

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, July 19, 2010 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite (arrived at 7:53 p.m.)
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
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – June 28, 2010

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, June 28, 2010, be adopted.

CARRIED

Special Council – July 12, 2010

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of the Special Council meeting held on Monday, July 12, 2010, be adopted.

CARRIED

Committee of the Whole – July 12, 2010

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of Committee of the Whole meeting held on Monday, July 12, 2010, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2010-210 JOHN AND JOSIE SCHOFIELD, July 13, 2010
Re Public Property – 168 Barkley Terrace

MOVED by Councillor Herbert
Seconded by Councillor Ney, That correspondence item no. 2010-210 be received.

CARRIED

2. 2010-211 ANDY AND ANDREA SWAN, June 28, 2010
Re Request to Occupy Public Property for Block Party on Lane Between Haultain and Cadboro Bay Road – August 21, 2010

MOVED by Councillor Herbert

Seconded by Councillor Copley, That permission be given for the closure of the lane between Haultain Street and Cadboro Bay Road on August 21, 2010, from 5:00 o'clock p.m. to 8:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

3. 2010-212 JANET KNIGHT, July 5, 2010
Re Request to Occupy Public Property for Block Party on Wilmot Place – July 24, 2010

MOVED by Councillor Herbert

Seconded by Councillor Copley, That permission be given for the closure of Wilmot Place on July 24, 2010, from 3:00 o'clock p.m. to 10:30 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

4. 2010-213 JEANNINE ALAIN, July 5, 2010
Re Request to Occupy Public Property for Block Party on Epworth Street – September 5, 2010

MOVED by Councillor Copley

Seconded by Councillor Herbert, That permission be given for the closure of Epworth Street between Fair Street and Haultain Street on September 5, 2010, from 4:30 o'clock p.m. to 9:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

5. 2010-214 DIRECTOR OF BUILDING AND PLANNING, July 15, 2010
Re Heritage Alteration Permit Application – 2031 Runnymede Avenue (Proposed Subdivision)

With respect to an application to subdivide the property at 2031 Runnymede Avenue, the Director of Building and Planning advised that the house is protected through a Heritage Designation Bylaw, and that once a house has been designated, and except as authorized by a heritage alteration permit issued by Council, no person may alter the exterior of the building, make a structural change to or move the building, or alter, excavate or build on the land protected by Bylaw.

Therefore, said Mr. Thomassen, before any further consideration of the subdivision application, Council must decide if the required heritage alteration permit is inconsistent with the heritage protection of the property. Council has the option of referring the application to the Heritage Advisory Panel for review and a recommendation in this regard, he said.

Ann Hillyer, prospective owner, noted that she and her partner have made an offer to purchase the property, and have proposed the subdivision of the single lot into two lots, carving off the northeast corner of the property for the second lot. It was noted that the two buildings that can be seen from the street did not receive heritage protection and would be removed. The existing house, she said, is an important heritage building in Oak Bay, as an unusual Samuel Maclure

style of house, although it is in need of significant upgrading and restoration. The new lot would be sizeable and in keeping with the area, and the original house would remain on a lot near one acre in size.

Responding to the suggestion that design approval be required for any new house on the proposed new lot, or that a covenant to ensure appropriate siting of the new house in the context of the existing house be entered into, Ms. Hillyer said they would be receptive to ideas regarding appropriate design and siting. However, she said, the topography of the land may impact design and siting and would have to be taken into consideration.

Referring to the potential option of entering into a heritage revitalization agreement versus the issuance a heritage alteration permit in relation to the proposed subdivision, the Municipal Administrator noted that given the information received, the permit seems the most appropriate tool to use in this circumstance. With respect to the process, Mr. Brennan said that if the matter is referred to the Heritage Advisory Panel, and there is a recommendation that the subdivision is not inconsistent with the heritage protection of the property, more detailed information regarding conditions for a heritage alteration permit to be considered could come forward.

There was further discussion regarding the existing protected house, and it was acknowledged that a heritage revitalization agreement could be used to permit a subdivision, as suggested, however, it would also likely tie any subdivision to required upgrading of the existing house.

Responding to comments raised with respect to the challenge restoration of the original garden poses, it was noted that the statement of significance included in the Community Heritage Register with respect to the property would provide guidance in that regard.

John Simson, employee for the Ellis family, spoke to Council noting that the family has been looking for a buyer that would restore the original house, which is what Mrs. Ellis, the late owner, would have wanted.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the application for a Heritage Alteration Permit in respect of 2031 Runnymede Avenue be referred to the Heritage Advisory Panel for review and a recommendation to Council.

It was noted that members of Council wished to be included in the site visit undertaken by the Heritage Advisory Panel in relation to the referral.

The question was then called.

CARRIED

6. 2010-215 JOSEPHINE BURGESS, July 2, 2010
 - 2010-215-1 ANN ERIKSSON, July 5, 2010
 - 2010-215-2 MARGARET BINGHAM, July 6, 2010
 - 2010-215-3 SHIRLEY BARRY, July 6, 2010
 - 2010-215-4 B. ANNE BARBER, July 6, 2010
 - 2010-215-5 AUDREY MCLENNAN, July 9, 2010
 - 2010-215-6 GRETA M. MORGAN, July 14, 2010
 - 2010-215-7 COLLEEN MCDONAGH, July 15, 2010
- Re Development Permit with Variances – 2080 Oak Bay Avenue

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That correspondence item no. 2010-215 to 2010-215-7 be received.

CARRIED

7. 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

Mayor Causton advised that this item had been withdrawn from the agenda at the applicant's request.

NEW BUSINESS:

Capital Regional District Core Area Liquid Waste Management Plan – Amendment No. 8

As a member of the Capital Regional District Core Area Liquid Waste Management Plan Committee, Councillor Herbert expressed his deep concern about the direction being taken by the Committee with respect to a revised plan for sewage treatment that is being proposed to the Province. Specifically, he said the Amendment states that Oak Bay's highest priority is to separate the Uplands sewer system by 2015. He continued that along with an unrealistic completion time of 2015, the document also estimates that it will cost Oak Bay \$12 million to complete the project. Councillor Herbert added that the project would more likely cost closer to \$30 or \$40 million. He added that it is difficult to justify this huge burden on the taxpayers given the questionable benefits, and given that this is to address the flow from just 400 homes in the Uplands neighbourhood.

Councillor Herbert provided a review of the requirements of the Municipal Sewage Regulation with respect to the combined Uplands sewers, identified actual overflows in the Uplands catchments due to the under designed East Coast Interceptor (noting overflows were previously acceptable), and noted that the Uplands sewers are anticipated to not have an impact on the Capital Regional District's downstream wastewater treatment plans, although previously it was thought they would.

In addition, said Councillor Herbert, the Capital Regional District's proposed amendment to the Liquid Waste Management Plan includes the use of tanks for retention of wet-weather flows in relation to the Haro Road sewer, which is an option that Oak Bay previously put forward as opposed to separation, although it was not approved by the Province. It was his view that the same approach should be able to be contemplated for the Uplands sewer overflows.

It was felt that a letter outlining the concerns raised should be forwarded to the Province for consideration.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That staff be directed to send a letter to the Ministry of Environment pointing out Council's concerns regarding the proposed amendment to the Core Area Liquid Waste Management Plan, and that the Minister reconsider Oak Bay's commitments under the plan regarding separation of the Uplands combined sewers.

CARRIED

TABLED:

Development Permit with Variances – 2080 Oak Bay Avenue

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 Permit in respect to 2080 Oak Bay Avenue (Lot A, Section 69, Victoria District, Plan VIP74917) to allow signage that requires the following variances from Bylaw No. 3946, *Sign Bylaw, 1997* as amended:

Bylaw Section

6(2)
to permit a free standing sign to be erected and maintained on a parcel where the building on the site is located less than 7.6 m from the front lot line.

6(3)
To vary the requirement that free standing signs shall not exceed one in number on any lot to permit a total of two free standing signs.

	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6 (10)(b) Maximum Height of Free Standing Sign in Multiple Dwelling Use Zone from Finished Grade (West Sign Only)	1.80 m	3.4 m	1.6 m

provided, however, that only one sign may be erected at any one time in either of the sign locations in accordance with the plan and photos appended to the resolution printed for the purposes of the Council agenda for the June 14, 2010 meeting.

CARRIED

Although attention was draw to the number of letters received with respect to the development permit application, and concerns were expressed that the billboard like signs may be unsuitable for Oak Bay, it was also pointed out that the notification area is more densely populated, which could result in the number of letters received.

The Director of Building and Planning confirmed that the applicant had agreed at the Committee of the Whole meeting to conform the signs to the regulated size (3 feet by 5 feet), which subsequently reduced the number of variances originally requested.

With respect to the development permit, Seona Stephen, representing Carlton House, clarified that the signs already erected will be reduced in size and that the variance being requested is a height variance due to the ground below the sign being lower than street level. There was also a siting variance being requested.

A member of Council noted that the majority of the correspondence received regarding this issue refers to the size of the sign, which will be reduced to conform to the Sign Bylaw.

Responding to a comment from a member of Council expressing concern that billboard type signs (with graphics) could, unsuitably, be placed all down the Avenue, the Municipal Administrator advised that signs of this type are currently permitted, adding, however, that most billboard signs are usually third party signs and those, he said, are prohibited in Oak Bay.

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

CARRIED
(Mayor Causton against the motion)

Development Variance Permit –2363 Bowker Avenue

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 2363 Bowker Avenue (Lot 1, Section 61, Victoria District, Plan 1266) 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>
4.6.5.(1) Projections into the required 7.6 metres front setback of 1.2 metres	1.2 m	4.57 m	3.37 m

to accommodate the front stair/landing as shown in the plans attached to the memorandum from the Director of Building and Planning dated June 16, 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 – 2443 Florence 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 2443 Florence Street (Lot 7, Block 2, Section 28, Victoria District, Plan 915) 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>
6.5.4. (3) (b) Maximum Occupiable Height	4.27 m	5.25 m	0.98 m
6.5.4. (3) (c) Maximum Roof Height	8.53 m	9.75 m	1.22 m
6.5.4. (6) (a) Maximum gross floor area above 0.8 metres below grade	240 sq m	308.6 sq m	68.6 sq m
6.5.4. (11) Minimum interior side lot line setback of second storey	3.0 m	2.89 m	0.11 m

to accommodate the construction of a rear addition and top floor development as shown in the plans attached to the memorandum from the Director of Building and Planning dated June 22, 2010.

CARRIED

Responding to a question from Patrice Snopkowski, resident, the Director of Building and Planning advised that the floor plans do not include an upstairs balcony.

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 –2566 Bowker Avenue

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 2566 Bowker Avenue (Lot 18, Section 61, Victoria District, Plan 874) that will vary 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. (7) Minimum clear space between buildings	3.0 m	0.91 m	2.1 m

to accommodate the siting of a new garage as shown in the plans attached to the memorandum from the Director of Building and Planning dated June 23, 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 – 523 Oliver Street

This item was withdrawn from the agenda at the applicant's request.

RESOLUTIONS:

Development Variance Permit – 2213 Windsor 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 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.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 2213 Windsor Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3015 Valdez Place

MOVED by Councillor Copley

Seconded by Councillor Herbert, 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.

MOVED by Councillor Copley

Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 3015 Valdez Place be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Authorization of Sub-Lease for Aquatic Lands for Proposed Sea Rescue Society Boat House

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That, on behalf of the District of Oak Bay, the Mayor and Municipal Clerk be authorized to execute the sub-lease with Oak Bay Marina (1992) Ltd., substantially in the form dated for reference April 30, 2010 and attached to the resolution printed for the purposes of the July 19, 2010 Council meeting, in respect to the aquatic lands described therein.

CARRIED

Attendance at the Union of British Columbia Municipalities Convention

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Council approve the attendance of Oak Bay Council Members, at the *2010 Union of British Columbia Municipalities Convention*, to be held in Whistler, BC, September 27 to October 1, 2010, and the payment of expenses necessarily incurred by them.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That Bylaw No. 4514, *Capital Works and Equipment Reserve Fund Appropriation Authorization Bylaw, 2010, Amendment Bylaw No. 1, 2010*, be adopted.

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, and the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

The meeting adjourned at 8:45 p.m.

Certified Correct:

Municipal Clerk

Mayor