

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, May 9, 2011 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen (*Left the meeting at 8:00 p.m.*)
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
Director of Engineering Services, D. Marshall

Mayor Causton thanked Council and staff for continuing on with a job well done during his recent absence.

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

ADOPTION OF MINUTES:

Council – April 26, 2011

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of the Council meeting held on Tuesday, April 26, 2011, be adopted.

CARRIED

Special Council – May 2, 2011

MOVED by Councillor Cassidy
Seconded by Councillor Herbert, That the minutes of the Special Council meeting held on Monday, May 2, 2011, be adopted.

Secondary Suites Review

Mayor Causton drew attention to the recent budget deliberations where it emerged that it was Council's wish to move forward with an Official Community Plan review, which will also encompass the issue of secondary suites. He noted that some initial work was budgeted for in 2011, although the bulk of the Official Community Plan review would likely take place in 2012.

The question was then called.

CARRIED

Committee of the Whole – May 2, 2011

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the minutes of Committee of the Whole meeting held on Monday, May 2, 2011, and the recommendations contained therein, with the exception of the recommendation in relation to correspondence item no. 2011-155, a development variance permit application for 2573 Epworth Street, be adopted.

CARRIED

Development Variance Permit Application -2573 Epworth Street

Referring to the development variance permit application for 2573 Epworth Street, Councillor Jensen suggested that having a full Council in attendance to make a decision would be desirable, and that consideration of this item should be deferred to a future Committee of the Whole meeting when this could be accomplished.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That correspondence item no. 2011-155 be referred back to a future Committee of the Whole meeting when all members of the Committee will be in attendance.

CARRIED

(Councillors Braithwaite and Herbert against the motion)

COMMUNICATIONS:

1. 2011-171 JODI & STEPHEN FOSTER *et al*, April 26, 2011
Re Request for Temporary Closure of Crestview Road – June 18, 2011

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That permission be given for the road closure between 3608 and 3680 Crestview Road on Saturday, June 18, 2011, from 4:00 o'clock p.m. to 8:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

2. 2011-172 ISLAND RUNNER MCNEILL BAY HALF MARATHON, April 11, 2011
Re Request to Occupy Public Property for Half Marathon – September 11, 2011

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That approval be given to occupy public property, as described in correspondence item no. 2011-172, for the McNeill Bay Half Marathon event to be held Sunday, September 11, 2011 from 7:00 o'clock a.m., 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;

- 3) agree to provide individual notice to each residence along the route in advance of the event;
- 4) obtain approval from the Oak Bay Police Department for a detailed marshalling plan,

with the Municipal Clerk being authorized to execute the agreement on behalf of the Municipality.

It was noted that the applicant is seeking permission to conduct a half marathon along various streets in Oak Bay, and that staff had reservations about approving this first time event at the staff level, which would have been possible since no roads were proposed to be closed. It was further noted that road events of this nature usually do involve road closures and there are some potential safety concerns with a half marathon race being undertaken while traffic continues to travel the streets involved. Staff advised that there have been similar concerns expressed by the Oak Bay Police Department in this regard.

Phil Nicholls, the event organizer, advised that he has organized similar races of this nature, and in this case the event will be supported by the Oak Bay High School, and will involve approximately 60 volunteers. Mr. Nicholls thought it would be less disruptive to the community if the roads were not closed, noting that the proposed event would be quite small with approximately 200-300 runners participating.

The question was then called.

CARRIED

3. 2011-173 MUNICIPAL ADMINISTRATOR, May 5, 2011
Re Removal of House from 1395 Hampshire Road

Chris Paul, Municipal Arborist, provided an overview of the trees that would be affected by the proposed house move along Oak Bay Avenue and Newport Avenue as detailed in his memorandum and photographs attached to correspondence item no. 2011-174. Mr. Paul noted that although this corridor has been used for house moves in the past, in this case the house is wider and would require a significant amount of tree pruning that would include one of the private trees needing to be pruned back by 50 percent, which, he said, the tree may or may not be able to recover from. He advised that six of the seven trees are situated on private property but overhang onto the street.

Responding to a question from a Committee member, Mr. Paul said that pruning of branches overhanging Oak Bay's property is permitted, and that the Hazardous Tree and Shrub Bylaw actually requires private property owners to prune back overhanging trees on municipal roads where branches are liable to be struck by a motor vehicle. In respect to the trees proposed to be pruned by Nickel Bros., he said, while there has been the odd large truck hit one of the trees on occasion, normal traffic is not affected by the trees, and therefore staff feel that any pruning that is approved should be done at the applicant's expense. One public tree would also have to be removed, he said.

With respect to the affect of the proposed pruning on the existing tree canopy over the street, Mr. Paul indicated that with the slow growing Garry Oak trees it could take up to 50 years or so to recover the canopy in the areas affected, adding that the environment could play a part in the recovery of the trees as well.

Councillor Jensen left the meeting at 8:00 p.m.

James Connelly, Nickel Bros. Housing Moving Ltd., advised the Committee that this potential house move is at the preliminary stage, and should the Municipality approve the tree work, he would then move onto discussions with the utility companies regarding hydro and telephone work that would be required. Mr. Connelly commented that although the 1912 arts and crafts house has significant architecture and history, it has not been designated as heritage. He said the house would still be too tall to fit this route, even if the house was cut in half, adding that such an alternative would be cost prohibitive. Mr. Connelly said the tree work proposed to be undertaken would provide greater access to remove other significant buildings down the same corridor should the need arise in the future.

Attention was drawn to the costs involved, alternate routes, the effect on the streetscape, and the aesthetics of the area. It was also noted that two letters of objection have been received from residents that would be affected by the tree work being requested.

It was pointed out that the Committee has a difficult decision to make when considering the merits of saving an old home or protecting mature Garry Oak trees, and following further discussion and various questions being answered by the applicant and the Municipal Arborist, the comment was made that granting this request would not be in keeping with recent Council decisions regarding Garry Oak tree protection.

MOVED by Councillor Cassidy, That permission be given for the pruning of trees as outlined in correspondence item no. 2011-173, to facilitate the moving of the building at 1395 Hampshire Road.

The motion failed due to the lack of a seconder.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the request from Nickel Brothers to have trees pruned / removed in order to facilitate the moving of a house from 1395 Hampshire Road be denied.

CARRIED

(Councillor Cassidy against the motion)

4. 2011-174 OAK BAY COMMUNITY INITIATIVES COMMITTEE, February 23,
2011
Re Minutes of the Meeting

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the minutes of the Oak Bay Community Initiatives Committee meeting held on February 23, 2011 be received.

CARRIED

NEW BUSINESS:

Bylaw Enforcement - Secondary Suites

Councillor Herbert said that secondary suites are not permitted and the issue should not be ignored, particularly, he said, when ads for sale or rent indicate properties having rental suites available.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That staff be requested to start the process of examining the current policy regarding secondary suites enforcement in Oak Bay, and further that the current policy be distributed to members of Council for information.

CARRIED

Oak Bay Child and Youth Committee – YES Awards

Councillor Braithwaite reminded the Committee to attend the YES awards taking place Tuesday, May 10, 2011.

Building Permit Issues

Mayor Causton drew attention to a number of properties in Oak Bay that have been undergoing renovations or construction for an extended period of time, causing undue stress to the surrounding neighbours. In some cases, he said, neighbours have sold their homes and moved away.

There was discussion regarding the Building Bylaw regulations that authorize the Director of Building and Planning to renew a building permit or require a new building permit application for the remainder of the work where the project has not been completed by the expiry date, and it was suggested that extensions should be limited after a certain period of time. The Municipal Administrator noted that while applicants may have certain rights in respect to being granted a building permit, the Bylaw could be reviewed in respect to potential amendments that would encourage more timely completion of projects.

The Director Building and Planning advised that he is working on a report regarding Council's options for bylaw amendments, as previously requested, noting that he hopes to bring the information forward to Committee of the Whole in June.

TABLED:

Development Variance Permit – 1820 Beach Drive

MOVED by Councillor Cassidy

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 the proposed subdivision of 1820 Beach Drive (Lot 2, Section 61, Victoria District, Plan 3717), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended, in respect to the proposed Lot 1:

<u>Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (2) (b) <i>Minimum rear lot line setback</i>	7.62 m	4.86 m	2.76 m
6.5.4. (6) (a) <i>Maximum gross floor area</i>	360 m ²	379.4 m ²	19.4 m ²
6.5.4. (6) (a) <i>Maximum gross floor area at a level higher than .8m below grade</i>	240 m ²	272.7 m ²	32.7 m ²

to accommodate the construction of a new dwelling on the proposed Lot 1 as shown on the plans appended to Committee of the Whole agenda item #2011-154, being a memorandum from the Director of Building and Planning dated April 7, 2011, when and if the Approving Officer grants preliminary approval to the proposed subdivision, and upon the applicant satisfying all conditions of preliminary approval set out by the Approving Officer.

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 – 1534 Hampshire 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 1534 Hampshire Road (Lot 11, Section 69, Victoria District, Plan 859), 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) (a) + Schedule “B” Maximum building height	6.83 m	7.46 m	.64 m
6.5.4. (6) (a) Gross floor area at a level higher than .8 metres below grade	240 m ²	305.5 m ²	65.5 m ²
6.5.4. (11) Minimum interior side lot line setback of the second storey	3.0 m	2.89 m	.11 m

to accommodate the renovations to the dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-156, being a memorandum from the Director of Building and Planning dated April 13, 2011.

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 1534 Hampshire Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3205 Exeter Road

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3205 Exeter Road (Amended Lot 8 (DD 253708-I), Block C, Section 31, Victoria District, Plan 3599), to amend Development Variance Permit 049-2009 by replacing the plans attached thereto with the plans for two additions as appended to Committee of the Whole agenda item 2011-157, being a memorandum from the Director of Building and Planning dated April 8, 2011, and to vary the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended, in relation to those plans:

<u>Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (2) (e) + Schedule “C” Maximum building height	10.97 m	9.48 m	1.49 m

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 3205 Exeter Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2061 Cedar Hill Cross Road

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, 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.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 2061 Cedar Hill Cross Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 388 King George Terrace

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 388 King George Terrace (Lot 17, Section 22, Victoria District, Plan 1048), 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. (6) (b) Gross floor area above .8 metres below grade	240 m ²	279 m ²	39 m ²

to accommodate the construction of an addition to the rear of the existing dwelling as shown in the plans appended to Committee of the Whole agenda item 2011-169, being a memorandum from the Director of Building and Planning dated April 27, 2011.

MOVED by Councillor Copley

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 388 King George Terrace be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

By consensus, the order of the agenda was varied to consider bylaws no. 4531 and 4532 prior to proposed Traffic Control Order No. 2011-03.

BYLAWS:

For Adoption

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Bylaw No. 4531, *Streets and Traffic Bylaw Amendment Bylaw No. 1, 2011*, be adopted.

CARRIED

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That Bylaw No. 4532, *Ticket Information Utilization Bylaw Amendment Bylaw No. 2, 2011*, be adopted.

CARRIED

RESOLUTIONS (Continued):

Traffic Control Order No. 2011-03 – Police Parking Post on Oak Bay Avenue

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That 7 metres of the existing yellow line on the curb on the south side of Oak Bay Avenue adjacent to 2167 Oak Bay Avenue, as more particularly shown in the sketch attached hereto, be removed and that the 7 metre area be designated as a Police Post, and, further, that signs be erected to indicate that parking in the designated Police Post is restricted to marked Oak Bay Police Department motor vehicles at all times.

CARRIED

BYLAWS (Continued):

For Adoption

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4533, *Financial Plan Bylaw, 2011*, be adopted.

Mayor Causton asked if anyone in attendance wished to address Council regarding the Financial Plan Bylaw, 2011. No one come forward.

The question was then called.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4534, *Capital Works and Equipment Reserve Fund Appropriation Bylaw, 2011*, be adopted.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4535, *Heritage Reserve Fund Appropriation Bylaw, 2011*, be adopted.

CARRIED

MOVED by Councillor Herbert
Seconded by Councillor Braithwaite, That Bylaw No. 4536, *Land Sale Reserve Fund Appropriation Bylaw, 2011*, be adopted.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4537, *Machinery and Equipment Depreciation Reserve Fund Appropriation Bylaw, 2011*, be adopted.

CARRIED

MOVED by Councillor Herbert
Seconded by Councillor Braithwaite, That Bylaw No. 4538, *Refuse Collection and Disposal Bylaw Amendment Bylaw, 2011*, be adopted.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4539, *Tax Rates Bylaw, 2011*, be adopted.

CARRIED

For First, Second and Third Reading

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4540, *Boulevard Frontage Tax Bylaw Amendment Bylaw, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4540, *Boulevard Frontage Tax Bylaw Amendment Bylaw, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Herbert, That Bylaw No. 4540, *Boulevard Frontage Tax Bylaw Amendment Bylaw, 2011*, be read a third time.

CARRIED

ADJOURNMENT:

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

CARRIED

The meeting adjourned at 8:43 p.m.

Certified Correct:

Municipal Clerk

Mayor