

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 14, 2011 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman  
Councillor H. Braithwaite  
Councillor A. R. Cassidy  
Councillor P. Copley  
Councillor J. D. Herbert  
Councillor N. B. Jensen  
Councillor T. Ney

STAFF: Municipal Administrator, M. Brennan  
Municipal Clerk, L. Hilton  
Municipal Treasurer, P. Walker  
Director of Engineering Services, D. Marshall

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

ADOPTION OF REPORTS:

*Public Hearing – January 24, 2011*

MOVED by Councillor Braithwaite  
Seconded by Councillor Herbert, That the report of the Public Hearing held on Monday, January 24, 2011, be adopted.

CARRIED

ADOPTION OF MINUTES:

*Council – January 24, 2011*

MOVED by Councillor Copley  
Seconded by Councillor Ney, That the minutes of the Council meeting held on Monday, January 24, 2011, be adopted.

CARRIED

*Committee of the Whole – February 7, 2011*

MOVED by Councillor Herbert  
Seconded by Councillor Copley, That the minutes of Committee of the Whole meeting held on Monday, February 7, 2011, and the recommendations contained therein, with the exception of correspondence item no. 2011-59 being an Uplands building permit application for 3295 Ripon and correspondence item no. 2011-61 being a memorandum regarding Secondary Suites, be adopted.

CARRIED

*Uplands Building Permit Application – 3295 Ripon Road*

In response to Mayor Causton asking if the issue of screening between the two properties had been resolved, Adam Orser, owner, advised that his neighbour, Mr. Prescott, is now satisfied with the screening changes being proposed.

MOVED by Councillor Braithwaite

Seconded by Councillor Cassidy, That the recommendation to approve the amended plans for a wood deck, glass guardrails and windows at the rear of the residential dwelling at 3295 Ripon Road be adopted

CARRIED

*Secondary Suites*

There was discussion regarding the recommendation to move forward with engaging City Spaces Consulting to assist with holding two events in respect to secondary suites, and the point was made that perhaps confirmation of the cost should be sought in advance, and, further, that a wider scope of proposals could be obtained. The Municipal Administrator advised that following the recommendation from the Committee of the Whole, he became aware of circumstances that could give rise to a perception of bias if City Spaces Consulting was engaged as recommended, noting that he could obtain more proposals and pricing from other firms that could provide assistance with public events to share information and obtain input from the public on the issue of secondary suites.

Mr. Brennan further advised that once materials for any proposed public meetings or events were prepared, he intended to provide Council with the information and what the proposed event(s) would entail for its information and consideration.

Mr. Brennan advised Council, however, that the proposed request for proposals process would add at least an additional month onto the projected timelines previously discussed in relation to public events on the issue of secondary suites.

MOVED by Councillor Cassidy

Seconded by Councillor Copley, That the Municipal Administrator be directed to undertake a process to request proposals from consultants or firms to recommend and implement a plan for providing an opportunity to share information and obtain public input on the issue of secondary suites, and further, that materials prepared for any public consultation events be first agreed to by Council.

CARRIED

*(Councillors Braithwaite and Herbert against the motion)*

1. 2011-62 VICTORIA WHEELERS CYCLING CLUB, January 18, 2011  
Re Request for Road Closures for Cycling Race Around Windsor Park –  
May 22 & July 24, 2011

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That approval be given for the closure of the roads bordering Windsor Park between the hours of 9:00 a.m. and 12:00 noon, May 22, 2011 and July 24, 2011, 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 an amount not less than \$3,000,000; and
- 2) agree to pay for all invoices from the Municipality for costs incurred in relation to the event; and
- 3) agree to obtain Oak Bay Police approval for a traffic plan and implement 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

2. 2011-63 ROTARY CLUB OF OAK BAY, January 20, 2011  
Re Request for Permission to Occupy Public Property

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That permission be given to the Rotary Club of Oak Bay to hold a fundraising event on the front lawn of the Oak Bay Municipal Hall, on Wednesday, February 23, 2011, as described in correspondence item no. 2011-63, subject to the Rotary Club of Oak Bay 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 occupancy and provide evidence of public liability insurance in the amount of not less than \$3,000,000; and
- 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

There was consensus to approve flying the Rotary flag at the Oak Bay Municipal Hall on the day of the event should the Club supply a flag for that purpose.

3. 2011-64 PACIFIC MOBILE DEPOTS, February 7, 2011  
Re Request for Licence to Occupy a Portion of Carnarvon Park – Soft  
Plastics Recycling Depot

MOVED by Councillor Herbert

Seconded by Councillor Copley, That, pursuant to Section 11.1 of the Zoning Bylaw, 1986, licence to occupy a portion of Carnarvon Park be granted to Pacific Mobile Depots Ltd. for the purpose of providing a soft plastics recycling depot on the following dates in 2011:

February 26  
March 26  
April 23  
May 28  
June 25  
July 23

August 27  
September 24  
October 22  
November 26  
December 17

between the hours of 8:00 a.m. and 2:00 p.m., subject to Pacific Mobile Depots Ltd. entering into a public property occupancy licence agreement, with the Municipal Clerk being authorized to execute such an agreement on behalf of the District of Oak Bay.

Members of Council acknowledged the assistance of the Oak Bay Green Committee, particularly Rene de Vos, in first organizing the soft plastics recycling depot. It was further noted that Pacific Mobile Depots has indicated that it is now able to run the depot once a month without requiring extensive volunteer hours from the Committee.

CARRIED

4. 2011-65 COASTAL COMMUNITY NETWORK, December 31, 2010  
Re Invoice for 2011 Subscription Fee

It was acknowledged that Council had not, in the past, paid a subscription fee from the Coastal Community Network, and that this was a new request.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the invoice for the 2011 subscription fee from Coastal Community Network be referred to Council's Estimates Committee for consideration during budget deliberations.

CARRIED

5. 2011-66 OAK BAY VOLUNTEER SERVICES SOCIETY, February 8, 2011  
Re Request for Financial Assistance

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the request for financial assistance from the Oak Bay Volunteer Services Society in the amount of \$30,000 be referred to Council's Estimates Committee for consideration during budget deliberations.

There was discussion surrounding the Society's payment to The Victoria Foundation as indicated in the financial information provided, and staff was requested to asked for additional information in this regard prior to budget discussions.

The question was then called.

CARRIED

6. 2011-67 VOLUNTEER VICTORIA, January 20, 2011  
Re Request for Financial Assistance

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That a 2011 operating grant in the amount of \$2,943 be approved.

CARRIED

7. 2011-68 MEXICAN CANADIAN COMMUNITY ASSOCIATION OF VICTORIA,  
January 30, 2011  
Re Request for Financial Assistance

MOVED by Councillor Jensen

Seconded by Councillor Copley, That the request for financial assistance from the Mexican Canadian Community Association of Victoria in the amount of \$3,000 be received.

CARRIED

8. 2011-69 OAK BAY TEA PARTY SOCIETY, February 2, 2011  
2011-69-1 MUNICIPAL CLERK, February 9, 2011  
Re Request for Financial Assistance

MOVED by Councillor Braithwaite

Seconded by Councillor Cassidy,

- 1) That pursuant to the Streets and Traffic and Zoning Bylaws, permission be given to the Oak Bay Tea Party Society for the occupancy of public land and for the closure of public streets as shown in the sketches attached to the memorandum from the Municipal Clerk dated February 2, 2011, for the purposes of staging the 2011 Oak Bay Tea Party, subject to the Oak Bay Tea Party Society undertaking the same preparations in terms of notices to the public and safety that has been done in previous years, and subject to the Oak Bay Tea Party Society executing an agreement saving the Municipality harmless from any liability arising from the staging of the events, and providing evidence of adequate liability insurance; and
- 2) That a grant of \$7,000 be provided to the Oak Bay Tea Party Society for the 2011 Oak Bay Tea Party.

CARRIED

9. 2011-70 MARITIME MUSEUM OF BC, February 7, 2011  
Re Request for Financial Assistance

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the request for financial assistance from the Maritime Museum of BC in the amount of \$5,000 be referred to Council's Estimates Committee for consideration during budget deliberations.

Staff was requested to obtain further information in respect to the contingent liability identified in the Notes to the Financial Statements prior to Estimates Committee discussions.

The question was then called.

CARRIED

10. 2011-71 CITY OF VICTORIA, January 17, 2011  
Re Request for Financial Assistance

There was consensus to defer consideration of correspondence item no. 2011-71, as requested by Victoria Councillor Chris Coleman, in order to allow additional time to gather information regarding the cost projections in relation to the Capital Region Music Awards Society's bid for the region to host the 2013 Juno Awards.

11. 2011-72 UNION OF BRITISH COLUMBIA MUNICIPALITIES, January 24, 2011  
Re 2011 UBCM Membership Dues

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That approval be given for the payment of Union of British Columbia Municipalities membership dues for 2011 in the amount of \$9,415.82.

CARRIED

12. 2011-73 OAK BAY HERITAGE COMMITTEE, January 18, 2011  
Re Minutes of the Meeting

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the minutes of the Oak Bay Heritage Committee meeting held on January 18, 2011 be received.

CARRIED

13. 2011-74 CAROL FRIESEN & MARTIN BURR, February 7, 2011  
Re Development Variance Permit – 3025 Cadboro Bay Road

14. 2011-75 ELLEN & ARTHUR HANSON, February 3, 2011  
Re Development Variance Permit – 2990 Midland Road

15. 2011-76 JASMINE AND RONALD BOYD, January 25, 2011  
2011-76-1 ELIZABETH FISCHER, January 30, 2011  
2011-76-2 LAURIE ANNE & RICHARD MYERSCOUGH, January 31, 2011  
2011-76-3 PETER & MAUREEN LIDDELL, February 1, 2011  
Re Development Variance Permit – 298 Beach Drive

MOVED by Councillor Jensen

Seconded by Councillor Copley, That correspondence items no. 2011-74, 2011-75, and 2011-76 to 2011-76-3 be received.

CARRIED

TABLED:

***Development Variance Permit – 3053 Henderson Road***

MOVED by Councillor Jensen

Seconded by Councillor Cassidy, 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 3053 Henderson Road (Lot 31, Section 31, Victoria District, Plan 6364), that will vary the Parking Facilities Bylaw, 1986, as amended, in section 4.7 and 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 elimination of the garage, as shown on the plans appended to Committee of the Whole agenda item #2011-20, being a memorandum from the Director of Building and Planning dated December 20, 2010.

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 – 3025 Cadboro Bay Road***

Moved by Councillor Jensen

Seconded by Councillor Cassidy, 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 3025 Cadboro Bay Road (Lot 2, Block 18, Section 31, Victoria District, Plan 1216A), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4 (2) (c) and Schedule "C" Minimum Interior Side Lot Line Setback	3.96 m	3.05 m	0.91 m

*to accommodate the construction of a new garage, as shown on the plans appended to Committee of the Whole agenda item #2011-41, being a memorandum from the Director of Building and Planning dated January 12, 2011.*

CARRIED

Martin Burr, resident, referring to the letter he submitted to Council, said he was opposed to the variance being requested. Their house, he noted, is lower than the subject property and the proposed garage would be closer to their property line and even more visible from their front yard and the rooms on the north east corner of their house if the setback variance is granted.

Don McCarthy, applicant, noted that he purposely did not propose a pitched roof for the garage because he thought it would impact his neighbours. However, he said, he did not think that the location of the proposed garage as designed would have much of an impact, noting that he thought just a small portion of the garage would be seen by the neighbours.

Responding to questions as to why a variance was being requested when the garage could be moved over so as not to require a variance, Mr. McCarthy indicated that they wanted the garage door to be behind the house and to be able to pull straight into the parking bay.

There was discussion regarding the application, and it was the majority view of members of Council that the variance was not supportable in that other locations for the garage that did not require a variance were possible.

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

DEFEATED

*(Councillors Braithwaite, Cassidy, Herbert and Ney against the motion)*

***Development Variance Permit – 3465 Midland Road***

MOVED by Councillor Copley

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

*That the Director of Building and Planning be authorized to issue a Development Variance Permit to amend Development Variance Permit 076-2009 with respect to 3465 Midland Road (Lot 3, Section 31, Victoria District, Plan 10433), varying the following provisions of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4 (3) (a) and Schedule "B" Maximum Building Height	7.32 m	7.34 m	0.02 m
6.2.4 (3) (b) and Schedule "B" Maximum Occupiable Height	4.57 m	5.07 m	0.50 m

*to accommodate the construction of an addition, as shown on the plans appended to Committee of the Whole agenda item #2011-42, being a memorandum from the Director of Building and Planning dated January 12, 2011.*

CARRIED

Slobodan Djurickovic, applicant, explained that the variance was being requested to accommodate the continuance of the existing roof line of the house for the addition as well.

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

CARRIED

***Development Variance Permit – 2990 Midland Road***

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 2990 Midland Road (Lot 23, Block 46, Section 31, Victoria District, Plan 10950), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum Paved Surface in the Rear Yard	25% (37 sq m)	30% (44.40 sq m)	5 percentage points (7.20 sq m)

*and varying section 4.7 Schedule 'A' A.1 (a) of the Parking Facilities Bylaw, 1986, as amended, 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 construction of a deck and removal of a carport, as shown on the plans appended to Committee of the Whole agenda item #2011-43, being a memorandum from the Director of Building and Planning dated January 12, 2011.*

CARRIED



Doran and Erin Wright, owners, were in attendance to answer questions from Council, and provided an overview of their application.

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

CARRIED

***Development Variance Permit – 298 Beach Drive***

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 298 Beach Drive (Lot 3, Section 22, Victoria District, Plan 4315), varying the following provision of Bylaw No. 3531, being the Zoning Bylaw, 1986, as amended:*

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4 (2) (b) <i>Minimum Rear Lot Line Setback</i>	7.62 m	4.31 m	3.30 m

*to accommodate the construction of a new deck, as shown on the plans appended to Committee of the Whole agenda item #2011-44, being a memorandum from the Director of Building and Planning dated January 13, 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 – 3300 Exeter Road***

Councillor Cassidy indicated a conflict inasmuch as his firm has had a business relationship with the applicant's architect. Councillor Cassidy left the meeting at 8:24 p.m.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3300 Exeter Road (Lot 35, Block B, Section 31, Victoria District, Plan 3599), varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.2.4 (2) (c) and Schedule "C" Minimum Interior Side Lot Line Setbacks	4.27 m	2.96 m	1.31 m
6.2.4 (2) (e) and Schedule "C" Minimum Total of Side Lot Line Setbacks	10.97 m	6.54 m	4.43 m

to accommodate the construction of additions, as shown on the plans appended to Committee of the Whole agenda item #2011-60, being a memorandum from the Director of Building and Planning dated February 1, 2011.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the motion in respect to the development variance permit for 3300 Exeter Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Councillor Cassidy returned to the meeting at 8:25 p.m.

***Attendance at Association of Vancouver Island and Coastal Communities Convention***

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Council approve the attendance of Oak Bay Council Members at the *2011 Association of Vancouver Island and Coastal Communities Convention*, to be held in Sidney, BC, April 8 to 10, 2011, and the payment of expenses necessarily incurred by them.

CARRIED

***Attendance at Federation of Canadian Municipalities Sustainable Communities Conference***

MOVED by Councillor Cassidy

Seconded by Councillor Copley, That Council approve payment of the fee of \$735.00 for Councillor Tara Ney's attendance at the *Federation of Canadian Municipalities Sustainable Communities 2011 Conference* that was held in Victoria, BC, February 8 – 10, 2011.

CARRIED

***Authorization for Recreation Centre Passes for Members of Council***

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That approval be given to issue passes permitting members of Municipal Council free access to drop-in sessions at Oak Bay Parks and Recreation facilities, excluding tennis and golf.

CARRIED

**BYLAWS:**

***For Adoption***

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That Bylaw No. 4526, *Sewer User Charge Bylaw Amendment Bylaw No. 1, 2011*, be adopted.

CARRIED

*(Councillor Herbert against the motion)*

***For First, Second and Third Reading***

MOVED by Councillor Braithwaite  
Seconded by Councillor Copley, That Bylaw No. 4527, *Tree Protection Bylaw Amendment Bylaw No. 1, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite  
Seconded by Councillor Copley, That Bylaw No. 4527, *Tree Protection Bylaw Amendment Bylaw No. 1, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite  
Seconded by Councillor Copley, That Bylaw No. 4527, *Tree Protection Bylaw Amendment Bylaw No. 1, 2011*, be read a third time.

CARRIED

MOVED by Councillor Braithwaite  
Seconded by Councillor Herbert, That Bylaw No. 4528, *Ticket Information Utilization Bylaw Amendment Bylaw No. 1, 2011*, be introduced and read a first time.

CARRIED

MOVED by Councillor Braithwaite  
Seconded by Councillor Herbert, That Bylaw No. 4528, *Ticket Information Utilization Bylaw Amendment Bylaw No. 1, 2011*, be read a second time.

CARRIED

MOVED by Councillor Braithwaite  
Seconded by Councillor Herbert, That Bylaw No. 4528, *Ticket Information Utilization Bylaw Amendment Bylaw No. 1, 2011*, be read a third time.

CARRIED

**ADJOURNMENT:**

MOVED by Councillor Braithwaite  
Seconded by Councillor Jensen, That the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss:

- 1) the acquisition, disposition or expropriation of land or improvements as Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- 2) 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

- 3) law enforcement, as Council considers that disclosure could reasonably be expected to harm the conduct of an investigation under an enactment.

**CARRIED**

The meeting adjourned at 8:28 p.m.

Certified Correct:

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Municipal Clerk

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Mayor