

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 Tuesday, October 12, 2010 at 7:30 p.m.

PRESENT: Mayor C. Causton, Chairman (*arrived at 7:44 p.m.*)  
Councillor H. Braithwaite  
Councillor P. Copley  
Councillor J. 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

Acting Mayor Copley called the meeting to order at 7:30 p.m.

ADOPTION OF MINUTES:

*Council – September 20, 2010*

MOVED by Councillor Herbert  
Seconded by Councillor Braithwaite, That the minutes of the Council meeting held on Monday, September 20, 2010, be adopted.

CARRIED

*Committee of the Whole – October 4, 2010*

MOVED by Councillor Ney  
Seconded by Councillor Herbert, That the minutes of Committee of the Whole meeting held on Monday, October 4, 2010, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2010-261 GREATER VICTORIA PUBLIC LIBRARY, July 15, 2010  
Re Greater Victoria Public Library Facilities Plan

*(Maureen Sawa, Chief Executive Officer, Lynne Jordon, Deputy CEO/Director of Strategic Development, Greater Victoria Public Library, and Paul Gerrard, John Goudy, and Michelle Wong, Greater Victoria Public Library Facilities Steering Committee, were in attendance for this item.)*

Paul Gerrard, Chairman, Greater Victoria Public Library, provided a presentation of the Greater Victoria Public Library Facilities Plan, “Making Space for the Future” and its fit with the individual plans of the municipal members. Mr. Gerrard noted that to date the Committee has received positive feedback from other local governments regarding the planning document.

Mayor Causton entered the meeting and assumed the Chair.

Following the presentation, library representatives answered various questions from members of Council regarding the plan, noting that it would be up to each local government to make decisions regarding its own facilities.

Further discussion ensued with members of Council commenting on various aspects of the plan.

MOVED by Councillor Copley

Seconded by Councillor Herbert, That correspondence item no. 2010-261 be received, and that it be distributed to municipal staff for use as a strategic and financial planning document.

CARRIED

2. 2010-262 MUNICIPAL CLERK, October 8, 2010  
2010-262-1 OAK BAY HERITAGE COMMITTEE, September 23, 2010  
Re Welcome to Oak Bay Sign

It was agreed that having a full Council in attendance would be desirable and that this item should be deferred to a future meeting of Council when this could be accomplished.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That correspondence items no. 2010-262 and 2010-262-1 be deferred to a future meeting of Council.

CARRIED

3. 2010-263 BLAIR ROBERSTON AND NANCY BESHARAH *et al*, October 7, 2010  
Re Request for Building and Anti-Noise Bylaw Amendments

The Director of Building and Planning introduced the issues raised in the correspondence regarding a neighbouring construction project that has gone on for several years, noting the neighbours are concerned regarding the noise and overall impact of the project on them. Unfortunately, he said, there are no effective tools to deal with long-term construction projects, however, the Building Department could investigate possible options, including potential bylaw amendments, to address some of the issues related to lengthy projects.

Members of Council discussed various ideas and possible solutions that could help staff ensure that projects such as this are completed in a more timely manner, acknowledging that living near a long term construction site would not be desirable.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That staff be directed to report back on possible options to address issues associated with long-term construction projects.

CARRIED

4. 2010-264 BEN BEAUDET AND LINDA FRODYMA-BEAUDET, September 27, 2010  
2010-264-1 JOAN AND DONALD BUSHE, September 28, 2010  
Re Development Variance Permit – 2333 Hamiota Street

5. 2010-265 S. BRUCE VALLANCE, October 7, 2010  
2010-265-1 W. ELIAS, [Undated]  
2010-265-2 BARDY BROWN, October 12, 2010  
2010-265-3 DAVID EVANS, October 12, 2010 (*late item*)  
Re Development Variance Permit – 599 St. Patrick Street

The Municipal Clerk read out a letter received from David Evans, resident, (correspondence item no. 2010-265-3).

6. 2010-266 MICHAEL MUIRHEAD AND MARY DOUTHWAITE, October 3, 2010  
2010-266-1 NAJIB ASFAR, October 12, 2010  
Re Development Variance Permit – 168 Barkley Terrace
7. 2010-267 KATHERINE JANG AND ROBERT TREVOR, October 12, 2010  
2010-267-1 PHYLLIS CAMPANELLO AND DUANE UNDERWOOD, October 12, 2010  
2010-267-2 KATHLEEN AND PETER ALLEN, October 12, 2010  
2010-267-3 PETER AND ELIZABETH WHEATON, October 12, 2010  
2010-267-4 GREG FANNING AND CINDY KOPP, October 12, 2010 (*late item*)  
Re Development Variance Permit – 532 Victoria Avenue

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That correspondence items no. 2010-265 to 2010-267-4 be received.

CARRIED

NEW BUSINESS:

*Neighbourhood Learning Centre Open House*

Councillor Braithwaite noted that an open house will be held October 16, 2010 from 3:00 p.m. to 5:00 p.m. for the public to view and comment on the outcome of the design charette for the Neighbourhood Learning Centre at the Oak Bay High School.

*Tinto Street*

With respect to the recent boulevard work on Tinto Street, Councillor Ney said that residents have raised concerns about the overuse of ‘no parking’ signs, and it was suggested that all signs be removed as the boulders are capable of deterring parking on the street.

It was further noted that the residents had anticipated that a path would be included in the plan that would access the west end gate to Monterey School, adding that a litter receptacle could be added to the area as well.

MOVED by Councillor Ney

Seconded by Councillor Herbert, That a Traffic Control Order to repeal the no parking regulations on Tinto Street be brought forward to Council for consideration.

CARRIED

(*Councillor Braithwaite against the motion*)

TABLED:

***Development Variance Permit – 2928 Henderson Road***

MOVED by Councillor Jensen  
Seconded by Councillor Braithwaite, 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 2928 Henderson Road (Lot 1, Section 28, Victoria District, Plan 12350), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.6.5.(1) <i>Projections into the required front setback</i>	1.2 m	5.09 m	3.89 m

*to accommodate the front stair and landing, as shown on the plans appended to Committee of the Whole agenda item #2010-237, being a memorandum from the Director of Building and Planning dated August 30, 2010.*

CARRIED

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

CARRIED

***Development Variance Permit – 1167 St. David Street***

MOVED by Councillor Jensen  
Seconded by Councillor Copley, 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 1167 St. David Street (Lot 1, Section 23, Victoria District, Plan 3612), that will vary the Parking Facilities Bylaw, 1986, as amended, in section 4.7 and Schedule 'A' A.1 (a) to relax the requirement that one-half (1/2) of the required parking spaces for a one-family residential dwelling use be contained within a building, to accommodate the elimination of the garage, as shown on the plans appended to Committee of the Whole agenda item #2010-238, being a memorandum from the Director of Building and Planning dated August 30, 2010.*

CARRIED

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

CARRIED

***Development Variance Permit – 2333 Hamiota Street***

MOVED by Councillor Copley

Seconded by Councillor Jensen, 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 2333 Hamiota Street (Lot 16, Block 2, Section 61, Victoria District, Plan 876), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(3) (b) and Schedule 'B' Maximum Occupiable Height	4.27 m	4.84 m	0.57 m

*to accommodate renovations to the dwelling, as shown on the plans appended to Committee of the Whole agenda item #2010-239, being a memorandum from the Director of Building and Planning dated August 30, 2010.*

CARRIED

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

CARRIED

***Development Variance Permit – 599 St. Patrick Street***

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 599 St. Patrick Street (North 32 feet 1½ inches of the South 64 feet 3 inches of Lot 21, Block A, Section 22, Victoria District, Plan 74-E), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(3) (a) and Schedule B Maximum Building Height	4.39 m	6.37 m	1.98 m
6.5.4.(3) (b) and Schedule B Maximum Occupiable Height	2.74 m	3.93 m	1.19 m
6.5.4.(3) (c) and Schedule B Maximum Roof Height	5.49 m	8.36 m	2.87 m
6.5.4.(11) Minimum Interior Side Lot Line Setback of the Second Storey	3.00 m	1.54 m	1.46 m

to accommodate the two storey addition to the front of the dwelling, as shown on the plans appended to Committee of the Whole agenda item #2010-240, being a memorandum from the Director of Building and Planning dated August 30, 2010.

CARRIED

Christina Barlow, applicant, said she wished to address some of the concerns expressed in the letters sent to Council in response to the development variance permit application for 599 St. Patrick Street. Ms. Barlow noted that even with the proposed addition to the house it is still well within the allowable building size permitted for the lot.

With respect to the effect the proposed development would have on neighbouring houses, Ms. Barlow stated that most of the objections are from residents that live across the street, and that the nearest neighbours, to the left and right, have indicated they have no objection to the proposed changes, adding that, in her view, the design will be sympathetic to the neighbours and surrounding area.

With respect to house alignment, Ms. Barlow said the proposed forward extension would place the house more in line with, although still somewhat further back from, other houses along the street.

Responding to a question from a member of Council, Ms. Barlow said that it was decided to place the entrance on the north side because it there would have less impact on the neighbours.

Following further discussion regarding the proposal, and various questions from Council being answered by the applicant, some members of Council expressed their preference for seeing houses being preserved rather than demolished, as in the case at hand.

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

CARRIED

#### ***Development Variance Permit – 168 Barkley Terrace***

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, 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 168 Barkley Terrace (Lot A, Block 3, Section 19, 46 and 47, Victoria District, Plan VIP79113), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.17.1			
<i>Maximum Exposed Face of Retaining Wall</i>			
<i>Zone (a)</i>	<i>1.2 m</i>	<i>1.45 m</i>	<i>0.25 m</i>
<i>Zone (b)</i>	<i>1.2 m</i>	<i>1.68 m</i>	<i>0.48 m</i>
<i>Zone (c) (e) and (f)</i>	<i>1.2 m</i>	<i>1.90 m</i>	<i>0.70 m</i>
<i>Zone (d)</i>	<i>1.2 m</i>	<i>1.32 m</i>	<i>0.12 m</i>

4.17.2  
 Maximum Combined Exposed Face of Retaining Walls  
 Zone (g)

1.2 m            1.60 m            0.40 m

to accommodate the proposed retaining walls, as shown on the plans appended to Committee of the Whole agenda item #2010-241, being a memorandum from the Director of Building and Planning dated August 31, 2010.

CARRIED

Christian Barnard, landscaper, described the variances being requested with respect to 168 King George Terrace.

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

CARRIED

**Development Variance Permit – 532 Victoria Avenue**

MOVED by Councillor Jensen  
 Seconded by Councillor Copley, 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 532 Victoria Avenue (Lot 3, Section 22, Victoria District, Plan 4608), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended and Bylaw No. 3540, Parking Facilities Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(11) Minimum Interior Side Lot Line Setback of the Second Storey (North)	3.00 m	1.55 m	1.45 m
6.5.4.(11) Minimum Interior Side Lot Line Setback of the Second Storey (South)	3.00 m	2.80 m	0.20 m

Parking Facilities Bylaw Section

4.7 + Schedule "A" A.1(a)	2 parking spaces (one within a building)	1 parking space (none in a building)	1 parking space in a building
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to accommodate the renovation of the dwelling, as shown on the plans appended to Committee of the Whole agenda item #2010-242, being a memorandum from the Director of Building and Planning dated September 1, 2010.

CARRIED

Robert Trevor, resident, noted he had a letter from Greg Fanning and Cindy Kopp, who were unable to attend the meeting.

Mr. Trevor said that although he supports the needs and intentions of the applicant, he, as the neighbour to the north, has concerns about the proposed development to lift the house approximately four feet and the effect the renovation could have on the immediate neighbours regarding privacy and reduced sunlight to their properties. Mr. Trevor pointed out that other options could be explored and he asked that the variances not be supported.

Mayor Causton read out the letter from Mr. Fanning and Ms. Kopp, expressing their opposition to the variances being requested for 532 Victoria Avenue.

The applicant commented that she is requesting permission to raise the house by just over one metre to create an eight foot ceiling in the basement. She said she had told her neighbours about the plans, and was disappointed to learn that some of the neighbours are opposed to the project.

The applicant said the intent is to raise the house to create separate bedrooms for her children, noting that she felt it would be more desirable to retain the character of the house and neighbourhood, rather than going with the option of demolishing and rebuilding on the property.

Responding to questions from members of Council, the Director of Building and Planning confirmed that if a new house was built on the property it could be larger and the roof height could be higher than that proposed.

Following some discussion, it was pointed out that the proposal would see the homeowner renovate the existing home rather than demolishing and rebuilding, for which support was noted.

Phyllis Campanello, resident, explained that she had spoken to the applicant but realized after receiving the notification from the Municipality that she had not fully understood the plans, and now feels that allowing these variances would set a precedent. Ms. Campanello also expressed concern about the impact unexpected issues that could arise during the renovation could have on the project, suggesting that other options could be explored.

Duane Underwood, resident, said he is concerned that if the deck is raised in the back the neighbouring property owners' privacy may be affected.

Robert Trevor, resident, said he wanted to clarify that a builder had commented that the applicants could achieve the same objective by excavating a foot down rather than starting at ground level, and that it would be more cost effective and have less impact on the neighbourhood. Mr. Trevor urged Council to reject the proposed development variance permit application.

The applicant said that she is trying to revise her home as ecologically friendly as possible, adding that the main objective in wanting to raise the house is so her children are not living in a basement.

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

CARRIED



RESOLUTIONS:

***Development Variance Permit – 556 Newport Avenue***

MOVED by Councillor Jensen  
Seconded by Councillor Herbert, That That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 556 Newport Avenue (Lot 9, Block 5, Section 73, Victoria District, Plan 992), 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>
6.2.4.(3)(c) + Schedule ‘B’ Maximum Roof Height of the principal building	9.14 m	9.7 m	.56 m
6.2.4.(2)(c) Interior side lot line setback for accessory building	1.52 m	.35 m	1.17 m
6.2.4 (3)(a) Maximum building height for accessory building	3.0 m	4.95 m	1.95 m
6.2.4 (3)(b) Maximum occupiable height for accessory building	.25 m	2.49 m	2.24 m
6.2.4.(3)(c) Maximum roof height for accessory building	4.6 m	6.32 m	1.72 m
6.2.4.(7) Clear space required between buildings	3.0 m	2.86 m	.14 m

to accommodate the renovation of the dwelling and the detached garage, as shown on the plans appended to Committee of the Whole agenda item #2010-253, being a memorandum from the Director of Building and Planning dated September 27, 2010.

MOVED by Councillor Jensen  
Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 556 Newport Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

***Traffic Control Order – Beach Drive, Two Hour Limited Time Parking***

It was noted that the applicant who had originally made the request for limited time parking had since requested that consideration of this item be deferred.

There was consensus to delay consideration of the traffic control order to the next meeting of Council.

BYLAWS:

***For Adoption***

MOVED by Councillor Jensen  
Seconded by Councillor Copley, That Bylaw No. 4515, *Property Tax Exemption Bylaw, 2010*,  
be adopted.

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 employee relations.

CARRIED

The meeting adjourned at 9:42 p.m.

Certified Correct:

\_\_\_\_\_  
Municipal Clerk

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Mayor