

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, April 11, 2011 following a Public Hearing at 7:30 p.m.

PRESENT: Acting Mayor P. Copley, Chairman
Councillor H. Braithwaite
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
Municipal Treasurer, P. Walker
Director of Engineering Services, D. Marshall

Acting Mayor Copley called the meeting to order at 7:35 p.m.

ADOPTION OF MINUTES:

Council – March 28, 2011

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of the Council meeting held on Monday, March 28, 2011, be adopted.

CARRIED

Estimates Committee – March 30, 2011

MOVED by Councillor Herbert
Seconded by Councillor Jensen, That the minutes of the Estimates Committee meeting held on Wednesday, March 30, 2011, and the recommendations contained therein, be adopted.

CARRIED

Committee of the Whole – April 4, 2011

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of Committee of the Whole meeting held on Monday, April 4, 2011, and the recommendations contained therein, be adopted.

CARRIED

Estimates Committee – April 5, 2011

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of the Estimates Committee meeting held on Tuesday, April 5, 2011, and the recommendations contained therein, be adopted.

The Municipal Administrator drew attention to the discussion under the Fire Department section of the minutes, noting that the fire station windows may be upgraded rather than replaced.

The question was then called.

CARRIED

There was consensus to amend the agenda to consider Bylaw No. 4530 at this time.

BYLAWS:

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

In response to a question regarding the status of a formal agreement between the Oak Bay Beach Hotel (Bison Properties Ltd.) and Capital Region Emergency Service Telecommunications (CREST) in respect to the placement of the proposed antenna on the roof of the new hotel and use of floor area for a communication equipment room, Kevin Walker, Bison Properties Ltd., advised that at this point there is an agreement in principle.

Following discussion, it was the view of Council that it would prefer to have an agreement in place between the two parties before considering adoption of Bylaw No. 4530, and before considering the resolution to issue a development permit for 1175 Beach Drive, in relation to the zoning amendment, which appears later on the agenda.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That *Bylaw No. 4530, Eighty-Seventh Zoning Bylaw Amendment Bylaw, 2011*, be read a third time.

CARRIED

There was consensus that a Special Council meeting be held prior to the Committee of the Whole meeting on April 18, 2011 to consider Bylaw No. 4530, and that the applicant and CREST be requested to advise on the status of the agreement prior to that time.

COMMUNICATIONS:

1. 2011-133 STEPHANIE DELACRETAZ, April 4, 2011
Re Request for Road Closure for Block Party on Yale Street – August 28, 2011

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That permission be given for the closure of Yale Street north of Theatre Lane on Sunday, August 28, 2011, from 4:00 o'clock p.m. to 9:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

2. 2011-134 CANADIAN BREAST CANCER FOUNDATION CIBC RUN FOR THE CURE, April 5, 2011
Re Request for Road Closures – October 2, 2011

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That approval be given for the temporary road closures of Cedar Hill Cross Road between Henderson Road and Gordon Head Road, and the east side of Gordon Head Road from Cedar Hill Cross Road to the municipal boundary with the District of Saanich, on Sunday, October 2, 2011, from 8:00 o'clock a.m. to 11:00 o'clock a.m. to facilitate the staging of the 2011 Canadian Breast Cancer Foundation CIBC Run for the Cure event, 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; and
- 2) agree to pay all invoices from the Municipality for costs incurred in connection with the event; and
- 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 organizers to all property owners along the proposed route,

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

CARRIED

3. 2011-135 TWEED RIDE VICTORIA, April 4 2011
Re Request for Occupancy of Public Property – May 7, 2011

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That approval be given for the temporary occupancy of the parking lane on the north side of Oak Bay Avenue between Hampshire Road and Monterey Avenue and parts of public roads throughout Oak Bay as requested in correspondence item no. 2011-135 to facilitate the staging of Tweed Ride Victoria, 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 provide evidence of public liability insurance in the amount of not less than \$3,000,000; and
- 2) agree to pay all invoices from the Municipality for costs incurred in connection with the event;

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

CARRIED

4. 2011-136 JOHN AND PAT PALMER, March 9, 2011
2011-136-1 MUNICIPAL CLERK, April 4, 2011
Re Tree Removal Application, 2580 Cotswold Road – Request for Reconsideration of Permit Refusal

The Municipal Administrator noted that under the Tree Protection Bylaw, Council has the authority to reconsider a Parks Department decision to deny a tree cutting permit under certain circumstances as noted in the Municipal Clerk's memorandum (correspondence item no. 2011-136-1). It was pointed out that none of the provisions of the Tree Protection Bylaw that would allow for the removal of the trees were felt to apply, and accordingly, the request was denied by the Municipal Arborist. Referring to the Municipal Arborist's memorandum, Mr. Brennan pointed out that the Arbutus tree was found to be healthy, and the loose rock wall, apparently being impacted by the Arbutus, would not be considered a significant structure that a removal permit could be issued to protect pursuant to the definition contained in the bylaw.

With respect to the lower canopy of the Garry Oak tree being shaded by the Arbutus tree, attention was drawn to the Arborist's suggestion that the Arbutus tree be pruned to allow more space for the Oak tree as an alternative to removal.

John and Pat Palmer, homeowners, provided an overview of their letter (correspondence item no. 2011-136), noting that they have been responsible caretakers of the many mature and junior Garry Oak trees on their property.

With respect to the Arbutus tree, Mr. Palmer said it started as a seedling, and has grown steadily very close to a loose rock retaining wall, adding that the wall was likely constructed along with the house in 1938. Mr. and Mrs. Palmer said they are concerned that the tree is unstable due to its proximity to the rock wall and feel it is unsafe.

In response to a question from a member of Council, Ms. Palmer said they did not seek an independent Arborist's assessment of the tree because they are more concerned about safety than the health of tree, and as stewards of the Arbutus over the years, they should know whether or not the tree is unstable, and they feel it is.

Following further discussion with members of Council expressing varying views with respect to the request and questions from Council being answered by the applicants and staff, it emerged that some of the Council members felt that an independent certified Arborist opinion would be helpful in this case, and asked the applicant to take some time to consider providing one to support their request.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the request for reconsideration of a staff decision to deny a permit to remove the Arbutus tree, located on private property at 2580 Cotswold Road, be deferred to the first Council meeting in May.

CARRIED

5. 2011-137 DE MEZEY MEMORIAL ABBEYFIELD LEGACY SOCIETY, March 19, 2011
Re Request for Financial Assistance

It was noted that the financial statements for the De Mezey Memorial Abbyfield Legacy Society were not included with the request for financial assistance, and it was the consensus of Council to ask staff to contact the Society to obtain additional information prior to the next Estimates Committee meeting.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the request for financial assistance from the De Mezey Memorial Abbyfield Legacy Society in the amount of \$2,500 be referred to Council's Estimates Committee.

CARRIED

6. 2011-138 OAK BAY LAWN BOWLING CLUB, March 1, 2011
Re Proposed Rental Fees for Carnarvon Park Lawn Bowling Club Facility

It was noted that the lease agreement with the Oak Bay Lawn Bowling Club requires Council approval of the proposed rental rates. Linda Carswell-Bland, President, Oak Bay Lawn Bowling Club, provided a brief overview of the proposed rental rates, saying that a rate of \$100 for two hours (including set up) would seem appropriate in the context of the rental rates charged for other municipally owned meeting space.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Oak Bay Lawn Bowling Club be given the authority to rent out the building at a rate of \$100 for the first two hours, with the rate for any additional time to be decided upon by the Club through negotiations with the user group.

CARRIED

7. 2011-139 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, April 6, 2011
Re 2010 Financial Statements and 2011 Budget

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That Council approve the budget submitted by the Oak Bay Business Improvement Association for the 2011 calendar year as outlined in correspondence item no. 2011-139, with the budget incorporating on the revenue side a grant from the Municipality in the amount of \$70,000 to be recovered by means of a local service tax in that amount.

CARRIED

8. 2011-140 OAK BAY TOURISM, April 4, 2011
2011-140-1 MUNICIPAL CLERK, April 7, 2011
Re 2010 Year End Report and 2011 Budget and Business Plan

Ken Agate and Derek Vair, Oak Bay Tourism, were in attendance to answer questions regarding the budget, business plan, and the proposal to organize and host the Oak Bay Collector Car Festival event, which had previously been organized by Mr. Agate through his restaurant which has since closed.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That pursuant to Section 37.1(2) of the Streets and Traffic Bylaw, the street closures and occupancies for the Collector Car Festival on Sunday, August 14, 2011, and the display and sale of goods and refreshments associated with the event, be approved subject to obtaining Oak Bay Police approval for a traffic plan.

Attention was drawn to a memorandum from the Municipal Clerk (correspondence item no. 2011-140-1) indicating that included in this year's Oak Bay Tourism budget and business plan is the Collector Car Festival event, which, if the Oak Bay Tourism Committee is to organize, would have to be approved as a Municipal event. Ms. Hilton added that although Oak Bay's existing liability insurance through the Municipal Insurance Association would cover the event, because it is outside of the normal operations of the Municipality, it is recommended that separate insurance be purchased for the event, which has been budgeted for by the Oak Bay Tourism Committee.

The question was then called.

CARRIED

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Oak Bay Tourism Committee's 2011 budget and business plan be approved.

CARRIED

Council thanked Ken Agate for his initiative and many years of organizing the Oak Bay Collector Car Festival. Mr. Agate, in turn, thanked Council for its continued support of the event.

9. 2011-141 TOURISM VICTORIA, November 9, 2010
Re Tourism Victoria Membership

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the Tourism Victoria membership dues for 2011 in the amount of \$2,325.12 be referred to Council's Estimates Committee for consideration.

CARRIED

10. 2011-142 OAK BAY HERITAGE COMMITTEE, March 15, 2011
Re Minutes of the Meeting

MOVED by Councillor Ney

Seconded by Councillor Braithwaite, That the minutes of the Oak Bay Heritage Committee meeting held on March 15, 2011 be received.

Reports

Pointing to section 5.2 regarding the status for Blair Gowie House (2031 Runnymede Avenue), the Municipal Administrator said he wished to clarify that, in fact, he has been in discussions with the applicant, and the application will be coming before the Committee of the Whole in the near future.

The question was then called.

CARRIED

11. 2011-143 SHAUNESSEY POLLEN, April 11, 2011
Re Development Variance Permit – 542 St. Patrick Street

MOVED by Councillor Jensen

Seconded by Councillor Ney, That correspondence item no. 2011-143 be received.

CARRIED

NEW BUSINESS:

Oak Bay High School Fundraising Event

Councillor Braithwaite said that she will be participating in the event to raise funds to help send Oak Bay High School students to Mexico to participate in a housing program. She said that the event will take place at the Hillside Centre on Saturday, April 16, 2011 from 2:00 to 4:00 p.m.

TABLED:

Development Permit with Variances – 1175 Beach Drive

MOVED by Councillor Herbert

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

That the Director of Building and Planning be authorized to do all acts and things necessary to issue a Development Permit to Bison Properties Ltd. with respect to Lot A, Sections 23 and 73, Victoria District, Plan VIP82201 (1175 Beach Drive) and the abutting foreshore zoned CD-1 (hereinafter together called the "Land"), for the purpose of amending Development Permit No.

001-07 issued to Bison Properties Ltd. pursuant to a resolution of Council dated June 11, 2007, which was subsequently amended by Development Permit No. 004-07, Development Permit No. 027-2009, and Development Permit No. 27-2010 (together hereinafter called the "Original Development Permit as Amended"), to add Plan AWDSK-128, and to add a variance to Section 4.10.6 of the Zoning Bylaw to permit a height of 26.8 metres for the proposed antenna as shown in Plan AWDSK-128, dated 2011-03-09 (Wall mounted radio mast for CREST Communications) as attached to correspondence 2011-108-1, being a memorandum from the Director of Building and Planning dated March 14, 2011.

CARRIED

It was noted that because Bylaw No. 4530 has not been adopted, consideration of the issuance of the permit in relation to the zoning amendment would have to be deferred, and it was agreed to place the resolution on the agenda for the Special Council meeting April 18, 2011 along with the Bylaw.

Inasmuch as members of the public may have attended to speak to the application, Acting Mayor Copley asked anyone who wished to address Council to come forward, however no one did.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the resolution for a development permit with respect to 1175 Beach Drive be tabled to a Special meeting of Council to be held Monday, April 18, 2011.

CARRIED

Development Variance Permit – 824 St. Patrick Street

MOVED by Councillor Herbert

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 824 St. Patrick Street (Lot 38, Block B, Section 22, Victoria District, Plan 1092), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (2) (c) <i>Minimum interior side lot line setback</i>	1.52 m	1.2 m	0.32 m
6.5.4. (2) (d) <i>Minimum exterior side lot line setback</i>	3.65 m	0.3 m	3.35 m
6.5.4. (2) (e) <i>Maximum total of side lot lines</i>	4.57 m	1.52 m	3.05 m

to accommodate the renovations as shown on the plans appended to Committee of the Whole agenda item #2011-114, being a memorandum from the Director of Building and Planning dated March 16, 2011.

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 – 542 St. Patrick Street

MOVED by Councillor Ney

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 524 St. Patrick Street (Lot 35, Block D, Section 22, Victoria District, Plan 1092), 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. (6) (a) <i>Maximum gross floor area above .8 meters below grade</i>	240 sq m	245 sq m	5 sq m

to accommodate the addition of a greenhouse on top of an existing deck as shown on the plans appended to Committee of the Whole agenda item #2011-115, being a memorandum from the Director of Building and Planning dated March 18, 2011.

CARRIED

A member of the Committee drew attention to the late correspondence item no. 2011-143 that expresses concern about the height of the building, and it was noted that height was within that allowed, and was not part of the variance application.

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

CARRIED

Development Permit with Variances – 2228 Oak Bay Avenue

MOVED by Councillor Braithwaite

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 Permit with respect to 2228 Oak Bay Avenue (Lot A, Section 69, Victoria District, Plan VIP 71633), to amend Development Permit 00-08 by replacing the proposed parking layout plan with the parking plan date stamp received by the Oak Bay Building Department March 8, 2011 and appended to Committee of the Whole agenda item #2011-117, being a memorandum from the Director of Building and Planning dated March 16, 2011, and further varying the following provisions of Bylaw No. 3540, being the Parking Facilities Bylaw, 1986, as amended:

- *Section 4.3.1 and Section A.3 of Schedule ‘A’ – to reduce the minimum number of required spaces to 9;*
- *Section 7.4.1 – to vary the maximum percentage of spaces dimensioned for small car use to 89%; and*
- *Section 7.3 and Schedule ‘B’, B.6 (e) – to permit a minimum aisle width of 4.88 m*

to accommodate the change of use of a portion of the property to restaurant use.

CARRIED

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

CARRIED

RESOLUTIONS:

Development Variance Permit – 629 Beach Drive

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 629 Beach Drive (Lot B, Section 73, Victoria District, Plan 41590), 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>
6.4.4. (2) (a) Minimum front lot line setback	7.62 m	3.81 m	3.81 m
6.4.4. (2) (b) Minimum rear lot line setback	7.62 m	2.4 m	5.22 m
6.4.4. (6) (a) Maximum gross floor area above 0.8 m below grade	300 m ²	315 m ²	15 m ²

to accommodate the renovations as shown on the plans appended to Committee of the Whole agenda item 2011-129, being a memorandum from the Director of Building and Planning dated March 30, 2011.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the motion in respect to the development permit with variances for 629 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Permit – 2125 Oak Bay Avenue

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a development permit with respect to Lots 1 through 32, Sections 23 and 69, Victoria District, Plan VIS338 together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form 1 (2125 Oak Bay Avenue), which will amend the Land Use Contract filed under registration number D1414 at the Victoria Land Title Office, to permit changes to the exterior building materials as set out in the plans appended to Committee of the Whole agenda item no. 2011- 130, being a memorandum from the Director of Building and Planning dated March 29, 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 an identifiable individual who is being considered for a municipal award or honour.

CARRIED

The meeting adjourned at 8:56 p.m.

Certified Correct:

Municipal Clerk

Acting Mayor