

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 16, 2010 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman  
Councillor H. Braithwaite  
Councillor A. R. Cassidy  
Councillor P. Copley  
Councillor T. Ney (arrived at 7:40 p.m.)  
STAFF: Municipal Clerk, L. Hilton  
Director of Building and Planning, R. Thomassen  
Municipal Treasurer, P. Walker

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

ADOPTION OF MINUTES:

*Council – July 19, 2010*

MOVED by Councillor Braithwaite  
Seconded by Councillor Cassidy, That the minutes of the Council meeting held on Monday, July 19, 2010, be adopted.

CARRIED

*Committee of the Whole – August 9, 2010*

MOVED by Councillor Braithwaite  
Seconded by Councillor Cassidy, That the minutes of the Committee of the Whole meeting held on Monday, August 9, 2010, and the recommendations contained therein, be adopted.

CARRIED

There was consensus to change the order of the agenda.

COMMUNICATIONS:

1. 2010-224 NANCY TIENHAARA, July 28, 2010  
Re Request to Occupy Public Property for Block Party on Linkleas Avenue – September 11, 2010

MOVED by Councillor Braithwaite  
Seconded by Councillor Copley, That permission be given for the closure of the central portion of Linkleas Avenue between Central Avenue and McNeill Avenue on September 11, 2010, from 3:00 o'clock p.m. to 7:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

2. 2010-225 DEIRDRE VINCENT, August 8, 2010  
Re Request to Occupy Public Property for Block Party on Dover /Devon  
Roads – September 12, 2010

MOVED by Councillor Copley

Seconded by Councillor Braithwaite, That permission be given for the closure of the cul-de-sac at the end of Dover and Devon Roads on September 12, 2010, from 4:30 o'clock p.m. to 7:30 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

3. 2010-226 JOSIE DEGREEF, August 8, 2010  
Re Request to Occupy Public Property for Block Party on St. Patrick  
Street – September 12, 2010

MOVED by Councillor Copley

Seconded by Councillor Braithwaite, That permission be given for the closure of a portion for St. Patrick Street between McNeil Avenue and Windsor Avenue on September 12, 2010, from 3:30 o'clock p.m. to 8:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

4. 2010-227 SCOUTS CANADA, GREATER VICTORIA, July 24, 2010  
Re Request for Tag Day – October 2, 2010

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That approval be given to Scouts Canada, Greater Victoria Area, to hold a tag day on public sidewalks in the District of Oak Bay on Saturday, October 2, 2010 between 9:00 o'clock a.m. and 3:00 o'clock p.m.

CARRIED

5. 2010-231 DIRECTOR OF ENGINEERING SERVICES, August 1, 2010  
2010-231-1 MUNICIPAL ADMINISTRATOR, August 12, 2010  
Re Haro Pump Station Upgrade – Award of Tender

Eric Morris, Consulting Engineer/Project Manager, Kerr Wood Leidal Associates Ltd., responded to questions from Council regarding the need for the generator set in relation to the pump station upgrade, noting that it would automatically power the pump station during power outages. Without the generator set, he said, overflows would occur to adjacent Mystic Vale within one hour or so. If the generator set was not included, a portable generator would have to be brought to the site, prompted by an alarm to the Public Works Department.

Mr. Morris confirmed that the pump station currently has a generator, however, that generator is approximately 20 years old, and needs replacing. Upgrading the existing generator is not an option, he said.

Staff was requested to inquire with Public Works staff on the potential re-sale value of the existing generator, which could help offset the cost of a new generator set.

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That Rocky Point Metalcraft Limited be awarded the Haro Road Pump Station Upgrade contract with the generator set and associated ventilation system upgrades included, at a total contract price of \$305,333.28 including HST, with the budget overrun to be funded from the excess funds from the Central Avenue rebuild project.

CARRIED

6. 2010-228 MUNICIPAL TREASURER, August 10, 2010  
2010-228-1 PAMELA MOUNTJOY, July 6, 2010  
2010-228-2 TRIENTJE C. MULDER, July 22, 2010  
Re Request to Make Application to Minister for Special Authority to Write Off Late Tax Payment Penalty

The Municipal Treasurer responded to questions, noting that there have been very few cases where Council has found the circumstances of applicants sufficiently singular and extenuating in comparison to other circumstances that result in late payment penalties in any given year to write to the Minister for the authority to write-off a late penalty payment, as described in the information provided in the agenda package.

There was discussion regarding the two requests, and Ms. Walker noted that they were similar to many situations that staff deal with each year in respect to late payment penalties.

While members of Council sympathized with the applicants, acknowledging they undoubtedly are conscientious about making payments on time, it was felt that the circumstances described were not sufficiently singular and extenuating to request the authority to write-off the penalties.

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That correspondence item no.2010-228-1 and 2010-228-2 be received.

CARRIED

In response to questions, Ms. Walker explained the general tax collection scheme contained in the *Community Charter*, which by default requires that a 10% penalty be applied to unpaid taxes after the due date. While Council could choose to implement an alternate scheme where 5% of the penalty was applied after the payment deadline then another 5% later in the year if taxes are still unpaid, she said, almost all of the Capital Region municipalities now follow the 10% penalty scheme.

7. 2010-229 BUILDING OFFICIAL, August 10, 2010  
Re Uplands Building Permit Application – 2510 Nottingham Road

The Director of Building and Planning noted that although there are some minor changes suggested with respect to colour and materials that the Advisory Design Panel would like to come back to it for review, it did recommend approval for siting and architectural design of the new single family dwelling.

A member of Council noted that she was interested in the details of the house to be removed. Council agreed to defer further consideration of the application and continue on through the agenda until later in the meeting to allow staff to refer to the files in this regard.

Mr. Thomassen reported back to the meeting, noting that the existing house is not included on the Community Heritage Register nor is it identified as one of the original Uplands homes.

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the plans to construct a new residential dwelling at 2510 Nottingham Road be approved as to siting and architectural design.

A member of Council indicated his concern that the plans in front of Council did not reflect the changes that the Advisory Design Panel had requested to be submitted at a later date, noting that further changes could affect the outward expression of the house.

Mr. and Mrs. Khorrami, owners, noted that the main outstanding issue is the colour of the roof, noting they are happy to accommodate any recommendations from the Panel with respect to colours and materials.

Although the suggestion was made that the motion be amended so that Council approval is given subject to approval of the minor changes by the Advisory Design Panel at a later date, it was agreed that would not be the appropriate process and that the plans should be approved as submitted, with any future changes recommended by the Panel returning to Council for consideration at that time.

The question was then called.

CARRIED

8. 2010-232 CAPITAL REGIONAL DISTRICT, July 21, 2010  
Re Request for Consent to Adopt Bylaw 3712, Land Assembly, Housing and Land Banking Service Establishment Bylaw No. 1, 2010 and Bylaw 3715, Land Assembly, Housing and Land Banking Loan Authorization Bylaw No. 1, 2010

MOVED by Councillor Copley

Seconded by Councillor Braithwaite, That consent be given to the adoption of Bylaw 3712, Land Assembly, Housing and Land Banking Service Establishment Bylaw No. 1, 2010 and Bylaw 3715, Land Assembly, Housing and Land Banking Loan Authorization Bylaw No. 1, 2010 in accordance with Section 801.4 of the *Local Government Act*.

CARRIED

9. 2010-233 OAK BAY COMMUNITY INITIATIVES COMMITTEE, July 8, 2010  
Re Minutes of the Meeting

Mayor Causton drew attention to the original mandate of the newly expanded Community Initiatives Committee to look at sidewalk widening and bicycle lanes and general improvement of the Village area, suggesting that the Committee be assigned a broader scope for making recommendations for bike lanes and bike routes throughout the Municipality. There was consensus that although the first order of business would be the Village area, the Committee's assistance with looking at potential cycling lanes in the rest of the Municipality as well would be desirable, as it was pointed out that the Community Initiatives Committee has already had the issue of potential cycling lanes on a portion of Foul Bay Road and Cedar Hill Cross Road referred to it by Council.

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the minutes of the Oak Bay Community Initiatives Committee meeting held on July 8, 2010 be received.

CARRIED

10. 2010-230 DIRECTOR OF ENGINEERING SERVICES, August 10, 2010  
2010-230-1 JOHN AND PATRICIA BURGESS, August 16, 2010  
2010-230-2 BILL GILCHRIST, August 16, 2010  
Re Tinto Street Boulevard

Councillor Ney provided an overview of the most recent history concerning Council's deliberations with respect to the Tinto Street boulevard, including the results of a neighbourhood meeting where potential options for the boulevard were discussed and where items considered priorities by the majority of the attendees were identified. She went on to note that the recommendations that arose from the meeting were incorporated into two options later considered by Council's Estimates Committee, however, the cost for either option was at that time felt to be too high in the context of other budget priorities. It was decided that \$5,000 would be budgeted for work on the boulevard, with further discussion on what work should be done to occur at a future meeting.

Councillor Ney said the plan currently before Council and attached to the memorandum from the Director of Engineering Services, is a creative solution incorporating the main elements that emerged from the neighbourhood meeting as priorities, that would cost approximately \$3,000 more than was budgeted for work on the boulevard.

John Burgess, Tinto Street resident, noted that years ago the "no parking" regulations were implemented as a safety measure for the students of the adjacent school. If parking is now deemed necessary, he said, he would prefer to see the plan for parking as is laid out in his letter to Council, essentially two bays for two cars each, with shrubbery in between the two bays.

In response to questions regarding who maintains the boulevard, it was pointed out that adjacent property owners are responsible for maintaining boulevards, however, the history of the maintenance of the Tinto Street boulevard is not known. Following up on this point, the view was expressed that inasmuch as the Municipality has already removed the rocks, initial reinstatement of the boulevard should be Oak Bay's responsibility.

There was further discussion regarding the proposed plans for the boulevard, and Councillor Ney answered questions from Council in that regard.

While the view was expressed by a member of Council that the boulevard should be put back as it was prior to the boulders being placed upon it by the Municipality, it was the majority view that the boulevard needs to be addressed, and it was felt that the proposed plan was supportable except that it was felt that the suggestion to create two, two-car bays was preferable to one, four-car bay.

The Municipal Clerk pointed out that Engineering staff had indicated that separating the bays could add as much as \$1,000 to the overall cost of the project.

MOVED by Councillor Copley

Seconded by Councillor Ney, That the proposed plan for work on the boulevard of the south side of Tinto Street, as laid out in correspondence item 2010-230, be approved, with the exception of the configuration of the parking bay which is to be separated into two, two-car parking bays, with any costs over the \$5,000 budget be paid from the roads account.

CARRIED  
(Councillor Braithwaite against the motion)

11. 2010-234 JANET MAK *et al*, August 3, 2010  
2010-234-1 LISA MACQUISTEN, August 5, 2010  
2010-234-2 ROB REID, August 6, 2010  
2010-234-3 KIM CARTER, August 11, 2010  
2010-234-4 LAURA BRADBURY AND FRANCK GERMAIN, August 12, 2010  
2010-234-5 ERIK KARLSEN, August 12, 2010  
2010-234-6 LYNN AND PETER HALL, August 12, 2010  
2010-216 LAURA BRADBURY AND FRANCK GERMAIN, July 8, 2010  
2010-216-1 LYNN AND PETER HALL, July 16, 2010  
Re Development Variance Permit – 523 Oliver Street

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That correspondence items no. 2010-234 to 2010-234-6 be received.

CARRIED

12. 2010-235 ROB ROGERS AND KATHRYN PINEO, August 11, 2010  
2010-235-1 BRUCE KAPRON, August 6, 2010  
2010-235-2 GERARD AND SUSAN PRICE, August 15, 2010  
Re Development Variance Permit – 3015 Valdez Place

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That correspondence items no. 2010-235 to 2010-23-2 be received.

CARRIED

NEW BUSINESS:

*Wall of Fame*

Councillor Braithwaite congratulated staff on a job well done with respect to the recent Wall of Fame unveiling, noting it was a terrific event.

*University of Victoria CanAssist Program*

Councillor Copley distributed copies of the University of Victoria's CanAssist Program newsletter, drawing attention to the youth employment program she was asked to facilitate. The Program, she said, provided youth employment training, which the Oak Bay Business Improvement Association participated in as well. The results of the Program were pleasing, she said, and it is hoped the Association will be involved again next year.

*Collector Car Show/Bowker Creek Brush Up*

Mayor Causton noted the success of the Blethering Place's Collector Car Show and the Oak Bay Artists Bowker Creek Brush Up held the past weekend.

*Council/Committee of the Whole Meeting Schedule*

With the Union of British Columbia Municipalities convention commencing on September 27, 2010, it was suggested that as in years past, the regular Council meeting that week should be cancelled, and that the September 20, 2010 Committee of the Whole meeting be replaced with a regular Council meeting.

MOVED by Councillor Copley

Seconded by Councillor Braithwaite, That the Committee of the Whole meeting scheduled for September 20, 2010 and the regular Council meeting scheduled for September 27, 2010 be cancelled, and that a regular Council meeting be scheduled for September 20, 2010 at 7:30 p.m.

CARRIED

*Oak Bay Ceremonial Town Crier*

Mayor Causton drew attention to a request received through the Municipal Treasurer from Ken Podmore, Oak Bay Town Crier, for a financial contribution to the costs of a promotional postcard he would give out when representing Oak Bay in his travels.

MOVED by Councillor Braithwaite

Seconded by Councillor Cassidy, That up to \$250 be paid towards the cost of promotional materials for Oak Bay's ceremonial Town Crier, Ken Podmore.

CARRIED

TABLED:

***Development Variance Permit – 523 Oliver Street***

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 523 Oliver Street (Lot 19, Block D, Section 22, Victoria District, Plan 1092) that will vary 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>
4.17.1 <i>Maximum exposed vertical face of retaining wall</i>	1.2 m	2.13 m	0.933 m
6.5.4. (2) (c) <i>Minimum interior side lot line setback for accessory structure</i>	1.52 m	0.91 m	0.6 m
6.5.4. (6) (a) <i>Total gross floor area</i>	360 sq m	371.2 sq m	11.2 sq m
6.5.4. (6) (a) <i>Gross floor area above 0.8 metres below grade</i>	240 sq m	248 sq m	8 sq m
6.5.4. (7) <i>Minimum clear space between building and structure</i>	3 m	0 m	3 m

*to accommodate the new house design as shown in the plans attached to the memorandum from the Director of Building and Planning dated June 22, 2010.*

CARRIED

Laura Bradbury, applicant, described the reasons for the design of their new house, noting that the floor area variances, which were all that were originally applied for, are quite minor and allow a little extra living area for their growing family. The neighbours, she said, have been consulted on the plans and no objections have been received, other than from Mr. and Mrs. Hall, who have stated that they do not have an issue with the sunken patio, but are against floor area variances in principle.

There was discussion regarding the design, and, recalling the reasons previously stated by the Designer for including the sunken patio, the view was expressed by some members of Council that there could be other ways to provide light into the basement than by creating the sunken patio, which requires variances, and which could create a dark and damp environment.

Rus Collins, Zebra Design Inc., reiterated his comments made previously in the process that he did not know variances were required for the sunken patio and retaining wall, saying that other similar projects he designed had not required variances in that regard. Mr. Collins acknowledged that while the plans could be changed to remove the sunken patio, that would require starting the application process from the beginning again, which would delay his clients.

There was discussion regarding the design, and the point was made that the patio enhances the liveability of the basement area, and that the permeable paving stones to be used would assist with proper drainage of the area.

In response to comments made by Council, Ms. Bradbury stated that they had no intention of installing a suite in the basement, noting that the area was planned for use by visiting family members from out of the country, as a private and comfortable area for them to rest.

In answer to concerns raised about the sunken patio being dark and damp, Mr. Collins indicated it will be well drained, and cascading plants over the retaining wall will help soften the overall appearance of the area.

With no other 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 – 3015 Valdez Place***

MOVED by Councillor Copley

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 3015 Valdez Place (Lot 15, Block B, Section 31, Victoria District, Plan 3560, Except Part in Plan 33061), 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>
4.15.1			
Maximum Front Yard Paved Surface	25% 35 sq m	61% points 85 sq m	36 % points 50 sq m
6.2.4(3)(b) & Schedule 'B'			
Maximum Occupiable Height	4.57 m	6.51 m	1.94 m



to accommodate the construction of the proposed new single family dwelling as shown on the plans appended to Committee of the Whole agenda item #2010-206, being a memorandum from the Director of Building and Planning dated July 7, 2010.

CARRIED

Gerard Price, applicant, provided an overview of his application, noting the occupiable height variance is required because of the stairs that lead to the storage loft.

With respect to the variance for paved surface, said Mr. Price, with the lot frontage being unusually narrow, very little paved surface is actually permitted.

Responding to questions, Mr. Price indicated that permeable pavers would be used for the hard surfacing, and drew attention to the Garry oak trees that would be retained.

Following further discussion on the application, it was expressed by members of Council that although the variance for paved surface of the front yard was quite large, it would be almost impossible not to exceed what is permitted given the narrow street frontage. It was further noted that asphalt paving covers a large area of the property currently, and that the permeable surfacing proposed is more desirable. The view was also expressed that the landscaping is congruent with the adjacent Uplands Park setting.

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 – 2213 Windsor 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 2213 Windsor Road (Lot 2, Block 6, 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>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4(3)(c) Maximum Roof Height	8.04 m	8.22 m	.18 m
6.5.4(6)(a) Maximum Gross Floor Area Above 0.8 Metres Below Grade	240 sq m	246 sq m	6 sq m
6.5.4(11) Interior Side Lot Line Second Storey Setback	3.00 m	1.70 m	1.30 m

to accommodate the renovation of the existing dwelling as shown on the plans appended to Committee of the Whole agenda item #2010-205, being a memorandum from the Director of Building and Planning dated July 7, 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:

Mayor Causton declared a conflict of interest as he had previously stated that he lived within the notice area for the application, and left the meeting at 9:28 p.m. Councillor Braithwaite assumed the Chair.

***Development Variance Permit– 480 Beach Drive***

MOVED by Councillor Cassidy

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 480 Beach Drive (Lot 20, Section 22, Victoria District, Plan 1404), 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) Minimum Front Lot Line Setback	7.62 m	5.80 m	1.82 m
6.5.4(2)(c) Minimum Interior Side Lot Line Setback	1.52 m	0.88 m	0.64 m
6.5.4(2)(e) Minimum Total of Side Lot Line Setbacks	4.57 m	3.72 m	0.85 m

to accommodate the expansion of the front/side deck as shown on the plans appended to Committee of the Whole agenda item #2010-217, being a memorandum from the Director of Building and Planning dated July 26, 2010.

MOVED by Councillor Cassidy

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 480 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

***Traffic Control Order No. 2010-07 – Reduce Yellow Line in Front of 1812 St. Ann Street***

MOVED by Councillor Cassidy

Seconded by Councillor Copley, That Section 1 of Traffic Control Order No. 2000-011 be repealed and replaced with the following:

“That a yellow line, 6 metres in length be painted on the curb on the west side of St. Ann Street immediately north of Cranmore Road”

as more particularly shown in the sketch attached to the Order.

CARRIED

ADJOURNMENT:

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

CARRIED

The meeting adjourned at 9:29 p.m.

Certified Correct:

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

\_\_\_\_\_  
Mayor