

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 24, 2011 following a Public Hearing at 7:30 p.m.

PRESENT: Acting Mayor N. B. Jensen, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
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

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

AGENDA:

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the agenda be amended to add correspondence item no. 2011-56 being a letter from Lynne Milnes regarding a boulevard encroachment application for 3140 Midland Road.

CARRIED

ADOPTION OF MINUTES:

Council – January 10, 2011

MOVED by Councillor Herbert
Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, January 10, 2011, be adopted.

Pesticide Bylaw

Responding to questions from a member of Council, the Director of Parks and Recreation confirmed that staff will be bringing forward twice a year to Council, through the Parks and Recreation Commission, a Municipal pesticide use report. It was noted that a pesticide use report is already a requirement of the Province.

The question was then called.

CARRIED

Special Council – January 17, 2011

MOVED by Councillor Herbert
Seconded by Councillor Braithwaite, That the minutes of the Special Council meeting held on Monday, January 17, 2011 be adopted.

CARRIED

Committee of the Whole – January 17, 2011

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the minutes of Committee of the Whole meeting held on Monday, January 17, 2011, and the recommendations contained therein, be adopted.

Attention was drawn to correspondence item no. 2011-56, being a letter in support of the boulevard encroachment application for 3140 Midland Road, which the Committee recommended be denied, and there was no consensus to hear from the public on that application.

The question was then called.

CARRIED

There was consensus to vary the order of the agenda to consider Bylaw No. 4525 that was the subject of the Public Hearing held at 7:30 p.m.

For Third Reading and Adoption

MOVED by Councillor Herbert

Seconded by Councillor Ney, That Bylaw No. 4525, *2030 Milton Street Heritage Designation Bylaw Repeal Bylaw, 2011*, be read a third time.

CARRIED

(Councillors Copley and Cassidy against the motion)

MOVED by Councillor Herbert

Seconded by Councillor Ney, That Bylaw No. 4525, *2030 Milton Street Heritage Designation Bylaw Repeal Bylaw, 2011*, be adopted.

CARRIED

(Councillors Copley and Cassidy against the motion)

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That 2030 Milton Street be deleted from the Oak Bay Community Heritage Register.

CARRIED

(Councillors Copley and Cassidy against the motion)

COMMUNICATIONS:

1. 2011-47 MUNICIPAL TREASURER, January 20, 2011
Re Request for Early Approval of 2011 Parks and Recreation Capital

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That early spending approval be given for the projects associated with the Oak Bay Recreation Centre pool shutdown for \$152,400, equipment for the maintenance for the Henderson Golf Course for \$7,500, and the replacement of equipment and tiles for the Peter Pan Water Park at Carnarvon Park for \$72,900.

CARRIED

2. 2011-48 MUNICIPAL TREASURER, January 20, 2011
Re Request for Early Approval of 2011 Public Works Capital

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That early spending approval be given for the capital projects and equipment replacement purchases as detailed in the memorandum from the Municipal Treasurer dated January 20, 2011 (correspondence item no. 2011-48).

CARRIED

3. 2011-49 MUNICIPAL TREASURER, January 20, 2011
Re Climate Action Revenue Incentive Program Report for 2010

There was discussion regarding the Climate Action Revenue Incentive Program Report, with it being clarified that in respect to community wide actions to reduce transportation related greenhouse gas emissions, the District of Oak Bay would be hiring a consultant to assist in developing an Active Transportation Plan.

Responding to questions, the Municipal Administrator advised that staff would be discussing options for addressing greenhouse gas emissions, and will observe the District of Saanich's best practices in this regard and learn from them.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That correspondence item no. 2011-49 be received.

CARRIED

4. 2011-50 CAPITAL REGIONAL DISTRICT, December 3, 2010
Re Core Area Wastewater Treatment Project – Community Benefit Framework Reports

It was noted that the Core Area Liquid Waste Management Committee has referred a Capital Regional District staff report and consultant's report regarding "Considerations in Preparing a Community Benefit Framework for the Capital Regional District's Wastewater Treatment Program" to member municipalities for comments on the issue.

Councillor Herbert said he is opposed to the idea of the Capital Regional District implementing funding for community amenities in local governments that are impacted by facilities associated with the Core Area Wastewater Treatment Program. He noted that such a program, which could represent up to an additional \$8,000,000 in costs, would be financially irresponsible and unnecessary.

Councillor Herbert drew attention to the differences between mitigation and the proposed amenity fund, noting that the Capital Regional District is expected to mitigate the impact of sewer infrastructure in any event, pointing out examples of the past successes in this regard such as the Currie Road pump station. He said the same mitigation efforts in relation to a sewage treatment plant would also be expected.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the Capital Regional District Core Area Liquid Wastewater Management Committee be advised that Oak Bay Municipal Council does not support the recommendation contained in the Capital Regional District staff report "Community Benefits Framework – Core Area Wastewater Treatment Program", and further, that it does support Alternative 1 as laid out in the staff report.

CARRIED

5. 2011-51 CAPITAL REGIONAL DISTRICT, December 8, 2010
Re Regional Sustainability Strategy

Marg Misk-Evans, Senior Manager, and Jeff Weightman, Planning Analyst, Regional & Strategic Planning, were in attendance to present Council with information regarding a Regional Sustainability Strategy that would encompass policy options for the following subject areas: transportation, sustainable development, affordable housing, economic sustainability, food security, social well-being, ecological health, resource management and climate change.

Following the presentation, Ms. Misk-Evans responded to various questions from members of Council noting that the Capital Regional District is looking for feedback from the Municipality by the end of February.

It was noted that Council members and staff would need some time to review the significant amount of background material provided, and it was suggested that the topic be brought back for discussion at a Committee of the Whole meeting in February.

MOVED by Councillor

Seconded by Councillor, That staff be requested to prepare a report regarding the Capital Regional District's proposed Regional Sustainability Strategy for consideration by Committee of the Whole at its February 21, 2011 meeting.

CARRIED

6. 2011-52 OAK BAY COMMUNITY INITIATIVES COMMITTEE, November 17,
2010
Re Minutes of the Meeting

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the minutes of the Oak Bay Community Initiatives Committee meeting held on November 17, 2010 be received.

Public Art

Attention was drawn to the New Community Initiatives portion of the meeting minutes, and it was suggested that the local artist groups should also be contacted regarding the subject of displaying public art.

Town Square

It was noted that the Committee is working towards getting ideas for a Town Square, possibly by engaging geography students from the University of Victoria to provide concepts and ideas in this regard.

WiFi (Wireless Local Area Internet Network)

It was noted that the Community Initiatives Committee hopes to engage the Oak Bay Business Improvement Association in discussions about introducing WiFi to the Village.

The question was then called.

CARRIED

7. 2011-56 LYNNE MILNES, January 21, 2011
Re Boulevard Encroachment – 3140 Midland Road

MOVED by Councillor Copley

Seconded by Councillor Herbert, That correspondence item no. 2011-56 be received.

CARRIED

- 8 2011-53 DANILO AND JANE DANZO, January 17, 2011
Re Development Variance Permit – 3475 Upper Terrace Road

9. 2011-54 BARBARA GOSH, January 18, 2011
2011-54-1 STEPHEN E. GOSH LAW CORPORATION, January 18, 2011
Re Development Variance Permit – 218 Beach Drive

10. 2011-55 CARNARVON BALL CLUB, [Undated]
Re Bylaw No. 4518, *Pesticide Regulation Bylaw, 2010*

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That correspondence items no. 2011-53, 2011-54, 2011-54-1 and 2011-55 be received.

CARRIED

NEW BUSINESS:

Friends of Uplands Park

Councillor Herbert advised that he and Councillor Ney attended a Friends of Uplands Park meeting, which raised the issue of to what extent Uplands Park is protected now, and how it would be protected for future generations.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That staff be directed to prepare a report with respect to the current protection, and possible ways of strengthening the protection, of Uplands Park.

The question was then called.

CARRIED

Food Primary Licence with Endorsement for Liquor Primary

Councillor Herbert expressed his concern that currently a restaurant could have 20% of its seats classified as “Pub” seating, through the Liquor Control Board. He said that he would like Oak Bay’s regulations to be reviewed in the context of Council’s powers and options in respect to approval being regulated by the Municipality for Liquor Primary endorsements. Councillor Herbert drew attention to the Resort Municipality of Whistler, saying that, there, an establishment must seek Municipal approval regarding liquor primary licence endorsements.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That staff be directed to prepare a report with respect to Council’s options and authority regarding liquor primary licence endorsements in Oak Bay.

CARRIED

Capital Regional District Arts Committee

Councillor Copley advised that the Capital Regional District is launching a new IDEA (Innovate, Develop, Experiment, Access) arts grant three-year pilot program, and that each IDEA grant would provide up to \$1,000 in support of proposals that offer a potential arts impact within the Capital Regional District. She said that more information will be forthcoming.

Demolition of Oak Bay Houses

Councillor Cassidy drew attention to the notices of two more houses being demolished and he expressed, as he has in the past, his concern about the number of older homes being slated for demolition or deconstruction and the need for incentives to retain older homes.

Following discussion and various comments from Council being made, the Director of Building and Planning advised that he is working on a report for Council that is aimed at encouraging homeowners to consider alternatives to demolishing or deconstructing a house and encouraging restoration or renovation of older homes.

University of Victoria – Strategic Planning

Councillor Jensen said that the University of Victoria (UVIC) presented its strategic plan renewal and vision update at a recent meeting with UVIC and local government representatives. Councillor Jensen suggested that this would be an opportunity for Oak Bay to invite representatives from the University to a future Committee of the Whole meeting to engage in discussions with respect to the strategic plan.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That staff be directed to send an invitation to the University of Victoria to attend a future Committee of the Whole meeting to discuss the University's strategic plan and vision update, and that staff arrange to advertise the meeting in advance.

CARRIED

TABLED:

Development Variance Permit – 3475 Upper Terrace 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 3475 Upper Terrace Road (Lot A, Block 2, Section 31, Victoria District, Plan 37765), 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>
6.2.4 (2) (c) and Schedule 'C' <i>Minimum Interior Side Lot Line Setbacks</i>	4.57 m	4.16 m	0.41 m
6.2.4 (2) (e) and Schedule 'C' <i>Minimum Total of Side Lot Line Setbacks</i>	12.19 m	11.23 m	0.96 m

to accommodate the exercise/pool room extension to the dwelling, as shown on the plans appended to Committee of the Whole agenda item #2011-19, being a memorandum from the Director of Building and Planning dated December 14, 2010.

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 – 218 Beach Drive

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 218 Beach Drive (Lot 5, Section 22, Victoria District, Plan 5604), 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>
6.4.4 (2) (b) Minimum Rear Lot Line Setback	7.62 m	1.67 m	5.95 m

to accommodate the construction of a deck, as shown on the plans appended to Committee of the Whole agenda item #2011-21, being a memorandum from the Director of Building and Planning dated December 24, 2010.

CARRIED

Barbara Gosh, resident, expressed her opposition to the variance being requested to allow a deck to be built in her neighbour's yard at 218 Beach Drive. Ms. Gosh said that the proposed deck will be too close to her house and to her front door entrance, noting that the original deck was situated farther away and not intrusive. The proposed deck would wrap around the house and would be viewed from her kitchen, she said, saying she felt that the deck being located at the proposed location would diminish her property value.

Tess van Straaten, applicant, showed members of Council a surveyed drawing of a previous deck location, saying that the proposed new deck would accommodate stairs to access the deck and back door to the house. With respect to privacy concerns, Ms. van Straaten pointed out that there is a fence, a driveway and a garage between the two properties, and that the plans would see the deck being built one foot lower than the previous deck, adding that she plans to add vegetation screening between the two properties.

Ms. van Straaten pointed out that the other neighbours wrote in support of the variance request, and she reiterated that a setback variance is being required because of the lot line designations in relation to the curved corner lot, noting there is no other location to place a deck.

There was further discussion, and with no other members of the public wishing to speak to the application, the question on the main motion was then called.

CARRIED

RESOLUTIONS:

Development Variance Permit – 3053 Henderson Road

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 3053 Henderson Road (Lot 31, Section 31, Victoria District, Plan 6364), that will vary the *Parking Facilities Bylaw, 1986*, as amended, in section 4.7 and Schedule ‘A’ A.1 (a) to relax the requirement that one-half (½) of the required parking spaces for a one-family residential dwelling use be contained within a building, to accommodate the elimination of the garage, as shown on the plans appended to Committee of the Whole agenda item #2011-20, being a memorandum from the Director of Building and Planning dated December 20, 2010.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 3053 Henderson Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3025 Cadboro Bay Road

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3025 Cadboro Bay Road (Lot 2, Block 18, Section 31, Victoria District, Plan 1216A), 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 Interior Side Lot Line Setback	3.96 m	3.05 m	0.91 m

to accommodate the construction of a new garage, as shown on the plans appended to Committee of the Whole agenda item #2011-41, being a memorandum from the Director of Building and Planning dated January 12, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That the motion in respect to the development variance permit for 3025 Cadboro Bay Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3465 Midland Road

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit to amend Development Variance Permit 076-2009 with respect to 3465 Midland Road (Lot 3, Section 31, Victoria District, Plan 10433), 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>
6.2.4 (3) (a) and Schedule “B” Maximum Building Height	7.32 m	7.34 m	0.02 m
6.2.4 (3) (b) and Schedule “B” Maximum Occupiable Height	4.57 m	5.07 m	0.50 m

to accommodate the construction of an addition, as shown on the plans appended to Committee of the Whole agenda item #2011-42, being a memorandum from the Director of Building and Planning dated January 12, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 3465 Midland Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2990 Midland 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 2990 Midland Road (Lot 23, Block 46, Section 31, Victoria District, Plan 10950), 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>
4.15.1 Maximum Paved Surface in the Rear Yard	25% (37 sq m)	30% (44.40 sq m)	5 percentage points (7.20 sq m)

and varying section 4.7 Schedule ‘A’ A.1 (a) of the *Parking Facilities Bylaw, 1986*, as amended, to relax the requirement that one-half (½) of the required parking spaces for a one-family residential dwelling use be contained within a building, to accommodate the construction of a deck and removal of a carport, as shown on the plans appended to Committee of the Whole agenda item #2011-43, being a memorandum from the Director of Building and Planning dated January 12, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 2990 Midland Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 298 Beach Drive

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 298 Beach Drive (Lot 3, Section 22, Victoria District, Plan 4315), 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 (2) (b) Minimum Rear Lot Line Setback	7.62 m	4.31 m	3.30 m

to accommodate the construction of a new deck, as shown on the plans appended to Committee of the Whole agenda item #2011-44, being a memorandum from the Director of Building and Planning dated January 13, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 298 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Federation of Canadian Municipalities Sustainable Communities Conference Attendance

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Council approve payment of the fee of \$735.00 for Councillor Pam Copley's attendance at the *Federation of Canadian Municipalities Sustainable Communities 2011 Conference*, to be held in Victoria, BC, February 8 – 10, 2011.

CARRIED

Confirmation of Citizen Volunteer Appointments

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the following citizen volunteer appointments be confirmed for the 2011 Council year:

Advisory Design Panel:

- James Alders
- Nigel Banks
- Duane Ensing
- Brian Kapuscinski
- Patricia Wilson

Board of Variance:

- D. Elizabeth Kennedy
- Spencer Manning
- Caroline Monahan

Community Initiatives Committee

- Corey Burger
- Neil Jackson
- Audrey McFarlane
- Steve Toleikis

Heritage Advisory Panel:

- John Bodnar
- Richard Collier
- Carl Peterson
- Bronwyn Taylor
- Monica Walter

Heritage Committee:

- Ben Clinton-Baker
- Gwen Howey
- Julie Lemery
- Valerie Murray
- Jane Neilsen
- Margaret Palmer
- Bronwyn Taylor
- Patricia Wilson

Heritage Foundation:

- Ben Clinton-Baker
- Marion Cumming
- Gwen Howey
- Julie Lemery
- Valerie Murray
- Jane Neilsen
- Margaret Palmer
- Jean Sparks
- Bronwyn Taylor
- Patricia Wilson

Oak Bay Tourism Committee:

- Ken Agate
- Alexandra Devon
- Alf Lyon
- Liz Owen
- Michael Prescott
- Derek Vair
- Egle Vair
- Shawna Walker

Parks and Recreation Commission:

- Liz Hawes
- Drew Henderson
- Monty Holding
- Victor Lotto
- Rick Marshall
- Sandi Piercy
- Brian Sharp
- Chris Smith
- Brian Yellin

Police Board:

- Wendy Brown
- John Mochrie
- James Murtagh
- David Winkler

Recognition of Renovation & Building

Achievement Awards Panel:

- Frances Chapman
- Gwen Howley
- Brian Kapuscinski
- Kris Nichols
- Tim Taddy
- Christopher Watts

Wall of Fame Committee:

- Alexandra Devon
- Liz Hawes

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4518, *Pesticide Regulation Bylaw, 2010*, be adopted.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4519, *Ticket Information Utilization Bylaw Amendment Bylaw No. 3, 2010*, be adopted.

CARRIED

For First, Second and Third Reading

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4526, *Sewer User Charge Bylaw Amendment Bylaw No. 1, 2011*, be introduced and read a first time.

CARRIED

(Councillor Herbert against the motion)

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4526, *Sewer User Charge Bylaw Amendment Bylaw No. 1, 2011*, be read a second time.

CARRIED

(Councillor Herbert against the motion)

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4526, *Sewer User Charge Bylaw Amendment Bylaw No. 1, 2011*, be read a third time.

CARRIED

(Councillor Herbert against the motion)

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the meeting of Council be adjourned.

CARRIED

The meeting adjourned at 9:25 p.m.

Certified Correct:

Municipal Clerk

Acting Mayor