

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, June 13, 2011 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen
STAFF: Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen
Municipal Treasurer, P. Walker
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – May 24, 2011

MOVED by Councillor Copley
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Tuesday, May 24, 2011, be adopted.

CARRIED

Committee of the Whole – June 6, 2011

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That the minutes of Committee of the Whole meeting held on Monday, June 6, 2011, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2011-199 JO-MARIE NAYSMITH AND EV BAYES, May 21, 2011
- 2011-199-1 KEVIN KOHAN, May 31, 2011
Re Request for Road Closure for Block Party on Runnymede Place – July 24, 2011

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That permission be given for the closure of Runnymede Place on Sunday, July 24, 2011, from mid-afternoon to 7:00 o'clock p.m., for the purpose of a neighbourhood block party, subject to access to 945 Runnymede Place not being restricted.

In response to a letter from Mr. Kohan requesting that the date of the block party be changed due to his son getting married that weekend, Council agreed that the block party should be permitted subject access to 945 Runnymede Place being unrestricted.

The question was then called.

CARRIED

2. 2011-200 ED WALKER, May 24, 2011
Re Request for Road Closure for Block Party on Pacific Avenue – July 1, 2011
3. 2011-201 MICHELLE KIRBY, May 24, 2011
Re Request for Road Closure for Block Party on Dalhousie Street – June 25, 2011
4. 2011-202 DENISE DE MONTREUIL, June 7, 2011
Re Request for Road Closure for Block Party on Byron Street – July 1, 2011

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That permission be given for road closures for the purpose of neighbourhood block parties as follows:

- 1) 2200 block of Pacific Avenue on Friday, July 1, 2011, from 1:00 o'clock p.m. to 6:00 o'clock p.m.;
- 2) 2200 block of Dalhousie Street on Saturday, June 25, 2011, from 2:00 o'clock p.m. to 10:00 o'clock p.m.; and
- 3) Byron Street on Friday, July 1, 2011, from 11:00 o'clock a.m. to 7:00 o'clock p.m.

CARRIED

5. 2011-203 SHIRLEY HUNTER, June 10, 2011
Re Request for Road Closure for Block Party on Norfolk Road – July 1, 2011

At the request of the applicant this item was withdrawn.

6. 2011-204 THE JAGUAR CAR CLUB OF VICTORIA, May 31, 2011
Re Request for Commercial Activity in Windsor Park – Jaguar Car Show, Windsor Park, July 30, 2011

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That whereas pursuant to the Zoning Bylaw, Council has made the determination that the proposed event, including the sales of goods and refreshments, will be of general benefit to the municipality at large and will create no undue inconvenience for adjacent residents or the public at large, and does not detract from the purpose of the land as a public place for recreation, ornamentation or preservation of the natural environment, approval be given to the Jaguar Car Club of Victoria to hold the Jaguars on the Island Car Show at Windsor Park on Saturday, July 30, 2011, 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; and
- 2) agree to pay all invoices from the Municipality for costs incurred in connection with the event;

with the Municipal Clerk being authorized to execute such agreement on behalf of the District of Oak Bay.

CARRIED

7. 2011-205 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, May 20, 2011
Re Additional Occupancy Request for Oak Bay Village Night Market Events

MOVED by Councillor Copley

Seconded by Councillor Braithwaite, That approval be given for the temporary occupancy of the five parking spaces on the east side of Wilmot Place north of the intersection with Oak Bay Avenue as requested in correspondence item no. 2011-205, to facilitate the Oak Bay Village Night Market, subject to the same conditions as in the previous approval given by Council for the events to be held in 2011.

CARRIED

8. 2011-206 CAPITAL REGION EMERGENCY SERVICE TELECOMMUNICATIONS
Re Notice of Extraordinary General Meeting

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That Councillor Jensen be authorized to act as the District of Oak Bay's representative at all general meetings of the Capital Region Emergency Services Telecommunications Corporation held during 2011.

Councillor Jensen noted the proposed change to the member's agreement that would provide for an alternate director to be appointed in his absence.

The question was then called.

CARRIED

9. 2011-207 DIRECTOR OF BUILDING AND PLANNING, June 1, 2011
Re Request for Amendments to Building and Anti-Noise Bylaws

The Director of Building and Planning provided an overview of his memorandum regarding options to address issues associated with long term construction projects, noting that in reviewing several other local governments' building bylaws none had provisions that force completion of construction on private property. Mr. Thomassen also noted that with respect to permitted construction hours, Oak Bay's Anti-Noise Bylaw is consistent with other jurisdictions, and that changing the hours could affect the majority of building permit holders that are completing projects in a timely manner and not raising issues with surrounding property owners.

With respect to the issue of unsightly premises, Mr. Thomassen said that the current bylaw could be amended to assist staff in addressing unsightly properties due to construction.

The discussion turned to the topic of building permits and possible ways to control the lengthy construction projects through limiting permit renewals and increased permit fees, and Mr. Thomassen advised Council of the current regulations in this regard.

Blair Robertson, Oak Bay resident, said he wrote to Council in October 2010 concerning a neighbouring construction project that has gone on for several years, noting the ongoing noise issues and overall impact it has had on the neighbourhood. Mr. Robertson said he was

disappointed with the depth of the options laid out in the staff report saying that his research found different results.

Mr. Robertson advised that he had the construction noise level of the neighbouring properties tested and it was found to exceed an industrial site noise level, and he felt that this issue could be addressed through the Anti-Noise Bylaw.

With respect to the ongoing work, Mr. Robertson said steps should be taken to change the Building Bylaw and not allow continual permit renewals, adding that there is no incentive for projects to be finished quickly.

Members of Council discussed various potential options to ensure that construction projects are completed in a timely manner, and it was suggested that Anti Noise Bylaw and Unightly Premises Bylaw amendments would be supportable.

Following further discussion and questions being answered by Mr. Thomassen, members of Council felt that perhaps a more thorough review of potential options to address long term construction projects should be requested.

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That staff be directed to report back to Council by the end of July 2011 on options to address issues associated with long-term construction projects in Oak Bay.

CARRIED

10. 2011-208 OAK BAY COMMUNITY INITIATIVES COMMITTEE, April 20, 2011
Re Minutes of the Meeting

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the minutes of the Oak Bay Community Initiatives Committee meeting held on April 20, 2011 be received.

CARRIED

11. 2011-209 OAK BAY HERITAGE COMMITTEE, May 17, 2011
Re Minutes of the Meeting

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the minutes of the Oak Bay Heritage Committee meeting held on May 17, 2011 be received.

CARRIED

12. 2011-210 ROBERT VAN TASSEL AND LAURIE NUGER, May 30, 2011
2011-210-1 ROBERT VAN TASSEL AND LAURIE NUGER, June 9, 2011
Re Request for Council Reconsideration of Clean Up Order– 508 Island Road

In the absence of the applicants, the Director of Building and Planning explained that the owners of 508 Island Road were issued a Clean-Up Order under the Rubbish and Weed Control Bylaw and that they are applying to Council to reconsider the Order and to extend the May 19, 2011 deadline for the work to be done by two weeks to June 30, 2011.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Clean-Up Order dated May 19, 2011 in respect to 508 Island Road be confirmed, and further that the owners be granted an extension to June 30, 2011 to complete the work.

John and Debra Playfair, Oak Bay residents, were in attendance to express their disappointment and frustration after living across from 508 Island Road for the past three years, saying that the situation has remained unchanged with construction equipment, weeds, stone and soil piles littering the property.

Mr. Playfair said this item should not even have to go before Council as it should just be enforced through the existing bylaws by staff. The Municipality, he said, has an obligation to all of the neighbours to enforce the Bylaw.

Ms. Playfair drew attention to the fact that Oak Bay is losing tax income for incomplete improvements and that the value of the neighbouring properties is declining due to the rubble and disarray of the site.

Mr. Playfair handed in a letter he and his wife wished to be circulated to members of Council regarding this issue.

With respect to a comment regarding Council's role in reconsidering the Clean-Up Order, the Municipal Clerk advised that noncompliance with the Order, if confirmed by Council, would result in the Municipality, without further notice, being entitled to enter the property and carry out the required clean up, with the cost being billed to the owner, and if not paid, added to the property taxes. The Bylaw, she said, does not contemplate further extensions to the deadline being considered by Council.

Responding to questions from members of Council, Mr. Thomassen provided information about the specific work that was required to comply with the Order. It was confirmed that further action through another Order could be taken in the future if warranted.

Although members of Council expressed concern for the neighbours that have been affected by debris on the property for a long period of time, it was the majority view that the extension requested by the owners was supportable.

Mr. Playfair expressed his objection to Council granting an extension, saying that with the multiple ongoing complaints being made over many years, staff should be directed to carry out the work as soon as possible after the original deadline.

The question was then called.

CARRIED
(Councillor Braithwaite against the motion)

13. 2011-211 ATHENA GUSTAFSON, [Undated]
 - 2011-190 LEONIDUS ULYSSES, May 19, 2011
 - 2011-190-1 SIBYLLE ARTZ, May 19, 2011
 - 2011-190-2 ANNE LAMKA, May 20, 2011
- Re Development Variance Permit – 2061 Cedar Hill Cross Road

MOVED by Councillor Jensen
Seconded by Councillor Copley, That correspondence items no. 2011-211 and 2011-190 to 2011-190-2 be received.

CARRIED

14. 2011-212 DIRECTOR OF BUILDING AND PLANNING, June 9, 2011
2011-180 DIRECTOR OF BUILDING AND PLANNING, May 11, 2011
2011-180-1 KATHY MCCARTHY, May 24, 2011
Uplands Building Permit Application – 3055 Cadboro Bay Road

MOVED by Councillor Jensen
Seconded by Councillor Copley, That correspondence items no. 2011-212, 2011-180 and 2011-180-1 be received.

CARRIED

NEW BUSINESS:

TABLED:

Development Variance Permit – 2573 Epworth Street

MOVED by Councillor Jensen
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 2573 Epworth Street (Lot 1, Block 3, Section 28, Victoria District, Plan 915, except part in plan 14993), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended, and Bylaw No. 3540, Parking Facilities Bylaw, 1986 as amended:

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (2) (c) <i>Minimum exterior side lot line setback</i>	3.65 m	1.1 m	2.55 m

<u>Parking Facilities Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.1 + Schedule "A", A.1. (a) <i>Minimum number of parking spaces</i>	2 spaces including 1 in building	1 space in building	1 uncovered space

to accommodate the replacement of an existing garage as shown on the plans appended to Committee of the Whole agenda item 2011-155, being a memorandum from the Director of Building and Planning dated April 7, 2011.

CARRIED

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

CARRIED

(Councillors Braithwaite and Herbert against the motion)

Development Variance Permit – 2061 Cedar Hill Cross Road

MOVED by Councillor Jensen

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 2061 Cedar Hill Cross Road (Lot 21, Section 31, Victoria District, Plan 16629), 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>
6.4.4. (6) (a) Maximum gross floor area above .8m below grade	300 m ²	435.25 m ²	135.3 m ²
6.4.4. (6) (a) Maximum gross floor area	420 m ²	435.25 m ²	15.25 m ²

to accommodate the top floor addition of a green house as shown in the plans appended to Committee of the Whole agenda item 2011-168, being a memorandum from the Director of Building and Planning dated April 26, 2011.

CARRIED

Carl Gustafson, applicant, said that the variances are required to build a greenhouse on a flat roof section of his house to address a pooling water issue. Mr. Gustafson added that the backyard is not suitable for gardening due to shade and flooding and the greenhouse would also help in this regard.

Athena Gustafson, applicant, referring to a letter she circulated to members of Council, said that the letter from a builder confirms that the pooling water on the recently installed new roof could not be corrected. Ms. Gustafson commented that they are not creating more living space; they are trying to stop water damage to the house. Ms. Gustafson said she is worried about her husband's safety when attempting to drain the water from the roof, and if they are not permitted to build the greenhouse then she would like to request permission to build a railing around the flat roof as a safety measure.

Following discussion, members of Council commented that the applicants should address the roof drainage issue directly versus through building a greenhouse over it. Although there was some support for the idea of a green roof, it was the majority view that the development variance permit application to accommodate a greenhouse being built on the flat roof of the second level was not supportable, and it was felt by some that it would be intrusive to adjacent neighbours.

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

DEFEATED

(Mayor Causton, Councillor Braithwaite, Copley, and Herbert against the motion)

Uplands Building Permit – 3055 Cadboro Bay Road

The Municipal Clerk advised that since the resolution to deny approval for the version of plans attached to correspondence item no. 2011-180 was tabled, a revised set of plans was submitted that appeared earlier on in the agenda attached to correspondence item no. 2011-212. Ms. Hilton explained that Council would need to decide on whether or not to approve those plans, and then it could turn its mind to the tabled resolution to deny the previous plans. It was agreed that the new plans be considered prior to dealing with the tabled resolution.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the revised plans date stamped received June 9, 2011 and attached to correspondence item no. 2011-212 to construct a house at 3055 Cadboro Bay Road be approved as to siting and architectural design.

CARRIED

Attention was drawn to the note from the Municipal Clerk noting that if the newest plans which appeared earlier in the agenda were approved, the tabled motion was no longer relevant.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the following motion be lifted from the table:

“That Council accept the staff recommendation to deny architectural design approval of the proposed revisions to the plans for construction of a new house at 3055 Cadboro Bay Road, as attached to correspondence item no. 2011-180, being a memorandum from the Director of Building and Planning dated May 11, 2011.”

CARRIED

MOVED by Councillor Copley

Seconded by Councillor Hebert, *That the motion be postponed indefinitely.*

CARRIED

RESOLUTIONS:

Development Variance Permit – 2176 Windsor Road

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2176 Windsor Road (Lot A (DD 385125I), Block 2, 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) Minimum front lot line setback	7.62 m	3.66 m	3.96 m

to accommodate the renovations to the dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-192, being a memorandum from the Director of Building and Planning dated May 20, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the motion in respect to the development variance permit for 2176 Windsor Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2276 Windsor Road

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2276 Windsor Road (Lot 4, Section 23, Victoria District, Plan 1007), that would vary section 4.1 + Schedule “A”, A.1. (a) of Bylaw No. 3540, being the *Parking Facilities Bylaw 1986*, as amended to relax the requirement that one parking space must be within a building, to accommodate the renovations to the dwelling as shown in the plans date stamped by the Oak Bay Building Department June 10, 2011 and attached to the resolution printed for the purpose of the June 13, 2011 Council Meeting Agenda.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the motion in respect to the development variance permit for 2276 Windsor Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 687 Island Road

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 687 Island Road (Lot 18, Section 22, Victoria District 2994), 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) (d) Minimum exterior side lot line setback	3.65 m	3.53 m	.12 m

to accommodate the siting of the dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-197, being a memorandum from the Director of Building and Planning dated June 2, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the motion in respect to the development variance permit for 687 Island Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss law enforcement as Council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment.

CARRIED

The meeting adjourned at 9:02 p.m.

Certified Correct:

Municipal Clerk

Mayor