

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

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

STAFF: Municipal Administrator, M. Brennan
Municipal Clerk, L. Hilton
Director of Building and Planning, R. Thomassen
Municipal Treasurer, P. Walker

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

ADOPTION OF MINUTES:

Council – January 23, 2012

MOVED by Councillor Ney
Seconded by Councillor Copley, That the minutes of the Council meeting held on Monday, January 23, 2012, be adopted.

CARRIED

Committee of the Whole – February 6, 2012

MOVED by Councillor Copley
Seconded by Councillor Ney, That the minutes of Committee of the Whole meeting held on Monday, February 6, 2012, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2012-53 DAVID AND HEATHER GLOWICKI, February 8, 2012
- 2012-53-1 MARY KERR AND JOHN ARMITAGE, February 9, 2012
- 2012-53-2 AVITAL CHERNIAWSKY, February 9, 2012
- 2012-53-3 MARK PARSONS, February 7, 2012
- 2012-53-4 JOAN HEAGLE, February 10, 2012
- 2012-53-5 T. CHERNIAWSKY, February 13, 2012
- 2012-52 JEAN SPARKS, January 27, 2012
- 2012-52-1 S.B. JULIAN et al, January 28, 2012
- 2012-43 DIRECTOR OF BUILDING AND PLANNING, January 20, 2012
- 2012-43-1 COX, TAYLOR BARRISTERS & SOLICITORS, January 12, 2012
- 2012-43-2 JEAN SPARKS, January 22, 2012
- 2012-43-3 DAVID AND HEATHER GLOWICKI, January 18, 2012
Re Temporary Protection Order/Heritage Commission Recommendation –
1231 Victoria Avenue

Responding to questions, the Municipal Administrator reviewed Council's options in respect to pursuing legal protection of the property at 1231 Victoria Avenue, outlining the process that should be followed unless the Temporary Protection Order was lifted or left to expire at the end of the 60 day period.

MOVED by Councillor Herbert

Seconded by Councillor Murdoch, That the Temporary Protection Order against 1231 Victoria Avenue be lifted.

The property owners were invited to address Council as they had requested to do, and Mr. and Mrs. Glowicki relayed their thoughts and feelings with respect to the process that had unfolded regarding their property, and their reasons for wanting to demolish the house, which had been a difficult choice to make.

Members of Council provided their individual views on whether or not further information was required prior to making a decision, or if the Temporary Protection Order should be lifted, and it was the prevailing view that formal designation should not be pursued in this particular case.

Discussion turned to the need for a Heritage Strategic Plan and members of Council expressed their appreciation and support for the work of the Heritage Commission, and noted their confidence in the Commission's ability to assist the community by working towards a proactive heritage program that would mitigate the demolition of valued heritage properties.

The question was then called.

CARRIED

2. 2012-54 MUNICIPAL CLERK, February 2, 2012
Re Bylaw Enforcement – Recommendation to File Contravention Notice
Against Title – 1251 Victoria Avenue

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Municipal Clerk be authorized to file a Bylaw Contravention Notice in the Victoria Land Title Office stating that a resolution has been adopted pursuant to Section 57 of the Community Charter by Oak Bay Municipal Council, relating to land legally described as Lot 4, Block 1, Section 23, Victoria District, Plan 1091, and that further information respecting the resolution may be inspected at the Office of the Municipal Clerk at 2167 Oak Bay Avenue, Victoria, BC V8R 1G2, from 8:30 a.m. to 4:30 p.m., Monday to Friday, excluding holidays.

CARRIED

3. 2012-55 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, January 30, 2012
Re Request to Close Oak Bay Avenue for Oak Bay Village Night Market
Events

MOVED by Councillor Herbert

Seconded by Councillor Copley, That whereas pursuant to the Streets and Traffic Bylaw Council has determined that the proposed event will be of general benefit to the adjacent business district and will create no undue inconvenience for nearby residents nor the public at large, approval be given for the Oak Bay Business Improvement Association to occupy Oak Bay Avenue between Wilmot Place and Monterey Avenue for the purpose of an evening market on June 20, July 18, August 15, and September 19, 2012 from 3:00 o'clock p.m. to 9:00 o'clock p.m., with sales of

goods and refreshments permitted as part of the occupancy, subject to the Oak Bay Business Improvement Association entering into a public property occupancy agreement under which it will among other standard requirements as set out by the Municipal Clerk:

- 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; and
- 3) agree to obtain Oak Bay Police approval for a traffic plan and implement the same subject to any field instructions from the Police,

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

CARRIED

4. 2012-56 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, January 30, 2012
Re Request to Occupy Public Sidewalks – Oak Bay Village Spring Sidewalk Sale

MOVED by Councillor Herbert

Seconded by Councillor Green, That, whereas pursuant to the Streets and Traffic Bylaw Council has made the determination that the proposed event, including the sales of goods and refreshments, will be of general benefit to the adjacent business district and will create no undue inconvenience for adjacent residents or the public at large, approval be given to the Oak Bay Business Improvement Association to occupy public sidewalks adjacent to businesses along Oak Bay Avenue for the purpose of the Oak Bay Village Spring Sidewalk Sale to be held on Friday and Saturday, May 13 and 14, 2011, subject to the Oak Bay Business Improvement Association entering into a public property occupancy agreement under which it will among other standard requirements as set out by the Municipal Clerk:

- 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;

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

CARRIED

5. 2012-57 OAK BAY VOLUNTEER SERVICES SOCIETY, February 4, 2012
Re Request for Financial Assistance

MOVED by Councillor Copley

Seconded by Councillor Green, That the request for financial assistance from the Oak Bay Volunteer Services Society in the amount of \$26,000 be referred to Council's Estimates Committee for consideration during budget deliberations.

There was consensus that more up to date financial statements be requested from the Society prior to budget deliberations.

The question was then called.

CARRIED

6. 2012-58 OAK BAY MUNICIPAL TREASURER, February 8, 2012
2012-58-1 ERIC W. W. FEILDEN, (undated)
Re Request to Write Off Penalty on Unpaid Taxes

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.

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 Herbert

Seconded by Councillor Green, That correspondence items no. 2012-58 and 2012-58-1 be received.

CARRIED

(Councillor Kirby and Mayor Jensen against the motion)

7. 2012-59 OAK BAY HERITAGE COMMISSION, January 17, 2012
Re Minutes of the Meeting

MOVED by Councillor Green

Seconded by Councillor Ney, That the minutes of the Oak Bay Heritage Commission meeting held on January 17, 2012 be received.

CARRIED

8. 2012-60 OAK BAY MUNICIPAL TREASURER, February 5, 2012
Re Request for Early Approval of 2012 Capital Purchase

MOVED by Councillor Herbert

Seconded by Councillor Ney, That early spending approval be given for the Engineering Department capital purchase to upgrade its Geographic Information System, as outlined in correspondence item no. 2012-60, being a memorandum from the Municipal Treasurer dated February 5, 2012.

CARRIED

9. 2012-61 CAPITAL REGIONAL DISTRICT, January 20, 2012
Re Membership – Capital Regional District Solid Waste Advisory
Committee

MOVED by Councillor Herbert

Seconded by Councillor Green, That Councillor Ney be appointed as the District of Oak Bay's representative on the Capital Regional District Solid Waste Advisory Committee.

CARRIED

10. 2012-62 CAPITAL REGIONAL DISTRICT, December 29, 2011
Re Membership – Intermunicipal Climate Action Steering Committee

MOVED by Councillor Copley

Seconded by Councillor Green, That Councillor Murdoch be appointed as the District of Oak Bay's representative on the Intermunicipal Climate Action Steering Committee for a three year term.

CARRIED

11. 2012-63 MUNICIPAL ADMINISTRATOR , February 9, 2012
Re Selection of Planning Consultant – 2251 Cadboro Bay Road

Councillor Copley, stating a conflict of interest as her father lives at Oak Bay Lodge (2251 Cadboro Bay Road), left the meeting at 8:42 p.m.

MOVED by Councillor Green

Seconded by Councillor Herbert, That Focus be selected as the planning consultant for the Oak Bay Lodge development variance permit process.

CARRIED

Councillor Copley returned to the meeting at 8:46 p.m.

12. 2012-64 NORM ISHERWOOD, January 26, 2012
Re Development Permit with Variance – 2333 Beach Drive

13. 2012-65 FORBES LESLIE, February 6, 2012
Re Development Variance Permit – 2068 Milton Street

14. 2012-66 LINDA STEWART AND JOHN ALLAN, February 7, 2012
Re Development Variance Permit – 601 Transit Road

15. 2012-67 PHILIP E.K. SYMONS, February 7, 2012
Re Development Variance Permit – 2149 Lansdowne Road

MOVED by Councillor Ney

Seconded by Councillor Herbert, That correspondence items no. 2012-64, 2012-65, 2012-66 and 2012-67 be received.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

Grant Application Process

Councillor Herbert drew attention to the new grant application form prepared by staff for use by organizations requesting financial assistance from the Municipality.

Councillor Herbert suggested that, as has been discussed in the past, a policy be drafted in relation to consideration of grant applications, noting that Councillors Murdoch and Green, along with himself, are willing to assist staff with this process of developing a policy to be brought forward to Council for consideration.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That staff be directed to draft a policy with respect to grant applications, to be brought forward to Council for consideration.

CARRIED

Letter of Appreciation

Mayor Jensen relayed the contents of a letter of appreciation received from Oak Bay residents in relation to the rescue of their two dogs by Deputy Fire Chief Cockle and other members of the Oak Bay Fire Department.

Information was presented and ideas raised by other members of Council in relation to committees they participate on.

TABLED:

Development Variance Permit – 601 Transit Road

MOVED by Councillor Ney

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 601 Transit Road (Lot 12, Section 22, Victoria District, Plan 2994), varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(2) (a) <i>Minimum front lot line setbacks</i>	7.62 m	2.4 m	5.22 m
6.5.4.(2) (e) <i>Minimum total of side lot lines</i>	4.57 m	3.2 m	1.37 m
6.5.4.(10) (a) <i>Minimum contextual front lot line setback</i>	10.71 m	2.4 m	8.31 m

to accommodate the addition of a garage as shown on the plans appended to Committee of the Whole agenda item 2012-30, being a memorandum from the Director of Building and Planning dated December 6, 2011.”

CARRIED

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

CARRIED

Development Permit with Variance – 2542 Estevan Avenue

MOVED by Councillor Ney

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 Permit with Variance with respect to 2542 Estevan Avenue (Lot A (DD 2859881), Block 7, Section 2, Victoria District, Plan 379), varying the following provisions of Bylaw No. 3946, Sign Bylaw, as amended:

<u>Sign Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
11. (1) Maximum permitted sign area	2.23 m ²	11.2 m ²	8.97 m ²
11. (4) Maximum dimension of any letter, logo, symbol	40 cm	43.4 cm	3.4 cm
11. (5) Minimum clearance above sidewalk	2.3 m	2.15 m	0.15 m

to accommodate the installed sign as shown on the plans appended to Committee of the Whole agenda item 2012-32, being a memorandum from the Director of Building and Planning dated December 5, 2011.”

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 – 777 Victoria Avenue

MOVED by Councillor Ney

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 777 Victoria Avenue (Lot 16, Section 22, Victoria District, Plan 1136, except the northerly 65 feet thereof), varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum paved surface (front yard)	37.7 m ² 25%	59 m ² 39%	21.3 m ² 14%

to accommodate the additional paved surface as shown on the plans appended to Committee of the Whole agenda item 2012-31, being a memorandum from the Director of Building and Planning dated December 12, 2011.

CARRIED

MOVED by Councillor Ney

Seconded by Councillor Green, That the resolution be amended to insert the words "Lot 15 and" immediately before the words "Lot 16".

The question on the amendment was then called.

CARRIED

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

CARRIED

Development Permit with Variance – 2333 Beach Drive

MOVED by Councillor Ney

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 Permit with variances with respect to 2333 Beach Drive (Lot 1, Section 2, Victoria District, Plan 11985), varying the following provisions of Bylaw No. 3540, Parking Facilities Bylaw, 1986, as amended:

<u>Parking Facilities Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.3.1. + Schedule A.2.			
<i>Minimum number of parking spaces required</i>	63	20	43

to permit the exterior changes to the building and the addition of two suites as shown on the plans received by the Oak Bay Building Department on January 20, 2012 and appended to the resolution printed for the purposes of the January 23, 2012 Council agenda, subject to the execution of a Collateral Agreement between the owners and the District of Oak Bay.

CARRIED

Two residents of 2359 addressed Council and spoke in favour of the application.

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

CARRIED

(Councillors Green and Herbert against the motion)

Development Variance Permit – 2149 Lansdowne Road

MOVED by Councillor Ney

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 2149 Lansdowne Road (Lot 39, Section 31, Victoria District, Plan 5858), varying the following provisions of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.4.4. (7) <i>Minimum clear space between buildings and structures</i>	3.0 m	1.2 m	1.8 m

to accommodate the construction of two decks as shown on the plans appended to Committee of the Whole agenda item 2012-34, being a memorandum from the Director of Building and Planning dated December 8, 2011.”

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 – 2068 Milton Street

MOVED by Councillor Ney

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 2068 Milton Street (Amended Lot 10 (DD 177734I), Block 4, Section 69, Victoria District, Plan 298), that will vary the Parking Facilities Bylaw, 1986, as amended, in section 4.1 + Schedule “A”, A.1. (a), to relax the requirement that one-half (1/2) of the required parking spaces for a one-family residential dwelling use be contained within a building, to accommodate the development of the garage, as shown on the plans appended to Committee of the Whole agenda item #2011-35, being a memorandum from the Director of Building and Planning dated December 14, 2011.”

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 – 2987 Westdowne Road

MOVED by Councillor Ney

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2987 Westdowne Road (Lot 30, Section 31, Victoria District, Plan 5858), varying the following provisions of Bylaw No. 3531, *Zoning Bylaw, 1986*, as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1. Maximum paved surface (front yard)	25% 42m ²	39.5% 66m ²	14.5% 24m ²

as shown on the plans appended to Committee of the Whole agenda item 2012-47, being a memorandum from the Director of Building and Planning dated January 26, 2012.

MOVED by Councillor Ney

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 2987 Westdowne Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 3311 Woodburn Avenue

MOVED by Councillor Ney

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3311 Woodburn Avenue (Lot 9, Section 31, Victoria District, Plan 10700), varying the following provisions of Bylaw No. 3531, *Zoning Bylaw, 1986*, as amended:

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.4.4. (6) (b) Maximum gross floor area	480 m ²	500.2 m ²	20.2 m ²
6.4.4. (6) (b) Maximum gross floor area at a level higher than 0.8 metres below grade	360 m ²	380.2 m ²	20.2 m ²
6.4.4. (3) (b) Maximum occupiable height of accessory building	0.25 m	2.34 m	2.09 m

to accommodate the increase in floor area as a result of covering the rear patio with a roof, and the creation of a loft area in the proposed accessory building as shown on the plans appended to Committee of the Whole agenda item 2012-48, being a memorandum from the Director of Building and Planning dated January 26, 2012.

MOVED by Councillor Ney

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 3311 Woodburn Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 1345 Oliver Street

Mayor Jensen stated a conflict of interest inasmuch as he lives adjacent to the subject house and would be in the notification area, and left the meeting at 9:09 p.m.

MOVED by Councillor Ney

Seconded by Councillor Green, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1345 Oliver Street (Lot 2, Section 23, Victoria District, Plan 5706), varying the following provisions 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 0.8 metres below grade	240 m ²	273 m ²	33 m ²
6.5.4. (11) Minimum interior side lot line setback of the second storey	3.0 m	1.86 m	1.14 m

to accommodate the rear and south additions as shown on the plans appended to Committee of the Whole agenda item 2012-49, being a memorandum from the Director of Building and Planning dated January 26, 2012.

MOVED by Councillor Ney

Seconded by Councillor Green, That the motion in respect to the development permit with variances for 1345 Oliver Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Mayor Jensen returned to the meeting at 9:10 p.m.

Development Variance Permit – 2024 Allenby Street

MOVED by Councillor Ney

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2024 Allenby Street (Lot 1, Section 28, Victoria District, Plan 7975), varying the following provisions of Bylaw No. 3531, *Zoning Bylaw, 1986*, as amended:

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (11) Minimum interior side lot line setback second storey	3.0 m	1.52 m	1.48 m

to accommodate the construction of an addition as shown on the plans appended to Committee of the Whole agenda item 2012-50, being a memorandum from the Director of Building and Planning dated January 30, 2012.

MOVED by Councillor Ney

Seconded by Councillor Copley, That the motion in respect to the development permit with variances for 2024 Allenby Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Attendance at the Association of Vancouver Island and Coastal Communities Convention

MOVED by Councillor Copley

Seconded by Councillor Green, That Council approve the attendance of Oak Bay Council Members, at the ***2012 Association of Vancouver Island and Coastal Communities Convention***, to be held in Ucluelet, BC, April 13 to 15, 2012, and the payment of expenses necessarily incurred by them.

CARRIED

Attendance at the Local Government Leadership Academy – 4th Chief Elected Official Forum

MOVED by Councillor Ney

Seconded by Councillor Green, That Council approve the attendance of Mayor Jensen at the ***Local Government Leadership Academy’s 4th Chief Elected Official Forum***, to be held in Vancouver, BC, April 17 to 18, 2012, and the payment of expenses necessarily incurred.

CARRIED

ADJOURNMENT:

MOVED by Councillor Kirby

Seconded by Councillor Ney, 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 at 9:12 p.m.

Certified Correct:

Municipal Clerk

Mayor