

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, Victoria B.C., on Monday, September 9, 2019 at 7:00 P.M.

We acknowledge that the land on which we gather is the traditional territory of the Coast and Straits Salish Peoples. Specifically we recognize the Lekwungen speaking people, known today as the Songhees and Esquimalt Nations, and that their historic connections to these lands continue to this day.

PRESENT: Mayor K. Murdoch, Chair  
Councillor A. Appleton  
Councillor H. Braithwaite  
Councillor C. Green  
Councillor T. Ney  
Councillor E. Paterson  
Councillor E.W. Zhelka

STAFF: Chief Administrative Officer, L. Varela  
Director of Corporate Services, D. Hopkins  
Director of Building and Planning, B. Anderson  
Director of Engineering Service, D. Horan  
Manager of Planning, D. Jensen  
Planner, G. Buffett  
Recorder, A. Nurvo

CALL TO ORDER:

Mayor Murdoch called the meeting to order at 8:21 p.m.

MOVED and seconded: That the Agenda be amended to bring Item 10 forward to be second on the Agenda.

**CARRIED**

MINUTES AND REPORTS:

**1. Minutes**

- Council Meeting held July 22, 2019
- Special Council meeting held August 6, 2019
- Special Council meeting held August 22, 2019
- Special Council Meeting held September 5, 2019

MOVED and seconded: That Council adopt the Minutes of the Council meeting held July 22, 2019, Special Council meeting held August 6, 2019, Special Council meeting held August 22, 2019, and Special Council Meeting held September 5, 2019.

**CARRIED**

BYLAWS:

**10. Bylaw No. 4696, 2031 Runnymede Heritage Revitalization Agreement Authorization, 2018.**

Heritage Designation Bylaws protect only what is listed in the Bylaw, usually a building or structure and there is no obligation to maintain it. HRA is an agreement obliging the owner to maintain the property and Council can vary bylaw requirement, such as in this case to facilitate a two lot subdivision, permit a suite and grant variances, while providing for the preservation, rehabilitation, and restoration of a building with heritage value.

A Siting & Design Covenant will be registered on title so if the owner wants to do something later that effects the design of the home, it would have to come back to Council for approval, providing control to the municipality on any future development. Specifics regarding the siting of the driveway will be reviewed later, following our general practice of ensuring safety and sight lines when reviewing the proposed servicing of the new lot, and a shared driveway may be considered Siting & design review of the new house would typically go to Advisory Design Panel then to Council for decision, and Council may choose to send it to the Heritage Commission as well. If it were referred back to the Commission now, a further public hearing would be required.

In RS4 zoning, the maximum square footage could be built on the site, but the estimate does not mean someone is going to build to that size, and the process requires that they take into account the neighbourhood and potential impacts. Under RS4 zoning, owners are entitled to meet the maximum requirements for height. But Council can include terms in the siting & design covenant regarding maximum height, to control shading impacts on adjoining properties, depending on the siting of the new home.

There is nothing in the legislation that says when an HRA must occur. Application was made July 2016 before any significant work was done on the house, and the owner chose to continue working on the house while the application was pending.

The original heritage designation bylaw in 1980 was very simple and included the heritage building and Lot E as they existed at that time, while newer bylaws may speak to heritage features and interior details. HRAs and conservation plans together with Statements of Significance provide more ability to manage the full heritage protection of the property. The new lot will be managed through the siting and design approval process.

Concern that approval will send a message to the development community that Oak Bay does not protect heritage, but if we are not willing to look at options like HRAs to protect heritage, there is a risk that we will lose more.

One of the other tools available is heritage conversion where the owner has turned the older home into suites, and has provided densification but preserved the streetscape and heritage building.

MOVED and seconded: That Bylaw No. 4696, 2031 Runnymede Heritage Revitalization Agreement Authorization, 2018, be given third reading.

**CARRIED**

*With Mayor Murdoch and Councillors Appleton and Braithwaite opposed*

MOVED and seconded: That Bylaw No. 4696, 2031 Runnymede Heritage Revitalization Agreement Authorization, 2018, be adopted.

**CARRIED**

*With Councillors Appleton and Braithwaite opposed*

MAYOR'S REMARKS:

2. Mayor Murdoch welcomed everyone back after the summer break. He advised that the Annual Report is now available. The Mayor thanked the organizers of several local activities during the summer, including the Oak Bay BIA Night Markets and live movies, and expressed appreciation to staff and the arts community involved in organizing these events. The Mayor also acknowledged the former Fire Chief, Dave Cackle, for starting on the long-awaited upgrades to Municipal Hall, which will be ongoing for some time.

Mayor Murdoch provided an update that the Urban Wildlife Stewardship Society has started the deer immuno-contraception program and acknowledged the over 600 property owners who volunteered to open up their properties for this program. The program will be going on for a number of weeks.

The Mayor stated that there has recently been a fair amount of interest on the property at 1558 Beach Drive, and advised that this item will be brought up at tonight's meeting under New Business.

PUBLIC PARTICIPATION PERIOD:

3. M. Prince, Oak Bay resident, stated that no private property is an island, and each is a connected piece of the community. There is always a public interest and community good at stake in these cases. The property at 1558 Beach Drive is of potentially great architectural significance, and if is permitted to be taken away, Oak Bay will be the lesser for it.

K, Grant, Oak Bay resident, stated he is strongly opposed to the removal of the Morris house. Very few mansions remain along Beach Drive, with this being the last remaining one on the west side. He asked that Council add the Morris house to the heritage register or consider designating it tonight.

B. Grant, Oak Bay resident, urged Council to prevent the removal of the Morris house, which is worthy of preservation for the community and future generations.

B. Wallace, Oak Bay resident, advised he has been told by the tenants of 1558 Beach Drive that the new owners have let the building run down. He urged Council to consider designating it.

J. Tiffany, Oak Bay resident, advised that there is a First Nations midden recently discovered at 1558 Beach Drive. He hopes that no permits will be granted and no activity occur until there has been a proper archaeological assessment done.

C. Abbott, Oak Bay resident, is a practicing archaeologist, and a current resident of 1558 Beach Drive who is facing eviction. There is a likelihood of high archaeological significance at this site. He sent a letter to the District earlier today with a map of sites in the area. He recommended the proponent retain a qualified consultant to conduct an assessment prior to any construction, renovation or land alteration, and that it be approved by Esquimalt and Songhees First Nations.

J. Pollard, Oak Bay resident, stated that 1558 Beach Drive is a pinnacle property in a proposed heritage conservation area. The mansion, which has been divided into suites, is a historical home, and the building, garage and rock walls deserve heritage preservation in its present location.

Paul Ziakin, Oak Bay resident, said that these suites on this lovely property provide much needed housing for people with limited incomes, and stated it seems reasonable to consider this as an opportunity to keep some affordable housing. He questioned how the owners were able to give eviction notices to tenants before even applying for a demolition permit.

R. Craig, Oak Bay resident, stated that if Council allows the destruction of 1558 Beach Drive, the community will be in a lot of trouble in preserving heritage, and will have lost some credibility. He urged Council not to bow down to pressures by those working against community interests.

#### COMMUNICATIONS:

**4. Council Resolution Tracking**

MOVED and seconded: That the memorandum from the Director of Corporate Services dated August 21, 2019 be received.

**CARRIED**

**5. Oak Bay Advisory Planning Commission Minutes**

MOVED and seconded: That Council receive the minutes of the Advisory Planning Commission meeting held July 2, 2019.

**CARRIED**

**6. Oak Bay Advisory Design Panel Minutes**

MOVED and seconded: That Council receive the minutes of the Oak Bay Advisory Design Panel meeting held July 2, 2019.

**CARRIED**

#### NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

**7. New Business**

Mayor Murdoch advised that a number of permits have been applied for relating to 1558 Beach Drive. The property does not have any formal heritage status but is in the area

under consideration for a heritage conservation area.

Council discussion ensued as follows:

Council asked how the owner can provide eviction notices before a demolition permit has been issued. Staff advised that these processes are not directly related.

Council expressed concern regarding displacing tenants, and whether 60 days would be enough to protect the current tenants.

Staff advised that they are separate issues, and that we should first consider the temporary protection order, and then review other options for the property.

MOVED and seconded: That Council direct staff to report back to Council regarding a temporary protection order for 1558 Beach Drive, for Council consideration at the September 12, 2019 Special Council meeting.

**CARRIED**

### ***Verbal Reports***

Councillor Appleton acknowledged numerous events in the community. He noted that there were several cycling events by the Cycling Coalition that involved closing intersections, and he was concerned that some drivers were not positive and behaved dangerously at these important community events.

Councillor Braithwaite thanked the organizers for the Arts & Culture days. This week's BIA Night Market on Wednesday will be the last one for the year.

Councillor Green advised that she will be attending the Advisory Design Panel meeting this week.

Councillor Paterson advised that on September 18 at 2:00 pm the Archives will present 'Oak Bay: Sealand of the Pacific', and anyone wishing to attend can register online. Also at 7:00 pm at the Windsor pavilion will be 'Art Deco in Oak Bay' with guest speaker Mary Conley.

Councillor Zhelka stated that the Oak Bay Emergency Program is looking for volunteers. There will be lots of training coming up in the next year.

### **RESOLUTIONS:**

#### **8. 2019 Livable Cities Forum Information and Program**

MOVED and seconded: That Council approve the attendance of Councillor Tara Ney at the 2019 Livable Communities Forum, to be held in Victoria, BC, October 28 to 30, 2019, and the payment of associated expenses incurred.

Mayor Murdoch inquired whether Council would like to cover other Councillors who wish to attend. The CAO confirmed that the District can accommodate more members attending.

MOVED and seconded: That the Motion be amended to permit up to 5 members of Council to attend.

**CARRIED**

The Question was then called.

**CARRIED**

**BYLAWS:**

**9. Bylaw Memorandum**

- Memorandum Bylaw Nos. 4696 and 4736

**11. Bylaw No. 4736, Oak Bay Business Improvement Area Bylaw, 2020**

The Director of Corporate Services advised that this Bylaw is in response to previous budget discussions when the BIA presented and advised that their current bylaw expires, and requested renewal for another 5 years. This will require a counter-petition process to seek approval.

MOVED and seconded: That Bylaw No. 4736, Oak Bay Business Improvement Area Bylaw, 2020, be given first and second reading.

**CARRIED**

MOVED and seconded: That Bylaw No. 4736, Oak Bay Business Improvement Area Bylaw, 2020, be given third reading.

**CARRIED**

**ADJOURNMENT:**

**17. Motion to Adjourn**

MOVED and seconded: That the meeting adjourn at 10:17 p.m.

**CARRIED**

Certified Correct:

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Mayor

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Director of Corporate Services