

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, November 13, 2012 at 7:30 p.m.

PRESENT: Mayor N. B. Jensen, Chairman
Councillor P. Copley
Councillor C. Green
Councillor J. Herbert
Councillor M. Kirby
Councillor K. Murdoch
Councillor T. Ney, *via electronic communication*

STAFF: Municipal Administrator, M. Brennan
Municipal Clerk, L. Hilton
Deputy Municipal Clerk, M. Jones
Director of Building and Planning, R. Thomassen
Director of Engineering Services, D. Marshall
Municipal Treasurer, P. Walker

Mayor Jensen called the meeting to order at 7:31 p.m.

ADOPTION OF MINUTES:

Council – October 22, 2012

MOVED by Councillor Green

Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, October 22, 2012, be adopted.

CARRIED

MAYOR'S REMARKS:

Mayor Jensen invited all in attendance to the launch of Oak Bay's new website on November 19, 2012 at 7:00 p.m. in Council Chambers. He welcomed Oak's Restaurant and Grill and Fawn Children's Boutique to Oak Bay Village, noting that this spoke to the vibrancy of the area.

The Mayor also stated that he recently attend the 50th anniversary celebrations for the University of Victoria which included the launching of a photography exhibit.

PUBLIC PARTICIPATION PERIOD:

Michelle Coburn, resident, spoke in support of the Capital Regional District's Sewage Treatment Project, noting that she had been following this issue for several years. Ms. Coburn stated she was concerned with the proposed public/private partnership for this project and was supportive of that element being eliminated. Of the many individuals she has spoken to regarding the project, she said, none have expressed that it shouldn't continue. She commented that the planet can only sustain so much damage and that it is our responsibility to do something. In conclusion, she questioned the effectiveness of the diffusion of sewage and stated that sewage is likely having an impact on shellfish and marine life.

A resident spoke in support of the Capital Regional District's Sewage Treatment Project, noting that the resolution to be considered by Council later in the meeting would have been useful if it was made several years ago, but could be problematic at this point. He stated that there has already been extensive discussion on this issue and that he is concerned a solution will be imposed by higher levels of government if the discussions continue. Though there is not scientific support for the

project, he said, the precautionary principle indicates that prevention is the best approach to potential environmental issues. He commented that he is concerned regarding the cumulative impact of pollution and that this is also a moral and political issue. If we do not treat our own sewage, he said, it will be difficult to require cruise ships to treat their sewage. He concluded his remarks stating that there is currently no effective sewage treatment in Victoria.

Ian McDonald, resident stated that both the current and proposed sewage treatment systems will have environmental consequences. Given the associated costs, he said, it would be irresponsible not to first determine what the actual impact will be to the environment before proceeding.

COMMUNICATIONS:

1. 2012-316 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, November 8, 2012
Re Requested Amendment to Oak Bay Christmas Festival Road Closure

MOVED by Councillor Herbert

Seconded by Councillor Kirby, That the Oak Bay Business Improvement Association's request to amend the Oak Bay Avenue road closure on Sunday November 25, 2012 to the new time of 11:00 a.m. to 7:00 p.m., in order to facilitate removal of the equipment for the Oak Bay Christmas Festival Light Up Day, be approved, subject to the same terms and conditions attached to the original approval given on October 22, 2012.

CARRIED

2. 2012-314 DIRECTOR OF BUILDING AND PLANNING, October 16, 2012
2012-317 DENNIS MCCARTHY, November 4, 2012
Re Application for Rezoning for Duplex Use – 757/767 St. Patrick Street

At the request of Council, Sally Hubbard, applicant, spoke to the proposed rezoning for 757/767 St. Patrick Street. Ms. Hubbard stated that the existing dwelling is going to require significant renovations and that, given the significant size of the subject property, they would like to see the existing duplex use continued. She noted that they are looking to begin renovations in the next five years.

A discussion ensued with members of Council noting that, as the Official Community Plan (OCP) Review will include consideration of various housing options, such as duplexes, and given that the proposed renovations are not proceeding immediately, it would be useful to allow the review process to proceed prior to considering this individual application for duplex zoning.

Ms. Hubbard expressed that, given the expected timeline for completion, it would make sense to wait until the OCP review was completed before addressing the rezoning of 757/767 St. Patrick Street.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the application to rezone 757/767 St. Patrick Street for duplex use be declined.

CARRIED

3. 2012-318 [REDACTED], October 21, 2012
2012-318-1 MUNICIPAL CLERK, November 4, 2012
Re Tree Protection Bylaw – Application for Reconsideration of Permit Refusal, 3145 Midland Road

██████████ applicant, stated that he is concerned with the safety of his family as a result of the tree branches from the tree located on his neighbour's property that extend over the driveway, which is the only access to his house.

Responding to questions from Council, Mr. ██████ noted that he has not had the opportunity to discuss the proposed tree pruning with his new neighbour, but that the previous neighbour was supportive. He stated that the tree pruning work which was approved has not been undertaken as it would not be sufficient to address the issues with the tree. Applying for reconsideration of the extent of the permitted pruning work seemed preferable, he said.

Mr. ██████ confirmed that some limbs of the tree appear to be dead, saying that he is concerned these limbs will fall on those passing underneath. He stated that the limbs which need to be removed are more than 7 inches in diameter, which exceeds the size for which pruning was approved.

In response to questions from Council, the Administrator reviewed the approved tree pruning work, as outlined in the tree work application and permit no. 2480.

A discussion ensued and members of Council requested clarification regarding the extent to which the removal of deadwood had been approved and identification of the specific limbs for which the permit allowed pruning to a greater diameter than 3 inches.

Members of Council expressed that clarification is needed regarding the health of the tree, what testing of the tree has been undertaken, and the specifics of the pruning previously approved by the Manager of Parks. It was also noted that it would be beneficial for Mr. ██████ to contact his neighbour regarding the proposal.

MOVED by Councillor Copley

Seconded by Councillor Green, That the application for reconsideration under the Tree Protection Bylaw of a permit refusal for 3145 Midland Road be deferred to a subsequent meeting to allow further clarification by staff.

CARRIED

4. 2012-319 PENINSULA RUNNERS, November 6, 2012
Re Request for Road Closures for Oak Bay Half Marathon & 5km – May 26, 2013

Dave Milne, Peninsula Runners, noted that the plans for the Oak Bay Half Marathon in 2013 are very similar to those in previous years, with the most significant change being that the marathon will not be held on Mother's Day. The requested road closure will also be half an hour later than in previous years to provide more time for the rental company to pick up their tents.

Mr. Milne clarified that the road closure request included the portion of Oak Bay Avenue just east of Elgin Road, not west as was described in correspondence item no. 2012-319.

MOVED by Councillor Green

Seconded by Councillor Murdoch, That permission be granted for the temporary road closures and occupancy of the roads detailed in correspondence item no. 2012-319, with the exception of the closure of Oak Bay Avenue which will begin east of Elgin Road, for the staging of the 2013 Oak Bay Half Marathon Events on Sunday, May 26, 2013, 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 providing 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 provide sufficient notice to all property owners along the proposed route,

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

CARRIED

5. 2012-320 OAK BAY HERITAGE COMMISSION MINUTES, October 16, 2012
Re Minutes of Meeting

Councillor Green noted that there are two more Heritage Focus Groups upcoming at the Municipal Hall on November 15, 2012 and November 17, 2012.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the minutes of the October 16, 2012 Oak Bay Heritage Commission meeting be received.

CARRIED

6. 2012-321 ACTIVE TRANSPORTATION ADVISORY COMMITTEE, October 30,
2012
Re Minutes of Meeting

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That the Active Transportation Advisory Committee's request to present proposed operational and strategic priorities at a Committee of the Whole meeting be approved.

Members of Council expressed appreciation for the willingness of the Active Transportation Advisory Committee's members to make a presentation on these items. It was also noted that it would be best to consider the presentation in advance of budget deliberations.

The question was then called.

CARRIED

MOVED by Councillor Copley

Seconded by Councillor Murdoch, That the minutes of the October 30, 2012 Active Transportation Advisory Committee meeting be received.

CARRIED

7. 2012-322 ROYAL VICTORIA YACHT CLUB, October 16, 2012
2012-322-1 MUNICIPAL CLERK, October 30, 2012
Re Sea of Lights Event – December 7, 2012

MOVED by Councillor Herbert

Seconded by Councillor Green, That , in relation to the Sea of Lights Event, the activities planned for Willows Beach, on December 7, 2012 be approved as a Municipal Event, including the lighting of a bonfire pursuant to Section 46 of the Fire Regulation Bylaw.

CARRIED

MOVED by Councillor Kirby,
Seconded by Councillor Green, That staff be directed to provide a report on permitting open burning on beaches in the winter.

It was noted that the staff report should include information on whether open burning of this nature is permitted in other urban coastal communities

CARRIED

8. 2012-323 GREATER VICTORIA PUBLIC LIBRARY BOARD, October 31, 2012
Re 2013 Operating Budget and Five Year Financial Plan - Provisional

Members of Council asked for clarification on the increase in building occupancy expenses and insurance in the 2013 Provisional Operating Budget and the reasoning behind showing no increase in donations in the Five Year Financial Plan despite the intention of increasing donation revenues over that time period.

Other topics raised included: the success of public library use; the value of developing other sources of revenue; the status of the relocation of the main branch; the challenge of providing expanded service to the western communities and the impact of electronic media on revenue.

Councillor Murdoch agreed to look into the issues raised as Oak Bay's Greater Victoria Public Library Board representative.

MOVED by Councillor Murdoch,
Seconded by Councillor Copley, That correspondence item no. 2012-323 be received.

CARRIED

9. 2012-324 GREATER VICTORIA SCHOOL DISTRICT, November 9, 2012
Re Access to Goldsmith Street Parking Lot

MOVED by Councillor Kirby,
Seconded by Councillor Murdoch, That correspondence item no. 2012-324 be received.

CARRIED

10. 2012-325 REBECCA WARBURTON, November 12, 2012
2012-325-1 TYLER AHLGREN, November 13, 2012
Re Resolution Request for Environmental Study of Land-Based Liquid Waste Treatment Project

MOVED by Councillor Murdoch,
Seconded by Councillor Green, That correspondence items no. 2012-325 and 2012-325-1 be received.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

No items of new business were raised.

TABLED:

Development Variance Permit – 2196 Lafayette Street

MOVED by Councillor Herbert

Seconded by Councillor Copley, 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 2196 Lafayette Street (Parcel B (DD 121297-1) of Lots 15 and 16, Section 22, Victoria District, Plan 1022), varying the following provision of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Required /Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (6) (a) Maximum gross floor area above .8 metres below grade	240 m ²	287 m ²	47 m ²
6.5.4. (11) Minimum second storey side lot line setback	3.0 m	2.37 m	0.63 m

to accommodate the construction of an addition to the existing residence as shown on the plans appended to Committee of the Whole agenda item 2012-309 being a memorandum from the Director of Building and Planning dated October 11, 2012.

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 – 2258 Pacific Avenue

MOVED by Councillor Herbert

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 2258 Pacific Avenue (Lot 8, Section 61, Victoria District, Plan 5527), varying the following provision of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Required /Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (6) (a) Maximum gross floor area above .8 metres below grade	240 m ²	280 m ²	40 m ²
6.5.4. (6) (a) Maximum gross floor area	360 m ²	377 m ²	17 m ²

to accommodate the proposed addition to the existing residence as shown on the plans appended to Committee of the Whole agenda item 2012-310 being a memorandum from the Director of Building and Planning dated October 11, 2012.

CARRIED

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

CARRIED

RESOLUTIONS:

December Meeting Schedule

MOVED by Councillor Copley

Seconded by Councillor Herbert, That Council's regular meeting schedule be suspended for the month of December 2012, and that the following schedule be substituted:

December 2012

Committee of the Whole
Council

Monday, December 3, 2012 @ 7:00 p.m.
Monday, December 10, 2012 @ 7:30 p.m.

CARRIED

Request for Environmental Study of Land-Based Liquid Waste Treatment Project

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That:

WHEREAS the District of Oak Bay has a strong commitment to environmental stewardship of our air, land and water; and

WHEREAS concerns have been raised about the potential detrimental environmental impact of the Capital Regional District's (CRD) proposed land-based liquid waste treatment project; and

WHEREAS the benefits of the CRD'S proposed land-based liquid waste treatment project have been questioned by leading scientists; and

WHEREAS there has been no independent comparative environmental impact assessment of the current and proposed system for disposing of liquid waste;

THEREFORE BE IT RESOLVED that Oak Bay Council request the CRD, in collaboration with and with the consent of the federal and provincial governments, to jointly fund a full environmental study that will assess the comparative environmental impact of the current process and proposed process for disposing of liquid waste before the CRD plans are finalized; and

BE IT FURTHER RESOLVED that a copy of this motion be sent to the Prime Minister, the Premier, the Chair of the CRD and the six other communities participating in the CRD Core Area Liquid Waste Management Committee.

Jack Hull, Capital Regional District, Interim Project Director for the Core Area Wastewater Treatment Program, responded to questions from Council on potential methods for cost allocation for the project, as well as federal and provincial wastewater treatment regulations. Mr. Hull spoke to

the reasoning not to undertake a comparative assessment of the current and proposed processes and described his role in the process with respect to implementation of the project.

A discussion ensued with members of Council commenting on the issues with respect to the process for determining the region's liquid waste treatment system and varying views and opinions were noted. It was noted that the intention of the proposed resolution is not to halt the current process or to jeopardize existing funding for the project, but rather to ensure that sufficient information is provided to ensure that the final project will have a net benefit to the environment that is in keeping with the cost of the project.

The question was then called.

CARRIED

BYLAWS:

Oak Bay High School Redevelopment

Councillor Herbert expressed his concerns with regards to the following bylaws, noting that though he is in favour of a new school, the Greater Victoria School District is requesting a rezoning without allowing Council input into the building height, design, the request for proposal, or the assessment of submissions to the request for proposal. He stated that the School District has not provided a traffic plan as they indicated they would and that an agreement should be made which holds the School District responsible for any costs associated with changes needed to the roadways as a result of the redevelopment project.

Turning to the issue of parking, Councillor Herbert stated that there will be less parking available on site than is currently provided, which will have a serious effect on the Oak Bay Recreation Centre. The letter provided by the Superintendent of Schools with respect to the Goldsmith Street parking lot is insufficient, he said, given that an agreement was requested. He stated the School District should be required to recognize the Municipality's ownership of the Goldsmith Street parking lot and that the Municipality should control the parking lot's ticketing system. He concluded his remarks by stating that the neighbours' concerns should be addressed.

In response to questions from Council, the Administrator stated that the letter provided by the Superintendent of Schools is a piece of correspondence from an employee and does not have the legal force of a contract. Mr. Brennan noted that this is a letter of assurance from a School District representative regarding the School District's position at this time.

Councillor Copley noted that she was initially skeptical of the redevelopment plans, but that she has been assured that there has been considerable discussion on the redevelopment. She stated that she was in favour of resolving the use and ownership issues of the Goldsmith Street parking lot within the time period identified in the letter provided by the Superintendent of Schools.

Councillor Ney spoke to the good will from both the School District and other stakeholders in the redevelopment project, noting that though the letter provided by the Superintendent of Schools is not a legal document, the proponents have been responsive to the community since the project's inception.

Councillor Kirby stated that Council will have further opportunities for input after the request for proposal submissions have been received and that members of Council will continue to meet with the project committee, as well as representatives from the School District and Oak Bay High School, in order to see that the concerns raised and assurances provided throughout the public engagement process are incorporated into the project. She commented that the traffic impact study

should be forthcoming and will address concerns from the Active Transportation Advisory Committee.

With respect to the Goldsmith Street Parking Lot, Councillor Kirby noted that the paving will be an improvement to the current field which becomes unpleasant to use in inclement weather. The project, she said, will need to achieve a gold level of Leadership in Energy and Design (LEED) certification, which will require the use of low lighting and on site stormwater management.

Councillor Murdoch indicated that, though he supports most aspects of the redevelopment, he has some concerns that have not been addressed. He noted that he feels there is good will on the part of the School District and that the project is supportable, given the benefits to the community and the importance of the associated timelines. A traffic impact study, he said, could have been provided, and that the letter from the Superintendent of Schools is not sufficient legal assurance with respect to the Goldsmith Street parking lot. He concluded his remarks, commenting that there are issues raised by residents neighbouring the parking lot that have not been addressed.

Mayor Jensen noted that there had been good will and good faith throughout the process and that incorporating the Neighbourhood Learning Centre into the project would be a significant benefit to the community. The Mayor commented that residents' concerns with respect to lighting and noise were discussed at the Public Hearing and that the School District will ensure that the redevelopment results in a leading-edge project with respect to design, sustainability and community space. He concluded his remarks, noting that one of the many community benefits of the redevelopment project would be the rejuvenation of Bowker Creek.

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That Bylaw No. 4570, *Oak Bay Official Community Plan Bylaw, Amendment Bylaw, No. 1, 2012* be adopted.

CARRIED

Councillor Herbert against the motion

MOVED by Councillor Green

Seconded by Councillor Murdoch, That Bylaw No. 4571, *Eighty-Ninth Zoning Bylaw Amendment Bylaw, 2012* be adopted.

CARRIED

Councillor Herbert against the motion

MOVED by Councillor Copley

Seconded by Councillor Kirby, That Bylaw No. 4572, *Ninetyth Zoning Bylaw Amendment Bylaw, 2012* be adopted.

CARRIED

Councillor Herbert against the motion

MOVED by Councillor Kirby,

Seconded by Councillor Copley, That Bylaw No. 4573, *Parking Facilities Bylaw Amendment Bylaw, No. 1, 2012* be adopted.

CARRIED

Councillors Herbert and Murdoch against the motion

Dave Thomson, Oak Bay High School, Principal, responded to questions from Council with respect to making available appropriate sections of the Statement of Requirements and the timing for the work on the Bowker Creek riparian area. Mr. Thomson also commented on the Goldsmith Street parking lot, assuring that it would be paved and that issues with respect to noise and light would be addressed. He also noted that the School District recognizes the Municipality's ownership of the parking lot and that the Municipality will manage the associated parking permits, with the understanding that sufficient permits be provided for students and school staff. He concluded his responses, noting that procurement services for the project are now being undertaken by Partnerships BC.

Mayor and Councillors Annual Indemnity Bylaw

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That Bylaw No. 4578, *Mayor and Councillors Annual Indemnity Bylaw, 2013* be introduced and read a first time.

CARRIED

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That Bylaw No. 4578, *Mayor and Councillors Annual Indemnity Bylaw, 2013* be read a second time.

CARRIED

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, That Bylaw No. 4578, *Mayor and Councillors Annual Indemnity Bylaw, 2013* be read a third time.

CARRIED

ADJOURNMENT:

MOVED by Councillor Kirby

Seconded by Councillor Herbert, That the open portion of the meeting of Council 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.

CARRIED

The meeting adjourned 9:29 p.m.

Certified Correct:

Municipal Clerk

Mayor