

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, January 23, 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 9, 2012

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of the Council meeting held on Monday, January 9, 2012, be adopted.

CARRIED

Committee of the Whole – January 16, 2012

MOVED by Councillor Herbert
Seconded by Councillor Ney, That the minutes of Committee of the Whole meeting held on Monday, January 16, 2012, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2012-38 ROBERT BARDAGY AND PAULINE MCISAAC, January 13, 2012
Re: Request for Removal of 1101 Beach Drive from the Community Heritage Register

The Director of Building and Planning reviewed the process followed in adding homes to the Community Heritage Register in the past, and noted that the effect of being on the Register is to allow staff to withhold building permits or demolition permits so that Council can consider the heritage significance of the property. Discussion regarding the Community Heritage Register ensued, and varying views and opinions were noted.

MOVED by Councillor Ney
Seconded by Councillor Copley, That correspondence item no. 2012-38 be referred to the Oak Bay Heritage Commission for consideration and a recommendation to Council.

CARRIED

2. 2012-39 OAK BAY TEA PARTY SOCIETY, January 12, 2012
 - 2012-39-1 OAK BAY TEA PARTY SOCIETY, December 12, 2011
 - 2012-39-2 OAK BAY TEA PARTY SOCIETY, December 9, 2011
 - 2012-39-3 CHIEF CONSTABLE, January 13, 2012
 - 2012-39-4 MUNICIPAL CLERK, January 19, 2012
- Re: Request for Occupancy of Public Property/Grant/Fireworks Display

MOVED by Councillor Green
Seconded by Councillor Herbert,

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 January 19, 2012, for the purposes of staging the 2012 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 2012 Oak Bay Tea Party; and further,
3. That approval be given for the extension of the Oak Bay Tea Party operating hours for the midway rides and entertainment on Saturday, June 2, 2012 to 10:00 p.m., subject to ticket sales ending at 9:30 p.m., and further, that pursuant to the requirements of the Fireworks Regulation Bylaw, and subject to the event organizer satisfying all the requirements of the Bylaw in respect to applying for and obtaining a fireworks permit, that approval be given for a fireworks display commencing at 10:00 p.m. on June 2, 2012.

There was discussion regarding the Tea Party, and it was acknowledged that 2012 would mark the 50th anniversary of the event. It was suggested that next year discussion could be initiated with the Society in respect to the format of the event for future years.

The question was then called.

CARRIED

3. 2012-40 MUNICIPAL TREASURER, January 17, 2012
- Re: Climate Action Revenue Incentive Program Report for 2011

There was discussion regarding the report, and it was noted that updated information regarding the District's emissions would be forthcoming.

MOVED by Councillor Herbert
Seconded by Councillor Ney, That correspondence item no. 2012-40 be received.

CARRIED

4. 2012-41 PACIFIC MOBILE DEPOTS LTD., January 11, 2012
Re: Request to Occupy a Portion of Carnarvon Park for Soft Plastics
Recycling Depot

MOVED by Councillor Herbert

Seconded by Councillor Ney, 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 2012:

January 28	July 28
February 25	August 25
March 24	September 22
April 28	October 27
May 26	November 24
June 23	December 22

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.

The question of whether or not the recycling offered by Pacific Mobile Depots could be taken on within the Municipal Yard instead of through the granting of a licence to Pacific Mobile Depots to use a portion of Carnarvon Park was raised, and it was suggested that the Superintendent of Public Works be asked to provide information in that regard.

CARRIED

MOVED by Councillor Ney

Seconded by Councillor Kirby, That staff be requested to report back to Council in respect to the possibility of providing an expanded plastics recycling service at the Municipal Yard.

CARRIED

5. 2012-42 MUNICIPAL ADMINISTRATOR, January 20, 2012
Re: Establishment of Advisory Committees and Working Groups

MOVED by Councillor Kirby

Seconded by Councillor Copley, That an Active Transportation Advisory Committee be established in accordance with the framework attached to correspondence item no. 2012-42, being a memorandum from the Municipal Administrator dated January 20, 2102.

CARRIED

MOVED by Councillor Murdoch

Seconded by Councillor Green, That an Environmental Advisory Committee be established in accordance with the framework attached to correspondence item no. 2012-42, being a memorandum from the Municipal Administrator dated January 20, 2102.

CARRIED

MOVED by Councillor Green

Seconded by Councillor Copley, That the framework for a Community Engagement Working Group, as attached to correspondence item no. 2012-42, be amended to replace the words “3-4 community representatives” with the words “up to five community representatives”, and that the Community Engagement Working Group be established in accordance with the amended framework.

CARRIED

MOVED by Councillor Copley

Seconded by Councillor Ney, That the Official Community Plan Review Planning Working Group be established in accordance with the framework attached to correspondence item no. 2012-42, being a memorandum from the Municipal Administrator dated January 20, 2102.

CARRIED

MOVED by Councillor Herbert

Seconded by Councillor Green, That the framework for the Community Initiatives Committee, as attached to correspondence item no. 2012-42, be amended to replace the words “, one member of staff, and Oak Bay citizens as appointed by Council” with the words “members of staff and members of the public, including representatives from the Oak Bay Business Improvement Association and the Oak Bay Tourism Committee, as appointed by Council”, and that the Community Initiatives Committee be established in accordance with the amended framework.

CARRIED

MOVED by Councillor Kirby

Seconded by Councillor Green, That the following appointments be made:

Active Transportation Advisory Committee – Councillor Kirby, 2012 Liaison

Environmental Advisory Committee – Councillor Murdoch, 2012 Liaison

Community Engagement Working Group – Councillor Green (Chair), Councillor Murdoch

Official Community Plan Review Planning Working Group – Councillor Copley (Chair),
Councillors Green and Ney

CARRIED

6. 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

Noting that the temporary protection order placed on the property was implemented to allow Council to consider the heritage value of the property, and decide whether or not heritage designation should be sought, the question arose as to the potential compensation that might be required to be paid to the owners if the property was formally designated.

The Municipal Administrator advised that a professional assessment would be required, and it was further pointed out that if the Municipality and the owners could not come to an agreement, the matter, pursuant to Provincial legislation, would go to arbitration.

David Glowicki, owner, provided an overview of the property and the siting of the existing house, noting that while they had considered preserving the house, the cost would be too great and therefore they applied for demolition.

Mr. Glowicki raised questions about some of the points included in the report from the Heritage Commission on his property, disagreeing with statements made. Mr. Glowicki went on to note that should the property be designated, he would be seeking compensation pursuant to the *Local Government Act*, and provided various property value comparisons to illustrate the amount of compensation that might be required.

MOVED by Councillor Herbert

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

There was discussion amongst members of Council with respect to the property at hand as well as the heritage program in general and options other than designation to preserve the house. In response to questions, the Director of Building and Planning advised that while the potential for a heritage revitalization agreement had been discussed with the owner, he was not interested in pursuing the possibility.

Discussion continued, and concerns were raised about the effects of the loss of heritage properties on the community as a whole, and whether or not in this particular case there was enough information before Council to make any decisions on the future of 1231 Victoria Avenue at this point.

The question was then called.

DEFEATED

(Councillors Copley, Murdoch, Green, Ney and Mayor Jensen against the motion)

MOVED by Councillor Ney

Seconded by Councillor Green, That staff be directed to obtain a professional assessment of the potential compensation in relation to formal heritage designation of 1231 Victoria Avenue, and further, that discussion on the subject continue at the Committee of the Whole level.

It was noted that in order to appraise the impact on the value of the property, a heritage inspection would have to be ordered, pursuant to the Local Government Act.

There was consensus to withdraw the motion.

MOVED by Councillor Green

Seconded by Councillor Ney, That correspondence items no. 2012-43 to 2012-43-3 be referred to Committee of the Whole for further discussion.

CARRIED

(Councillor Herbert opposed)

7. 2012- 44 MICHAEL BELL, December 28, 2011
- 2012-44-1 KEITH AND MARIA ELWOOD, January 23, 2012
- 2011-340-1 CHRIS ZATYLNKY, Undated
- 2011-320 MICHAEL BELL, October 3, 2011
- 2011-320-1 R. L. SHENKENFELDER, October 4, 2011
- 2011-320-2 LINDA SKOOG, October 10, 2011
- 2011-320-3 MICHAEL BELL, October 11, 2011
- 2011-320-4 ELAINE TRANT, October 11, 2011
- 2011-278 CHRIS ZATYLNKY AND LEANNE LA PRAIRIE, July 25, 2011
Re Development Variance Permit – 2608 Lincoln Road

MOVED by Councillor Ney

Seconded by Councillor Herbert, That the correspondence items regarding the development variance permit application for 2608 Lincoln Road be received.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

Capital Regional District – Urban Deer Issue

Mayor Jensen reported that CRD staff are expected to present a regional Deer Management Plan in February for consideration by the Planning, Transportation and Protective Services Committee.

Snowfall

Mayor Jensen noted that the excellent work of Public Works, Fire and Police Department staff in dealing with the recent snowfall.

Baptist Housing Proposal for 2251 Cadboro Bay Road (Oak Bay Lodge Site)

Noting that Baptist Housing was expected to bring forward a revised application for redevelopment of 2251 Cadboro Bay Road to the first Committee of the Whole meeting in February, Mayor Jensen indicated that a planning consultant would be engaged by the Municipality, at the cost of the applicant, to assist Council's review of the application and to facilitate public consultation in this regard.

Oak Bay Child and Youth Committee

Councillor Kirby, as the new Council Liaison to the Committee, noted her wish to see the Committee's Y.E.S. (Young Exceptional Stars) Awards program expand to include younger children.

TABLED:

Development Variance Permit – 2608 Lincoln Road

It was noted that the last time the application was before Council, the applicant had undertaken to look into installing a switch to ensure the heat pump did not operate at night, to alleviate the impact on his neighbours as noted in the correspondence received on the application, although it appeared the switch was unsuccessful in that regard.

MOVED by Councillor Herbert

Seconded by Councillor Murdoch, 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 2608 Lincoln Road (Lot 26, Block 11, Section 2, Victoria District, Plan 379), 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>
4.10.4 and 4.10.5 <i>No sound emitting structure shall be sited within 3 m of any property line, or in a side yard</i>	3.0m	0.8m	2.2m

to accommodate the siting of a heat pump as shown on the plans appended to Committee of the Whole agenda item 2010-130, being a memorandum from the Director of Building and Planning dated April 14, 2010.

CARRIED

The Municipal Clerk read out a late letter received from Keith and Maria Elwood, in relation to the application, noting their opposition to the requested variance.

Chris Zatylny, applicant, provided an overview of the issues that had been raised by his neighbours about the heat pump, which he had attempted to mitigate, and reviewed the issue he had with his contractor in respect to the installation of the heat pump in a non-conforming location.

There was discussion on the various points raised, and different options for the location of the heat pump which would reduce the effect on the neighbours were noted.

Michael Bell, resident, reviewed the letter he submitted to Council in respect to the heat pump and its affect on him, noting the positive impact moving it to a conforming location from where it is now would have for him.

Further discussion ensued regarding the situation created with the installation of the heat pump, and the various points raised by the applicant and area neighbours.

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

DEFEATED

(Councillors Copley, Green, Herbert, Murdoch, Ney and Mayor Jensen against the motion)

RESOLUTIONS:

Development Variance Permit – 601 Transit Road

MOVED by Councillor Murdoch

Seconded by Councillor Copley, 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) Minimum front lot line setbacks	7.62 m	2.4 m	5.22 m
6.5.4.(2) (e) Minimum total of side lot lines	4.57 m	3.2 m	1.37 m
6.5.4.(10) (a) Minimum contextual front lot line setback	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.

MOVED by Councillor Murdoch

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 601 Transit Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 777 Victoria Avenue

MOVED by Councillor Murdoch

Seconded by Councillor Copley, 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.

MOVED by Councillor Murdoch

Seconded by Councillor Copley, That the motion in respect to the development variance permit for 777 Victoria Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Permit with Variances – 2542 Estevan Avenue

MOVED by Councillor Murdoch

Seconded by Councillor Copley, That the Director of Building and Planning be authorized to issue a Development Permit with variances with respect to 2542 Estevan Avenue (Lot A (DD 285988I), 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.

MOVED by Councillor Murdoch

Seconded by Councillor Copley, That the motion in respect to the development permit with variances for 2542 Estevan Avenue be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Permit with Variances – 2333 Beach Drive

MOVED by Councillor Murdoch

Seconded by Councillor Copley, 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. Minimum number of parking spaces required	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.

MOVED by Councillor Murdoch
Seconded by Councillor Copley, That the motion in respect to the development permit with variances for 2333 Beach Drive be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED
(Councillors Herbert and Green against the motion)

Development Variance Permit – 2149 Lansdowne Road

MOVED by Councillor Murdoch
Seconded by Councillor Copley, 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) Minimum clear space between buildings and structures	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

MOVED by Councillor Murdoch
Seconded by Councillor Copley, That the motion in respect to the development variance permit for 2149 Lansdowne Road be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Variance Permit – 2068 Milton Street

MOVED by Councillor Murdoch
Seconded by Councillor Copley, 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.

MOVED by Councillor Murdoch
Seconded by Councillor Copley, That the motion in respect to the development variance permit for 2068 Milton Street be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Development Permit Application– 1420 Beach Drive

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Permit with respect to 1420 Beach Drive (Lot 1, Section 23, Victoria District, Plan 15545), which will permit the exterior renovations to the existing building as more particularly shown on the plans attached to Committee of the Whole agenda item #2012-36, being a memorandum from the Director of Building and Planning dated January 11, 2012, subject to the execution of a Collateral Agreement between the Owners and the District of Oak Bay.

CARRIED

Attendance at the Pacific Business and Law Institute Green Development – Sustainable Buildings and Infrastructure Conference – Councillor Murdoch

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Council approve payment of the registration fee of \$994.00 plus HST for the attendance of Councillor Murdoch at the ***2012 Green Development - Sustainable Buildings and Infrastructure Conference***, to be held in Vancouver, BC, February 2 and 3, 2012.

CARRIED

Traffic Control Order No. 2012-01 - Extension of No Parking Regulations – Cedar Hill Cross Road

MOVED by Councillor Copley

Seconded by Councillor Herbert, That the existing yellow line painted on the curb adjacent to 2345 Cedar Hill Cross Road be extended to the west for a further 10 metres, as more particularly shown in the sketch attached hereto, to indicate that parking in the area so marked is prohibited at all times

CARRIED

(Councillor Murdoch against the motion)

Policy re Removing and Adding Properties from the Boulevard Maintenance Program

Following discussion on the suggestion from the Municipal Treasurer to include the additional requirement in the policy that of those signing the petition to be added or removed from the parcel tax roll, at least two thirds must also represent at least two thirds of the taxable frontage of the block under consideration, and there was consensus to include this change in the proposed policy.

MOVED by Councillor Herbert

Seconded by Councillor Murdoch, That the following policy entitled “Adding and Removing Properties from the Boulevard Maintenance Program” be adopted:

Adding and Removing Properties from the Boulevard Maintenance Program

Changes in the Parcel Tax Roll of properties included in the Boulevard Maintenance Program (the “Program”) must be made on a block by block basis, taking into account both sides of the street.

In order for a change to the roll to be considered by Council, owners must demonstrate a wish to join or to be removed from the Program by showing that the owners of at least two thirds (2/3) of the properties on either side of the street within one block wish to take part in this change, and the persons signing must be the owners of properties that in total represent at least two thirds (2/3) of the total frontage that will be affected by the change. This will be done by signing the prescribed form.

In the case of multiple owners of a property, all owners must sign the prescribed form in order for their property to be included in the total number of properties desiring a change.

The prescribed form is attached to the policy as Appendix A, "Petition for the Addition to/Removal from the Boulevard Maintenance Program".

The completed form must be received by the Treasurer by October 31 in order for the change to be in effect the following calendar year.

Upon receiving the completed form, the Treasurer will confirm that it contains the required number of signatures, whereupon a bylaw will be prepared and put before Council for its consideration.

CARRIED
(Councillor Kirby against the motion)

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 at 10:28 p.m.

Certified Correct:

Municipal Clerk

Mayor