

MINUTES of a regular meeting of the MUNICIPAL COUNCIL of The Corporation of the District of Oak Bay, held in the Council Chambers, Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Oak Bay, B.C., on Monday, November 22, 2010 following a Public Hearing at 7:30 p.m.

PRESENT: Mayor C. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen
Councillor T. Ney

STAFF: Municipal Administrator, M. Brennan
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall
Municipal Treasurer, P. Walker

Mayor Causton called the meeting to order at 7:36 p.m.

ADOPTION OF MINUTES:

Council – November 8, 2010

MOVED by Councillor Herbert
Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, November 8, 2010, be adopted.

Drawing attention to correspondence item no. 2010-262 regarding the Welcome to Oak Bay sign, Mayor Causton said he wished to clarify the next step for the sign placement, suggesting that the Community Initiatives Committee be tasked with finding an alternate suitable location. Members of Council agreed with Mayor Causton's recommendation, noting that the recommended sign location would be brought back to Council for final approval.

The question was then called.

CARRIED

Committee of the Whole – November 15, 2010

MOVED by Councillor Herbert
Seconded by Councillor Jensen, That the minutes of Committee of the Whole meeting held on Monday, November 15, 2010, and the recommendations contained therein, with the exception of that regarding correspondence item no. 2010-298, be adopted.

CARRIED

Proposed Cycling Lane Foul Bay Road, Middowne to Lansdowne/Removal of Right Turn Lane at Foul Bay Road at Lansdowne Road

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That staff be directed to proceed with the recommendations from the Community Initiatives Committee, as described in Attachment #2 of correspondence item no. 2010-284, circulated at the November 1, 2010 Committee of the Whole meeting.

It was the general consensus that Council move forward with the Community Initiatives Committee's recommendation to install a bike lane on the east side of Foul Bay Road between Middowne Road and Lansdowne Road, remove the right turn lane at Foul Bay/Lansdowne Road intersection, and change the parking regulations. It was also suggested that consideration be given to adding dashed lines through the Foul Bay/Lansdowne Road intersection to guide cyclists through the intersection sometime in the future.

The question on the motion was then called.

CARRIED

COMMUNICATIONS:

1. 2010-299 ROYAL VICTORIA YACHT CLUB, October 5, 2010
Re Requesting Permission for Snowbirds Air Show – April 30, 2011

Responding to questions from Council, Don Thain, representing the Royal Victoria Yacht Club, noted that at this point he is seeking approval in principle for the air show, and if granted, the Club will then work on the event details. Mr. Thain provided a brief overview of some of the anticipated event activities, and indicated that most spectators would most likely be watching the show from Gyro Beach Park area in Saanich.

It was suggested that the Yacht Club could benefit from Oak Bay's experience with hosting the Snowbirds air show during its centennial celebration in 2006.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That approval in principle be given for the Canadian Air Force Snowbirds air show over a portion of Oak Bay on April 30, 2011, subject to the Event Organizer entering into a public property occupancy agreement in which it will among other standard requirements:

1. release and indemnify the Municipality from any claims or liability associated with the event and providing evidence of public liability insurance in the amount of not less than \$3,000,000;
2. agree to pay all invoices from the Municipality for costs incurred in connection with the event;
3. agree to obtain Oak Bay Police approval for a traffic plan and implement the same subject to any field instructions from the Police; and
4. sufficient notice being given by the event organizer to all property owners in the vicinity of the event,

with the Municipal Clerk being authorized to execute such agreement on behalf of the District of Oak Bay.

CARRIED

2. 2010-300 ROYAL VICTORIA YACHT CLUB, October 6, 2010
2010-300-1 MUNICIPAL CLERK, November 18, 2010
Re Sea of Lights Event – December 3, 2010

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That in relation to the Sea of Lights Event, the activities planned for Willows Beach, on December 3, 2010 be approved as a Municipal Event, including the lighting of a bonfire pursuant to Section 46 of the Fire Regulation Bylaw.

CARRIED

3. 2010-301 MUNICIPAL TREASURER, November 17, 2010
2010-301-1 JOAN RUSSOW, October 6, 2010
Re Request to Write-off Late Tax Payment Penalty

Soren Russow was in attendance on behalf of his mother, Joan Russow, with respect to her request that Council make an application to the Province for permission to write-off the late tax payment penalty, given the serious health issues she faced that had prevented the property taxes on her property being paid on time.

Responding to questions from Council, the Municipal Treasurer noted that while the circumstances were indeed unfortunate, there are many such situations where illness has prevented taxes from being paid, where the penalty has not been written off.

Attention was drawn to a situation in the past where Council did request permission to write off the late payment fee and it was suggested that this situation also warranted such a request to the Province. The Municipal Treasurer noted that Provincial staff had contacted Oak Bay staff expressing surprise at that application given it may set such a far reaching precedence in respect to illness. Nonetheless, after considering the facts of the request, it was the view of Council that the circumstances of the case were sufficiently singular and extenuating to warrant an application to the required authority to write off the penalty.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That pursuant to Section 315.3 of the *Local Government Act*, an application be made to the Minister of Community, Sport and Cultural Development, Inspector of Municipalities, for the authority to write-off the 10% tax penalty for late payment of 2010 property taxes for 1230 St. Patrick Street.

CARRIED

4. 2010-302 GREATER VICTORIA DEVELOPMENT AGENCY, November 9, 2010
Re Request for Financial Assistance

Mayor Causton advised that the Greater Victoria Development Agency asked that its request for financial assistance be deferred to January 2011.

5. 2010-303 M. E. ANN PATTERSON, November 16, 2010
Re Request to Remove Heritage Designation – 2030 Milton Street

Ann Patterson, homeowner, explained that she has lived at 2030 Milton Street for just over 26 years and it was never her intention to move. However, during recent minor renovations being undertaken it was discovered that the house foundation is failing and she said it was recommended by the insurance claims adjustor and a restoration specialist that the house would need to be raised and the foundation replaced. Ms. Patterson advised Council that the

associated costs are estimated to be \$80,000 to \$120,000, therefore she is requesting the heritage designation be removed to allow for the house to be demolished and the lot sold.

Members of Council suggested that a second opinion perhaps from a heritage restoration expert could be sought regarding possible options to save the house, adding that there are likely other avenues that could be pursued, including possible grants to assist with the costs.

A comment was made that given the history of the house and the fact that there are a limited number of these 'cottages' still standing in Oak Bay, there could very well be an interested buyer willing to take on the required restoration work.

A member of Council drew attention to the restrictions imposed due to the heritage designation, which seem to penalize a homeowner for coming forward to designate a home as heritage in the first place. The potential financial hardship faced by Ms. Patterson was acknowledged, and it was hoped that a more viable solution could be found.

Following further discussion it was the view of Council that the issue of de-designation should be referred to the Heritage Advisory Panel.

MOVED by Councillor Copley

Seconded by Councillor Jensen, That the request to remove the heritage designation in respect to 2030 Milton Street be referred to the Heritage Advisory Panel for a recommendation.

With the idea of obtaining a second opinion on the state of the house being supported by various members of Council, it was further noted that it would be beneficial if the homeowner could provide documented evidence of the magnitude of the issue for the Heritage Advisory Panel's consideration as well.

In respect to questions about the approval process for work on a protected dwelling, the Municipal Administrator clarified that should the homeowner wish to undertake structural work it would require a Heritage Alteration Permit.

The question on the motion was then called.

CARRIED

6. 2010-304 MUNICIPAL TREASURER, November 16, 2010
Re Waiving of Solid Waste Charges

The Municipal Treasurer explained that two properties have informed the Municipality that they are using a private company for their solid waste and recycling requirements and have requested that the solid waste charges be adjusted.

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That pursuant to the Refuse Collection and Disposal Bylaw, 2007 the Municipal Treasurer be authorized to waive the solid waste charges for the following properties:

2358 Esplanade
2013 Oak Bay Avenue.

CARRIED

7. 2010-305 MUNICIPAL TREASURER, November 16, 2010
Re Proposed Funding of Contribution Toward the Community Theatre,
Oak Bay High School

Councillor Cassidy declared a conflict of interest with respect to the correspondence item no. 2010-305, noting that his firm is engaged by School District No. 61. Councillor Cassidy left the meeting at 8:43 p.m.

The Municipal Treasurer responded to various questions and comments regarding the possible arrangements in respect to the proposed funding contribution for the Oak Bay High School community theatre.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the recommendations contained in the Municipal Treasurer's memorandum, dated November 16, 2010, for funding the Municipal contribution towards the Oak Bay High School's Community Theatre be endorsed, and that these funding sources be incorporated into the Financial Plan Bylaw amendment to be considered in December 2010.

CARRIED

Councillor Cassidy returned to the meeting at 8:47 p.m.

8. 2010-306 NEIL MADSEN, April 29, 2010
2010-306-1 IAN BACK, June 2, 2010
2010-306-2 ASHLEY MCEACHERN, November 22, 2010
2010-306-3 CONNIE KURAMOTO, November 22, 2010
2010-306-4 GUY DAUNCEY, November 22, 2010
2010-306-5 NANCY FALCONER, November 22, 2010
Re Bylaw No. 4518, Pesticide Regulation Bylaw, 2010
9. 2010-307 BILL HAMAR *et al*, November 22, 2010
Re Development Variance Permit - 1358 Monterey Avenue

MOVED by Councillor Jensen

Seconded by Councillor Copley, That correspondence items no. 2010-306 to 2010-306-5 and 2010-307 be received.

CARRIED

NEW BUSINESS:

Heritage Lighthouses

Councillor Copley drew attention to the issue of heritage lighthouses, saying that the Provincial Heritage Branch is currently negotiating lighthouse protection with Parks Canada, saying she will keep Council updated on any progress.

TABLED:

Development Variance Permit – 1358 Monterey Avenue

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the following motion be lifted from the table:

That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1358 Monterey Avenue (Lot 8, Section 23, Victoria District, Plan 2479), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(2)(d) <i>Minimum Exterior Side Lot Line Setback</i>	3.65 m	1.68 m	1.97 m
6.5.4.(7) <i>Clear Space Between Buildings</i>	3.00 m	1.37 m	1.63 m

to accommodate the construction of a gazebo, as shown on the plans appended to Committee of the Whole agenda item #2010-286, being a memorandum from the Director of Building and Planning dated October 28, 2010.

CARRIED

Attention was drawn to concerns raised by neighbouring residents in the correspondence received, and Brian Morris, Architect, indicated that he was happy to meet with the neighbours to discuss those concerns.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the resolution be tabled.

CARRIED

The tabled resolution, it was noted, would be considered at the next meeting of Council.

Development Variance Permit – 3620 Cadboro Bay Road

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the following motion be lifted from the table:

That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3620 Cadboro Bay Road (Lot 1, Section 31, Victoria District, Plan 3751), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.17.1 <i>Maximum Exposed Face of Retaining Wall</i>	1.2 m	2.44 m	1.24 m

to accommodate the construction of a retaining wall, as shown on the plans appended to Committee of the Whole agenda item #2010-287, being a memorandum from the Director of Building and Planning dated October 28, 2010.

CARRIED

With no members of the public wishing to speak to the application, the question on the main motion was then called.

CARRIED

RESOLUTIONS:

Fire Dispatch and Communications Services Agreement

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Mayor and the Municipal Clerk be authorized to execute the Fire Dispatch and Communications Services Agreement Addendum, substantially in the form attached to the resolution printed for the purposes of the November 22, 2010 Council agenda.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Bylaw No. 4517, *Mayor and Councillors' Annual Indemnity Bylaw, 2011* be adopted.

CARRIED

There was consensus to amend the order of the agenda.

For First, Second and Third Reading

MOVED by Councillor Copley

Seconded by Councillor Jensen, That Bylaw No. 4518, *Pesticide Regulation Bylaw, 2010*, be introduced and read a first time.

CARRIED

MOVED by Councillor Copley

Seconded by Councillor Jensen, That Bylaw No. 4518, *Pesticide Regulation Bylaw, 2010*, be read a second time.

Council Herbert advised that although he is in favour of a pesticide regulation bylaw he found the proposed Bylaw difficult to understand in terms of what the permitted pesticides are, noting he would like to review the regulations noted in the Bylaw prior to further consideration.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the motion to read Bylaw No. 4518, *Pesticide Regulation Bylaw, 2010* for a second time be tabled.

Councillor Ney drew attention to one of the letters received that indicated that the Bylaw may be too permissive and that potential loopholes should be tightened up. Councillor Ney used section 4.2 as an example, saying it could be interpreted incorrectly causing an undesirable situation for cosmetic pesticide use in Oak Bay.

Responding to questions, the Municipal Administrator pointed out that staff had been directed to draft a Bylaw largely based on the District of Saanich's model, which was at the recommendation of the Parks and Recreation Commission.

Councillor Braithwaite expressed the view that the Bylaw as written is suitable at this point, noting that not all residents are in favour of regulating pesticide use in Oak Bay. Changes could be made later, she said, if necessary.

The question on the tabling motion was then called.

CARRIED

It was agreed that consideration of Bylaw No. 4519, the companion ticket bylaw to the Pesticide Regulation Bylaw, would be deferred to the next meeting of Council.

For Third Reading and Adoption (Subject to Outcome of the Public Hearing)

Councillor Cassidy declared a conflict of interest for a previously stated reason, which was that he has a business relationship with the law firm representing a party that was involved in a legal matter with the Victoria Golf Club, which would be subject to the proposed Bylaw No. 4516. Councillor Cassidy left at 9:06 p.m. for the remainder of the meeting.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That Bylaw No. 4516, *Eighty-Sixth Zoning Bylaw Amendment Bylaw, 2010*, be read a third time.

CARRIED

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That Bylaw No. 4516, *Eighty-Sixth Zoning Bylaw Amendment Bylaw, 2010*, be adopted.

CARRIED

NEW BUSINESS CONTINUED:

Acting Mayor – December and January

Mayor Causton requested that the Acting Mayors for December and January be switched to accommodate scheduling.

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That Councillor Herbert be appointed as Acting Mayor for the month of December 2010, and for January 1, 2011, and that Councillor Jensen's appointment as Acting Mayor for December be rescinded and that he be appointed as Acting Mayor January 2 to 31, 2011.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Jensen, That the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss personal information about identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality.

CARRIED

The meeting adjourned at 9:07 p.m.

Certified Correct:

Municipal Clerk

Mayor