a parcel of land resulting from a road closure is given the same zoning as the surrounding area? B. Wiebe stated that normally the parcel resulting from a road closure is consolidated with adjacent property(s) and designated consistent with adjacent property. K. Walker asked if the parcel size would be sufficient for development. B. Wiebe stated that he would have to review the area however the parcel size requirements can be relaxed.

Mayor Nimmo closed the Public Hearing at 5:20 PM.

4.0 ADOPTION OF AGENDA

MO2010.25 Shoff, McDonald moved the adoption of the agenda as presented. Carried unanimously.

5.0 MINUTES

5.1. ADOPTION OF REGULAR COUNCIL MEETING MINUTES

5.1.1 Regular Council Meeting Minutes January 18, 2010

MO2010.26 Berdahl, McDonald moved the adoption of the regular Council Meeting Minutes of January 18, 2010 as presented. Carried unanimously.

5.2. MINUTES OF MEETING PRESENTED FOR INFORMATION

5.2.1 Management Meeting Minutes of January 19, 2010

5.2.2 Municipal Planning Commission Minutes - January 14, 2009

5.3. BUSINESS ARISING FROM THE MINUTES

6.0 DELEGATIONS

7.0 COMMITTEE OF THE WHOLE RECOMMENDATIONS

8.0 REQUEST FOR DECISION REPORTS

8.1. CAO

8.1.1 Building Stats 2009 - Kate Lima, Development Officer

K. Lima presented the 2009 Building Permit Statistics with highlights as follows:

- Comparing the 2001 - 2009 construction values, 2009's were the highest at \$25,284,310 - 104 permits issued;
- High construction values in the Institutional category resulting from the Drumheller High School and St. Anthony's School; as well as high construction values in the Industrial category resulting from the Wastewater Treatment Plant improvements;
- Residential category resulted in \$4,529,558 construction values.

Mayor and Council thanked Kate for her presentation.

8.1.2 Bylaw 08-10 - Business Tax Bylaw

R. Romanetz asked M. Roy, Director of Corporate Services to speak to the bylaw. M. Roy stated that Bylaw 08.10 is an annual bylaw which sets the business tax rate for 2010 based on 2009 assessment values.

MO2010.27 Yemen, Bertamini for first reading to Bylaw 08.10. Carried unanimously.

MO2010.28 Shoff, Yemen for second reading to Bylaw 08.10. Carried unanimously.

MO2010.29 Bertamini, Berdahl moved no objection to third reading of Bylaw 08.10. Carried unanimously.

MO2010.30 Yemen, Shoff for third reading to Bylaw 08.10. Carried unanimously.

8.1.3 RFD - Library Board Appointment

R. Romanetz advised that the Drumheller Public Library Board has two vacancies on their board with one application received. He advised that John Serkiz would like to serve on the board. The Library Board members recommend approval of his application.

MO2010.31 Shoff, McDonald moved the appointment of John Serkiz to the Drumheller Public Library Board for a three year term. Carried unanimously.

8.1.4 RFD - Non Exclusive Franchise Agreement with Shaw Cable

R. Romanetz stated that Council reviewed the Municipal Access Agreement

between the Town of Drumheller and Shaw Cablesystems Limited at their Council Committee meeting of January 25th. He advised that the permit and inspection fees have not been set as of yet however Administration is meeting with Shaw tomorrow and the rates should be set at that time. He recommended that Council approve the agreement subject to the rates for permit and inspection fees being negotiated between the Town and Shaw Cable.

MO2010.32 Yemen, Bertamini that Council approve the Municipal Access Agreement between the Town of Drumheller and Shaw Cablesystems Limited subject to the permit and inspection rates being negotiated between the Town and Shaw Cablesystems Limited. Carried unanimously.

8.2. Director of Infrastructure Services

8.3. Director of Corporate Services

8.4. Director of Community Services

9.0 PRESENTATION OF QUARTERLY REPORTS BY ADMINISTRATION

- 9.1 CAO, R. Romanetz presented his Quarterly Report October to December 2009 and the 2009 Annual Report.
- 9.2 Director of Infrastructure Services, A. Kendrick presented his department's Quarterly Report October to December 2009 and the 2009 Annual Report.
- 9.3 Director of Corporate Services, M. Roy presented his department's Quarterly Report October to December 2009 and advised that his 2009 Annual Report consisted of the Audited Financial Statements which will be presented in the Spring.
- 9.4 Director of Community Services, P. Salvatore presented his department's Quarterly Report October to December 2009 and the 2009 Annual Report.

10.0 PUBLIC HEARING DECISIONS

- 10.1 Bylaw 03.10
MO2010.33 Yemen, Berdahl for second reading to Bylaw 03.10.
Discussion on Motion: Councillor K. Bertamini asked if standards have been set. R. Romanetz advised that this would require a further amendment to the Land Use Bylaw as well as advertising. He further stated that the bylaw as presented this evening can be turned down and create one that had the standards in place. Councillor A. Berdahl stated that it is appropriately designated as a discretionary use and through the Municipal Planning Commission, it would be the most practical way to develop the standards, as

conditions are set on any application. He further stated that once an application is made it is considered on its own merits and the conditions as set are the guiding principles. He stated that he is not sure if the Land Use Bylaw can list all the possible requirements that are based on individual merits. R. Romanetz stated that the bylaw should set some standards for kennels. He suggested Palliser research standards that exist in our Land Use Bylaw. Councillor B. McDonald stated that standards should be set because the Town needs a kennel in the community.

MO2010.34 McDonald, Yemen moved to table second reading on Bylaw 03.10 to allow for more information to be presented to Council on setting standards for kennels. Carried unanimously.

10.2 Bylaw 04.10

MO2010.35 McDonald, Shoff moved for second reading of Bylaw 04.10.

5 - in favour - Yemen, McDonald, Nimmo, Shoff, Berdahl

1 - opposed - Bertamini

Motion Carried.

MO2010.36 Yemen, McDonald for third reading of Bylaw 04.10.

5 - in favour - Yemen, McDonald, Nimmo, Shoff, Berdahl

1 - opposed - Bertamini

Motion Carried.

Councillor A. Berdahl asked Councillor K. Bertamini her reason for opposing the Bylaw. Councillor K. Bertamini advised that she was not comfortable with the zoning change as proposed.

10.3 Bylaw 05.10

MO2010.37 Shoff, Yemen moved for second reading to Bylaw 05.10.

Discussion on Motion:

Councillor Bertamini requested that the Council delay the vote until the neighbor has been contacted for their comment. Council agreed and requested that Administration send a letter by registered mail requested a response prior to their next Council meeting of February 16th.

MO2010.38 Bertamini, Yemen moved to table the vote on Bylaw 05.10 to allow for time to contact the adjacent neighbor for their comments. Carried unanimously.

10.4

Bylaw 06.10

Council requested Administration to confirm whether the bylaw as wording for consolidation needs to be changed if the applicant's intention is to purchase the property to create a separate title. As well it was noted, that the neighbor to the east was not contacted and Council requested that a letter be forwarded. Council requested that Bylaw 06.10 be discussed at their next Council meeting to be held on February 16th.

11.0 UNFINISHED BUSINESS

12.0 NOTICES OF MOTIONS

13.0 COUNCILLOR REPORTS

14.0

IN-CAMERA MATTERS

There being no further agenda items, the Mayor declared the meeting adjourned at 6:30 PM.

MAYOR

CHIEF ADMINISTRATIVE
OFFICER