

MINUTES of a meeting of the COMMITTEE OF THE WHOLE of the Municipal Council of The Corporation of the District of Oak Bay, held at Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Victoria, B.C., on Monday, May 16, 2016, at 7:00 PM.

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

STAFF: Chief Administrative Officer, H. Koning
Acting Director of Corporate Services, M. Jones
Director of Financial Services, D. Carter
Deputy Director of Financial Services, F. Pimentel
Acting Director of Engineering Service, D. Brozuk
Planner, D. Jensen
Acting Deputy Director of Corporate Services, D. Schaffer

The Chair called the meeting to order at 7:00 PM.

PARKS AND RECREATION ITEMS:

1. ***Parks, Recreation and Culture Commission (PR&CComm) Minutes***
 - Note - Acting Director of Corporate Services - PR&CComm Minutes, May 4, 2016
 - Minutes - PR&CComm – May 4, 2016
 - Rpt. Attach. 1 – Program Reports Apr. 2016
 - Rpt. Attach. 2 – Finance Summary May 2016
 - Rpt. Attach. 3 – Staff Reports

Ray Herman, Director of Parks, Recreation and Culture, in attendance for this item.

The Director of Parks, Recreation and Culture outlined for Committee the significant events of the May 4 meeting of the PR&CComm, noting that there were discussions about controlled burning in Uplands Park, dog control issues at Windsor Park and Cattle Point, the recommended amendments to the Animal Control Bylaw and formation of a subcommittee of the PR&CComm to study that issue, and the purchase of public art.

Discussion ensued regarding the rationale for the proposed changes to the Animal Control Bylaw, with the Director noting that the desire is to protect the endangered plant species and at-risk animal and bird species in the natural areas of the parks on a consistent basis. It was noted by Committee that further restricting access by dog owners to areas where dogs can swim could create concerns if robust education and engagement on the issue did not take place, and that federal regulations now denote most of the shoreline area as a migratory bird sanctuary.

Mr. Herman noted that it is unlikely that a solution could be found that would make everyone happy, and that the designation of Mary Todd Island as an on-leash area formalizes the existing direction that off-leash dogs are not wanted on the island due to existing endangered plant species.

MOVED and seconded: That the minutes of the meeting of the Oak Bay Parks Recreation and Culture Commission held on May 4, 2016, and the recommendations contained therein, be adopted except for the recommendations in regards to amendments to the animal control bylaw and the recommendation with respect to purchase of public art.

CARRIED

MOVED and seconded: That the recommendation from the Parks, Recreation and Culture Commission at their May 4, 2016 meeting with respect to the purchase of the sculpture “Rebirth” with funds from the Public Art Fund be brought forward to a future meeting of Council.

CARRIED

MOVED and seconded: That the issue of amendments to the Animal Control Bylaw be referred back to the Parks, Recreation and Culture Commission, to be brought back to Committee of the Whole as part of a comprehensive report in the context of the other issues regarding dog control in parks.

CARRIED

FINANCE ITEM(S):

2. ***Monthly Financial Report***

- Memo – Director of Financial Services, May 12, 2016

The Director provided an overview of her report and noted that no anomalies had been found in expenditures made to date.

In response to a question from Committee, the Deputy Director of Financial Services provided an update on the Geographical Information System (GIS) upgrade.

MOVED and seconded: That the report from the Director of Financial Services dated May 12, 2016, be received for information.

CARRIED

ENGINEERING SERVICES ITEMS:

3. ***Uplands Combined Sewer Separation Project – Assessing Service Installs and Tree Damage***

- Memo – Acting Director of Engineering Services, May 9, 2016

The Acting Director of Engineering Services provided an overview of his report.

In response to questions from Committee, the Acting Director noted that the survey found very few trees impacted by installation of services and suggested that Engineering and Public Works crews try to do installations in locations that will have the least possible impact on the health of trees, and that District departments are working together to minimize damage to trees.

MOVED and seconded: That the report from the Acting Director of Engineering Services dated May 9, 2016, be received for information.

Ron Carter, Oak Bay resident, said he hoped that advance planning will be done to allow trenches for the new Uplands sewer system to steer clear of and avoid damage to existing trees. The Chief Administrative Officer noted that this discussion is just one of a number of steps Council has to take before making its decision and that his concerns are duly noted.

The question was then called.

CARRIED

4. ***Uplands Combined Sewer Separation Project – Presentation on Trenchless Technologies***

- Memo – Acting Director of Engineering Services, May 10, 2016

Mr. Jack Hull, Project Manager, and Mr. David O’Sullivan, PW Trenchless Construction Inc., in attendance for this item.

The Acting Director introduced Mr. Hull and Mr. O’Sullivan. Mr. O’Sullivan then provided information about trenchless technologies, particularly in regard to horizontal directional drilling (HDD) and its possible application to the Uplands Combined Sewer Separation project, emphasizing the following points: the constraints on the use of HDD due to the size of the equipment, the space needed to deploy the equipment, the cost of drilling, and the limitations due to geotechnical issues.

Discussion ensued during which Committee raised a number of issues, including the potential impact of HDD on easements and surrounding properties, as well as the impact of soil conditions and tree roots on the applicability of the technology. Mr. O’Sullivan noted that while cities tried HDD for sewerage installation in the 1990s, the results were not satisfactory, creating sewers that are not true to line or grade, tend toward ponding and blockage, and are hard to maintain. Mr. Hull noted that HDD is not suitable for use in easements since many of the easements in Oak Bay are curved, have tree roots in them and are on private property; tree roots and large rocks tend to deflect the HDD equipment off line and create uneven grades.

In response to questions from Committee, Mr. O’Sullivan noted that while HDD can be used in certain circumstances for installation of sewerage, care must be taken; he also noted that in order to accomplish the goals of the project, multiple mobilizations of the equipment would be required at a cost of \$20,000 to \$35,000 per mobilization. He said that if the technology were to be used it would be best to keep it away from existing sewers as the technology migrates toward disturbed ground, since it is softer than undisturbed ground, and that its use would destroy the existing sewers.

Asked if pipe-in-pipe technology could be used, both consultants advised against it because of maintenance issues.

Derek Thompson, Oak Bay resident, asked if this information meant that using HDD to install a pipe next to an existing pipe would be technically difficult; Mr. Hull noted that because of uncertainty about exactly where the pipes lay in an easement, it would be risky to attempt that.

Don McCarthy, Oak Bay resident, asked if it is possible to use the system to put fields into a property to deal with roof runoff. Mr. Hull noted that such a plan would be dependent on soil type and noted that HDD systems can be damaging to tree roots.

Paul Worsley, Oak Bay resident, asked about the size of equipment and whether or not pipe bursting could be used to install a pipe beside an existing pipe. It was noted that the size of equipment varied with the size of the pipe installation, and that pipe bursting can only be done with an existing pipe and can't be used to create a new grade.

MOVED and seconded: That the report from the Acting Director of Engineering Services dated May 10, 2016, and the presentation from Mr. Hull and Mr. O'Sullivan be received for information.

CARRIED

LAND USE APPLICATIONS:

5. ***Uplands Siting and Design (USD) Application: 3605 Cadboro Bay Road***
- Report – Director of Building and Planning, May 9, 2016
 - Plans – ADP – 3605 Cadboro Bay Road, Apr. 19, 2016

Rus Collins, agent for the applicant, was in attendance for this item.

The Planner provided an overview of the application.

MOVED and seconded: That it be recommended to Council that the proposal to construct the patio with living space below and excavate the crawl space for additional area, along with the guard design changes at 3605 Cadboro Bay Road, as outlined in the May 9, 2016 report for ADP00046, be approved as to architectural design.

No members of the public offered input on the application.

The question was then called.

CARRIED

6. ***Uplands Siting and Design (USD) Application – 3235 Midland Road***
- Report – Director of Building and Planning, May 9, 2016
 - Plans – ADP – 3235 Midland, April 1, 2016

Michael Murgatroyd, applicant, was in attendance for this item.

The Planner provided an overview of the application.

MOVED and seconded: That it be recommended to Council that the proposal to construct an enclosure of an existing deck to the principal building at 3235 Midland Road, as outlined in the May 9, 2016 report for ADP00044, be approved as to architectural design.

No members of the public offered input on the application.

The question was then called.

CARRIED

7. ***Development Permit (DP) Application – 1660 Monterey Avenue***

- Report – Planner, April 15, 2016
- Plans – DP000001– 1660 Monterey Ave., Jan. 20, 2016

Don McCarthy and Catherine McCarthy, applicants, were in attendance for this item.

The Planner provided an overview of the application.

In response to a question from Committee regarding whether a covenant is the most appropriate method of preservation, Mr. McCarthy noted that the covenant was requested in order to protect the native plantings into the future.

Discussion ensued regarding the intent of the proposed covenant and its reflection of the goals of the watercourse development permit area.

MOVED and seconded: That it be recommended to Council that the proposal to construct a principal building at 1660 Monterey Avenue be approved subject to the issuance of a development permit, and further that a resolution authorizing the issuance of a development permit, as outlined in the April 16, 2016 report for DP000001, be prepared and brought forward to a meeting of Council for consideration.

No members of the public offered input on the application.

The question was then called.

CARRIED

8. ***Development Permit (DP) with Variance Application – 1231 Beach Drive
Development Variance Permit (DVP) Application – 1237 Beach Drive***

- Report – Planner, Apr. 15, 2016
- Plans – DP000011 – (A1, A7, A8, A9) 1231 Beach Dr. March 31, 2016
- Plan – Planting Enhancement – 1231 Beach Dr. Mar. 31, 2016
- Plan – DVP00043 – (A2) 1237 Beach Dr.

Applicants Michael Jawl and Catherine Jawl, Charles Kierulf, architect, and Tracy Motyer, Aqua-Tex Scientific Consulting, were in attendance for this item.

The Planner provided an overview of the application.

Discussion ensued around the appropriateness of the mechanism of the covenant and whether or not it achieves the goals of the development permit area, whether or not it is necessary to remove the large weeping willow tree on the lot, and whether or not the covenant would run with the property to ensure that restoration and enhancement of the natural areas would be achieved in perpetuity.

Further discussion centred around the willow tree and whether a compromise can be reached whereby the goals of the development permit area can be achieved on the rest of the property while leaving the tree intact.

MOVED and seconded: That it be recommended to Council that the proposal to:

- a) Construct a principal building at 1231 Beach Drive be approved as to architectural design and siting;
- b) Increase the maximum paved surface within a front yard, and relax the minimum permitted setbacks for the front lot line and second storey setback at 1231 Beach Drive;

be approved subject to the issuance of a development permit with variances, and further that a resolution authorizing the issuance of a development permit with variances, as outlined in the April 15, 2016 report for DP000011, be prepared and brought forward to a meeting of Council for consideration; and

- c) Relax the minimum permitted setback for the interior side lot line at 1237 Beach Drive;

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 April 15, 2016 report for DVP00043, be prepared and brought forward to a meeting of Council for consideration.

Responding to questions from Council, the Planner noted that the intent of the covenant was to maintain native vegetation generally, not specific species, and to protect areas in the long term; she stated that it would not stop the owner of the property from undertaking maintenance or other reasonable actions to optimize growth of those plants.

No members of the public offered input on the application.

The question was then called.

CARRIED

9. ***Development Permit (DP) Application – 3155 Beach Drive***
 - Report – Planner, Mar. 29, 2016
 - Plans – DP000010 – 3155 Beach Drive, Feb. 01, 2016

Terry Hopwood, applicant, and Mark Williams, agent for applicant, in attendance for this item.

The Planner provided an overview of the application, noting that a portion of the proposed project falls within the 15m setback of the Shorelines Development Permit Area.

In response to questions from Council, the applicant noted his objection to the condition of a covenant as part of the process, stating that the regulations outlined in the development permit area already protect native plants, and since the regulations bind future owners of the property the covenant is not necessary.

In response to a question from Committee, the Planner noted that since the guidelines are general in nature, the development permit does not guarantee the protection of the area of setback, and that the intent is to seek protection for sensitive areas in the long term.

MOVED and seconded: That it be recommended to Council that the proposal to construct a patio structure at 3155 Beach Drive be approved subject to the issuance of a development permit, and further that a resolution authorizing the issuance of a development permit, as outlined in the April 15, 2016 report for DP000010, be prepared and brought forward to a meeting of Council for consideration, with the exception that a covenant as noted in the report not be required.

Discussion ensued about the exception as proposed in the motion and whether or not it is equitable to treat this application differently than others that have come before with regard to the requirement for a covenant.

MOVED and seconded: That the motion be amended to remove the final clause of the motion regarding the exclusion of a covenant from the process.

CARRIED

No members of the public offered input on the application.

The question on the main motion was then called.

CARRIED

ADJOURNMENT:

11. *Motion to Adjourn*

MOVED and seconded: That the meeting be adjourned.

CARRIED

The meeting adjourned at 9:36 PM.

Certified Correct:

Councillor Ney, Chair

Acting Director of Corporate Services