

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 27, 2011 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor J. D. Herbert
Councillor T. Ney
STAFF: Municipal Administrator, M. Brennan
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
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 – June 13, 2011

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, June 13, 2011, be adopted.

CARRIED

Committee of the Whole – June 20, 2011

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the minutes of Committee of the Whole meeting held on Monday, June 20, 2011, and the recommendations contained therein, excluding the recommendation regarding correspondence item no. 2011-216, being a development variance permit application for 363 King George Terrace, be adopted.

Councillor Braithwaite requested that the development variance permit application for 363 King George Terrace be further considered.

The question was then called.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That correspondence item no. 2011-216, being a development variance permit application for 363 King George Terrace, be referred back to the Committee of the Whole for further discussion.

CARRIED

COMMUNICATIONS:

1. 2011-224 DISTRICT OF OAK BAY ANNUAL REPORT 2010
2011-224-1 MUNICIPAL TREASURER, June 22, 2011
Re Statement of Financial Information

The Municipal Treasurer drew attention to her memorandum noting that the *Local Government Act* now requires that the Statement of Financial Information, prepared by the Municipality and included in the Annual Report, must be approved by Council.

Mayor Causton asked if anyone in attendance wished to address Council regarding the 2010 Annual Report. No one come forward.

Council acknowledged the amount of work required to produce the report and thanked the staff involved on a job well done.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the 2010 Annual Report be received and that the reports therein that are required pursuant to the *Financial Information Act* be approved, and further, that the Mayor be authorized, on behalf of Council, to sign a statement indicating approval of the Statement of Financial Information as required by the *Act*.

CARRIED

2. 2011-225 DIRECTOR OF BUILDING AND PLANNING, June 21, 2011
Re Building Permit Referral, Property Listed on Community Heritage Register – 1703 Monterey Avenue

(Fire Chief Gerry Adam, Oak Bay Fire Department, was in attendance for this item.)

The Municipal Administrator advised that at the May 24, 2011 meeting of Council the Fire Chief had requested that the original Fire Hall windows be replaced with new energy efficient wood windows, and at that time Council decided to refer the request for replacement windows to the Heritage Advisory Panel for a recommendation. It was noted that the Panel visited the Fire Hall to view the windows on two separate occasions.

Fire Chief Adam explained that the existing windows are single glazed and that some of the windows are cracked. The Fire Chief advised that the proposed new windows would be made of wood and would be in the same architectural style as the original windows with the exception of the fluting. He added that the new windows would help bring the 1930's building to more of an acceptable and liveable standard, and asked that Council allow the windows to be replaced as has been budgeted for.

Discussion ensued and attention was drawn to the report stating that the windows are in good condition for older windows, although it was also noted they do rattle when it is windy. It was also pointed out that the Fire Hall was built in two sections, and the newer windows in the section built in 1965 are in better shape than those installed with the 1938 section.

Although replacement of the windows was supported by some, the fact that some members of Council had not yet been able to visit the site was acknowledged, and it was suggested that this item be deferred to allow time for all Council members to view the windows at the Fire Hall.

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the request to replace the windows at 1703 Monterey Avenue (correspondence item no. 2011-225) be referred to the next meeting of Council.

CARRIED

3. 2011-226 ORISSA HENDERSON, June 15, 2011
Re Request for Road Closure for Block Party on Cavendish Avenue – July 9, 2011

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That permission be given for a road closure for the purpose of a neighbourhood block party on Cavendish Avenue on Saturday, July 9, 2011, from 1:00 o'clock p.m. to sundown.

CARRIED

4. 2011-227 LISE JOHNSON, June 21, 2011
Re Request for Road Closure for Block Party on Lane between Musgrave and Dunlevy – July 1, 2011

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That permission be given for a road closure for the purpose of a neighbourhood block party on the laneway between Musgrave Street and Dunlevy Street on Friday, July 1, 2011, from 3:00 o'clock p.m. to 7:00 o'clock p.m.

CARRIED

5. 2011-228 JOHN AND PAT PALMER, June 22, 2011
-- EXCERPT FROM THE COUNCIL MEETING MINUTES, April 11, 2011
2011-136 JOHN AND PAT PALMER, March 9, 2011
2011-136-1 MUNICIPAL CLERK, April 4, 2011
Re Tree Removal Application, 2580 Cotswold Road – Request for Reconsideration of Permit Refusal

The Municipal Administrator noted that under the Tree Protection Bylaw, Council has the authority to reconsider a Parks Department decision to deny a tree cutting permit under certain circumstances. It was advised that in the assessment of the Municipal Arborist none of the provisions of the Tree Protection Bylaw that would allow for the removal of the trees applies, and accordingly, the request was denied.

Mr. Brennan pointed out that the loose rock wall, which the applicants felt was being damaged by the Arbutus tree, does not meet the height requirement to be considered a significant structure, damage to which could allow for a protected tree to be removed. Mr. Brennan commented that the applicants have expressed concern about the health of an adjacent Garry Oak tree should the Arbutus tree remain.

Attention was drawn to Section 6 (10) of the Tree Protection Bylaw, which would allow removal of the protected tree in order to promote the health of another protected tree of a specific species.

John Palmer, homeowner, said he and his wife have spent a great deal of time over the last 20 years caring for the gardens and preserving trees on their property. With respect to the Arbutus

tree, Mr. Palmer said their concern is about the tree infringing on an adjacent Garry Oak tree and that the Arborist's suggestion to continually prune the Arbutus tree to reduce the impact on the Garry Oak tree might work but would be costly, pointing out, however, that the Arbutus roots cannot spread out because of its proximity to the rock wall, which is starting to collapse.

With respect to Council suggesting they obtain an independent certified Arborist opinion, Mr. Palmer advised that they spoke to several tree companies, but felt that paying \$300 for a report was too much.

Pat Palmer, homeowner, said that she felt the rock wall is a significant structure in that it was likely constructed when the house was built in 1938.

A member of Council expressed her desire to see the Arbutus tree protected, while others agreed that although an Arbutus is considered a significant tree, it seems to be out of place in this location, and concern was expressed that the nearby Garry Oak tree was being crowded. Following further discussion it emerged that it was the majority view of Council that the request to remove the Arbutus tree was supportable.

MOVED by Councillor Ney

Seconded by Councillor Herbert, That the issuance of a permit for the removal of the Arbutus tree, located on the private property adjacent to the house at 2580 Cotswold Road, be ordered pursuant to Section 6 (10) of the Tree Protection Bylaw.

CARRIED

(Councillor Braithwaite against the motion)

6. 2011-229 MUNICIPAL CLERK, June 23, 2011
Re Mail Ballot Voting

The Municipal Clerk provided an overview of her memorandum noting the potential advantages and disadvantages of mail ballot voting for the next general local election. Ms. Hilton commented that if mail ballot voting is to be implemented, she recommends that the special voting opportunity at Oak Bay Lodge be eliminated inasmuch as those eligible residents could vote through the mail ballot process instead. Responding to questions, Ms. Hilton noted approximately thirty votes were cast at the Oak Bay Lodge in the last election.

Ms. Hilton said that given the additional workload associated with a third optional advance voting opportunity that was offered for the day prior to the general voting day in 2008, and if mail ballot voting was implemented to allow more people who were going to be away to vote, only the two required advance voting opportunities are proposed for the upcoming election.

Discussion ensued with members of Council commenting on various aspects of the idea of mail ballot voting and staff answering questions from Council. It was acknowledged that this method of voting could increase voter turnout, although additional work and costs would be associated with it.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That staff be directed to draft an amendment to the Elections and Voting Bylaw to authorize mail ballot voting, and eliminate the special voting opportunity at Oak Bay Lodge.

CARRIED

7. 2011-230 MUNICIPAL TREASURER, June 23, 2011
Re Amendments to the Financial Plan Bylaw, 2011

The Municipal Treasurer provided an overview of her memorandum noting the changes that are reflected in the proposed amended Financial Plan Bylaw, pointing out that the changes have compensating sources of funding.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the recommendations to amend the Financial Plan Bylaw be endorsed.

CARRIED

8. 2011-231 T. CHATHAM, June 19, 2011
2011-231-1 COLLEEN WALTON, June 22, 2011
Re Development Variance Permit – 2276 Windsor Road

MOVED by Councillor Herbert

Seconded by Councillor Ney, That correspondence items no. 2011-231 and 2011-231-1 be received.

CARRIED

9. 2011-220-1 PAUL AND HELGA WORSLEY, May 26, 2011
Re Development Variance Permit – 2990 Beach Drive

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That correspondence item no. 2011-220-1 be received.

CARRIED

NEW BUSINESS:

Zoning Regulations for Large Lots

Councillor Herbert expressed his concern regarding the potential for very large houses being built on large lots, and said he would like to see staff look at possible changes to the Zoning Bylaw regulations with respect to lot coverage and floor area maximums for larger lots. He suggested that staff look into all options in this regard including implementing a sliding scale to reduce the lot coverage and maximum gross floor area with increased lot size. It was suggested that the allowable paving be re-examined as well.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That staff be directed to bring forward a report regarding options to amend the Zoning Bylaw to decrease the floor area and lot coverage maximums for large properties.

CARRIED

Town Hall Meetings

With respect to Councillor Braithwaite inquiring about the next Town Hall Meeting, Mayor Causton suggested one could be held in September, however, he added that it may not be an opportune time with the local election to be held in November.

TABLED:

Development Variance Permit – 2176 Windsor Road

MOVED by Councillor Herbert

Seconded by Councillor Ney, 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 2176 Windsor Road (Lot A (DD 3851251), 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) <i>Minimum front lot line setback</i>	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.

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 – 2276 Windsor Road

MOVED by Councillor Ney

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 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.

CARRIED

Christopher Bing, son of the applicant, advised that because his aging father has mobility issues he wishes to convert a portion of the existing garage into a main floor bedroom as stairs have become difficult for him.

Referring to a letter from a neighbour raising privacy concerns, Mr. Bing commented that they would be willing to address those concerns with the neighbour. Mr. Bing added they felt the view of the house from the street would be improved by the garage doors being removed and replaced with a more pleasing façade.

Charles Bing, applicant, said he bought the home thinking he would be able to create a lower level bedroom to accommodate his health and mobility issues, and he added that this house is two blocks from where he was born. With respect to parking, Mr. Bing said he has observed that the neighbours do not use their garages for parking either.

Colleen Walton, Oak Bay resident, advised that as a neighbour she has privacy concerns regarding the proposed window placements and she only asks that this be addressed.

It was confirmed that the owner and the neighbour would meet to discuss the privacy concerns raised.

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 – 687 Island Road

MOVED by Councillor Herbert

Seconded by Councillor Ney, 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 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) <i>Minimum exterior side lot line setback</i>	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.

CARRIED

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

CARRIED

RESOLUTIONS:

Development Variance Permit – 2635 Cranmore Road

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2635 Cranmore Road (Lot 3 & Lot 4, Block 4,

Section 61, Victoria District, Plan 1029A), 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>
<u>Lot #3 (west)</u>			
6.5.4. (2) (e) Minimum total of side lot line setbacks	4.57 m	3.45 m	1.12 m

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
<u>Lot #4 (east)</u>			
6.5.4. (2) (e) Minimum total of side lot line setbacks	4.57 m	1.52 m	3.05 m

to accommodate renovations and additions to the dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-215, being a memorandum from the Director of Building and Planning dated June 14, 2011.

MOVED by Councillor Braithwaite
Seconded by Councillor Ney, That the motion in respect to the development variance permit for 2635 Cranmore Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED
(Councillor Herbert against the motion)

Development Variance Permit – 2620 Cavendish Avenue

MOVED by Councillor Braithwaite
Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2620 Cavendish Avenue (Lot 65, Section 61, Victoria District, Plan 874), 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 paved surface of front yard	25% (40.6m ²)	34.2% (55.6m ²)	9.2 percentage points (15m ²)

to accommodate the paved surface of the front yard as shown in the plan appended to Committee of the Whole agenda item 2011-217, being a memorandum from the Director of Building and Planning dated June 15, 2011.

MOVED by Councillor Braithwaite
Seconded by Councillor Ney, That the motion in respect to the development variance permit for 2620 Cavendish Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 843 Newport Avenue

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 843 Newport Avenue (Lot A (DD ET51389), Block 1, Section 73, Victoria District, Plan 992), 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 paved surface of rear yard	25% (58m ²)	31% (72m ²)	6 percentage points (14m ²)
4.15.1 Maximum paved surface of front yard	25% (58.1m ²)	38% (88.3m ²)	13 percentage points (30.2m ²)

to accommodate the paved surface of the front yard and rear yard as shown in the plans appended to Committee of the Whole agenda item 2011-218, being a memorandum from the Director of Building and Planning dated June 15, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 843 Newport Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2990 Beach Drive

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2990 Beach Drive (Amended Lot A (DD 309858-I) Section 31, Victoria District, Plan 12166), 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 paved surface of rear yard	111.8m ²	178.4m ²	66.6m ²
4.17.1 Maximum exposed face of retaining wall	1.2m	2.2m	1.0m
4.17.1 Maximum exposed face of retaining wall	1.2m	1.9m	0.7m

to accommodate the paved surface of the rear yard and proposed retaining walls as shown in the plans appended to Committee of the Whole agenda item 2011-220, being a memorandum from the Director of Building and Planning dated June 16, 2011.

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 2990 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

BYLAWS:

For First, Second and Third Reading

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4541, *Animal Control Bylaw Amendment Bylaw No. 2, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4541, *Animal Control Bylaw Amendment Bylaw No. 2, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4541, *Animal Control Bylaw Amendment Bylaw No. 2, 2011*, be read a third time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4542, *Ticket Information Utilization Bylaw Amendment Bylaw No. 3, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4542, *Ticket Information Utilization Bylaw Amendment Bylaw No. 3, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4542, *Ticket Information Utilization Bylaw Amendment Bylaw No. 3, 2011*, be read a third time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4543, *Financial Plan Bylaw, 2011, Amendment Bylaw No. 1, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4543, *Financial Plan Bylaw, 2011, Amendment Bylaw No. 1, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4543, *Financial Plan Bylaw, 2011, Amendment Bylaw No. 1, 2011*, be read a third time.

Mayor Causton asked if anyone in attendance wished to address Council regarding the proposed amendment to the Financial Plan. No one come forward.

The question was then called.

CARRIED

ADJOURNMENT:

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

CARRIED

The meeting adjourned at 8:56 p.m.

Certified Correct:

Municipal Clerk

Mayor