

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, August 15, 2011 at 7:30 p.m.

PRESENT: Acting Mayor, H. Braithwaite, Chairman
Councillor P. Copley
Councillor J. D. Herbert
Councillor T. Ney
STAFF: Municipal Clerk, L. Hilton
Municipal Treasurer, P. Walker
Director of Building and Planning, R. Thomassen

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

ADOPTION OF MINUTES:

Council – July 18, 2011

MOVED by Councillor Ney
Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, July 18, 2011, including an amendment to Page 4 to indicate that Councillor Herbert voted against the motion in respect to correspondence item no. 2011-248 regarding the placement of the Welcome to Oak Bay Sign, be adopted.

CARRIED

Special Council – July 22, 2011

MOVED by Councillor Ney
Seconded by Councillor Copley, That the minutes of the Special Council meeting held on Friday, July 22, 2011, be adopted.

CARRIED

Committee of the Whole – August 8, 2011

MOVED by Councillor Herbert
Seconded by Councillor Copley, That the minutes of the Committee of the Whole meeting held on Monday, August 8, 2011, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2011-261 FIRE CHIEF, August 2, 2011
Re University of Victoria Confined Space Rescue Service Agreement

It was the consensus of Council that correspondence item no. 2011-261 be deferred to the next meeting of Council to allow further information to be obtained by staff on the proposed agreement.

2. 2011-262 DIRECTOR OF BUILDING AND PLANNING, August 1, 2011
Re Request for Building and Anti-Noise Bylaw Amendments

The Director of Building and Planning drew attention to his memorandum, outlining the four areas that had been explored in respect to potential options to address issues associated with long-term construction projects.

There was discussion regarding the options put forward, and while some members of Council questioned if they would be strong enough to result in more timely completion of long term construction projects, some acknowledged that they did not want to take too heavy handed an approach that would encompass more than just the problem construction projects.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That staff be requested to provide a report identifying the nature of the construction projects the changes proposed in option 1, and described in correspondence item 2011-262, would apply to, and further outlining the potential application of increased permit fees and timelines in that regard as well.

CARRIED

3. 2011-263 DIRECTOR OF BUILDING AND PLANNING, August 10, 2011
Re Zoning Bylaw Amendment, Gross Floor Area

The Director of Building and Planning referred to his memorandum regarding the application of the gross floor area regulations of the Zoning Bylaw, noting that in the case of smaller lots in the RS 4 and 5 zones, the amount of floor area permitted is quite high given that the maximum is a fixed amount, and not a ratio to the lot size. He said he has received many complaints regarding the size of dwelling permitted on these small lots, and suggested that Council may wish to investigate this further to determine if amendments to the Zoning Bylaw would be desirable to address what appears to be an inconsistency in the regulations.

Mr. Thomassen noted that inasmuch as there was a Floor Area Ratio Review Committee formed to assist with implementing the current floor area regulations, perhaps Council could first refer the issue to staff and Councillor Jensen, who participated on the Committee, for further review of the Committee's work and a report back to Council. The issue, he said, may have been contemplated previously through the Committee's work.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That staff, with the assistance of Councillor Jensen, be requested to review the work of the Floor Area Ratio Review Committee in respect to the current floor area regulations as they relate to smaller lots in the RS4 and RS5 zone, and report back to Council.

CARRIED

4. 2011-264 PENINSULA RUNNERS, July 18, 2011
Re Request for Road Closure for Oak Bay Half Marathon & 5km – May 20, 2012

David Milne, Event Organizer, provided an overview of the annual Oak Bay Half Marathon, saying that they plan to add a 5 kilometre run to the event as well.

A member of Council queried the funding received by the charities involved, and Mr. Milne advised that \$12,500 was raised, which was higher than anticipated. However, he said, as is

reflected in the financial information, the race lost \$15,000 which he hopes to recoup next year, or in future race years.

In respect to how the charities receive funding, Mr. Milne advised that while many races have participants raise funds for charities through pledges, the Oak Bay Half Marathon pays guaranteed funds directly to the organizations, which is budgeted for from registration fees.

There was further discussion regarding last year's event, and the reasons for the \$15,000 loss, and a member of Council raised concerns about the loss and the potential for future losses as well, suggesting that further information should be provided in this regard prior to considering approval. However, it was the majority view of Council that sufficient information had been provided to approve the event now to allow the organizer to meet certain time frames noted for applying to have the proposed 5 kilometer race approved as the Provincial Championship, along with advertising requirements.

MOVED by Councillor Ney

Seconded by Councillor Copley, That permission be granted for the temporary road closures and occupancy of the roads detailed in correspondence item no. 2011-264 for the staging of the 2012 Oak Bay Half Marathon Events on Sunday, May 13, 2012, 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) agree to provide sufficient notice 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

(Councillor Braithwaite against the motion)

5. 2011-265 BOBBI BARTLE-CLAR, July 21, 2011
Re Request for Road Closure for Block Party on Oliver Street – August 27, 2011

MOVED by Councillor Herbert

Seconded by Councillor Copley, That permission be given for a temporary road closure for the purpose of a neighbourhood block party on Oliver Street between Central Avenue and McNeill Avenue on Saturday, August 27, 2011, from 9:00 o'clock a.m. to 9:00 o'clock p.m.

CARRIED

6. 2011-266 JENNIFER WILSON, July 22, 2011
Re Request for Road Closure for Block Party on St. David Street –
September 4, 2011

MOVED by Councillor Copley

Seconded by Councillor Herbert, That permission be given for a temporary road closure for the purpose of a neighbourhood block party on St. David Street between Windsor Road and McNeill Avenue on Sunday, September 4, 2011, from 4:00 o'clock p.m. to 8:00 o'clock p.m.

CARRIED

7. 2011-267 NANCY TIENHAARA, July 27, 2011
Re Request for Road Closure for Block Party on Linkleas Avenue –
September 10, 2011

MOVED by Councillor Copley

Seconded by Councillor Herbert, That permission be given for a temporary road closure for the purpose of a neighbourhood block party on Linkleas Avenue midway between Central Avenue and McNeill Avenue on Saturday, September 10, 2011, from 3:00 o'clock p.m. to 7:00 o'clock p.m.

CARRIED

8. 2011-268 ANNE FULLER, August 5, 2011
Re Request for Road Closure for Block Party on Roslyn Road – September
11, 2011

MOVED by Councillor Herbert

Seconded by Councillor Copley, That permission be given for a temporary road closure for the purpose of a neighbourhood block party on Roslyn Road, north of Windsor Road, on Sunday, September 11, 2011, from 5:00 o'clock p.m. to 7:00 o'clock p.m.

CARRIED

9. 2011-269 LISA RICHARDSON, August 10, 2011
Re Request for Road Closure for Block Party Date Change – September
11, 2011

MOVED by Councillor Copley

Seconded by Councillor Herbert, That permission be given to change the date from Saturday, September 4, 2011 to Saturday, September 10, 2011 for a previously approved temporary road closure for the purpose of a neighbourhood block party on Epworth Street.

CARRIED

10. 2011-270 KAREN PLATT, July 26, 2011
Re Request to Make Application to Minister for Special Authority to
Write Off Late Tax Payment Penalty

The Municipal Treasurer provided an overview of the request for Council to consider making an application to the Province to write off a penalty for unpaid property taxes, as outlined in correspondence item 2011-270.

After considering the facts before it, members of Council felt that the circumstances described were sufficiently singular and extenuating to warrant an application to the Minister of Community, Sport and Cultural Development.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That, pursuant to Section 315.3 of the *Local Government Act*, an application be made to the Minister of Community, Sport and Cultural Development for the authority to write-off the 10% tax penalty for late payment of 2010 property taxes for 170 Denison Road.

CARRIED

11. 2011-271 BETH MURRAY, July 31, 2011
2011-271-1 JULITA TRAYLEN AND FRASER CAMPBELL, August 5, 2011
Re Request to Amend Animal Control Bylaw for the Purpose of Keeping Chickens

A member of Council pointed out that a few years ago Council considered reducing the minimum lot size for the keeping of poultry, although it was not approved. It was agreed that inasmuch as there were varying views on the subject at that time, having a full Council in attendance to discuss the request would be desirable, and that consideration of this item should be deferred to a future meeting of Council when this could be accomplished.

MOVED by Councillor Copley

Seconded by Councillor Herbert, That the request to amend the Animal Control Bylaw for the purpose of keeping chickens be deferred to a future meeting of Council.

CARRIED

12. 2011-272 IAN AND CHRISTINE MCAULEY, August 4, 2011
Re Development Variance Permit – 798 Oliver Street
13. 2011-273 NICHOLAS WEMYSS, August 8, 2011
2011-273-1 PAULA CAREY, August 8, 2011
2011-273-2 ALAN GILROY-SCOTT, August 8, 2011
2011-273-3 XI NAM DAM, August 9, 2011
Re Development Variance Permit – 363 King George Terrace
14. 2011-274 WILLA NOBLE AND ALTON CRANE, August 10, 2011
2011-274-1 JUDITH WARREN, August 15, 2011
Re Development Variance Permit – 1273 Hampshire Road

MOVED by Councillor Copley

Seconded by Councillor Herbert, That correspondence items no. 2011-272, 2011-273 to 2011-273-3, and 2011-274 and 2011-274-1 be received.

CARRIED

NEW BUSINESS:

Deer in Urban Areas

Councillor Herbert expressed concerns regarding the increasing presence of deer in Oak Bay, and his frustration at the lack of assistance at the Provincial level. Something, he said, needs to be done quickly to address the issue.

It was agreed that staff would provide an update on where the issue of deer stands at the regional level, in as much as the Capital Regional District has also been considering options in this regard.

Oak Bay Municipal Website

Members of Council inquired when the new Oak Bay website, which Council had previously viewed while it was being created, was expected to be completed.

The Municipal Clerk explained that since Council had first viewed the new site, a significant amount of content has been written and is currently being added to the website. Upon further review of the updated site at the staff level, she said, any additional revisions required will be done and then the site will be tested prior to going live. Members of Council, said Ms. Hilton, will be asked to explore the new site as well.

Bowker Creek Brush-Up Event and Classic Car Show Event

Attention was drawn to the recently held Bowker Creek Brush-Up and the Classic Car show, and it was noted they were both well run and well attended events. Members of Council expressed their thanks to the organizers for a job well done.

Oak Bay Beach Hotel

It was noted that the Oak Bay Beach Hotel has committed significant funding to the David Foster Foundation, which was revealed recently at an event for that purpose, and members of Council applauded the contribution to a very worthwhile organization.

TABLED:

Development Variance Permit – 363 King George Terrace

MOVED by Councillor Copley

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 363 King George Terrace (Lot A, Section 22, Victoria District, Plan VIP72360), 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. (6) (b) <i>Maximum gross floor area</i>	420 m ²	456.9 m ²	37 m ²
6.5.4 (6) (b) <i>Maximum gross floor area</i>	300 m ²	337m ²	37 m ²

to accommodate the construction of a new single family dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-233, being a memorandum from the Director of Building and Planning dated July 6, 2011.

CARRIED

Alan Gilroy-Scott, Oak Bay resident, referred to his letter which had been submitted in respect to his opposition to granting the requested variances, which represent, he said, an oversized building.

Mr. Gilroy-Scott indicated his annoyance and disappointment at the proposal which portrays a house 10% larger than permitted, saying that if the Bylaw does not mean anything, then it might as well be thrown out.

Mr. Gilroy-Scott went on to outline his safety concerns regarding the driveway as detailed in his letter.

There was discussion with respect the application, and the Director of Building and Planning answered questions from Council regarding the floor area variances being requested.

Rus Collins, Designer, explained that the variance is not in relation to the basement, and that the house would look the same from the outside with or without the additional floor area being requested.

Kevin Murdoch, Oak Bay resident, advised that while he did not have an issue with the variances being requested he knew that that his sightlines might be affected. He said, however, that he was concerned that there would not be adequate room to walk around the front of the property for access to the ocean. Mr. Collins assured Mr. Murdoch that there would still be room.

Alan Gilroy-Scott, speaking for a second time, indicated his concern in respect to water run-off, which Mr. Collins said would be addressed by the experts in that regard prior to construction.

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 – 798 Oliver Street

MOVED by Councillor Herbert

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 798 Oliver Street (Amended Lot 18 (DD 976601), Block A, 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 (8) & 6.5.4 (2) (e) Side lot line setback requirements for accessory building within 25 m from front lot line.	3.05 m	0.97 m	2.08 m

to accommodate the construction of an accessory building as shown in the plans appended to Committee of the Whole agenda item 2011-234, being a memorandum from the Director of Building and Planning dated July 6, 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 – 2140 Lorne Terrace

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 2140 Lorne Terrace (Lot A, Section 46, Victoria District, Plan 16299), 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. (3) (b) + Schedule 'B' Maximum occupiable height	4.57 m	4.92 m	0.35 m

to accommodate renovation, including a three storey addition, as shown in the plans appended to Committee of the Whole agenda item 2011-235, being a memorandum from the Director of Building and Planning dated July 6, 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 – 777 Falkland Road

MOVED by Councillor Copley

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 777 Falkland Road (Lot 1, Section 22, Victoria District, Plan 38499), 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. (6) (b) Maximum gross floor area above .8 metres below grade	300 m ²	361.2 m ²	61.2 m ²

to accommodate the construction of a front deck and entry porch as shown in the plans appended to Committee of the Whole agenda item 2011-236, being a memorandum from the Director of Building and Planning dated July 6, 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 – 1273 Hampshire Road

MOVED by Councillor Copley

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 1273 Hampshire Road (Lot B (DD1395631) of Lots 1, 2, and 3, Block 3, Section 23, Victoria District, Plan 1091), 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) (a) <i>Minimum front line setback</i>	7.62 m	5.56 m	2.06 m
6.5.4.2 (2) (d) <i>Minimum exterior side lot line setback</i>	3.65 m	1.33 m	2.32 m
6.5.4 (3) (b) + Schedule B <i>Maximum occupiable height</i>	4.27 m	5.17 m	0.9 m
6.5.4 (6) (a) <i>Maximum gross floor area above .8 metres below grade</i>	240 m ²	302 m ²	62 m ²

to accommodate the renovation and raising of the dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-237, being a memorandum from the Director of Building and Planning dated July 6, 2011.

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 – 3140 Beach Drive

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3140 Beach Drive (Lot 2, Section 31, Victoria District, Plan 19957), 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>
6.2.4. (2) (C) + Schedule “C” Minimum interior side lot line setback for accessory building	4.57 m	3.2 m	1.37 m
4.17.1 Maximum exposed face of retaining wall	1.2 m	4.1 m	2.9 m

to accommodate a new dwelling and accessory building as shown on the plans appended to Committee of the Whole agenda item 2011-259, being a memorandum from the Director of Building and Planning dated August 3, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 3140 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

Councillor Braithwaite expressed her concern about the location of the accessory building and the proposed removal of trees.

CARRIED
(Councillor Braithwaite against the motion)

Appointment of 2011 Provincial Capital Commission Representative

MOVED by Councillor Herbert, That Councillor Braithwaite be appointed as the District of Oak Bay’s representative to the Provincial Capital Commission for the remainder of 2011.

The motion failed due to the lack of a seconder.

A member of Council suggested that perhaps other members of Council would also be interested in representing Oak Bay on the Provincial Capital Commission and there was consensus that this item be deferred to the next meeting of Council to allow time for staff to provide further information regarding the position.

ADJOURNMENT:

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the meeting of Council be adjourned.

CARRIED

The meeting adjourned at 8:45 p.m.

Certified Correct:

Municipal Clerk

Acting Mayor