

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, August 18, 2014 at 7:30 p.m.

PRESENT: Mayor N. Jensen
Councillor C. Green
Councillor J. Herbert
Councillor M. Kirby
Councillor K. Murdoch
Councillor T. Ney

STAFF: Municipal Administrator, H. Koning
Deputy Municipal Clerk, C. Denomme
Municipal Treasurer, P. Walker
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall
Fire Chief, D. Cockle

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

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the amended agenda for the August 18, 2014 Council meeting be adopted as circulated.

CARRIED

ADOPTION OF MINUTES:

Council, July 21, 2014

MOVED by Councillor Ney
Seconded by Councillor Murdoch, That the minutes of the Council meeting held on Monday, July 21, 2014, be adopted.

CARRIED

Special Council, August 7, 2014

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the minutes of the Special Council meeting held on Thursday, August 7, 2014, be adopted.

CARRIED

Committee of the Whole – August 11, 2014

MOVED by Councillor Ney
Seconded by Councillor Green, That the minutes of the Committee of the Whole meeting held on Monday August 11, 2014, and the recommendations contained therein, be adopted.

CARRIED

MAYOR REMARKS

Cycling

Mayor Jensen said that while away in Europe he saw how cycling plays an important part in the local economy and tourism.

Acting Mayors

Mayor Jensen thanked Councillor Green and Councillor Murdoch who were the Acting Mayors while he was away on vacation.

Community Works Fund

Mayor Jensen reported that the municipality received the first of two payments from the Community Works Fund for 2014/15 in the amount of \$392,993.69 on August 15, 2014.

Public Art

Mayor Jensen commented that in the European Cities public art is displayed prominently in the squares and is very important to the local people.

Green Communities Committee

Mayor Jensen reported that Oak Bay received the “green communities” branding in recognition of the municipality’s commitment to take action on climate change and reduce greenhouse gas emissions.

Murray Rankin, MP

Mayor Jensen said that a meeting was held with Murray Rankin, MP, to discuss a number of issues affecting the municipality. Mayor Jensen reported that Mr. Rankin sent a letter to Canada Post regarding the implementation of community mailbox delivery and how it will affect Oak Bay.

PUBLIC PARTICIPATION PERIOD:

Dianna Butler, resident, said that Pumpkin Art on the Avenue affects the residents of Granite Street. The fencing around the park in the back of the municipal hall and the two dumpsters are very unpleasant for the neighbours on Granite Street to have to look at for two weeks. Ms. Butler suggested that the fencing be moved to the inside and the dumpsters to the front or other side of the parking lot.

COMMUNICATIONS:

1. 2014-217 MUNICIPAL TREASURER, August 15, 2014
2014-217-1 SUSAN T. MOOGK, July 15, 2014
2014-217-2 SYDNEY D. BOYD, July 23, 2014
2014-217-3 JEAN M. S. CLARK, August 5, 2014
2014-217-4 ROBERT TONG, August 11, 2014
Re Appeal Property Tax Penalty

The Municipal Treasurer responded to questions, noting that there have been very few cases where Council has found the circumstances of applicants sufficiently singular and extenuating in comparison to other circumstances that result in late payment penalties in any given year to write to the Minister for the authority to write-off a late penalty payment.

A discussion ensued regarding the timing of when the tax bills were mailed out, the due dates and the options available for payment. The policy for accepting payments received in the mail was reviewed with Ms. Walker explaining that the envelopes need to be post marked June 23 or earlier and received by July 2. Ms Walker gave examples of previous requests and how they were handled. She further explained that if Council supported the requests, that permission was required from the Minister to write-off any penalty.

Mayor Jensen reviewed the requests received to remove penalty.

There was further discussion regarding changing the policy in regard to the post mark date that is accepted for tax payments.

MOVED by Councillor Ney

Seconded by Councillor Kirby, That the post mark date for receiving tax payments be July 2 starting 2015.

Ms. Walker commented that she could investigate the possibility further and bring a report back to Council regarding accepting payments after the due date that were postmarked on the due date or before.

MOVED by Councillor Green

Seconded by Councillor Murdoch, That the motion be amended to add: staff be directed to prepare a report on changing the policy regarding post mark dates accepted for tax payments.

CARRIED

The question on the motion as amended was then called.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Ney, That, pursuant to Section 315.3 of the *Local Government Act*, an application be made to the Minister of Community, Sport and Cultural Development for the authority to write-off the 10% tax penalty for late payment of 2014 property taxes for 301 – 1211 Beach Drive.

CARRIED

A discussion ensued in regard to the request to write-off the late payment received for 644 Beach Drive.

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That correspondence item no. 2014-217-2 be received.

MOTION DEFEATED

(Councillors Ney, Kirby and Green against the motion)

MOVED by Councillor Ney

Seconded by Councillor Kirby, That, pursuant to Section 315.3 of the *Local Government Act*, an application be made to the Minister of Community, Sport and Cultural Development for the authority to write-off the 10% tax penalty for late payment of 2014 property taxes for 644 Beach Drive.

CARRIED

(Councillors Green and Murdoch against the motion)

A discussion ensued in regard to the request to write-off the late payment for 201 – 1211 Beach Drive. While members of Council sympathized with the applicant, it was the majority view that the circumstances described were not sufficiently singular and extenuating to request the authority to write-off the penalty.

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That correspondence item no. 2014-217-3 be received.

CARRIED

(Councillor Kirby and Ney against the motion)

A discussion ensued in regard to the request to write-off the late payment for 3151 Wessex Close and 2025 Oak Bay Avenue. While members of Council sympathized with the applicant, it was the majority view that the circumstances described were not sufficiently singular and extenuating to request the authority to write-off the penalty.

MOVED by Councillor Ney

Seconded by Councillor Herbert, That correspondence item no. 2014-217-4 be received.

CARRIED

2. 2014-218 MUNICIPAL CLERK, July 15, 2014
- 2014-218-1 ROGER AND CAROL KITSON, May 29, 2014
- 2014-218-2 ROGER AND CAROL KITSON, [Undated]
Re Tree Protection Bylaw – Application for Reconsideration of Permit Refusal
– 3442 Henderson Road

Chris Hyde-Lay, Parks Manager, in attendance for this item.)

Mayor Jensen reviewed the request.

Mr. Kitson, owner, said that on Wednesday two very large branches fell off the trees and he distributed pictures showing parts of the branch that he said had rotted.

There was discussion with regards to the request for reconsideration, with members of Council expressing concerns about the tree canopy, specifically what types of trees and how many would be planted in place of the removed trees. Following further discussion regarding safety it emerged that it was the majority view of Council that the request to remove the four (4) Cottonwood trees was supportable.

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the issuance of a permit for the removal of four (4) Cottonwood trees, located on the private property at 3442 Henderson Road, be ordered pursuant to Section 6 (1) of the Tree Protection Bylaw.

CARRIED

3. 2014-219 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, July 24, 2014
Re Pumpkin Art on the Avenue Event - Request to Occupy Public Property
and Waive Municipal Staff Costs

Heather Leary, Project Manager was in attendance for this item and answered questions from Council in regard to the location of the fencing and the two storage containers used during the Pumpkin Art. Ms. Leary said that they would require one container on site for the operations base and to store items in overnight, the second container would be needed for two days during the setup and then could be moved off site. The fencing is required for security and is placed around the outside of the property and if it were moved inside, it would have a significant impact on the space available for the event, she said. Ms Leary said they are looking to have a mural painted on the storage containers and will see if there is a more aesthetically pleasing fence available that will help lessen the visual impact on the neighbours.

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That:

1. Permission be given to the Oak Bay Business Improvement Association to temporarily occupy public property at the Oak Bay Municipal Hall in relation to the Pumpkin Art on the Avenue Event, from October 22, 2014 to November 1, 2014, as laid out in correspondence item no. 2014-219, subject to the Event Organizer entering into a public property occupancy agreement in which it will, among other standard requirements:
 - a. 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; and
 - b. agree to pay all invoices from the Municipality for costs incurred in connection with the event;

with the Municipal Clerk being authorized to execute such agreement on behalf of the District of Oak Bay; and

2. That inasmuch as Pumpkin Art on the Avenue is a community event unrelated to the purpose of the Oak Bay Business Improvement Association's promotion scheme, approval be given to waive staff costs related to providing electrical services for the pumpkin art display behind the Municipal Hall, in addition to installing and removing pumpkin art in the Oak tree on the front lawn of the Municipal Hall and on 35 light standards along Oak Bay Avenue.

CARRIED

4. 2014-220 DEPUTY TREASURER, July 28, 2014
Re Tender Award Recommendation – Public Works Yard Roof
Construction

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the Roof Construction Tender, PW17-2014, be awarded to Alpha Roofing at a cost of \$41,680.00, as outlined in the Memorandum from the Deputy Treasurer, dated July 28, 2014, correspondence item no. 2014-220.

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the motion in respect to the Roof Construction Tender, PW17-2014, be tabled to allow for final reading of Bylaw No. 4621, Financial Plan Bylaw, 2014, Amendment Bylaw No. 1, 2014 and Bylaw No. 4622, Capital Works and Equipment Reserve Fund Appropriation Bylaw, No. 1, 2014.

CARRIED

5. 2014-221 MANAGER, RECREATION PROGRAM SERVICES, August 11, 2014
Re Oak Bay High School Cops for Cancer Fundraising Event – Request to Occupy Public Property

MOVED by Councillor Murdoch

Seconded by Councillor Kirby, That, whereas, pursuant to the Zoning Bylaw, the Oak Bay High School's Cops for Cancer Community Fair, including the sales of goods and refreshments, has been determined to be of general benefit to the municipality at large and will create no undue inconvenience for adjacent residents or the public at large, and not detract from the purpose of the land as a public place for recreation, ornamentation or preservation of the natural environment, approval be given for the event, subject to the event organizer entering into a public property occupancy agreement in which it will among other standard requirements:

- a) 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; and
- b) Agree to pay all invoices from the Municipality for costs incurred in connection with the event,

with the Municipal Clerk being authorized to execute such agreement on behalf of the District of Oak Bay.

CARRIED

6. 2014-222 OAK BAY COMMUNITY INITIATIVES COMMITTEE, June 25, 2014
Re Minutes of Meeting

MOVED by Councillor Ney

Seconded by Councillor Murdoch, That the minutes of the Oak Bay Community Initiatives Committee meeting held on June 25, 2014 be received.

A discussion ensued with members of Council expressing disappointment that the Bike Festival was not being held in 2014.

Question on the motion was then called.

CARRIED

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That Council request the Community Initiatives Committee reconsider their decision on the Bike Festival.

CARRIED

7. 2014-223 OAK BAY ACTIVE TRANSPORTATION ADVISORY COMMITTEE,
July 29, 2014
Re Minutes of Meeting

MOVED by Councillor Ney

Seconded by Councillor Herbert, That the minutes of the Oak Bay Active Transportation Advisory Committee meeting held on July 29, 2014 be received.

CARRIED

Moved by Councillor Kirby

Seconded by Councillor Ney, That Engineering staff be directed to provide a report and related cost estimate regarding the Elgin Road pathway to a future Committee of the Whole for review and consideration.

A discussion ensued regarding budgeting, time lines for phasing in the work and staff time required for the project.

The question on the motion was then called.

CARRIED

- 8 2014-225 CITY OF VICTORIA, July 31, 2014
Re Great Victoria School District No. 61 – School Travel Planning
Coordinator

Mayor Jensen reviewed a letter from the City of Victoria regarding a pilot School Travel Planning Coordinator position.

MOVED by Councillor Ney

Seconded by Councillor Murdoch, That correspondence item no. 2014-225 be deferred to the September 8, 2014 Council meeting.

CARRIED

CORRESPONDENCE – ITEMS APPEARING LATER ON THE AGENDA:

8. 2014-224 JEREMY BERLAND and CAROL RICHARDSON, August 5, 2014
2014-224-1 JANET FLANAGAN, August 7, 2014
2014-224-2 MONTY AND LAURA HOLDING, August 8, 2014
Re Development Variance Permit – 2116 McLaren Avenue

MOVED by Councillor Murdoch

Seconded by Councillor Ney, That correspondence items no. 2014-224 to 2014-224-2 be received.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

Capital Regional District – Sewage Treatment

Mayor Jensen gave an update on the Capital Regional District Sewage Treatment process.

MOVED by Councillor Herbert

Seconded by Councillor Green, That staff be directed to contact the City of Victoria and the District of Saanich to investigate the possibility of working together to explore options for a Sewage Treatment system.

A discussion ensued in regard to sewage treatment for the District with the majority of Council supportive of contacting the District of Saanich and the City of Victoria to begin discussions.

The question on the motion was then called.

CARRIED

TABLED:

Development Variance Permit – 556 Newport Avenue

MOVED by Councillor Murdoch

Seconded by Councillor Green, 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 556 Newport Avenue (Lot 9, Block 5, Section 73, Victoria District, Plan 992) varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986 as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4.(3)(c) + Schedule 'B' <i>Maximum roof height of the principal building</i>	9.14 m	9.70 m	0.56 m
6.2.4.(2)(c) <i>Interior side lot line setback for accessory building</i>	1.52 m	0.35 m	1.17 m
6.2.4 (3)(a) <i>Maximum building height for accessory buildings</i>	3.00 m	4.95 m	1.95 m
6.2.4 (3)(b) <i>Maximum occupiable height for accessory building</i>	0.25 m	2.49 m	2.24 m
6.2.4.(3)(c) <i>Maximum roof height for accessory building</i>	4.60 m	6.32 m	1.72 m
6.2.4.(7) <i>Clear space required between buildings</i>	3.00 m	2.86 m	0.14 m

to accommodate the proposed addition of a top floor to the existing accessory building, as shown on the plans appended to Committee of the Whole agenda item 2014-200, being a memorandum from the Director of Building and Planning dated July 9, 2014.

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 – 2116 McLaren Avenue

MOVED by Councillor Herbert

Seconded by Councillor Murdoch, 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 2116 McLaren Avenue (Lot 4, Section 22, Victoria District, Plan 1656) varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986 as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 <i>Maximum paved surface (rear yard)</i>	25% 28.2 m ²	32.3% 36.4 m ²	7.3% 8.2 m ²
6.5.4.(10) <i>Minimum front lot line contextual setback</i>	8.50 m	7.62 m	0.88 m

to accommodate the proposed replacement of the single family dwelling, as shown on the plans appended to Committee of the Whole agenda item 2014-201, being a memorandum from the Director of Building and Planning dated July 9, 2014.

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 – 2465 Florence Street

MOVED by Councillor Murdoch

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 2465 Florence Street (Lot 6, Block 2, Section 28, Victoria District, Plan 915) varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986 as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(3)(a) Maximum building height (north and south)	6.83 m	7.09 m	0.26 m
6.5.4.(6)(a) Maximum gross floor area above .8 metres below grade	240 m ²	334.80 m ²	94.80 m ²
6.5.4.(11) Minimum second storey side lot line setback	3.00 m	2.77 m	0.23 m

to accommodate the proposed construction of a top floor addition, as shown on the plans appended to Committee of the Whole agenda item 2014-202, being a memorandum from the Director of Building and Planning dated July 9, 2014.

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 – 1288 Hampshire Road

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Permit with respect to 1288 Hampshire Road (Lot 13, Block 2, Section 23, Victoria District, Plan 1091) varying the following provisions of Bylaw No. 3540, *Parking Facilities Bylaw, 1986* as amended:

<u>Parking Facilities Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
7.3 + Schedule “B”, B.4.(a) Minimum stall length	5.50 m	4.70 m	0.80 m
7.4.1 (a) Maximum of 25% of the required parking spaces may be small car	25%	50%	25%

to accommodate the addition of the laundry facility to the garage area, as shown on the plans appended to Committee of the Whole agenda item 2014-213, being a memorandum from the Director of Building and Planning dated August 5, 2014.

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the motion in respect to the development variance permit for 1288 Hampshire Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2135 McLaren Avenue

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2135 McLaren Avenue (Amended Lot 9 (DD149100I), Section 22, Victoria District, Plan 1421) varying the following provisions of Bylaw No. 3531 *Zoning Bylaw, 1986* as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
4.17.2 No combination of retaining walls shall have a combined exposed face exceeding 1.2 metres in height	1.20 m	3.05 m	1.85 m

to accommodate the expansion of the sunken patio, as shown on the plans appended to Committee of the Whole agenda item 2014-214, being a memorandum from the Director of Building and Planning dated August 5, 2014.

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the motion in respect to the development variance permit for 2135 McLaren Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2090 Carnarvon Street

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2090 Carnarvon Street (Lot 29, Block 4, Section 28, Victoria District, Plan 1155) varying the following provisions of Bylaw No. 3531 *Zoning Bylaw, 1986* as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(2)(d) Minimum exterior side lot line setback	3.65 m	3.30 m	0.35 m
6.5.4.(6)(a) Maximum gross floor area above 0.8 metres below grade	240 m ²	268.7 m ²	28.7 m ²

6.5.4.(6)(a) Maximum gross floor area	360 m ²	390 m ²	30 m ²
6.5.4.(11) Minimum second storey side lot line setback	3.00 m	1.60 m	1.40 m

to accommodate the proposed rear and top floor addition, as shown on the plans appended to Committee of the Whole agenda item 2014-215, being a memorandum from the Director of Building and Planning dated August 5, 2014.

MOVED by Councillor Murdoch

Seconded by Councillor Green, That the motion in respect to the development variance permit for 2090 Carnarvon Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

BYLAWS:

For Adoption

MOVED by Councillor Murdoch

Seconded by Councillor Kirby, That Bylaw No. 4621, Financial Plan Bylaw, 2014, Amendment Bylaw No.1, 2014 be adopted.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Kirby, That Bylaw No. 4622, Capital Works and Equipment Reserve Fund Appropriation Bylaw, No. 1, 2014, be adopted.

CARRIED

Roof Construction Tender, PW17-2014

MOVED by Councillor Murdoch

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

That the Roof Construction Tender, PW17-2014, be awarded to Alpha Roofing at a cost of \$41,680.00, as outlined in the Memorandum from the Deputy Treasurer, dated July 28, 2014, correspondence item no. 2014-2204.

CARRIED

The question on the main motion was then called.

CARRIED

For First, Second and Third Reading

MOVED by Councillor Murdoch

Seconded by Councillor Kirby, That Bylaw No. 4623, Oil Burning Equipment and Fuel Tank Regulation Bylaw Amendment Bylaw No. 1, 2014, be introduced and read a first time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Kirby, That Bylaw No. 4623, Oil Burning Equipment and Fuel Tank Regulation Bylaw Amendment Bylaw No. 1, 2014, be read a second time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4623, Oil Burning Equipment and Fuel Tank Regulation Bylaw Amendment Bylaw No. 1, 2014, be read a third time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4624, Fire Regulation Bylaw Amendment Bylaw No. 1, 2014, be introduced and read a first time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4624, Fire Regulation Bylaw Amendment Bylaw No. 1, 2014, be read a second time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4624, Fire Regulation Bylaw Amendment Bylaw No. 1, 2014, be read a third time.

CARRIED

For First and Second Reading and Setting of a Public Hearing Date

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4625, 2176 Windsor Road Heritage Revitalization Agreement Authorization Bylaw, 2014, be introduced and read a first time.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Herbert, That Bylaw No. 4625, 2176 Windsor Road Heritage Revitalization Agreement Authorization Bylaw, 2014, be read a second time.

CARRIED

MOVED by Councillor Green

Seconded by Councillor Ney, That a public hearing on Bylaw No. 4625 be held at the Oak Bay Municipal Hall on September 29, 2013, at 7:30 p.m., and that notice be given in accordance with the Local Government Act.

CARRIED

ADJOURNMENT:

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That the meeting of Council be adjourned.

CARRIED

The meeting adjourned at 10:00 p.m.

Certified Correct:

Deputy Municipal Clerk

Mayor Jensen