

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 Tuesday, May 24, 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 (*arrived at 7:37 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 called the meeting to order at 7:30 p.m.

ADOPTION OF MINUTES:

Council – May 9, 2011

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, May 9, 2011, be adopted.

CARRIED

Special Council – May 16, 2011

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That the minutes of the Special Council meeting held on Monday, May 16, 2011, be adopted.

CARRIED

Committee of the Whole – May 16, 2011

MOVED by Councillor Ney
Seconded by Councillor Braithwaite, That the minutes of Committee of the Whole meeting held on Monday, May 16, 2011, and the recommendations contained therein, be adopted.

Responding to a question from Mayor Causton, the Municipal Administrator advised that he has enough information to bring to the discussions with the applicant to produce a revised draft Heritage Revitalization Agreement, noting that the draft agreement would be coming forward to Committee of the Whole as soon as possible.

The question was then called.

CARRIED

COMMUNICATIONS:

1. 2011-182 FIRE CHIEF, May 24, 2011
Re Regional Tower Crane Rescue Agreement

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

Fire Chief Adam provided an overview of the proposed tower crane rescue service renewal agreement with the District of Saanich and City of Victoria, which would see the tower crane rescue service continue for another five years.

Attention was drawn to the various terms of the agreement which now include cost recovery, and the Fire Chief answered questions from Council in this regard.

It was suggested that the Municipal Treasurer advise the Municipal Insurance Association regarding the agreement in regards to the indemnification language.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the Mayor and Municipal Clerk be authorized to execute the Tower Crane Rescue Service agreement with the District of Saanich and City of Victoria for a five-year period, as substantially set out in the agreement printed for the purpose of the May 24, 2011 Council meeting agenda.

CARRIED

2. 2011-183 DIRECTOR OF BUILDING AND PLANNING, May 19, 2011
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.)

Fire Chief Adam explained that the original 1930's Fire Hall windows need to be replaced with energy efficient windows. The Chief advised that the proposed new windows would be wood and would be in the same architectural style as the original windows.

Following discussion, and attention being drawn to the statement of significance for the building, it was suggested that, as with other requests of this type, the window changes should be referred to the Heritage Advisory Panel for its recommendation.

MOVED by Councillor Copley

Seconded by Councillor Jensen, That the request for replacement windows for the Fire Hall at 1703 Monterey Avenue be referred to the Heritage Advisory Panel for a recommendation to Council.

CARRIED

3. 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

It was noted that due to the Director of Building and Planning being absent at the Committee of the Whole meeting held May 16, 2011 this item was postponed and forwarded to the next meeting of Council versus staying at the Committee of the Whole level so as not to cause the applicant any delay.

Tim Rodier, Designer, Anup Grewal, applicant, and staff brought attention to and described the changes to the plans that have occurred over time. It was acknowledged that after design approval, the plans had been resubmitted to address additional information required by the Building Department and amendments were also included with respect to some of the window designs which were not pointed out to staff at that time, therefore staff was unaware that the plans did not conform to those approved. Given that the changes were incorporated into the construction, without being forwarded to the Committee of the Whole or Advisory Design Panel for review, the applicants are now looking for approval for the changes.

It was also acknowledged that two window changes were approved at the staff level as a minor change, however, with the additional window changes that have occurred, and in light of the number of window changes overall, and the proposed new shape of the patio door, the revised plans were placed before Committee and then Council for further consideration.

In response to concerns raised by neighbours regarding the plans currently before Council, Mr. Grewal noted his willingness to make further changes, such as to the design of the garage door, as well. Concerns arose from members of Council that such changes would require amended plans in order to fully consider them.

Staff's recommendation to deny approval was noted and attention was drawn to the involvement of the Advisory Design Panel, and it was acknowledged that the Panel had not recommended approval of the current plans or the version of the plans prior to that.

There was discussion regarding the appropriateness of the window changes and whether or not they were supportable, along with the events leading up to the current consideration of the proposed changes. It was acknowledged that the Advisory Design Panel is an advisory body that makes recommendations to Council but, ultimately, Council is responsible for approving or denying design and siting for Uplands building permit applications.

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, 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.

In response to questions regarding Council's options, Mr. Thomassen confirmed that the plan to be considered is included in his memorandum (correspondence item no. 2011-180) as attachment # 3. Attachment #2, he said, represents the previously approved plans.

Mr. Grewal expressed his desire to have the window changes approved and that he felt it would be an improvement to the house.

There was further discussion, and varying views and opinions were noted, and it was suggested that this item be tabled to allow time for the Building Department staff, the applicants and neighbours to develop a solution that could be brought back to the next meeting of Council for consideration.

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That the resolution to accept the staff recommendation to deny architectural design approval for the proposed revisions to the plans for construction of a new house at 3055 Cadboro Bay Road be tabled.

CARRIED

4. 2011-184 TRACEY TADDEI et al, April 25, 2011
2011-184-1 JACKIE POWELL, April 19, 2011
Re Request for Amendment to Animal Control Bylaw – Willows Beach

The Municipal Administrator confirmed that the request to allow dogs off leash on Willows Beach during certain hours during the summer is similar to what is currently permitted on McNeill Bay Beach.

Following some discussion and with varying views being expressed by Council, it was recommended that the request to extend the times that dogs are permitted to be on Willows Beach be referred to the Oak Bay Parks and Recreation Commission for review and a recommendation to the Committee of the Whole.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the request to change the animal control regulations to allow dogs on Willows Beach in the morning during the summer months be referred to the Oak Bay Parks and Recreation Commission for a recommendation to the Committee of the Whole.

CARRIED

5. 2011-185 HEART & STROKE FOUNDATION OF BC & YUKON et al, January
20, 2011
Re Smoke-Free Outdoor Public Places

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That correspondence item no. 2011-185 be received.

CARRIED

6. 2011-186 COMMUNITY INITIATIVES COMMITTEE, May 18, 2011
Re Celebrate Canada Program

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the proposed Municipal Canada Day event, organized by the Oak Bay Parks and Recreation Department, to be held on the front lawn of the Oak Bay Municipal Hall on June 30, 2011, from 2:00 o'clock p.m. to 4:00 o'clock p.m., as outlined in correspondence item no. 2011-186, be approved.

CARRIED

7. 2011-187 OAK BAY HERITAGE COMMITTEE, April 19, 2011
Re Minutes of the Meeting

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the minutes of the Oak Bay Heritage Committee meeting held on April 19, 2011 be received.

Councillor Ney noted that the Municipal Administrator has been asked to attend an upcoming Heritage Committee meeting to discuss the possibility of restructuring the Heritage Committee, Heritage Foundation and the Heritage Advisory Panel.

Attention was drawn to the section of the minutes about the announcement, under the Lighthouse Protection Act, that the Trial Island lighthouse will remain staffed. It was noted that the Heritage Committee would like to see Council pursue having Trial Island designated as a heritage site.

The question was then called.

CARRIED

Noting that the Committee would be the appropriate body to gather information on the process to pursue heritage status, it was

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Oak Bay Heritage Committee be requested to investigate the process of petitioning the Federal Government to have Trial Island designated as a heritage site, and report back to Council.

CARRIED

8. 2011-188 DEPUTY TREASURER, May 20, 2011
2011-188-1 DEPUTY TREASURER, May 24, 2011
Re Tender Award Recommendation - 24 Passenger Bus & Pickup Truck

The Municipal Treasurer provided information regarding the financial savings related to leasing a 24 passenger bus versus the current 7 passenger van due to the decreased number of bus rentals that would be required.

A member of Council drew attention to additional information (correspondence item no. 2011-188-1), which indicates fuel consumption and carbon dioxide emissions for the passenger buses being considered for lease, and it was noted that although the quote from First Bus Centre was less, it was felt that consideration should also be given to the environmental benefits other vehicles would provide.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the tenders be awarded as follows:

PW12-2011 - 24 Passenger Bus

Dynamic Specialty Vehicles	2011 GM Goshen ECII	\$59,422
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PW13-2011 Pick Up Truck

Metro Motors Ltd.	Ford F250	\$23,499
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as detailed in the memorandum from the Deputy Treasurer, dated May 20, 2011 (correspondence item no. 2011-188).

CARRIED

9. 2011-189 DAVID AND SANDRA ANDERSON, May 13, 2011
Re Development Variance Permit – 3205 Exeter Road

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That correspondence item no. 2011-189 be received.

CARRIED

10. 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 Braithwaite, That correspondence items no. 2011-190 to 2011-190-2 be received.

A member of Council noted that a resident named in one of the letters has advised him that she was not opposed to the development variance permit as indicated by the letter writer.

The question was then called.

CARRIED

NEW BUSINESS:

Oak Bay Child and Youth Committee “YES” Awards

Councillor Braithwaite thanked Council members for attending the YES awards and she expressed her gratitude to the Sportsview Lounge staff for a job well done with respect to the event.

Capital Regional District Arts Committee

Councillor Copley drew attention to the Capital Regional District Arts brochure that provides a general overview of the arts service, which she distributed to members of Council for information.

Royal Roads University Capstone Engagement Presentation

Councillor Herbert drew attention to a presentation provided by the Royal Roads University regarding the results of a United Nations International Strategy for Disaster Reduction campaign, a ten point checklist to make a community more resilient in the wake of a disaster, which was carried out by the University group and the Oak Bay Emergency Program. Councillor Herbert advised that Oak Bay received top marks in this regard.

EcoStar Awards

Councillor Braithwaite advised that Oak Bay Recreation Centre is one of the finalists for the EcoStar Awards, and the event will be taking place June 1, 2011.

TABLED:

Development Variance Permit – 1534 Hampshire Road

MOVED by Councillor Braithwaite

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 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" <i>Maximum building height</i>	6.83 m	7.46 m	.64 m
6.5.4. (6) (a) <i>Gross floor area at a level higher than .8 metres below grade</i>	240 m ²	305.5 m ²	65.5 m ²
6.5.4. (11) <i>Minimum interior side lot line setback of the second storey</i>	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.

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 – 3205 Exeter Road

MOVED by Councillor Jensen

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 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" <i>Maximum building height</i>	10.97 m	9.48 m	1.49 m

The Municipal Clerk noted that it was discovered prior to the notice of the application being sent out to area residents, that the bylaw section was incorrect as the actual variance required is for the total of side lot line setbacks, noting that the resolution would need to be amended to reflect this.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the motion be amended to delete the words “6.5.4.(2)(e) + Schedule “C” Maximum building height” and replace them with the words ”6.2.4.(2)(e) + Schedule “C” Total of side lot line setbacks.

The question on the amendment was then called.

CARRIED

David Yamamoto, Designer, addressing the concerns expressed in a letter submitted by a neighbour, described the variance being requested, clarifying that it is required due to the existing building being non-conforming. He noted that the floor area will actually be reduced overall.

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

CARRIED

Development Variance Permit – 2061 Cedar Hill Cross Road

MOVED by Councillor Copley

Seconded by Councillor Jensen, 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, provided an overview of the variances being requested to accommodate a greenhouse being built on the second level on the flat roof above the family room of his house. Mr. Gustafson said the addition is about half the size of an allowable accessory building, adding that it would be too small to be used as liveable space. He noted there is no suitable area in the backyard for gardening due to shade and flooding.

Referring to a concern expressed by one neighbour, Mr. Gustafson commented that the proposed greenhouse would not affect the neighbour's privacy as the backyard is not visible from his property. Mr. Gustafson advised that the greenhouse would be built using glass.

Leon Ulyssus, Oak Bay resident, expressed his concern regarding the unapproved installation of a sliding door that accesses the flat roof, and he said other neighbours have expressed the same concern to him. Mr. Ulyssus described other incidents he experienced with the Gustafsons, and said he is opposed to the most recent development to this already massive house, and that he thinks this proposal is a way of eliminating a leakage issue caused by sliding door to the flat roof. He also commented that flooding in the area is not an issue in spring and summer.

Mr. Ulyssus read a letter from another neighbour, Anne Lamka, expressing her concerns and noting that her balcony overlooks the new structure.

Following discussion and questions from Council being answered by staff and the applicant, it was confirmed by the Director of Building and Planning that the greenhouse was started without permits and that it would be considered an addition, i.e. a sunroom, and not an accessory building. It was also pointed out by a member of Council that, in future, this greenhouse could be used as living space. Noting that some members of Council did not have the opportunity to visit the site, and given the concerns raised, it was suggested that the Director of Building and Planning arrange a site visit of the property for members of Council.

Athena Gustafson, applicant, said that the water sitting on the flat roof looks awful and that enclosing the flat roof with glass (possibly tinted glass to protect privacy) would be more pleasant to look at.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the resolution with respect the development variance permit for 2061 Cedar Hill Cross Road be tabled and that a site visit for Council members be arranged.

CARRIED

Development Variance Permit – 388 King George Terrace

MOVED by Councillor Braithwaite

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

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.

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 – 2573 Epworth Street

MOVED by Councillor Jensen

Seconded by Councillor Ney, 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) Minimum exterior side lot line setback	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) Minimum number of parking spaces	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.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 2573 Epworth Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

(Councillors Braithwaite and Herbert against the motion)

Summertime Meeting Schedule

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the regular meeting schedule be suspended for the months of July and August 2011, and that the following schedule be substituted:

July 2011

Committee of the Whole July 11, 2011 @ 7:30 p.m.
Council July 18, 2011 @ 7:30 p.m.

August 2011

Committee of the Whole August 8, 2011 @ 7:30 p.m.
Council August 15, 2011 @ 7:30 p.m.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That the open portion of the meeting of Council be adjourned
and that a closed session be convened to discuss:

- 1) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality; and
- 2) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act.

CARRIED

The meeting adjourned at 10:11 p.m.

Certified Correct:

Municipal Clerk

Mayor