

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, January 12, 2009 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
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen
Municipal Treasurer, P. A. Walker
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – December 15, 2008

MOVED by Councillor Cassidy
Seconded by Councillor Braithwaite, That the minutes of the Council meeting held on Monday, December 15, 2008, be adopted.

CARRIED

Special Council – December 17, 2008

MOVED by Councillor Cassidy
Seconded by Councillor Braithwaite, That the minutes of the Special Council meeting held on Wednesday, December 17, 2008, be adopted.

CARRIED

Special Council – December 22, 2008

MOVED by Councillor Cassidy
Seconded by Councillor Braithwaite, That the minutes of the Special Council meeting held on Monday, December 22, 2008, be adopted.

CARRIED

Committee of the Whole – January 5, 2009

MOVED by Councillor Cassidy
Seconded by Councillor Braithwaite, That the minutes of the Committee of the Whole meeting held on Monday, January 5, 2009, and the recommendations contained therein, be adopted with the exception of Item No. 2009-20 *et al*, regarding the application for a boulevard encroachment by the owners of 15 Beach Drive.

CARRIED

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the January 5, 2009 recommendation from Committee of the Whole regarding the application for a boulevard encroachment agreement by the owners of 15 Beach Drive be endorsed.

CARRIED

(Councillor Cassidy against the motion)

COMMUNICATIONS:

1. 2009-25 MUNICIPAL CLERK, December 11, 2008
2009-25-1 DIRECTOR OF BUILDING AND PLANNING, December 3, 2008
Re Bylaw Enforcement – Recommendation to File Contravention Notice Against Title – 2300 Beach Drive

The Director of Building and Planning explained that the basement of the house at 2300 Beach Drive had been converted into occupiable space – in effect, from the evidence, a second dwelling unit – without permits. Responding to questions from Council, Mr. Thomassen said that the ceiling height of the converted area was below even the reduced Building Code standard for secondary suites, which in any event were not a permitted use under the Oak Bay *Zoning Bylaw*.

Mr. Thomassen confirmed that part of the converted space occupied what was formerly a garage, so that the property now also lacked the one covered parking space required by the *Parking Facilities Bylaw*.

Council discussed other enforcement options available to the Municipality, such as prosecution under the *Offence Act* and application for an injunction through a civil proceeding. It appeared, however, that when both cost and effectiveness were taken into account, the filing of a contravention notice against the title to the property was likely the most justifiable route in this case and at this particular time. It did not preclude the pursuit of another option in the future.

Mayor Causton ascertained that neither the owner of the property, nor any representative or agent, was in attendance to speak to the matter.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the Municipal Clerk be authorized to file a Bylaw Contravention Notice in the Victoria Land Title Office stating that a resolution has been adopted pursuant to Section 57 of the *Community Charter* by Oak Bay Municipal Council, relating to land legally described as Lot 6, Section 2, Victoria District, Plan 4887, and that further information respecting the resolution may be inspected at the Office of the Municipal Clerk at 2167 Oak Bay Avenue, Victoria, BC V8R 1G2, from 8:30 a.m. to 4:30 p.m., Monday to Friday, excluding holidays.

CARRIED

2. 2009-26 CAPITAL REGIONAL DISTRICT, December 23, 2008
Re Request for Grant – Regional Pesticide Reduction and Education

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That the letter from the Capital Regional District be referred to Council's Estimates Committee as a \$1,500 grant request, for consideration during budget deliberations.

CARRIED

3. 2009-27 OAK BAY HERITAGE FOUNDATION, January 5, 2009
Re Request for Grant – Windsor Pavilion Rental Fee

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the letter from the Oak Bay Heritage Foundation be referred to Council's Estimates Committee as a \$618 grant request, for consideration during budget deliberations.

CARRIED

4. 2009-28 OAK BAY HERITAGE COMMITTEE, November 13, 2008
Re Minutes of Meeting

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the minutes of the Oak Bay Heritage Committee meeting held on November 13, 2008 be received.

Noting that the Heritage Committee minutes contained an account of discussions regarding his proposal for a property tax reduction program as an incentive for the preservation and renovation of dwellings that were part of the Municipality's character and heritage, Councillor Cassidy asked that he be invited to any future meetings of the Committee, or a sub-committee, where this topic was to be considered further.

The question was then called.

CARRIED

NEW BUSINESS:

Hallmark Society Awards

Councillor Copley drew attention to a letter from the Hallmark Society asking for award nominations to recognize excellence in heritage conservation or preservation. Although the nomination deadline would pass before the next meeting of the Heritage Committee, Councillor Copley asked that the letter be circulated to the members.

TABLED:

Development Variance Permit– 754 Oliver Street

MOVED by Councillor Cassidy

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 754 Oliver Street (Lot A, Section 22, Victoria District, Plan VIP 51700) that will vary 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, Arbour Structure	7.62 m	0.61 m	7.01 m
4.15.1 Maximum Paved Surfaces	25%	48%	23%

to accommodate landscaping the front yard which includes construction of an arbour and pathways as shown in the plans attached to the memorandum from the Director of Building and Planning dated December 2, 2008.

CARRIED

The question on the main motion was then called.

CARRIED

Development Variance Permit– 3003 Foul Bay Road

MOVED by Councillor Copley

Seconded by Councillor Cassidy, 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 3003 Foul Bay Road (Lot 24, Section 31, Victoria District, Plan 4678) that will vary 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>
6.4.4.(3) (c) & Schedule B Maximum Roof Height	9.14 m	9.83 m	0.69 m

to accommodate the construction of a dormer as shown in the plans attached to the memorandum from the Director of Building and Planning dated December 2, 2008.

CARRIED

The question on the main motion was then called.

CARRIED

RESOLUTIONS:

Development Variance Permit – 1218 Hewlett Place

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1218 Hewlett Place (Lot 24, Section 23, Victoria District, Plan 1256), varying the following provisions of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
S. 6.5.4(7) Clear Space Between Bldgs & Structures	3.0 m	0.05 m	2.95 m
S. 4.15.1 Max. % of Front Yard Allowed to be Paved	25%	51%	26 % points

to accommodate the construction of a pergola and the development of footpaths and a driveway as shown on the plans appended to Committee of the Whole agenda item #2009-22, being a memorandum from the Director of Building and Planning dated December 18, 2008.

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That the motion in respect of the development variance permit for 1218 Hewlett Place be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2509 Estevan Avenue

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2509 Estevan Avenue (Lot 5, Block 6, Section 2, Victoria District, Plan 379), varying the following provisions 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>
S. 4.1 and Sched. A, s. A.3 Number of Off-Street Parking Spaces	16	3	13

to accommodate a change in use of the main floor premises from retail to restaurant without the creation of the required number of off-street parking spaces.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the motion in respect of the development variance permit for 2509 Estevan Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3156 Woodburn Avenue

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 3156 Woodburn Avenue (Lot 27, Section 31, Victoria District, Plan 10700) varying the following provisions of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Max. Permitted</u>	<u>Requested</u>	<u>Variance</u>
S. 6.4.4(3)(a) & Schedule B Building Height (highest wall)	7.32 m	7.44 m	0.12 m
S. 6.4.4(3)(b) & Schedule B Occupiable Height (highest floor)	4.57 m	5.00 m	0.43 m

to accommodate the addition of a deck and a second storey as shown on the plans appended to Committee of the Whole agenda item #2009-23, being a memorandum from the Director of Building and Planning dated December 23, 2008.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the motion in respect of the development variance permit for 3156 Woodburn Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Attendance at the UBCM Local Government Leadership Academy – 2009 Elected Officials Training Seminar

It was noted that only one space remained available for the session of the *Elected Officials Training Seminar* to be held on Vancouver Island.

MOVED by Councillor Copley

Seconded by Councillor Cassidy, That Councillor Ney be authorized to attend the UBCM's *Elected Officials Training Seminar* in Parksville, B.C., January 28 to 30, 2009, with registration, accommodation, travel and meal costs to be covered by the Municipality in accordance with the *Elected Official Travel Expense Bylaw*.

CARRIED

MOVED by Councillor Jensen

Seconded by Councillor Ney, That Councillor Copley be authorized to attend the UBCM's *Elected Officials Training Seminar* in Richmond, B.C., January 21 to 23, 2009, with registration, accommodation, travel and meal costs to be covered by the Municipality in accordance with the *Elected Official Travel Expense Bylaw*.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Herbert
Seconded by Councillor Copley, That Bylaw No. 4446, *Streets and Traffic Bylaw Amendment Bylaw No. 1, 2009*, be adopted.

CARRIED

For First and Second Readings

MOVED by Councillor Herbert
Seconded by Councillor Cassidy, That Bylaw No. 4451, *Eighty-Second Zoning Bylaw Amendment Bylaw, 2009*, be introduced and read a first time.

CARRIED

MOVED by Councillor Herbert
Seconded by Councillor Cassidy, That Bylaw No. 4451, *Eighty-Second Zoning Bylaw Amendment Bylaw, 2009*, be read a second time.

CARRIED

MOVED by Councillor Herbert
Seconded by Councillor Copley, That a public hearing on Bylaw No. 4451 be held at the Oak Bay Municipal Hall, 2167 Oak Bay Avenue, on January 26, 2009, 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 Herbert, 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 holds a position appointed by Council, and to discuss a potential administrative tribunal hearing affecting the Municipality.

CARRIED

The open portion of the meeting adjourned at 8:17 p.m.

Certified Correct:

D/Municipal Clerk

Mayor