

MINUTES of a regular meeting of COMMITTEE OF THE WHOLE 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 March 16, 2015 at 7:00 p.m.

PRESENT: Councillor M. Kirby, Chair
Councillor H. Braithwaite
Councillor T. Croft
Councillor K. Murdoch
Councillor T. Ney
Councillor E. W. Zhelka

STAFF: Chief Administrative Officer, H. Koning
Municipal Clerk, L. Hilton
Deputy Municipal Clerk, M. Jones
Municipal Treasurer, P. Walker
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall

PARKS AND RECREATION ITEM(S):

1. ***Parks and Recreation Commission Minutes***

- Note - Municipal Clerk - Oak Bay Parks & Recreation Commission Minutes, Mar. 4, 2015
- Minutes - Oak Bay Parks & Recreation Commission, Mar. 4, 2015
- Rpt Attach 1 - Program Reports Feb. 2015
- Rpt Attach 2 - January Finance Summary 2015

(Ray Herman, Director of Parks and Recreation in attendance for this item)

In response to questions from the Committee, the Director of Parks and Recreation provided updates on Commission and staff activities with respect to the maintenance of the skate park fence and the rose garden. Mr. Herman also provided an update on the sailing program at the Oak Bay Marina.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That the minutes of the meeting of the Oak Bay Parks and Recreation Commission held on Wednesday, March 4, 2015, and the recommendations contained therein, with the exception of the recommendations regarding the Parks and Recreation operating budget, capital budget, proposed fees and charges, the Eliminator Triathlon, and the Bowker Creek walkway, be adopted.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That the Parks and Recreation 2015 operating budget and capital budget, and proposed fees and charges, be referred to Council's Estimates Committee for consideration during budget deliberations.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That the recommendation contained in the March 4, 2015 Parks and Recreation Commission minutes regarding the development of plans for remediation of the Bowker Creek walkway be referred to a meeting of Council or Committee of the Whole where consideration of Council's strategic priorities and related staff work plan is scheduled.

CARRIED

FINANCE ITEM(S):

2. ***Monthly Financial Report***

- Report - Municipal Treasurer, Mar. 11, 2015
- Rpt Attach - Statement, Capital, Investments, Prop. Taxes, Feb. 2015

In response to questions from Council, the Municipal Treasurer provided clarification with respect to the process for addressing property taxes in arrears from the Oak Bay Beach Hotel.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That the monthly financial report of the Municipal Treasurer dated Mar. 11, 2015 be received.

CARRIED

3. ***2015 Grant Application Policy Report***

- Report - Municipal Treasurer, Mar. 12, 2015
- Rpt Attach - Grant Policy Report, Mar. 2015

The Municipal Treasurer provided an overview of the process to date with respect to developing the proposed Grant Application Policy.

A discussion ensued with respect to the proposed policy, with members of the Committee commenting on the importance of grant recipients reporting back to Council on how grant funds are spent.

It was noted that the application form for grants does require that previous recipients provide this information.

Discussion then turned to the question of whether to require, as part of the application process, that organizations be incorporated under the Societies Act. It was noted that municipalities are restricted from providing funding to commercial entities, except for the provisions allowed by a business improvement area, and as such that grants can only be provided to non-profit organizations. While some members of the Committee felt that incorporation as a society provided an additional measure of protection to municipal funds, other members felt that restricting grants to only incorporated societies would be too limiting and prevent Council from funding worthy projects and initiatives from grass-roots community organizations.

With respect to the question of grant applicants receiving other sources of funds, it was noted that it was the intention of the Grants Criteria Task Force that the proposed policy would not restrict organizations from seeking multiple sources of funding as appropriate, but rather that municipal grants not be used to fund programming that should be and has traditionally been provided by other levels of government. It was also noted that the proposed policy suggested prioritizing funding for one-time projects over repeated requests.

MOVED by Councillor Braithwaite

Seconded by Councillor Murdoch, That the Committee refer the Grant Policy to Council for its review and adoption.

Boudil Sim, Oak Bay resident, expressed concern that commercial organizations would be able to access grant funding.

At the request of the Committee, the Municipal Clerk confirmed that municipalities are restricted by legislation from providing assistance to businesses, and that as such, only non-profit organizations are eligible for municipal grants.

CARRIED

Councillor Croft against the motion

ENGINEERING SERVICES ITEM WITH LAND USE APPLICATION:

4. ***Request for Second Driveway - 2301 Lansdowne Road***

- Report - Director of Engineering Services, Mar. 8, 2015
- Rpt Attach 1 - Map, Mar. 12, 2014
- Rpt Attach 2 - Applicant's Letter, E. Wong, Oct. 27, 2014
- Plans - Second Driveway, DVP - 2301 Lansdowne Road, Jan. 30, 2015

Edward Wong, applicant, was in attendance with respect to agenda items 4 and 5.

The Director of Engineering Services provided an overview of his report, noting that the intention of this application was to address safety concerns, and that, as such, the proposal is supportable from the staff perspective.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That it be recommended to Council that the applicant be permitted to install a 3 metres wide second driveway crossing at 2301 Lansdowne Road and keep the existing driveway in the same location provided it be reduced in width from 6 metres to 3 metres, as shown on the plans dated January 30, 2015 with such approval to be subject to the issuance of a Development Variance Permit for paved surface.

CARRIED

5. ***Development Variance Permit Application (PL309) - 2301 Lansdowne Road***

- Report - Director of Building & Planning, Mar. 11, 2015
- Rpt Attach - Applicant's Letter, Edward Wong, Jan 30, 2014
- Plans - Second Driveway, DVP - 2301 Lansdowne Rd - rcvd, Jan. 30, 2015

Responding to questions from the Committee, the Director of Building and Planning clarified that the Board of Variance considers minor variances arising from an issue of hardship; however, he noted, it is at the discretion of the proponent whether to undertake the Board of Variance process or apply for a Development Variance Permit.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That should the application for a second driveway access at 2301 Lansdowne Road be approved, it is recommended to Council that the proposal to increase the paved surface in the front yard at 2301 Lansdowne Road be approved, subject to issuance of a development variance permit; and further that a resolution authorizing the issuance of a development variance permit, as outlined in the March 11, 2015 report of the Director of Building and Planning, be prepared and brought forward to a meeting of Council for consideration.

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

CARRIED

LAND USE APPLICATIONS:

6. ***Architectural Design Approval - 1204 Hewlett Place***

- Report - Director of Building & Planning, Mar. 3, 2015
- Rpt Attach 1 - ADP Minutes, Mar. 6, 2015
- Rpt Attach 2 - Applicant's Letter, Urban Core Ventures, Feb. 13, 2015
- Plans - Design Approval - 1204 Hewlett Pl - revd., Feb. 13, 2015

Leonard Cole, applicant, was in attendance with respect to agenda items 6 and 7.

The Director of Building and Planning gave an overview of his report.

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That it be recommended to Council that the revised window design for the house located at 1204 Hewlett Place be approved as to architectural design.

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

CARRIED

7. ***Architectural Design Approval - 1198 Hewlett Place***

- Report - Director of Building & Planning, Mar. 11, 2015
- Rpt Attach 1 - ADP Minutes, Mar. 3, 2015
- Rpt Attach 2 - Applicant's Letter, Urban Core Ventures, Feb. 13, 2015
- Plans - Design Approval - 1198 Hewlett Pl - revd., Feb. 13, 2015

The Director of Building and Planning gave an overview of his report.

MOVED by Councillor Croft

Seconded by Councillor Ney, That it be recommended to Council that the revised window design and roofing material modification to the house located at 1198 Hewlett Place be approved as to architectural design.

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

CARRIED

8. ***Architectural Design Approval and Building Permit Application - 572 Island Road***

- Report - Director of Building & Planning, Mar. 4, 2015
- Rpt Attach 1 - ADP Minutes, Mar. 3, 2015
- Rpt Attach 2 - ADP Minutes Feb. 3, 2015
- Rpt Attach 3 - Municipal Arborist's Memo, Feb. 27, 2015
- Rpt Attach 4 - Letter from T Cumming, Feb 16, 2015
- Rpt Attach 5 - Materials and Colours Checklist, Feb 16, 2015
- Plans - Architectural Design - 572 Island Rd - revd, Mar 9. 2015

The Director of Building and Planning reviewed the proposal, noting that an error had been made in his report and that, to accommodate this proposal, a development variance permit to increase the maximum gross floor area and the maximum gross floor area above 0.8 m² above grade would be necessary. Mr. Thomassen noted that, should the Committee wish the proposal to proceed to the next stage at this time, the Committee could undertake the usual recommendation with respect to architectural design and a development variance permit, with a report detailing the variance to be provided at the next Council meeting. Mr. Thomassen confirmed that the proposed variance would be based on the plans appended to the March 16, 2015 Committee of the Whole agenda.

MOVED by Councillor Murdoch

Seconded by Councillor Zhelka, That it be recommended to Council that, as shown on the plans appended to the March 16, 2015 Committee of the Whole agenda, the proposal to:

1. Renovate the existing house located at 572 Island Road be approved as to architectural design; and
2. Increase the maximum gross floor area and the maximum gross floor area above 0.8 m² above grade to accommodate addition of a closet, bathroom and small deck on the upper two floors and an additional patio area under the rear deck at 572 Island Road be approved, subject to the issuance of a development variance permit, and further that report describing the variance and a resolution authorizing the issuance of a development variance permit be prepared and brought forward to a meeting of Council for consideration.

Imad Nadra, owner, responded to questions from the Committee, confirming that he was aware of the comments in the Municipal Arborist's memorandum with respect to protecting the Garry oaks on the subject property during potential construction. Mr. Nadra noted that the variances would not change the footprint of the existing house and the neighbouring residents were supportive of the proposal.

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

CARRIED

9. ***Uplands Building Permit Application - 3160 Humber Road***
- Report - Director of Building & Planning, Mar. 11, 2015
 - Rpt Attach 1 - ADP Minutes, Mar. 3, 2015
 - Rpt Attach 2 - Municipal Arborist's Memo, Feb. 27, 2015
 - Rpt Attach 3 - Applicant's Letter, Alan Lowe, Feb. 14, 2015
 - Plans - UBP - 3160 Humber Rd - rcvd., Feb. 19, 2015

The Director of Building and Planning gave an overview of his report.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That it be recommended to Council that the proposed plans for the construction of an addition by enclosing the existing deck on the south side of the existing house located at 3160 Humber Road be approved as to architectural design

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

CARRIED

10. ***Uplands Building Permit and Development Variance Permit Application (PL311) - 3611 Cadboro Bay Road***
- Report - Director of Building & Planning, Mar. 11, 2015
 - Rpt Attach 1 - ADP Minutes, Jan. 6, 2015
 - Rpt Attach 2 - Municipal Arborist Memo, Dec. 31, 2014
 - Rpt Attach 3 - Applicant's Letter, Duane Ensign, Feb. 4, 2015
 - Rpt Attach 4 - Applicant's Letter, Cindy Pfleger, Dec. 15, 2014
 - Plans - UBP - 3611 Cadboro Bay Rd, rcvd, Dec. 15, 2015 #1
 - Plans - UBP - 3611 Cadboro Bay Rd, rcvd, Dec. 15, 2014 #2
 - Plans - DVP - 3611 Cadboro Bay Rd, rcvd, Feb. 3, 2015

The Director of Building and Planning gave an overview of his report.

Dusty Delain, builder, responded to questions from the Committee, clarifying that, in consultation with Engineering Services staff, should the application proceed, a boulevard would be installed on the Cadboro Bay Road frontage to meet municipal requirements. Mr. Delain also commented with respect to surfacing, noting that pavers would be used and that the proposal would result in a decrease in paving overall on the property.

The Director of Building and Planning reviewed the building permit process with respect to review of tree protection plans and underground servicing.

MOVED by Councillor Murdoch

Seconded by Councillor Ney, That it be recommended to Council that the proposal to:

1. Construct a new single family dwelling at 3611 Cadboro Bay Road be approved as to architectural design and siting; and

2. Increase the maximum paved surface in the front yard, and construct retaining walls at 3611 Cadboro Bay Road be approved, subject to the issuance of a development variance permit, and further that a resolution authorizing the issuance of a development variance permit, as outlined in the March 11, 2015 report of the Director of Building and Planning, be prepared and brought forward to a meeting of Council for consideration.

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

CARRIED

11. ***Development Variance Permit Application (PL313) - 687 Island Road***

- Report - Director of Building & Planning, Mar. 11, 2015
- Rpt Attach - Applicant's Letter, A. Nemeth, Feb. 3, 2015
- Plans - DVP - 687 Island Rd - rcvd, Feb. 3, 2015

Andrea Nemeth, designer, was in attendance with respect to agenda item 11.

MOVED by Councillor Braithwaite

Seconded by Councillor Croft, That it be recommended to Council that the proposal to construct an accessory building at 687 Island Road be approved, subject to the issuance of a development variance permit, and further that a resolution authorizing the issuance of a development variance permit, as outlined in the March 11, 2015 report of the Director of Building and Planning, be prepared and brought forward to a meeting of Council for consideration.

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

CARRIED

REGULATORY ITEM(S):

12. ***Council Appointed Committee - Advisory Planning Committee - Terms of Reference***

- Report - Chief Administrative Officer, Mar. 11, 2015
- Rpt Attach - Advisory Planning Committee Terms of Reference
- Corresp up to Mar. 13, 2015 - APC Terms of Reference
- ADDENDA - Corresp from Mar. 14 to Mar. 16, 2015 - APC Terms of Reference

MOVED by Councillor Croft

Seconded by Councillor Murdoch, That the correspondence from March 14, 2015 to March 16, 2015 with respect to agenda item 12 on the amended agenda for the March 16, 2015 Committee of the Whole meeting be received.

CARRIED

The Chief Administrative Officer provided an overview of her report and responded to questions from the Committee with respect to the mandate, structure and membership of the proposed Advisory Planning Committee.

Pam Copley, Oak Bay resident, spoke in support of establishing an advisory planning body, commenting that this would facilitate land use planning and implementation of the Official Community Plan. Ms. Copley noted that the structure of a commission rather than a committee might be preferable. She concluded her remarks with comments in regards to the representation on the proposed advisory body, noting that broad representation of the community by balanced and knowledgeable members was supportable.

Jan Mears, Oak Bay resident, commented that expertise is needed to guide the community during this time of extreme change and that there is a need to rise above individual differences to work to maintain the elements of Oak Bay that are valued by all.

Steve Bowker, Oak Bay resident, circulated his March 15, 2015 correspondence to the Committee, noting that a commission is supportable over a committee structure, with respect to legislation and to common practice in other municipalities.

Mike Low, Oak Bay resident, commented on the significant impact that recommendations from the proposed Advisory Planning Committee could have on the North Henderson area. Mr. Low also noted that, with respect to the proposed Terms of Reference for the Advisory Planning Committee, that consideration should be given to: a residency requirement for most members; geographical representation of the different areas of the municipality; increasing the time between posting agendas and holding the meeting; and on how to incorporate submissions from the public.

Boudil Sim, Oak Bay resident, expressed concern with respect to membership on the proposed Advisory Planning Committee, particularly in regards to the development community and the need for more representation from the public. Ms. Sim also commented that the Committee should review information related to “Agenda 21” of the United Nations Conference on Environment and Development.

Tony Roy, Oak Bay resident, commented on the proposed Terms of Reference for the Advisory Planning Committee, noting that the mandate may be too broad, proposing that consideration be given to creating separate advisory bodies for technical expertise and for public engagement.

Tony Mears, Oak Bay resident, spoke in support of establishing an Advisory Planning Commission instead of a committee, commenting that this would better address the public’s concerns with respect to the mandate, public input, and transparency. Mr. Mears also noted that increased time between posting agendas and holding meetings would allow more time for the public to consider proposals.

Bruce Filan, Oak Bay resident, spoke with respect to his concerns regarding the legality of establishing an Advisory Planning Committee instead of an Advisory Planning Commission. Mr. Filan also questioned the proposed membership, particularly inclusion of voting representatives from the education community and the Victoria Real Estate Board instead of residents, as well as the prescriptive nature of the representation as described in the proposed Terms of Reference. He also noted the provision for closing meetings in the Terms of Reference.

In closing his remarks, he encouraged the Committee to defer further consideration of the proposed Advisory Planning Committee until the concerns he identified have been addressed.

Thomas Thompson, Oak Bay resident, commented on his support for proceeding with implementation of the Official Community Plan, expressing that it is time to revise necessary bylaws and take a progressive approach.

John Armitage, Oak Bay resident, spoke in support of the Terms of Reference for the proposed Advisory Planning Committee, commenting that it addresses the core values of the Official Community Plan and the Floor Area Review Committee. Mr. Armitage noted that, although adding to the bureaucratic process can be challenging, the proposed Advisory Planning Committee could allow for an intermediary step and non-confrontational setting for addressing land use. He questioned whether any item on tonight's agenda would have been considered by the proposed Advisory Planning Committee.

Andrew Stinson, Oak Bay resident, spoke in support of the Terms of Reference for the proposed Advisory Planning Committee, commenting that having a prescriptive approach to membership, particularly with respect to youth representatives, can help encourage applications to volunteer. Mr. Stinson also noted the value in having different perspectives on advisory committees.

Cliff Hunt, Oak Bay resident, spoke in opposition to proceeding with the proposed Advisory Planning Committee, stating that more time is needed for the public to consider the proposal and that more consideration needs to be given to an Advisory Planning Commission.

Mary Douglas, Oak Bay resident, commented on her concerns regarding the pace of change in Oak Bay and on the potential for members on the proposed Advisory Planning Committee to have a conflict of interest. She encouraged the Committee not to expedite any further changes and to give more consideration to this proposal before proceeding.

Following input from the public, the Committee discussed the concerns raised with respect to the structure, mandate and membership of the proposed Advisory Planning Committee and the Chief Administrative Officer answered questions in this regard. Although concerns were expressed that deferral to another meeting would unnecessarily delay progress on this item, it was the view of the majority of the Committee members that it could be beneficial to have additional information from staff addressing these issues before proceeding.

MOVED by Councillor Ney

Seconded by Councillor Zhelka, That staff be directed to provide a report with additional consideration of the implications for the District of Oak Bay with respect to the establishment of an Advisory Planning Committee versus the establishment of an Advisory Planning Commission.

CARRIED

Councillor Kirby against the motion

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That staff be directed to report back on a potential revision of the Terms of Reference for the proposed Advisory Planning Committee, with a more focused mandate to prioritize bylaw revisions for the Official Community Plan, while also accommodating potential referrals from Council on substantial developments.

This motion was withdrawn with the consensus of the Committee.

MOVED by Councillor Murdoch

Seconded by Councillor Braithwaite, That staff be directed to report back on other potential configurations for advisory bodies that would separate consideration of land use items from Official Community Plan implementation, taking into account the possibility of working groups.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Zhelka, That staff be directed to provide revised Terms of Reference wording with respect to membership on the proposed Advisory Planning Committee, and that this wording take a less prescriptive approach, allowing for Council to prioritize certain kinds of expertise on the proposed Committee.

CARRIED

ADJOURNMENT:

13 ***Motion to Adjourn to In Camera Meeting***

Moved by Councillor Murdoch

Seconded by Councillor Zhelka, That the open portion of the Committee of the Whole 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; and the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

The meeting adjourned at 10:45 p.m.

Certified Correct

Municipal Clerk

Chair