

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 12, 2010 at 7:30 p.m.

PRESENT: Mayor C. M. 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, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Municipal Treasurer, P. Walker
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – March 22, 2010

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, March 22, 2010, be adopted.

CARRIED

Estimates Committee – March 24, 2010

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the minutes of the Estimates Committee meeting held on Wednesday, March 24, 2010, be adopted.

CARRIED

Committee of the Whole – April 6, 2010

MOVED by Councillor Herbert
Seconded by Councillor Copley, That the minutes of Committee of the Whole meeting held on Tuesday, April 6, 2010, and the recommendations contained therein, be adopted.

CARRIED

PRESENTATION:

1. -- Recognition of Renovation and Building Achievement Awards

Mayor Causton provided an overview of the Recognition of Renovation and Building Achievement Awards Program, saying that when it was established in 2004 Council envisaged the awards would recognize outstanding building and renovation achievements in Oak Bay.

The recipients of the awards for 2010 were Kai and Laura Leung, 3570 Beach Drive, and Ian and Kristine McMillan, 2276 Beach Drive, and the owners were in attendance to accept the awards, which were local artists' original renderings of each of the homes.

Mayor Causton thanked all the recipients and artists for their participation and thanked the Panel for all its work in reviewing the nominated projects and choosing the two recipients.

The owners in attendance noted their appreciation for receiving the awards.

It was the consensus of Council to amend the order of the agenda to bring forward the resolution for 899 Transit Road for consideration at this time.

TABLED:

Development Variance Permit – 899 Transit Road

MOVED by Councillor Cassidy

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 899 Transit Road (Lot 2, Section 22, Victoria District, Plan 1130), varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4 (2)(a) Minimum Front Lot Line Setback	7.62 m	3.35 m	4.27 m
6.5.4 (3)(a) and Schedule 'B' Maximum Building Height	6.82 m	7.77 m	0.95 m
6.5.4 (3)(b) and Schedule 'B' Maximum Occupiable Height	4.26 m	5.40 m	1.15 m
6.5.4 (3)(c) and Schedule 'B' Maximum Roof Height	8.52 m	10.30 m	1.77 m
6.5.4 (6)(b) Maximum Gross Floor Area Above 0.8 metres Above Grade	300 sq m	377 sq m	77 sq m

6.5.4 (11)

Minimum Interior Side Lot Line Setback of the Second Storey (main floor and upper floor)	3.00 m	1.10 m	1.90 m
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to accommodate the proposed renovations as shown on the plans appended to Committee of the Whole agenda item #2010-90, being a memorandum from the Director of Building and Planning dated March 11, 2010.

CARRIED

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

CARRIED

COMMUNICATIONS:

2. 2010-117 DIRECTOR OF PARKS AND RECREATION, March 30, 2010
Re Tender Award – Boiler Oak Bay Recreation Centre

(Lorna Curtis, Director of Parks and Recreation in attendance for this item.)

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the tender for the Recreation Centre Boiler be awarded to Clemco Mechanical Ltd. at a total cost of \$148,800.00.

CARRIED

3. 2010-118 DIRECTOR OF PARKS AND RECREATION, April 1, 2010
Re Request for Cardio Equipment Purchase Approval

(Lorna Curtis, Director of Parks and Recreation in attendance for this item.)

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That staff be authorized to enter into a three-year lease for fitness equipment with Fitness Depot Commercial at a cost of \$154,682.00

CARRIED

4. 2010-119 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, March 25, 2010
Re 2009 Financial Statements and 2010 Budget

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Council approve the budget submitted by the Oak Bay Business Improvement Association for the 2010 calendar year as outlined in correspondence item no. 2010-119, 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

5. 2010-120 GREATER VICTORIA PUBLIC LIBRARY, March 30, 2010
Re Greater Victoria Public Library 2010 Operating Budget

(John Goudy, Chair, Finance Committee, Lynne Jordan, Deputy CEO/Director of Strategic Development, and Monica Scheianu, Finance Manager/Treasurer, Greater Victoria Public Library, in attendance for this item.)

John Goudy provided a brief overview of the Library's operating budget, noting that the most challenging issues were salary increases and government grant cuts. Mr. Goudy said that the total increase in municipal contributions for 2010 is 6.5% overall. The District of Oak Bay's contribution, he said, is \$859,831, representing an increase of 5.84%.

Responding to questions from members of Council with respect to the proposed Sunday Library closures as described in the letter from the Library Board, Mr. Goudy advised that Sunday openings could be reinstated at a later date.

It was pointed out that the Oak Bay Branch has the second highest usage of all the branches on Sundays.

Mayor Causton thanked Councillor Copley for her work on the Greater Victoria Public Library Board.

MOVED by Councillor Copley

Seconded by Councillor Jensen, That Oak Bay's share of the 2010 operating budget for the Greater Victoria Public Library in the amount of \$859,831 be approved.

CARRIED

6. 2010-121 VICTORIA FAMILY COURT AND YOUTH JUSTICE COMMITTEE,
March 4, 2010
Re Proposed Constitutional Changes

Councillor Ney provided a brief overview of the Victoria Family Court and Youth Justice Committee's role in the community, noting that the Committee is requesting Council's support for the changes to its Constitution and Terms of Reference that include adding First Nations to the list of non-voting resource members and deleting the ten-year maximum term for Capital Regional District appointments as described in the attached correspondence item no. 2010-121.

MOVED by Councillor Ney

Seconded by Councillor Copley, That Council endorse the Victoria Family Court and Youth Justice Committee's revised Constitution as outlined in correspondence item no. 2010-121.

CARRIED

7. 2010-122 OAK BAY COMMUNITY ARTISTS' SOCIETY, March 18, 2010
Re Request to Hold Bowker Creek Brush-Up, August 8, 2010

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That whereas pursuant to the Zoning Bylaw, Council has made the determination that the proposed event, including the sales of goods and

refreshments, will be of general benefit to the municipality at large and will create no undue inconvenience for adjacent residents or the public at large, and does not detract from the purpose of the land as a public place for recreation, ornamentation or preservation of the natural environment, approval be given to the Oak Bay Community Artists Society to hold the Bowker Creek Brush Up along Bowker Creek between Oak Bay High School and Hampshire Road, on the north side of the creek, on Sunday, August 8, 2010, from 7:30 o'clock a.m. to 5:00 o'clock p.m., 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;

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

CARRIED

8. 2010-125 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, March 30, 2010
Re Request to Occupy Public Sidewalks – Spring Art on the Avenue/Village Spring Sidewalk Sale

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That whereas pursuant to the Zoning Bylaw, Council has made the determination that the proposed event, including the sales of goods and refreshments, will be of general benefit to the adjacent business district and will create no undue inconvenience for adjacent residents or the public at large, approval be given to the Oak Bay Business Improvement Association to hold the following events:

- 1) 'Spring Art on the Avenue' to be held on Thursday, April 22, 2010, from 6:00 o'clock p.m. to 8:00 o'clock p.m., on Oak Bay Avenue; and
- 2) 'Village Spring Sidewalk Sale' to be held on Saturday, May 15, 2010, on Oak Bay Avenue;

subject to the event organizer entering into a public property occupancy agreement in which it will among other standard requirements:

- a) 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
- b) 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

9. 2010-123 LYNNE REED LIMBERT AND JOHN LIMBERT, March 30, 2010
Re Development Variance Permit – 3072 Cadboro Bay Road
10. 2010-126 DONALD AND GAIL LUCAS, April 7, 2010
Re Development Variance Permit – 3300 Exeter Road

MOVED by Councillor Herbert
Seconded by Councillor Jensen, That correspondence items no. 2010-123 and 2010-126 be received.

CARRIED

NEW BUSINESS:

Capital Regional District Budget

Mayor Causton drew attention to the Capital Regional District budget, noting an increase for Oak Bay of 1.4%, saying he will circulate a copy to members of Council for information.

Association of Vancouver Island Coastal Communities Conference 2010

Mayor Causton and attending members of Council expressed their appreciation for the well attended and organized Association of Vancouver Island Coastal Communities (AVICC) conference held in Powell River, BC. It was agreed that the topics were very interesting and the hospitality of the town was unsurpassed. As president of the AVICC, members of Council congratulated Mayor Causton for a job well done.

Public Liability Insurance Policy

Mayor Causton drew attention to Bike to Work Victoria's request to host a celebration station on the front lawn of the Municipal Hall in June, saying that the event may have to be cancelled because the group only has \$2,000,000 liability insurance coverage and \$3,000,000 was requested.

The Municipal Administrator said that with many different events and levels of use of public property, a midpoint for liability insurance coverage was set at \$3,000,000. Mr. Cochrane further noted that the amount of coverage typically has not been an issue for other event holders, such as the Bowker Creek Brush Up event. While the insurance requested for occupying the Municipal Hall front lawn has been established by policy, there is a \$3,000,000 requirement, by Bylaw, for occupying a street or park, said Mr. Cochrane.

Following discussion, it was noted that given the nature of the event a reduced amount of insurance of \$2,000,000 was acceptable.

MOVED by Councillor Jensen
Seconded by Councillor Braithwaite, That approval be given to allow Bike to Work Victoria to provide \$2,000,000 liability insurance for the June 2, 2010 event to be held on the Municipal Hall front lawn.

CARRIED

TABLED:

Development Variance Permit – 2169 Fair Street

MOVED by Councillor Jensen

Seconded by Councillor Ney, 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 2169 Fair Street (Lot 4, Section 28, Victoria District, Plan 999 Except Parcel A (DD95164I) of said Lot 4 and Lot 3, Section 28, Victoria District, Plan 999 Except Parcel A (DD42147I) of said Lot 3), varying the following provision of Bylaw No. 3540, *Parking Facilities Bylaw*, 1986 as amended:

<u>Parking Facilities Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.1 and Schedule 'A', A.1. (a) Minimum number of Parking Spaces	2 spaces (one must be in a building)	0	2 spaces (none in building)

to accommodate the elimination of the garage, as shown on the plans appended to Committee of the Whole agenda item #2010-75, being a memorandum from the Director of Building and Planning dated February 18, 2010.

CARRIED

Councillor Cassidy advised that although he could understand the rationale for the application, he could not support the total elimination of parking, once again suggesting that the Parking Facilities Bylaw should be reviewed as opposed to continuously granting variances.

It was noted that although the area in question is not technically considered a parking space, it could be used to park a smaller vehicle.

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

CARRIED

(Councillor Cassidy against the motion)

Development Variance Permit – 3300 Exeter Road

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 3300 Exeter Road (Lot 35, Block B, Section 31, Victoria District, Plan 3599), varying the following provision of Bylaw No. 3531, being the *Zoning Bylaw*, 1986, as amended:

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4(2)(c) and Schedule 'C' Minimum Side Lot Line Setback	4.27 m	0.25 m	4.02 m

to accommodate the construction of a pergola as shown on the plans appended to Committee of the Whole agenda item #2010-88, being a memorandum from the Director of Building and Planning dated March 10, 2010.

CARRIED

Guy Mock, owner, asked if any letters of objection were received. It was noted that the one letter received as a result of the notice being circulated to neighbours was more of a general concern with variances being granted in general, and was not specific to aspects of the development variance permit in question.

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 – 3072 Cadboro Bay Road

MOVED by Councillor Ney

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 3072 Cadboro Bay Road (Lot 3, Section 31, Victoria District, Plan 4678), varying the following provision of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.15.1			
Maximum Paved Surface of the Front Yard	58 sq m 25%	66 sq m 28.5%	8 sq m 3.5 percentage points

to accommodate the paved parking and turn around area as shown on the plan appended to Committee of the Whole agenda item #2010-89, being a memorandum from the Director of Building and Planning dated March 10, 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:

Development Variance Permit – 2176 Pentland Road

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2176 Pentland Road (Lot 12, Section 22, Victoria District, Plan 1159), varying the following provision 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(11) Minimum Interior Side Lot Line Setback of the Second Storey (East Side)	3.0 m	1.83 m	1.17 m
6.5.4(11) Minimum Interior Side Lot Line Setback of the Second Storey (West Side)	3.0 m	2.89 m	0.11 m

to accommodate the construction of a two storey addition as shown on the plans appended to Committee of the Whole agenda item #2010-104, being a memorandum from the Director of Building and Planning dated March 29, 2010.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 2176 Pentland Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 975 Linkleas Avenue

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 975 Linkleas Avenue (Amended Lot 12, (DD 131035-I), Block 2, Section 73, Victoria District, Plan 992), 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(6)(a) Maximum Gross Floor Area Higher than 0.8 metres Below Grade	240 sq m	373 sq m	133 sq m
6.5.4(11) Minimum Interior Side Lot Line Setback of the Second Storey	3.0 m	1.50 m	1.50 m

to accommodate the construction of a rear deck as shown on the plans appended to Committee of the Whole agenda item #2010-105, being a memorandum from the Director of Building and Planning dated March 30, 2010.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 975 Linkleas Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Attendance at BC Parks & Recreation Association Active Transportation Workshop

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That Councillor Herbert be authorized to attend the *BC Parks and Recreation Association Workshop "Turning Active Transportation Plans into Action"*, in Richmond, BC, April 20, 2010, with the Municipality covering the cost of transportation and associated expenses in accordance with the *Elected Official Travel Expense Bylaw*.

CARRIED

Attendance at Local Government Leadership Academy Provincial Forum

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That Mayor Causton be authorized to attend the *Local Government Leadership Academy Provincial Forum, "Leadership in Challenging Times"*, to be held in Vancouver, BC, June 16 to 18, 2010, with the Municipality covering the cost of registration and associated expenses in accordance with the *Elected Official Travel Expense Bylaw*.

CARRIED

Traffic Control Order No. 2010-02 – Handicapped Parking in Estevan Village

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That a sign be erected and a white line 6 metres in length be painted on the curb adjacent to Lot 5, Block 6, Section 2, Victoria District, Plan 379 (2509 Estevan Avenue), as more particularly shown on the sketch attached hereto, to indicate that it is a "Disabled" zone, wherein stopping or parking adjacent to the curb so marked is restricted at all times to vehicles displaying a disabled permit and transporting a disabled person.

CARRIED

Council-Appointed Boards, Commissions, Panels and Committees Operating within the Corporate Structure of the District of Oak Bay

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the following be adopted as a guiding policy for appointments to municipal boards, commissions, panels and committees:

Fundamental Principle

Appointments shall be governed by the overriding principle of merit-based selection, with appointment decisions to reflect an objective assessment of the match between the personal attributes, skills, qualifications, experience and competencies of the applicant on the one hand, and the requirements of the public body on the other.

Proportionality

Appointed bodies vary widely in their responsibilities, from those which operate as boards of directors or other governing bodies, to those with quasi-judicial functions, to others involved in the organization of celebrations or community events. The appointment process shall be proportionate to the nature of the public body and its responsibilities.

Transparency

The recruitment process shall be open and transparent, provided however that in recognition of:

- (1) the limited number of qualified and willing applicants in a small community; and*
- (2) the diversity objectives set out below,*

and in the context of the fundamental principle of merit-based selection, the requirement for openness and transparency shall not preclude proactive recruitment of individuals, or outreach to specific groups.

Probity

The appointment process shall include consideration of potential conflict of interest based on factors such as memberships, directorships, employment, business interests and other material relationships. If a potential conflict of interest is identified, then, depending on the nature of the conflict, either the candidate is not to be appointed, or an acceptable method, capable of withstanding objective scrutiny, is to be put in place for dealing with the conflict.

Community Representation and Diversity

The principal responsibility of Council is to ensure that the appointed members of a public body collectively cover the range of competencies required relative to the mandate of the body. In addition, Council recognizes and affirms as a core value that contributions from a diverse range of backgrounds, ages and cultures are key elements of a sound decision-making process. In the context of the required skills and abilities, therefore, along with the mandate and size of the body and the range of applicants, Council will use its best efforts to make appointments that are diverse and which reflect the demographics of the community in terms of gender, age, cultural background and disability.

Specific Terms of Reference

This policy is to be read and applied in the context of any bylaw, resolution or statute pertaining to a body appointed by Council, which shall prevail in the event of conflict.

Members of Council expressed similar views that were expressed at the April 6, 2010 Committee of the Whole meeting, with Councillors Jensen, Copley and Ney saying that the policy should be amended to bring equally to the forefront, together with addressing the

necessary qualifications, the objective of achieving diversity in the makeup of volunteer boards and committees. The policy used by the City of Toronto was identified as a model that should be considered. It was the majority view, however, that the policy as drafted accomplishes what is necessary in addressing the equity issues that have been raised.

Following further discussion, it was suggested that once the volunteer appointments have been considered (towards the end of the year), if it was the wish of Council, a review of the policy could be undertaken at that time.

The question on the motion was then called.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4504, *Administrative Charges Bylaw Amendment Bylaw, 2010*, be adopted.

CARRIED

For First and Second Reading and Setting of a Public Hearing Date

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4505, *Eighty-Fifth Zoning Bylaw Amendment Bylaw, 2010*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4505, *Eighty-Fifth Zoning Bylaw Amendment Bylaw, 2010*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That a public hearing on Bylaw No. 4505 be held at the Oak Bay Municipal Hall, on April 26, 2010, at 7:30 p.m., and that notice be given in accordance with the *Local Government Act*.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That the open portion of the Council meeting 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 8:46 p.m.

Certified Correct:

Municipal Clerk

Mayor