

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, March 23, 2009 at 7:30 p.m.

PRESENT: Mayor C. M. Causton (Chairman)
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor N. B. Jensen
Councillor T. Ney

STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
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 – March 9, 2009

MOVED by Councillor Cassidy
Seconded by Councillor Braithwaite, That the minutes of the Council meeting held on Monday, March 9, 2009, be adopted.

CARRIED

Special Council – March 12, 2009

MOVED by Councillor Copley
Seconded by Councillor Ney, That the minutes of the Special Council meeting held on Thursday, March 12, 2009, be adopted.

With respect to the Uplands Low Pressure Sewer System Grant Application, the Municipal Administrator advised that the Municipality has been setting aside monies from the Gas Tax Fund to help pay for the separation of the sewer system. Recently, said Mr. Cochrane, the federal government has advised that it would prefer not to see the Gas Tax Fund being used for this project as it may be seen as additional federal funding being granted to Oak Bay. He added that if the grant application is successful, Oak Bay may have to borrow for its share of the project.

The question was then called.

CARRIED

Committee of the Whole – March 16, 2009

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the minutes of the Committee of the Whole meeting held on Monday, March 16, 2009, and the recommendations contained therein, be adopted.

CARRIED

Estimates Committee – March 18, 2009

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the minutes of the Estimate Committee meeting held on Wednesday, March 18, 2009, and the recommendations contained therein, be adopted.

CARRIED

PRESENTATION:

Recognition of Renovation and Building Achievement Awards

At the request of Mayor Causton, Councillor Cassidy provided an overview of the Recognition of Renovation and Building Achievement Awards Program that recognizes outstanding renovation achievements in Oak Bay.

Three property owners were presented with, and gratefully accepted, a local artist's original rendering of their building. The awards were presented to the following owners: Peter and Ruth Diamant, 2227 Brighton Avenue, George and Ann Nation, 1547 Yale Street, and Ken and Gail Smith, 170 Prince Andrew Place.

Mayor Causton thanked all the recipients and artists for their participation and thanked the Panel for all its work in reviewing the nominated projects and choosing the three recipients.

The owners and representatives in attendance noted their appreciation for receiving the awards.

COMMUNICATIONS:

1. 2009-114 BISON PROPERTIES LTD., March 17, 2009
2009-114-1 MUNICIPAL ADMINISTRATOR, March 17, 2009
Re Oak Bay Beach Hotel – Application for Extension of Development Permit

Referring to his memorandum, the Municipal Administrator explained the procedure with respect to amending a development permit, noting there is no provision in place that addresses the duration of the current development permit, therefore, the two year default period set out in provincial legislation would apply.

Responding to a comment from some members of Council with respect to the untidy appearance of the site, Kevin Walker, Bison Properties Ltd., advised that he has been told by some that it looks fine, but said he is looking into his options for placing a temporary sales centre on site which would include improving the aesthetics of the area.

Some members of Council felt that clean up of the property should be considered whether or not a sales centre is set up on site.

Mr. Walker provided an update on the progress of the development to date noting that the plan is to start construction in November 2009.

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the Director of Building and Planning be authorized to issue a development permit amending Development Permit No. 001-07 (as amended by Development Permit No. 004-07) with respect to Lot A, Sections 23 & 73, Victoria District, Plan VIP 82201 and the area of foreshore shown in the plan reproduced in Development Permit No. 004-07, by inserting the following paragraph immediately following Paragraph 5:

6. *This Permit shall lapse if the construction of the principal building as depicted in the Plans and Documents has not substantially commenced by June 11, 2011.*

With respect to a review of the off-site servicing estimate to determine whether the work could still be done for the amount originally deposited, Mr. Cochrane advised that both the Engineering and Public Works Departments were satisfied with the amount now on deposit.

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the motion in respect to the development permit for Lot A, Sections 23 & 73, Victoria District, Plan VIP 82201 be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

2. 2009-115 VICTORIA WHEELERS, [Undated]
2009-83 TIMES COLONIST CYCLING FESTIVAL, February 9, 2009
2009-83-1 MUNICIPAL CLERK, February 20, 2009
Re 1. Request for Road Closures for Cycling Race Around Windsor Park -May 9, 2009
2. Request for Grant to offset Room Rental Fee

At its meeting of February 23, 2009, Council deferred the request for the road closures for the proposed cycling race and grant request to offset the rental fee for the Windsor Pavilion, to provide an opportunity for the event organizers to discuss the park use conflicts with staff and user groups and attempt to devise a workable alternative and report back to Council.

Karl Ulrich, Oak Bay Criterium Race Director, advised Council that through discussions with Oak Bay staff all issues with respect to park use conflicts during the proposed event have been resolved.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That approval be given for the closure of the roads bordering Windsor Park between the hours of 7:30 a.m. and 12:00 noon, May 9, 2009, in connection with the Times Colonist Cycling Festival Cops for Cancer Oak Bay Criterium fundraising event, 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 an amount not less than \$3M; and
- 2) agree to pay for all invoices from the Municipality for costs incurred in relation to the event; and
- 3) agree to obtain approval from the Oak Bay Police Department for a traffic management plan and implement same subject to any field instructions from the Police; and
- 4) deliver written notice to all occupiers of property adjoining any roads to be closed for the event.

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

CARRIED

Mr. Ulrich withdrew the grant request in the amount of \$110, representing the rental fee for Windsor Park Pavilion for the event.

3. 2009-111 DIRECTOR OF BUILDING AND PLANNING, March 3, 2009
2009-116 MAXIMILIAN HUXLEY, March 17, 2009
Re Uplands Building Permit / Development Variance Permit Application
– 3295 Upper Terrace Road

At the Committee of the Whole meeting held March 16, 2009 it was noted that the Uplands Building Permits Subcommittee was not able to access the site therefore this item was deferred to allow time for the Subcommittee to view the property. Councillors Copley and Ney confirmed they were able to visit the site at 3295 Upper Terrace Road.

MOVED by Councillor Copley

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3295 Upper Terrace Road (Lot C, Section 31, Victoria District, Plan 3741), 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>
6.2.4. (1) Maximum number of accessory buildings	Two	Three	One
6.2.4. (7) Clear space required between buildings	3.0 m	2.5 m	0.5 m

to accommodate the proposed construction of a garden/tool shed as shown on the plans attached to Committee of the Whole agenda item #2009-111, being a memorandum from the Director of Building and Planning dated March 3, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 3295 Upper Terrace Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

4. 2009-117 FOODROOTS DISTRIBUTORS CO-OP, March 17, 2009
Re Request to Occupy a Portion of Public Sidewalk for Open Air Produce Market – Estevan Village

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That whereas pursuant to the Streets and Traffic Bylaw, Council has made the determination that the proposed event will be of general benefit to the adjacent business district and will create no undue inconvenience, approval be given for the occupancy of Musgrave Street at Estevan Avenue on Thursdays from May 7 through to October 29, 2009, from 2:30 p.m. to 6:00 p.m., for the purpose of a produce market, as detailed in correspondence item no. 2009-117, subject to FoodRoots Distributors Co-op 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 produce market 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 produce market;

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

CARRIED

5. 2009-118 MUNICIPAL TREASURER, March 17, 2009
Re Social Service Agency Operating Grant Requests

Noting that members of Council did not have questions for the Crisis Intervention and Public Information Line (NEED) representative, it was the consensus of Council to refer the grant request in the amount of \$5,165 to the Estimates Committee.

St. John Ambulance -Victoria

Darlene Ricketts, Branch Manager, spoke on behalf of the St. John Ambulance –Victoria outlining that organization’s activities as contained in the submission to Council.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the following grant requests be referred to Estimates Committee:

Community Council	\$4,011
Volunteer Victoria	\$2,685
Crisis Intervention and Public Information Line (NEED)	\$5,165
St. John Ambulance – Victoria	\$1,074

CARRIED

6. 2009-119 WILD ANIMAL REHABILITATION CENTRE, March 12, 2009
Re Grant Request

Mayor Causton declared a conflict in as much as his nephew works for the Wild Animal Rehabilitation Centre, indicating that he would be unable to participate in discussion or vote on the matter. Mayor Causton left the meeting at 8:22 p.m.

Acting Mayor Ney continued on as Chairman.

Angela Kendall, Administrator, Wild Animal Rehabilitation Centre, provided a description of the Centre's role noting it is a branch of the Society for the Prevention of Cruelty to Animals (SPCA) that rehabilitates wild animals brought in from all over lower Vancouver Island. Ms. Kendall said that from 2004 to 2008 at least 300 animals were rescued from Oak Bay.

The Centre relies on funding from charitable organizations for its day to day operations, however, said Ms. Kendall, at this time it is seeking financial assistance in the amount of \$2,0000 in support of its water main project, which would alleviate the need and expense of having the water supply trucked.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the grant request from Wild Animal Rehabilitation Centre in the amount of \$2,000 be referred to the Estimates Committee.

CARRIED

Mayor Causton returned to the meeting at 8:30 p.m.

7. 2009-120 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, March 19,
2009
Re Grant Request

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That Council approve the budget submitted by the Oak Bay Business Improvement Association for the 2009 calendar year as outlined in Item 2009-120, with the budget incorporating on the revenue side a grant from the Municipality in the amount of \$62,000 to be recovered by means of a local service tax in that amount.

CARRIED

8. 2009-121 DIRECTOR OF BUILDING AND PLANNING, March 13, 2009
Re Request to Undertake Work on Building Protected by Restrictive
Covenant – 230 King George Terrace

The Director of Building and Planning noted that the design modification to the previously approved request is due to a BC Hydro service easement that requires the garage size to be reduced. Mr. Thomassen added that the Heritage Advisory Panel has reviewed the new proposal and recommends approval of the modification to the original siting of the garage.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That pursuant to the restrictive covenant registered against the property, approval be given for the amended plans for construction of an addition to the single family dwelling located at 230 King George Terrace, as outlined in correspondence item no. 2009-121.

CARRIED

9. 2009-122 DIRECTOR OF BUILDING AND PLANNING, March 13, 2009
2009-122-1 J. H. AND MARY CROFT, March 16, 2009
Re Request to Amend Restrictive Covenant – 57 Sylvan Lane

The Municipal Administrator said that the applicant wishes to amend the restrictive covenant to extend the boundaries of the building envelope to allow construction of a garage.

Mr. Cochrane noted that the restrictive covenant, in favour of the municipality, was registered at the time of subdivision in 1984, and that it is still the same neighbours living next door (at 52 Sylvan Lane) that have now expressed concerns that their views and light exposure could be altered with the construction of a garage at the proposed location.

It was agreed that prior to making a final decision on whether or not to approve an amendment to the covenant in principle, it would be beneficial to refer the request to the Committee of the Whole for more detailed discussion.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the plans for renovations to 57 Sylvan Lane, as attached to correspondence item 2009-121, be referred to the Committee of the Whole for a further consideration.

CARRIED

10. 2009-123 GIRL GUIDES OF CANADA, March 9, 2009
Re Request for Tag Day – April 4, 2009

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That permission be granted to the Girl Guides of Canada (Chatham District) to conduct cookie sales on Oak Bay Avenue on Saturday, April 4, 2009, from 10:00 a.m. to 3:00 p.m.

CARRIED

11. 2009-124 GREATER VICTORIA PUBLIC LIBRARY, March 13, 2009
Re Greater Victoria Public Library Facilities Plan

The Municipal Administrator advised that it is the intention of the Greater Victoria Public Library to arrange a focus group session with representatives from its municipal partners to discuss development of a long-term Library Facilities Plan in respect to its fit with the individual plans of the members.

In response to questions, he indicated that both he and the Director of Parks and Recreation would be happy to meet with the library representatives in this regard. Councillor Copley indicated her willingness to participate as well, should it be requested.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the Municipal Administrator and the Director of Parks and Recreation be appointed as the District of Oak Bay's representatives to attend the Greater Victoria Public Library Facilities Plan focus group session(s).

CARRIED

12. 2009-125 MUNICIPAL ADMINISTRATOR March, 18, 2009
Re Information Technology Support

The Municipal Administrator drew attention to the business case for having staff resources rather than outsourcing information technology support services, noting that the need is not at a critical stage at this time, but is something staff has been working on for a while. Mr. Cochrane added that it is hoped that the request will be referred to Estimates Committee for further consideration, recognizing that while the proposal is supportable, Council will need to decide if it is a priority.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the proposed Information Technology Support, as described in correspondence item no. 2009-125, be referred to Estimates Committee.

CARRIED

13. 2009-126 MUNICIPAL TREASURER March 20, 2009
Re Agreement Regarding Foreign Currency Purchases

The Municipal Treasurer noted that due to the fluctuations in the American exchange rates it would be beneficial for the Municipality to purchase American funds over the next seven months to be put aside for the purchase of the new fire engine in October 2009.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the Municipal Administrator and Treasurer be directed to enter into any required agreement for the purpose of purchasing the required American currency to fund the October 2009 purchase of a fire engine.

CARRIED

14. 2009-127 WALTER AND INGRID RIEDEL, March 17, 2009
2009-127-1 JAMES AND VALERIA MATT, March 19, 2009
2009-90-1 RICK HAWES, February 21, 2009
2009-90-2 SYLVIA MOSER, February 21, 2009
Re Development Variance Permit Application – 487 Monterey Avenue

MOVED by Councillor Jensen
Seconded by Councillor Copley, That correspondence items no. 2009-127, 2009-127-1, 2009-90-1 and 2009-90-2 be received.

CARRIED

NEW BUSINESS:

Pesticide Use Reduction Bylaw Proposal

Councillor Ney acknowledged that the City of Victoria recently adopted a pesticide use reduction bylaw, noting that she would like to see Oak Bay look at creating a bylaw to control the use of pesticides as well. Councillor Ney added that the Capital Regional District's focus is on health related issues and as there has been no proven relationship between pesticide use and health risks, it has been left up to the municipalities to address the environmental impact of pesticide use through their own bylaws.

MOVED by Councillor Ney
Seconded by Councillor Copley, That staff be directed to draft a Pesticide Use Reduction Bylaw to be brought forward to Council for consideration.

Mayor Causton advised that perhaps a preferable process would be for Council to request that the Parks and Recreation Commission investigate the issues involved and report back. A public process could follow, he said.

The motion was withdrawn with the permission of the seconder.

MOVED by Councillor Ney
Seconded by Councillor Copley, That the Oak Bay Parks and Recreation Commission be requested to investigate the issues involved, and report back to Committee of the Whole with respect to the implications of implementing pesticide use regulations.

For clarification, a member of Council requested that the report include some interpretation of the terms used in the Capital Regional District's model bylaw, including the commercial names of the products included in it.

The question was then called.

CARRIED

Public Works Branch Cleanup

Responding to Mayor Causton's suggestion to put off the spring branch cleanup until the end of March, the Municipal Administrator advised that this is considered the best time for Public Works to pull all its staff from other jobs to participate in the cleanup. Mr. Cochrane said he would speak with the Superintendent of Public Works regarding this suggestion, however.

TABLED:

Development Variance Permit – 487 Monterey Avenue

MOVED by Councillor Jensen

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 487 Monterey Avenue (Northerly 43 feet 2 1/2 inches of the Southerly 1/2 of Lot 13, Section 22, Victoria District, Plan 74C) 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) (a) Maximum Building Height	5.9 m	7.47 m	1.57 m
6.4.4. (3) (c) Maximum Roof Height	7.39 m	8.28 m	0.89 m

to accommodate the enclosure of an existing top floor deck as shown in the plans attached to the memorandum from the Director of Building and Planning dated February 23, 2009.

CARRIED

Responding to a question from a member of Council, the Director of Building and Planning confirmed that the plans to enclose the top floor rear deck would not change the existing building or roof height, which is currently non-conforming, and that the new roof height would be the same as what is existing. Mr. Thomassen also confirmed that the proposed renovation would not be visible from the street.

Susan Cachay, homeowner, commented that an additional bedroom is required to accommodate her soon to be blended family. Ms. Cachay said she is not asking for additional floor space but is wanting to fill in an existing space to create a much needed bedroom. With respect to concerns expressed by the neighbours situated behind her home, Ms. Cachay said she was surprised because the lot is very deep (approximately 250 feet) and that the enclosure of the deck, if anything, should improve the aesthetic view from that distance.

A member of Council drew attention to the two supporting letters, noting these properties are on either side of 487 Monterey Avenue and would likely be the most affected by any changes to the rear deck.

The question on the main motion was then called.

CARRIED

RESOLUTIONS:

Development Variance Permit – 686 Linkleas 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 686 Linkleas Avenue (East 1/2 of Lot 1, Block 6, 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>
6.5.4. (6) (b) Gross Floor Area	420 sq m	482 sq m	62 sq m
6.4.4. (6) (b) Gross Floor Area higher than 0.8 metres below grade	300 sq m	352 sq m	52 sq m

to accommodate the proposed new attached garage as shown on the plans attached to Committee of the Whole agenda item #2009-109, being a memorandum from the Director of Building and Planning dated March 11, 2009.

MOVED by Councillor Jensen
Seconded by Councillor Cassidy, That the motion in respect to the development variance permit for 686 Linkleas Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3045 Beach Drive

MOVED by Councillor Jensen
Seconded by Councillor Braithwaite, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3045 Beach Drive (Lot B, Block 25, Section 31, Victoria District, Plan 2753), 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) (d) Minimum Exterior Side Lot Line Setback	7.62 m	5.49 m	2.13 m

to accommodate the proposed construction of a garden shed as shown on the plans attached to Committee of the Whole agenda item #2009-110, being a memorandum from the Director of Building and Planning dated March 3, 2009.

MOVED by Councillor Jensen
Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 3045 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Authorization for Execution of Statutory Right of Way and Sale of Closed Portion of Denison Road

MOVED by Councillor Jensen
Seconded by Councillor Braithwaite, That the Mayor and Municipal Clerk be authorized to execute Statutory Rights of Way in favour of BC Hydro and Power Authority, Telus

Communications Inc., and Shaw Cablesystems Ltd. over the land legally described as That Part of Section 22 and 46, Victoria District, Shown on Plan VIP86393, substantially in the forms attached to the resolution printed for the purposes of the March 23, 2009 Council agenda, and further, that the Mayor and Municipal Clerk also be authorized to do all acts and things necessary to execute the transfer of the land encumbered by the Statutory Rights of Way to the adjacent property owners at a sale price of \$55,000.

CARRIED

BYLAWS:

For First, Second and Third Reading

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That Bylaw No. 4455, *Parking and Alternative Transportation Infrastructure Reserve Funds Transfer Bylaw No. 2, 2009, be introduced and read a first time.*

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That Bylaw No. 4455, *Parking and Alternative Transportation Infrastructure Reserve Funds Transfer Bylaw No. 2, 2009, be read a second time.*

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That Bylaw No. 4455, *Parking and Alternative Transportation Infrastructure Reserve Funds Transfer Bylaw No. 2, 2009, be read a third time.*

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss a potential administrative tribunal hearing affecting the Municipality.

CARRIED

The meeting adjourned at 9:05 p.m.

Certified Correct:

Municipal Clerk

Mayor