

MINUTES of a special 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 Friday August 7, 2015 at 8:00 AM.

PRESENT:           Acting Mayor Murdoch, Chair  
                  Councillor H. Braithwaite  
                  Councillor T. Croft  
                  Councillor K. Murdoch  
                  Councillor T. Ney

STAFF:             Chief Administrative Officer, H. Koning  
                  Deputy Municipal Clerk, M. Jones  
                  Director of Building and Planning, R. Thomassen

COMMUNICATIONS:

1.     ***Special Event Application - Request for Temporary Road Occupancy, Aug. 23, 2015***
  - Note - Deputy Municipal Clerk - Tour de Victoria, August 23, 2015
  - Sp Event App - Tour de Victoria - Event date Aug. 23, 2015

*Seamus McGrath, Director, Ryder Hesjedal's Tour de Victoria, in attendance for this item.*

MOVED by Councillor Braithwaite, seconded by Councillor Zhelka: That the occupancy of roadways on August 23, 2015 for the purposes of holding a cycling event as described in the submission from Ryders Cycling Society of Canada, be approved, 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 provide evidence of public liability insurance in the amount of not less than \$3,000,000;
2.   agree to pay all invoices from the Municipality for costs incurred in connection with the event;
3.   agree to obtain Oak Bay Police approval for a traffic plan and implement the same subject to any field instructions from the Police; and
4.   agree to give sufficient notice to all residents along the proposed route, with the Municipal Clerk being authorized to execute such agreement on behalf of the District of Oak Bay.”

CARRIED

2.   ***Request for Execution of a 219 Covenant - 3155 Beach Drive***
  - Report - Director of Building and Planning, Aug. 5, 2015

MOVED by Councillor Braithwaite, seconded by Councillor Zhelka: That the Mayor and Municipal Clerk be authorized to do all acts and things necessary to execute a Section 219 Covenant between Terrence Judd Hopwood and Paula Marie Hopwood and The Corporation of the District of Oak Bay requiring the construction of 3155 Beach Drive be in keeping with the Ryzuk Geotechnical Report dated July 16, 2015, with this covenant being substantially in the form attached to the August 5, 2015 report of the Director of Building and Planning.

A member of Council expressed a personal concern that the current design of the dwelling at 3155 Beach Drive could result in moisture retention which in his opinion could subsequently result in damage to the dwelling and loss of resale value. This member then requested clarification with respect to the content of the covenant in this regard.

In response to the comments by a member of Council, the Director of Building and Planning noted that the geotechnical report attached to the proposed covenant confirms that the subject property may be used safely for the intended use provided that preventive water management measures are implemented. The proposed covenant, he noted, is between the owners of the dwelling at 3155 Beach Drive and the District of Oak Bay and thus, as parties to the covenant, the owners are aware of the requirements of the geotechnical report.

The question was then called.

CARRIED

MOVED by Councillor Braithwaite, seconded by Councillor Ney: That staff be directed to bring forward an amendment to Bylaw No. 4239 *Administrative Procedures Bylaw, 2004*, delegating authority to the Mayor and the Municipal Clerk to execute covenants in favour of the District for registration at the Victoria Land Title Office where required to allow for building permits to be issued under Section 56 of the *Community Charter*.

A discussion ensued with respect to the motion. One member of Council expressed concern that by delegating authority in this regard, the issue of requiring a geotechnical report would not be raised in the public sphere and that future owners of impacted dwellings would not be aware of this in advance of purchase.

The Director of Building and Planning responded to questions from Council, clarifying that the intention of entering into a 219 Covenant and registering this covenant on title is that it would allow future owners to be advised of the geotechnical report as part of the due diligence to be taken in advance of purchasing a dwelling.

The question of the long-term approach by the District with respect to addressing potential flooding was raised. It was noted that this issue was contemplated in the *Official Community Plan* and that staff reports would be forthcoming in this regard.

Turning to the question of timing for the potential bylaw amendment, a member of Council questioned whether the amendment should not come forward subsequent to the forthcoming staff reports. It was noted that not undertaking a bylaw amendment in a timely fashion would maintain the current administrative challenge faced by staff and could result in Council continuing to consider these covenants, which would best addressed by a technical rather than political process.

*Councillor Croft entered the meeting at 8:20 AM.*

After reviewing the wording of the motion currently on the floor, the question was then called.

CARRIED  
(Councillor Zhelka against the motion)

ADJOURNMENT:

3. ***Motion to Adjourn***

MOVED by Councillor Braithwaite, seconded by Councillor Ney: That the meeting be adjourned.

CARRIED

The meeting adjourned at 8:29 AM.

Certified Correct:

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Deputy Municipal Clerk

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Acting Mayor