

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, October 13, 2009, following a Public Hearing at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor A. R. Cassidy
Councillor H. Braithwaite
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen
Councillor T. Ney
STAFF: Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Municipal Treasurer, P. A. Walker
Director of Building and Planning, R. Thomassen

Mayor Causton called the meeting to order at 7:39 p.m.

ADOPTION OF MINUTES:

Council – September 14, 2009

MOVED by Councillor Herbert
Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, September 14, 2009, be adopted.

CARRIED

Committee of the Whole – September 21, 2009

MOVED by Councillor Copley
Seconded by Councillor Herbert, That the minutes of the Committee of the Whole meeting held on Monday, September 21, 2009, and the recommendations contained therein, be adopted.

CARRIED

Special Council – September 28, 2009

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the minutes of the Special Council meeting held on Monday, September 28, 2009, be adopted.

CARRIED

Committee of the Whole – October 5, 2009

MOVED by Councillor Herbert
Seconded by Councillor Braithwaite, That the minutes of the Committee of the Whole meeting held on Monday, October 5, 2009, and the recommendations contained therein, be adopted.

CARRIED

It was the consensus of Council to amend the order of the agenda to bring forward Bylaws No. 4481, 4482 and 4486 for consideration at this time.

BYLAWS:

For Third Reading and Adoption

MOVED by Councillor Cassidy
Seconded by Councillor Herbert, That Bylaw No. 4481, *1936 Hampshire Road Heritage Designation Bylaw, 2009*, be read a third time.

CARRIED

MOVED by Councillor Cassidy
Seconded by Councillor Herbert, That Bylaw No. 4481, *1936 Hampshire Road Heritage Designation Bylaw, 2009*, be adopted.

Council members thanked the homeowners for bringing their property forward for heritage designation.

The question was then called.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4482, *929 Island Road Heritage Designation Bylaw, 2009*, be read a third time.

Again, Council members expressed their appreciation to the homeowners for bringing their property forward for heritage designation.

The question was then called.

CARRIED

MOVED by Councillor Braithwaite
Seconded by Councillor Copley, That Bylaw No. 4482, *929 Island Road Heritage Designation Bylaw, 2009*, be adopted.

CARRIED

With respect to Bylaw No. 4486, Councillor Ney stated that inasmuch as she has office space in Athlone Court, she would be unable to participate in the discussion or vote on any decisions on the matter. Councillor Ney left the meeting at 7:44 p.m.

MOVED by Councillor Cassidy
Seconded by Councillor Herbert, That Bylaw No. 4486, *Eighty-Fourth Zoning Bylaw Amendment Bylaw, 2009*, be read a third time.

CARRIED

MOVED by Councillor Cassidy
Seconded by Councillor Herbert, That Bylaw No. 4486, *Eighty-Fourth Zoning Bylaw Amendment Bylaw, 2009*, be adopted.

CARRIED

Councillor Ney returned to the meeting at 7:45 p.m.

COMMUNICATIONS:

1. 2009-313 DEPUTY CHIEF CONSTABLE, October 2, 2009
Re Request to Donate Decommissioned Oak Bay Police Vehicle to the Integrated Mobile Crisis Response Team

MOVED by Councillor Herbert
Seconded by Councillor Braithwaite, That the Oak Bay Police Department be authorized to donate the decommissioned police vehicle to the Integrated Mobile Crisis Response Team.

CARRIED

2. 2009-314 DIRECTOR OF BUILDING AND PLANNING, October 2, 2009
Re Building Permit Referral, Property Listed on Community Heritage Register – 2224 Hampshire Terrace

Referring to his memorandum, the Director of Building and Planning provided Council with an overview of the building permit application noting that when a building is listed on the Community Heritage Register he is required to withhold approval of a building permit that would alter the exterior of a property listed on the Register until it has been referred to Council at its next regular meeting. Council, he said would then be in a position to refer the application to the Heritage Advisory Panel.

MOVED by Councillor Braithwaite
Seconded by Councillor Ney, That correspondence item no. 2009-314 be referred to the Heritage Advisory Panel.

Brent Thompson, applicant, provided a brief history of the home, noting that he plans to integrate the area of the dwelling that is the in-law suite, that was likely added in the 1940's, into the house. Mr. Thompson said that the proposed changes to the exterior of the house would be minor and would be done with heritage sensitivity.

It was clarified that in order to refer the application to the Heritage Advisory Panel, a temporary protection order of up to sixty days would have to be made by Council.

It was acknowledged that although a meeting of the Panel could likely be convened within a week or so, the application would not be placed back before Council until the end of the month at the earliest, which Mr. Thompson indicated would create an issue with respect to timing of the work with his contractor.

While the expert knowledge of the Heritage Advisory Panel was acknowledged, it was agreed that, in this situation, there was sufficient information before Council that would indicate the homeowners are committed to retaining the heritage character of the home which has been established through the inclusion of the property on the Community Heritage Register, and

therefore, in the interest of time and given the nature of the changes proposed, the application did not need to be referred to the Panel.

The motion was withdrawn with permission from the seconder.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That correspondence item no. 2009-314 be received.

CARRIED

3. 2009-315 YESBC (YOUTH FOR ENVIRONMENTAL STEWARDSHIP),
September 27, 2009
Re Request for Financial Assistance

Councillor Braithwaite explained that the Youth for Environmental Stewardship (YesBC) is an environmental leadership awareness training program designed to inspire youth to take action on climate change. She said she felt it is a worthwhile endeavour that complements the climate action goals of the community.

Although it was noted that financial assistance requests are typically referred to Estimates Committee, Council members agreed that a grant of \$1,000 could be provided from the one-time grants budget.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That financial assistance in the amount of \$1,000 be provided to the Youth for Environmental Stewardship (YesBC), to be paid from the one-time grants budget.

CARRIED

4. 2009-316 VICTORIA REMEMBRANCE DAY COMMITTEE POPPY FUND,
September 11, 2009
Re Tag Days

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That permission be granted to the Victoria Remembrance Day Committee Poppy Fund to conduct the sale of poppies in public places in Oak Bay from October 30, 2009 to November 10, 2009, exclusive of Sunday, November 1st and 8th, 2009.

CARRIED

5. 2009-317 OAK BAY HERITAGE COMMITTEE, June 11, 2009
Re Minutes of the Meeting

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the minutes of the Oak Bay Heritage Committee meeting held on June 11, 2009, be received.

Attention was drawn to the recommendation from the Oak Bay Heritage Committee that all applications for permits and demolition permits for properties mentioned in Stuart Stark's book, More Than Just Bricks and Boards, be referred to the Heritage Advisory Panel, and the note

from the Municipal Administrator included in the agenda advising that there is no legal authority for the proposed procedure.

The question was then called.

CARRIED

6. 2009-318 KENNETH WILSON, October 2, 2009
2009-318-1 GARY AND PATRICIA KEHL, September 30, 2009
Re Development Variance Permit – 661 Newport Avenue
7. 2009-319 HOWARD MCELDERRY, October 1, 2009
Re Development Variance Permit – 2535 Cranmore Road

MOVED by Councillor Jensen
Seconded by Councillor Braithwaite, That correspondence items no. 2009-318, 2009-318-1 and 2009-319 be received.

CARRIED

TABLED:

Development Variance Permit– 661 Newport 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 661 Newport Avenue (Amended Lot 2, (DD 221318-I), Block 4, Section 73, Victoria District, Plan 992) varying the following provision of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4(2)(a) Minimum Front Lot Line Setback, accessory structure	10.66 m	1.83 m	8.83 m

to accommodate the proposed construction of a pergola as shown on the plans appended to Committee of the Whole agenda item #2009-287, being a memorandum from the Director of Building and Planning dated August 31, 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– 1641 Wilmot Place

MOVED by Councillor Jensen

Seconded by Councillor Copley, 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 1641 Wilmot Place (Lot 8, Section 69, Victoria District, Plan 922) varying the following provision of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum Paved Surface of the Front Yard	31.5 sq m 25%	47.1 sq m 37%	15.6 sq m 12.2 percentage points

to accommodate the proposed driveway as shown on the plans appended to Committee of the Whole agenda item #2009-288, being a memorandum from the Director of Building and Planning dated August 31, 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 – 651 Falkland Road

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 651 Falkland Road (Lot 2, Section 22, Victoria District, Plan 4314 Except Parcel A (DD 110990I)) varying the following provisions of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4 (6)(a) Maximum Gross Floor Area Above 0.8 metre Below Grade	240 sq m	351.3 sq m	111.3 sq m
6.5.4 (11) Minimum Side Lot Line Setback of the Second Storey	3.0 m	2.4 m	0.6 m

to accommodate the proposed rear sun deck as shown on the plans appended to Committee of the Whole agenda item #2009-290, being a memorandum from the Director of Building and Planning dated September 1, 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 – 2535 Cranmore Road

MOVED by Councillor Ney

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

That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2535 Cranmore Road (Lot 4, Block 2, Section 61, Victoria District, Plan 1029A) varying the following provisions of Bylaw No. 3531 (*Zoning Bylaw, 1986*, as amended):

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4 (3)(b) & Schedule B Maximum Occupiable Height	4.27 m	4.42 m	0.15 m
6.5.4 (6)(a) Maximum Gross Floor Area Above 0.8 metres Below Grade	240 sq m	296.4 sq m	56.4 sq m

to accommodate the proposed addition as shown on the plans appended to Committee of the Whole agenda item #2009-289, being a memorandum from the Director of Building and Planning dated August 31, 2009.

CARRIED

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the motion be amended by deleting "296.4 sq m" and "56.4 sq m" and substituting "276 sq m" and "36 sq m", respectively.

CARRIED

With no 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 – 2579 Bowker Avenue

MOVED by Councillor Jensen

Seconded by Councillor Copley, 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 2579 Bowker Avenue (Amended Lot 25, (DD 138036-I) Block 2, Section 61, Victoria District, Plan 1361) varying the following provisions of Bylaw No. 3540 (*Parking Facilities Bylaw, 1986* as amended):

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.1 and Schedule 'A' A.1. (a) Minimum Number of Parking Spaces	2	1	1 Covered parking stall

to accommodate the basement development precluding the provision of the required covered parking stall as shown on the plan appended to Committee of the Whole agenda item #2009-291, being a memorandum from the Director of Building and Planning dated September 1, 2009.

CARRIED

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

CARRIED

(Councillors Cassidy and Herbert against the motion)

RESOLUTIONS:

Development Permit– 1477 Yale Street

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That the Director of Building and Planning be authorized to issue a Development Permit with respect to 1477 Yale Street (Strata Plan VIS 1739 in Sections 23 and 69, Victoria District), which will permit the exterior renovations to the existing building more particularly shown on the plans attached to Committee of the Whole agenda item #2009-301, being a memorandum from the Director of Building and Planning dated September 9, 2009, and the additional elevation drawings dated as received September 29, 2009 and printed for the purposes of the October 13, 2009 Council agenda, subject to the execution of a Collateral Agreement between the Owners, Strata Plan VIS 1739 and the District of Oak Bay.

With respect to the development permit, Councillor Ney stated that inasmuch as a family member resides at 1477 Yale Street, she would be unable to participate in the discussion or vote on any decisions on the matter. Councillor Ney left the meeting at 8:13 p.m.

CARRIED

Councillor Ney returned to the meeting at 8:15 p.m.

Development Variance Permit – 2130 McLaren Avenue

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2130 McLaren Avenue (Lot 7, Section 22, Victoria District, Plan 1656) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum paved portion of front yard	27.9 sq m (25%)	46.5 sq m (41.6%)	18.6 sq m (16.6 percentage points)
6.5.4 (2) (e) Minimum Total of Side Lot Line Setbacks – principal building	4.57 m	3.66 m	0.91 m

to permit the retention of a handicapped access ramp along with an associated foot path, as shown on the plans attached to Committee of the Whole agenda item #2009-303, being a memorandum from the Director of Building and Planning dated September 16, 2009.

MOVED by Councillor Jensen
Seconded by Councillor Copley, That the motion in respect of the development variance permit for 2130 McLaren Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2054 Penzance Street

MOVED by Councillor Jensen
Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2054 Penzance Street (Lot A, Section 46, Victoria District, Plan 8028) varying the following provision of Bylaw No. 3540, being the *Parking Facilities Bylaw, 1986*, as amended:

<u>Parking Facilities Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
S. 4.7 and Schedule “A”, s. A.1.(a) Minimum No. of Parking Spaces	2 spaces, Incl. 1 in building	1 space (none in building)	1 space (waive the “1 space in building” requirement)

to accommodate the elimination of the parking space in the building due to the basement development, as shown on the plans attached to Committee of the Whole agenda item #2009-304, being a memorandum from the Director of Building and Planning dated September 16, 2009.

MOVED by Councillor Jensen
Seconded by Councillor Herbert, That the motion in respect of the development variance permit for 2054 Penzance Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 1442 Monterey Avenue

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 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.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 1442 Monterey Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 1250 St. Denis Street

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1250 St. Denis Street (Lot B, Section 23, Victoria District, Plan 29651) varying the following provision 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) Maximum Gross Floor Area at a level higher than 0.8 m below grade - principal building	300 sq m	350 sq m	50 sq m

to accommodate an addition, as shown on the plans attached to Committee of the Whole agenda item #2009-308, being a memorandum from the Director of Building and Planning dated September 30, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 1250 St. Denis Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2050 Hampshire Road

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2050 Hampshire Road (Lot 3, Section 61, Victoria District, Plan 874, Except Part in red on Plan 565 BL) varying the following provision of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum paved portion of front yard	34.8 sq m (25%)	49.1 sq m (35.2%)	14.3 sq m (10.2 percentage points)

to accommodate a hard-surfaced driveway and footpath, as shown on the plans attached to Committee of the Whole agenda item #2009-309, being a memorandum from the Director of Building and Planning dated September 30, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 2050 Hampshire Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2066 Marne Street

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2066 Marne Street (Lot 2, Section 19, Victoria District, Plan 5347) 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. (3)(a) Maximum Building Height – accessory structure (arbor above boat house)	4.60 m	5.72 m	1.12 m
6.5.4. (3)(a) Maximum Building Height – accessory building (boat house)	3.00 m	3.35 m	0.35 m
6.5.4. (3)(b) Maximum Occupiable Height – accessory building (boat house)	0.25 m	3.35 m	3.10 m
6.5.4. (6)(b) Maximum Gross Floor Area – principal building	420 sq m	600.6 sq m	180.6 sq m
6.5.4. (6)(b) Maximum Gross Floor Area at a level higher than 0.8 m below grade – principal building	300 sq m	544 sq m	244 sq m

to accommodate a new dwelling and boat house, as shown on the plans attached to Committee of the Whole agenda item #2009-310, being a memorandum from the Director of Building and Planning dated September 22, 2009.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the motion in respect to the development variance permit for 2066 Marne Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2356 Lincoln Road

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to “Lot B” (2356 Lincoln Road) proposed to be created by a subdivision of Lot 17, Section 2, Victoria District, Plan 6275, varying Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended, to the following effect:

To designate the two boundary lines, bearing 112°52'24”, 8.73 metres in length and bearing 269°04'26”, 17.01 metres in length, respectively, as interior side lot lines for “Lot B” proposed to be created by a subdivision of Lot 17, Section 2, Victoria District, Plan 6275, notwithstanding the designation of the said boundary lines as rear lot lines pursuant to Section 4.14.1(2) of the Zoning Bylaw,

to accommodate the boundary adjustment subdivision substantially as shown on the survey plan attached to Committee of the Whole agenda item #2009-311, being a memorandum from the Director of Building and Planning dated September 30, 2009, when and if the Approving Officer grants preliminary approval for the proposed subdivision, and upon the applicants satisfying all conditions of preliminary approval set out by the Approving Officer.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 2356 Lincoln Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That Bylaw No. 4484, *Property Tax Exemption Bylaw, 2009*, be adopted.

CARRIED

For First, Second and Third Reading

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Bylaw No. 4487, *Heritage Reserve Fund Appropriation Bylaw No. 2, 2009*, be introduced and read a first time.

CARRIED

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Bylaw No. 4487, *Heritage Reserve Fund Appropriation Bylaw No. 2, 2009*, be read a second time.

Responding to various questions and comments, the Municipal Treasurer advised that the funds would be borrowed from the reserve fund to pay for the energy conservation project at the recreation centres, and paid back with interest. Ms. Walker agreed to circulate further information explaining the procedure and the benefits of borrowing from the reserve fund.

The question was then called.

CARRIED

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That Bylaw No. 4487, *Heritage Reserve Fund Appropriation Bylaw No. 2, 2009*, be read a third time.

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 a matter concerning public security, the disclosure of which could reasonably be expected to seriously impair effective policing or law enforcement.

CARRIED

The meeting adjourned at 8:27 p.m.

Certified Correct:

Municipal Clerk

Mayor