

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, November 9, 2009, at 7:30 p.m.

PRESENT: Acting Mayor H. Braithwaite, Chairman
Councillor A. R. Cassidy
Councillor J. D. Herbert
Councillor N. B. Jensen
Councillor T. Ney (arrived at 7:46 p.m.)
STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Municipal Treasurer, P. A. Walker
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – October 26, 2009

MOVED by Councillor Herbert
Seconded by Councillor Cassidy, That the minutes of the Council meeting held on Monday, October 26, 2009, be adopted.

Referring to the Lighted Truck Parade, (correspondence item no. 2009-333), Councillor Jensen said that he felt the sentiment of the community is that having large trucks, using fuel, parade through Oak Bay is not in keeping with the Municipality's goal in trying to reduce greenhouse gas emissions and he would like to look at seeing a change in this activity next year.

Councillor Herbert drew attention to the enormous amount of food donations that are collected during the Lighted Truck Parade that benefits the local food banks, noting that many residents enjoy the event.

The question was then called.

CARRIED

Committee of the Whole – November 2, 2009

MOVED by Councillor Herbert
Seconded by Councillor Jensen, That the minutes of the Committee of the Whole meeting held on Monday, November 2, 2009, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2009-341 PACIFIC MOBILE DEPOTS LTD., October 13, 2009
Re Request for Licence to Occupy a Portion of Carnarvon Park – Soft Plastics Recycling Depot

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That, pursuant to Section 11.1 of the Zoning Bylaw, 1986, licence to occupy a portion of Carnarvon Park be granted to Pacific Mobile Depots Ltd. for the purpose of providing a soft plastics recycling depot on the fourth Saturday of each month of 2010 between the hours of 9:00 a.m. and 11:30 a.m., subject to Pacific Mobile Depots Ltd. entering into a public property occupancy licence agreement, with the Municipal Clerk being authorized to execute such an agreement on behalf of the District of Oak Bay.

CARRIED

2009-342 DIRECTOR OF BUILDING AND PLANNING, November 5, 2009
2009-342-1 ROGER TISI *et al*, November 9, 2009
Re Amendment to Development Variance Permit Plans – 190 King George Terrace

Staff advised that this item was withdrawn from the agenda at the applicant's request.

3. 2009-343 MUNICIPAL TREASURER, November 4, 2009
Re Grant Request – Registration Fee for BC Youth Parliament

With respect to the grant request, Acting Mayor Braithwaite commented that the registration fee, which would be funded from the Oak Bay Child and Youth Committee budget, would enable a youth committee member to attend the Parliamentary session in Victoria in December and participate in other activities throughout the year.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the grant in the amount of \$125, representing the fee for an Oak Bay youth committee member to participate in the British Columbia Youth Parliament, be approved, with payment coming from the Oak Bay Child and Youth Committee budget.

CARRIED

4. 2009-344 GREATER VICTORIA PUBLIC LIBRARY, October 30, 2009
Re Library Provisional 2010 Operating Budget

It was noted that the proposed budget incorporates a 6.5% increase in municipal contributions. Attention was drawn to the proposed 2012-2014 contributions to a reserve in relation to the implementation of a facilities plan. Given that the Greater Victoria Public Library does not own branch facilities, it was suggested that perhaps it should be investigated whether or not the existing Library Operation Agreement would need to be amended to allow for funds to be set aside for that purpose.

Acknowledging that the 2008 balance sheet was not included in the package, staff was directed to write to the Greater Victoria Public Library to request a copy of the balance sheet and to raise the question of the ability to reserve funds for the facilities plan implementation.

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That the Greater Victoria Public Library provisional operating budget for 2010 be received.

CARRIED

5. 2009-345 OAK BAY HERITAGE COMMITTEE, September 10, 2009
Re Minutes of the Meeting

Jean Sparks, Chair of the Oak Bay Heritage Committee, drew attention to the reorganization of Oak Bay heritage in 2006, which divided the then Community Heritage Commission into two separate committees to carry out different aspects of its work. The Heritage Committee's mandate is to raise heritage awareness and promote heritage, while the Heritage Advisory Panel provides technical advice on matters referred to it by Council. Since that time, she said, the volunteer bodies have been unsure of their roles, which seem to be overlapping.

Councillor Ney entered the meeting at this point (7:46 p.m.).

Ms. Sparks made the point that with the two sets of functions now separated, there is no way for the heritage "experts" on the Heritage Advisory Panel to transfer their knowledge to people on the Heritage Committee who are enthusiastic about heritage conservation but who have yet to acquire that specialized knowledge base. She referred to her own early days on what used to be called the Heritage Advisory Committee and how she received that kind of mentoring from acknowledged experts such as Geoffrey Castle and Stuart Stark.

Ms. Sparks' second point was that there are some people who were members of the Community Heritage Commission in the pre-2006 era who were not re-appointed to either of the new bodies but who nonetheless do a considerable amount of work on a subcommittee of the current Heritage Committee. She felt that these individuals should become voting members, if not of the Heritage Committee (which would require a bylaw change to amend the structure), then of another body known as the Oak Bay Heritage Foundation, which is a non-profit society to which Council has the power of appointment, and which does a lot of the fund-raising activity in support of heritage initiatives.

The third issue raised by Ms. Sparks is the Uplands. It was acknowledged that Council has special authority for the Uplands, in that it has to approve all building permit applications as to siting and architectural design, whether or not variances are involved. By practice, Council asks its Advisory Design Panel, which has a much broader mandate than just Uplands applications, to examine all of these applications and make recommendations on them before they come to Council. The point made by Ms. Sparks was that with some Uplands applications, there are heritage issues as well, and she would like to see some advisory input over and above that provided by the Advisory Design Panel where such issues are involved. Ms. Sparks said she would like to see the Advisory Design Panel and the Heritage Advisory Panel meet jointly to make recommendations to Council when an Uplands house more than 70 years old is the subject of an application that could significantly alter the building.

Responding to questions from Council, the Municipal Administrator pointed out that the growth of the Community Heritage Register with significant Uplands properties would result in the Heritage Advisory Panel's involvement, along with the Advisory Design Panel, in Uplands building permit applications for heritage properties. The augmentation of the Register, noted Mr. Cochrane, is the responsibility of the Heritage Committee.

There was further discussion regarding the points raised by Ms. Sparks and it was noted that the current non-voting "subcommittee" members could be appointed to the Heritage Foundation without any bylaw changes, which would recognize the work done by those people. Such appointments, it was clarified, would normally be considered in a closed meeting of Council,

and it was noted that a recommendation from the Heritage Foundation has been received in that regard.

It was acknowledged that Mayor Causton was involved in proposing the new heritage structure that emerged in 2006, therefore, it was felt that a discussion between the Mayor and Ms. Sparks might be helpful in addressing some of the Committee's questions regarding that structure.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the minutes of the Oak Bay Heritage Committee meeting held on September 10, 2009 be received, and that Mayor Causton be requested to meet with the Heritage Committee Chair regarding the current Heritage Committee structure.

CARRIED

6. 2009-346 MUNICIPAL CLERK, November 2, 2009
Re Council Remuneration

The Municipal Clerk provided a brief overview of her memorandum, saying that for the first time since the Council Remuneration Policy was adopted in 1997, which ties Council remuneration to the change in the September to September Consumer Price Index (CPI) for Victoria in the previous year, the CPI for Victoria has decreased by 1%. In this regard, she said, staff are seeking clarification of the intent of Council in situations where the Index decreases.

A member of Council pointed out that it would be fair and symbolic to lead by example and adhere to the existing policy. It was further noted that the point of adopting the policy was to allow the subject of Council's remuneration to be dealt at arm's length through the use of an agreed upon formula, avoiding the awkwardness of Council members debating their pay.

MOVED by Councillor Cassidy

Seconded by Councillor Jensen, That staff be directed to bring forward for consideration by Council a bylaw that would reflect changes to Council's indemnities for 2010 based on the policy adopted in 1997.

CARRIED

7. 2009-347 MUNICIPAL ADMINISTRATOR, October 27, 2009
Re Business Improvement Area Renewal – Report on Counter Petition Results

Referring to his memorandum, the Municipal Administrator advised that the counter-petition opportunity provided to the property owners liable to be charged under the five-year renewal of the Oak Bay Village Business Improvement Area resulted in valid petitions against the Bylaw from owners of three properties, representing 5.7% of the total assessed value of included properties. The Business Improvement Association (BIA) legislation, he noted, provides that Council may proceed to adopt the Bylaw unless at least 50% of the owners representing not less than 50% of the assessed value of land and improvements that would be subject to the BIA tax levy petition against the initiative.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That correspondence item no. 2009-347 be received.

CARRIED

8. 2009-348 JOAN AND TOM PINK, November 9, 2009
Re Development Variance Permit – 2470 Lansdowne Road

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That correspondence item no. 2009-348 be received.

CARRIED

NEW BUSINESS:

Notice of Motion – Transportation Priorities

Councillor Jensen provided notice to Council that he would be bringing forward a proposed motion to the next meeting regarding the Municipality's transportation priorities, which will include a presentation to support his motion.

Oak Bay High School Reconstruction Steering Committee

Councillor Jensen advised that the Steering Committee has met twice to discuss ways to widen the consultation process to include the community and to share the vision of the future Oak Bay High School and how it will benefit students and the community at large.

Responding to a Council member commenting that he thought the reconstruction plans for the high school were complete, Councillor Jensen noted that while the logistical issues of how to continue operating during construction may require new buildings to be built in specified areas with old buildings coming down after that, there are many aspects to the new construction which need community input and consultation.

Secondary Suites Review Committee - Update

Councillor Jensen advised that in the next week or two, once the Committee has finished tabulating the survey results, work will begin on a final report to Council.

Olympic Torch Relay

Acting Mayor Braithwaite expressed her gratitude to all involved with the Torch Relay event, which was well organized and attended. Additionally, the Community Initiatives Committee and Lorna Curtis did a fabulous job, she said.

Tree Appreciation Day

It was noted that the first Tree Appreciation Day was held and was a great event, which was also well attended. The Oak Bay Green Committee, said Acting Mayor Braithwaite, donated \$1,000 to the Municipality for planting trees.

TABLED:

Development Variance Permit – 1442 Monterey Avenue

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 1442 Monterey Avenue (Lot A, Sections 23 & 69, Victoria District, Plan 49177) 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>
11.6.5.(2) Minimum Lot Line Setback	7.6 m	0.3 m	7.3 m

to accommodate the construction of a bicycle shelter, as shown on the plans attached to Committee of the Whole agenda item #2009-305, being a memorandum from the Director of Building and Planning dated September 16, 2009.

CARRIED

In response to a question, the Municipal Clerk confirmed that the tree slated to be removed to accommodate the construction of a bicycle shelter was determined by Parks Department staff not to be a protected tree. It was further noted that this tree would eventually be removed in any event due to it pushing against the concrete pads beside it and lifting them, as advised by Parks Department staff.

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 – 2470 Lansdowne 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 2470 Lansdowne Road (Parcel A (DD 52132I) of Lot 7, Block 17, Section 31, Victoria District, Plan 1216A) 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>
6.2.4.(3) (a) & Schedule 'B' Maximum Building Height	7.32 m	7.97 m	0.65 m
6.2.4.(3) (b) & Schedule 'B' Maximum Occupiable Height	4.57 m	5.23 m	0.66 m

6.2.4.(3) (c) & Schedule 'B'			
Maximum Roof Height	9.14 m	11.1 m	1.96 m

to accommodate construction of an addition, as shown on the plans attached to Committee of the Whole agenda item #2009-326, being a memorandum from the Director of Building and Planning dated October 15, 2009.

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 – 3046 Valdez Place

MOVED by Councillor Jensen

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 3046 Valdez Place (Lot 18, Block B, Section 31, Victoria District, Plan 3560) 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>
6.2.4.(2) (a) Minimum Front Lot Line Setback	10.66 m	9.75 m	0.91 m
6.2.4.(2) (c) & Schedule 'C' Minimum Interior Side Lot Line Setback	4.57 m	2.91 m	1.66 m
6.2.4.(3) (b) & Schedule 'B' Maximum Occupiable Height	4.57 m	4.74 m	0.17 m
6.2.4.(3) (c) & Schedule 'B' Maximum Roof Height	9.14 m	9.5 m	0.36 m

to accommodate the construction of a new single family dwelling, as shown on the plans attached to Committee of the Whole agenda item #2009-327, being a memorandum from the Director of Building and Planning dated October 15, 2009.

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 – 614 Monterey Avenue

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 614 Monterey Avenue (Lot 46, Section 22, Victoria District, Plan 1147) 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) (a) Gross Floor Area Higher than 0.8 metres Below Grade	240 sq m	297.1 sq m	57.1 sq m

to accommodate a new deck, as shown on the plans attached to Committee of the Whole agenda item #2009-338, being a memorandum from the Director of Building and Planning dated October 27, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 614 Monterey Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2657 Cavendish Avenue

Councillor Herbert declared a conflict of interest with respect to the development variance permit request for 2657 Cavendish Avenue as he lives on Cavendish Avenue across the street from the applicant. Councillor Herbert left the meeting at 8:29 p.m.

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 2657 Cavendish Avenue (Lot 43, 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>
6.5.4.(6) (b) Gross Floor Area Higher than 0.8 metres Below Grade	300 sq m	367.8 sq m	67.8 sq m

to accommodate a new deck, as shown on the following plans dated November 4, 2009:

- Site Plan
- First Storey Floor Plan
- Second Storey Floor Plan
- Basement Plan

- Front (North) Elevation
- East Side Elevation
- South (Rear) Elevation
- West Side Elevation

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the motion in respect to the development variance permit for 2657 Cavendish Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Councillor Herbert returned to the meeting at 8:30 p.m.

Development Variance Permit – 63 Sylvan Lane

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 63 Sylvan Lane (Lot 2, Section 47, Victoria District, Plan 41672) 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>
6.4.4.(3) (a) and Schedule 'B' Maximum Building Height	7.32 m	9.7 m	2.38 m
6.4.4.(3) (b) and Schedule 'B' Maximum Occupiable Height	4.57 m	7.1 m	2.53 m
6.4.4.(3) (c) and Schedule 'B' Maximum Roof Height	9.14 m	11.7 m	2.56 m
6.4.4.(6) (b) Gross Floor Area	480 sq m	786 sq m	306 sq m
6.4.4.(6) (b) Gross Floor Area Higher than 0.8 metre Below Grade	360 sq m	724 sq m	364 sq m

to accommodate the proposed renovations, as shown on the following plans:

- Site Plan stamped received January 27, 2009
- Lower Storage Plan, Lower Floor Plan, Main Floor Plan, Upper Floor Plan, East Elevation, South Elevation, West Elevation, and North Elevation dated October 12, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That the motion in respect to the development variance permit for 63 Sylvan Lane be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

(Councillor Braithwaite against the motion)

December Meeting Schedule

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That Council's regular meeting schedule be suspended for the month of December 2009, and that the following schedule be substituted:

December 2009

Committee of the Whole
Council

Monday, December 7, 2009 @ 7:30 p.m.
Monday, December 14, 2009 @ 7:30 p.m.

CARRIED

Tourism Victoria's Board of Directors and Destination Marketing Commission Elections

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the District of Oak Bay, as a member of Tourism Victoria, appoint Councillor Copley to participate in voting, on behalf of the District of Oak Bay, in the Tourism Victoria's Board of Directors and Destination Marketing Commission elections for 2010.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That Bylaw No. 4483, *Oak Bay Business Improvement Area Bylaw, 2010*, be adopted.

CARRIED

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, That Bylaw No. 4489, *Emergency Program Bylaw, 2009*, be adopted.

CARRIED

ADJOURNMENT:

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the open portion of the Council meeting be adjourned and that a closed session be convened to discuss 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.

CARRIED

The meeting adjourned at 8:32 p.m.

Certified Correct:

Municipal Clerk

Acting Mayor