

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, June 8, 2009 at 7:30 p.m.

PRESENT: Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen (Acting Mayor)
Councillor T. Ney

STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen
Municipal Treasurer, P. A. Walker
Director of Engineering Services, D. Marshall

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

ADOPTION OF MINUTES:

Council – May 25, 2009

MOVED by Councillor Ney
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, May 25, 2009, be adopted.

CARRIED

Committee of the Whole – June 1, 2009

MOVED by Councillor Copley
Seconded by Councillor Herbert, That the minutes of the Committee of the Whole meeting held on Monday, June 1, 2009, and the recommendations contained therein, be adopted.

CARRIED

COMMUNICATIONS:

1. 2009-204 CAPITAL REGIONAL DISTRICT, May 14, 2009
Re Request for Consent to Adopt Bylaw No. 3617, Regional Parks Loan Authorization Bylaw No. 1, 2009

(Jeff Ward, Manager, Planning, Resource Management and Development, and Simon Joslin, Manager, Real Estate & Facility Management, Capital Regional District, in attendance for this item)

In response to a question, the Municipal Administrator advised that the Capital Regional District is required to obtain consent from all the participating municipalities to adopt Bylaw 3617.

Mr. Ward provided an overview of the proposed land acquisition, noting that the Capital Regional District (CRD) has an opportunity to purchase land adjacent to Island View Beach

Regional Park, a parcel of land that, he said, the CRD has tried to acquire for the past 35 years. It is anticipated that portion 'A' would be retained and portion 'B' (described in correspondence item no. 2009-204) would be sold to help offset the purchase price of the land.

Mr. Ward advised that there are presently insufficient funds in the CRD's Land Acquisition Fund for the purchase, although the borrowing of funds for the purchase would not result in an overall increase in the property tax requisition for Regional Parks.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That consent be given to the adoption of Capital Regional District Bylaw No. 3617, Regional Parks Loan Authorization Bylaw No. 1, 2009 in accordance with Section 801.4 of the *Local Government Act*.

CARRIED

2. 2009-205 VICTORIA WHEELERS CYCLING CLUB, May 26, 2009
Re Revised Request for Road Closures for Cycling Race Around Windsor Park – July 26, 2009

MOVED by Councillor Ney

Seconded by Councillor Copley, That the Victoria Wheelers Cycling Club request to expand the temporary road closure time from 8:00 o'clock a.m. to 12:00 o'clock noon on Sunday, July 26, 2009, to facilitate the staging of the Victoria Wheelers Cycling Club cycling event, be approved, subject to the same terms and conditions attached to the original approval given April 27, 2009.

CARRIED

3. 2009-206 JOANNE FYFFE, May 25, 2009
Re Request for Road Closure for Block Party on Byron Street – July 1, 2009

MOVED by Councillor Cassidy

Seconded by Councillor Herbert, That permission be given for the closure of Byron Street on July 1, 2009, from 12:00 o'clock p.m. to 5:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

It was suggested by Acting Mayor Jensen that sometime in the future Council consider delegating to staff the authority to approve temporary road closures for the purpose of neighbourhood block parties.

4. 2009-207 DENYCE BURROWS, May 30, 2009
Re Request for Road Closure for Block Party on Henderson Road – August 9 or 16, 2009

MOVED by Councillor Copley

Seconded by Councillor Cassidy, That permission be given for the closure of Henderson Road between Lansdowne Road and Westdowne Road on either August 9 or 16, 2009, from 1:00 o'clock p.m. to 6:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

5. 2009-208 JANET KNIGHT, June 4, 2009
Re Request for Road Closure for Block Party on Wilmot Place – July 1, 2009

MOVED by Councillor Ney

Seconded by Councillor Cassidy, That permission be given for the closure of Wilmot Place on July 1, 2009, from 3:00 o'clock p.m. to 10:00 o'clock p.m., for the purpose of a neighbourhood block party.

CARRIED

6. 2009-209 VANCOUVER ISLAND ECONOMIC ALLIANCE, [Undated]
Re Grant Request

MOVED by Councillor Herbert

Seconded by Councillor Ney, That correspondence item no. 2009-209 be received and that staff be requested to send a letter to request that the Vancouver Island Economic Alliance submit future grant requests earlier in the year to enable consideration by Council's Estimates Committee during budget deliberations.

CARRIED

7. 2009-210 DIRECTOR OF PARKS AND RECREATION, June 1, 2009
Re New Horizons Grant Application

MOVED by Councillor Copley

Seconded by Councillor Cassidy, That the Mayor and the Director of Parks and Recreation be authorized to execute an application for funding of \$24,400 under the Federal Government's New Horizons for Seniors, Community Leadership Funding Program to assist Monterey Centre in developing a senior's peer-to-peer "Train the Trainer" program.

CARRIED

8. 2009-211 OAK BAY MARINE GROUP, June 3, 2009
Re Rezoning Proposal, Oak Bay Sea Rescue Boat House

MOVED by Councillor Herbert

Seconded by Councillor Ney, That correspondence item no. 2009-211 be received.

CARRIED

9. 2009-212 PAUL PALLAN AND ELKA NOWICKA, June 8, 2009
Re Development Variance Permit – 190 King George Terrace

MOVED by Councillor Copley

Seconded by Councillor Herbert, That correspondence item no. 2009-212 be received.

CARRIED

NEW BUSINESS:

Capital Regional District – Haro Woods – Possible Location for a Sewage Treatment Facility

Councillor Herbert said he was surprised to see a press release stating that the Capital Regional District (CRD) intends to hold three open house meetings in Saanich to allow residents to voice their opinions with respect to the possible siting of a sewage treatment facility, which could possibly be located in North Oak Bay. He said that he had thought that the decision had been made when the CRD purchased the Haro Woods land and that the actual sites would be finally identified at the upcoming Core Area Liquid Waste Management Meeting Wednesday, June 10, 2009. Councillor Herbert expressed that the news that the site selection process may be revisited is of concern to him.

Council members agreed that it is important to ensure the community of Oak Bay is well aware of what changes may be transpiring and that residents should be advised of the upcoming neighbourhood workshops to be held.

Councillor Herbert advised that there are three potential treatment sites for East Saanich/North Oak Bay and that likely one of these three sites will be chosen as one of the proposed four-site solution for the region.

With respect to the process and role of the Core Area Liquid Waste Management Committee, Councillor Hebert responded to Council members' various questions and comments in that regard.

Considering that one of the potential treatment sites could possibly be located in Oak Bay, Council expressed its concern that no public meetings have been arranged for Oak Bay. It was suggested that Mayor Causton request the Capital Regional District to hold a neighbourhood workshop for Oak Bay residents in Oak Bay.

Tree Protection Bylaw

Councillor Herbert drew attention to the possible forthcoming amendment to the Tree Protection Bylaw to be discussed later in the meeting, and noted that he had attended an Oak Bay Green Committee meeting where the topic of urban forestation and the diminishing number of Oak trees in Oak Bay was discussed. He added that he would like to see the Parks and Recreation Commission review the issue and to see municipal staff look at ways to expand the number of Oak trees being planted in the community.

Discussion turned to creating incentives for residents to replace or plant trees and it was the majority view of Council that a wider vision, using more tools and strategies to embrace the values around urban forestation, should be considered. It was also suggested that review of the situations where replacement trees are required should be undertaken along with reviewing the Bylaw with respect to perhaps protecting trees within the building envelope.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the Parks and Recreation Commission be requested to review the various aspects of the Tree Protection Bylaw regarding replacement trees and trees within the building envelope, along with looking at ways to encourage urban forest renewal.

Although a member of Council commented that he understood the Parks & Recreation Commission was currently in the process of revisiting the Tree Protection Bylaw and it was

anticipated Council would eventually receive a report in this regard, it was the majority view of Council that the Commission should be requested to review the specific aspects discussed, along with providing ideas for promoting urban forest renewal, including providing information to the public on guidelines for tree and vegetation plantings for private property.

The question was then called.

CARRIED
(Councillor Cassidy against the motion)

TABLED:

Development Variance Permit – 190 King George Terrace

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 190 King George Terrace (Lot 1, Section 46, Victoria District, Plan 5008) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.4.4(2) (a) Minimum Front Lot Line Setback	7.62 m	4.52 m	3.1 m
6.4.4(6) (b) Maximum Gross Floor Area	480 sq m	486 sq m	6 sq m
6.4.4(6) (b) Maximum Gross Floor Area above 0.8 m below Grade	360 sq m	402 sq m	42 sq m

to accommodate a second floor addition and front terrace, as shown on the plans attached to Committee of the Whole agenda item #2009-177, being a memorandum from the Director of Building and Planning dated May 11, 2009.

CARRIED

It was noted that the homeowners advised through correspondence item no. 2009-212 that they wished Council to give consideration to allowing the variance for the front lot line setback and they would withdraw the remainder of the variances contained in the development variance permit application and submit new plans in line with addressing the concerns of neighbouring residents.

Referring to the Municipal Clerk's note attached to the correspondence, Acting Mayor Jensen said that the variance applied for with respect to the terrace could not be separated out from the remainder of the application and decided upon without providing notice to area residents.

Paul Pallan, homeowner, commented that he accepts Council's decision, however he said that there is a health and safety concern associated with the variance and, therefore, they wish to address that issue as soon as possible.

It was agreed that if the applicant was able to submit a revised application to the Building Department by the next day this item could be placed on the Committee of the Whole agenda for June 15, 2009.

Mr. Pallan confirmed that he was withdrawing the whole application and that he would resubmit a new application the next day.

Noting that the motion to issue the permit was still before Council, as the mover of the motion, Councillor Herbert requested Council's consent to withdraw the motion, and consent was given.

Development Variance Permit – 2218 Central Avenue

MOVED by Councillor Ney

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 2218 Central Avenue (Lot B, Section 22, Victoria District, Plan 8790) that will vary the following provisions of Bylaw No. 3540 (Parking Facilities Bylaw, 1986), with respect to the number and type of required on-site parking spaces:

<u>Parking Facilities Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
4.7 and Schedule 'A', A.1(a) Minimum No. of Parking Spaces	2 spaces, Incl. 1 in building	1 space (none in Building)	1 space (waive the "1 space in building" requirement)

to accommodate the proposal to provide only one, uncovered parking stall in the front yard, as shown on the plan received May 20, 2009 and printed for the purposes of the May 25, 2009 Council meeting.

CARRIED

The view was expressed by some members of Council that reducing the number of parking stalls on site would increase parking congestion on the street and it was suggested that the Bylaw should be reviewed as opposed to continuously granting variances if it is felt the Bylaw is flawed. Concern that a future owner may need more than one space for vehicles was also expressed.

A member of Council said he would like to see green spaces preserved and questioned why residents are forced to pave or build a garage over grass, and, although the Parking Facilities Bylaw requires a homeowner have a garage, there is no requirement to park a vehicle in the garage.

A comment was made that this application is due to an existing garage being converted to living space, along with a 400 square feet addition to the building which, it was noted, has also consumed green space.

Noting that there was no one in attendance who wished to speak to the application, the question on the main motion was then called.

CARRIED

(Councillors Cassidy and Herbert against the motion)

Development Variance Permit – 476 Transit Road

MOVED by Councillor Copley

Seconded by Councillor Ney, 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 476 Transit Road (Parcel A of Lots 1 & 2, Block A, Section 22, Victoria District, Plan 74E) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.4.4(3) (a) Maximum Building Height	7.32 m	7.64 m	0.32 m

to accommodate the roof of the new house design, as shown on the plans attached to Committee of the Whole agenda item #2009-179, being a memorandum from the Director of Building and Planning dated May 12, 2009.

CARRIED

Noting that there was no one in attendance who wished to speak to the application, the question on the main motion was then called.

CARRIED

Development Variance Permit – 2120 Fair 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 2120 Fair Street (Amended Lot B, Section 28, Victoria District, Plan 21648) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4(2)(b) Minimum Rear Lot Line Setback (Upper Dormers)	7.62 m	4.2 m	3.42 m
6.5.4(2)(b) Minimum Rear Lot Line Setback (Carport/Deck)	7.62 m	6.73 m	0.89 m

6.5.4(3)(b) and Schedule 'B' Maximum Occupiable Height	4.75 m	4.82 m	0.25 m
6.5.4(6) (a) Maximum Gross Floor Area at a Level Higher than 0.8 metres Below Grade	240 sq m	262 sq m	22 sq m
6.5.4(11) Minimum Interior Side Lot Line Setback of the Second Storey	3.0 m	2.4 m	0.6 m

to accommodate renovations to the single family dwelling as shown on the plans attached to Committee of the Whole agenda item #2009-181, being a memorandum from the Director of Building and Planning dated May 13, 2009.

CARRIED

Noting that there was no one in attendance who wished to speak to the application, the question on the main motion was then called.

CARRIED

Development Variance Permit – 1941 Crescent Road

MOVED by Councillor Herbert

Seconded by Councillor Ney, 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 1941 Crescent Road (Lot 19, Section 19, Victoria District, Plan 291) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986*, as amended:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum Paved Surface of the Front Yard	34.84 sq m 25%	49.8 sq m 36%	15 sq m 11%
6.5.4(6) (b) Maximum Gross Floor Area	420 sq m	446.5 sq m	26.5 sq m
6.5.4(6) (b) Maximum Gross Floor Area Above 0.8 metres Below Grade	300 sq m	323.8 sq m	23.8 sq m
6.5.4(11) Minimum Interior Side Lot Line Setback -- Second Storey	3.0 m	1.52 m	1.48 m

to accommodate the proposed single family dwelling as shown on the plans attached to Committee of the Whole agenda item #2009-182, being a memorandum from the Director of Building and Planning dated April 29, 2009.

CARRIED

Noting that there was no one in attendance who wished to speak to the application, the question on the main motion was then called.

CARRIED

RESOLUTIONS:

Development Variance Permit – 2178 Beaverbrooke Place

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2178 Beaverbrooke Place (Lot 5, Section 22, Victoria District, Plan 1136) varying the following provisions of Bylaw No. 3531, being the *Zoning Bylaw, 1986, as amended*:

<u>Bylaw Section</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4(3) (a) & Schedule 'B' Maximum Building Height	6.83 m	7.62 m	0.79 m
6.5.4(3) (b) & Schedule 'B' Maximum Occupiable Height	4.27 m	4.88 m	0.61 m
6.5.4(3) (c) & Schedule 'B' Maximum Roof Height	8.53 m	9.2 m	0.67 m
6.5.4(6) (a) Maximum Gross Floor Area Higher than 0.8 metres Above Grade	240 sq m	331 sq m	91 sq m
6.5.4(11) Minimum Interior Side Lot Line Setback of the Second Storey	3.0 m	0.80m	2.2 m

to accommodate the construction of a top floor addition, as shown on the plans attached to Committee of the Whole agenda item #2009-197, being a memorandum from the Director of Building and Planning dated May 27, 2009.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the motion in respect to the development variance permit for 2178 Beaverbrooke Place be tabled to allow notice to be given in accordance with the *Local Government Act*.

CARRIED

Motion Proposed by Councillor Herbert – Reconsideration of Defeated Motion to Adopt Bylaw No. 4468, Tree Protection Bylaw Amendment Bylaw No. 1, 2009

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the question on the motion to adopt Bylaw No. 4468, *Tree Protection Bylaw Amendment Bylaw No. 1, 2009*, which was defeated at the meeting held on May 25, 2009, be reconsidered.

Councillor Cassidy spoke against the motion to reconsider, observing that the issues raised by Bylaw No. 4468 had been extensively debated at the time, with no new information having come forward in the interim that might warrant reconsideration.

On the other side of the matter, it was observed that the motion to adopt Bylaw No. 4468 had been defeated as the consequence of a tie vote, and that the object of reconsideration would be to ensure that the outcome reflected the majority view of the full Council.

Councillor Cassidy said that he had difficulty with that argument, which could apply to many issues that come before Council for decision. He said that it would run counter to the principles of good government if, for instance, staff were to delay the implementation of Council decisions because of the possibility that they could be reconsidered.

Speaking in favour of the motion, Councillor Jensen said his recollection was that the tie vote situation was rare, and he did not see the reconsideration of this particular issue as something that would undermine the normal decision-making process or adversely affect the credibility of Council.

The question on the motion to reconsider was then called.

CARRIED
(Councillor Cassidy against the motion)

The motion to reconsider having passed, staff then clarified that the original motion, i.e., to adopt Bylaw No. 4468, was now back before Council in the precise state it was in just before it was voted upon at the last meeting.

It was noted that even at this time, Council was two members short of full attendance. Although those members had voted on opposite sides of the motion to adopt Bylaw No. 4468 at the last meeting, there was some sentiment that it would run counter to the reasoning behind the reconsideration initiative to call the question on the main motion in their absence, i.e., simply on the assumption that those members would still vote the same way.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the question on the motion to adopt Bylaw No. 4468, *Tree Protection Bylaw Amendment Bylaw No. 1, 2009*, be tabled, to be brought back before Council at the first opportunity when full attendance was anticipated.

Councillor Cassidy suggested that the entire issue would be more appropriately dealt with after the Parks and Recreation Commission had concluded its proposed review of its experience with the administration of the *Tree Protection Bylaw* and had reported back to Council in that regard.

Councillor Jensen said that he supported the tabling motion from a fairness point of view, and also because the matter was not so urgent as to require an immediate decision. He did not, however, favour waiting for a report from the Parks and Recreation Commission. He noted that it may be that there will remain some difference of opinion between the Commission and Council on the regulatory framework for protected trees, and that it was ultimately Council which had to take responsibility for the Bylaw and be held to account for its impact in the community.

The question on the motion to table was then called.

CARRIED
(Councillor Cassidy against the motion)

BYLAWS:

For Adoption

Acting Mayor Jensen asked if anyone in attendance wished to address Council regarding the proposed amendment to the Financial Plan. Seeing no one come forward, it was

MOVED by Councillor Herbert
Seconded by Councillor Ney, That Bylaw No. 4475, *Financial Plan Bylaw, 2009, Amendment Bylaw No. 2, 2009*, be adopted.

CARRIED

MOVED by Councillor Herbert
Seconded by Councillor Copley, That Bylaw No. 4476, *Capital Works and Equipment Reserve Fund Appropriation Authorization Bylaw, No. 2, 2009*, be adopted.

CARRIED

For Possible Amendment at Second Reading

Bylaw No. 4474, *Eighty-Third Zoning Bylaw Amendment Bylaw, 2009*

It was noted that the letter from Oak Bay Marine Group dated June 3, 2009 (correspondence item no. 2009-211 on the meeting agenda), expressed a strong objection to the shape and extent of the area of aquatic land proposed to be rezoned for use by the Oak Bay Sea Rescue Society.

It being foreseeable that this objection would also be raised at the public hearing on Bylaw No. 4474 scheduled for June 22, it was recognized that there was a potential, at least, for Council to be persuaded at that time that the shape and size of the area subject to the rezoning should be altered along the lines advocated by Oak Bay Marine Group. Such a fundamental change in the Bylaw, however, could not be made post-public hearing without triggering a legal requirement for a further hearing, which, in turn, would significantly delay the rezoning process and either shorten or close completely the window for the construction of the Sea Rescue Society's proposed new boat house this year. With this consideration in mind, and with the official notice of the June 22 public hearing not yet having gone to press, staff had prepared a resolution that would allow Council to make the requested amendment now if it saw fit. With the press deadline looming, two versions of the public hearing notice had been prepared, one

with the Bylaw as it stood, and the other with the amendment requested by Oak Bay Marine Group. Depending on the course taken by Council, the publisher would be advised the morning after the meeting which version to use.

Brian de Clare, President, Oak Bay Sea Rescue Society, spoke to the Society's request for a rezoning to accommodate the expansion and reconstruction of its boat house. He explained that although the boat house would be rectangular, the Society wished to be able to moor its spare craft alongside, unprotected, and also to have a place to tie up a rescued vessel from time to time. The Society had been advised by the Province that any new Crown tenure should cover this proposed unprotected moorage area as well as the boat house footprint. The resulting "dog-leg" shape was therefore reflected in the area requested to be rezoned as well, and, accordingly, in Bylaw No. 4474.

In its June 3 letter, Oak Bay Marine Group had said that the proposed dog-leg portion would make it impossible for a large vessel to manoeuvre safely into the area behind the dog-leg and tie up at the main wharf, particularly in south easterly and north winds. Oak Bay Marine Group felt, therefore, that the dog-leg extension would create a hazard, and that it would compromise its current rentable space.

The letter from Oak Bay Marine Group also noted that it was obligated under its current lease from the Municipality to provide free moorage for not more than one sea rescue vessel. With the recent purchase of a new vessel, the Sea Rescue Society now had two boats, one which had free moorage in the existing boat house, with the other being berthed at one of the regular marina docks at the normal commercial moorage rate. Oak Bay Marine Group saw the moorage that would be accommodated by the proposed dog-leg shape as an apparent means of avoiding the payment of rent for the berthing of the Society's spare boat.

Mr. de Clare acknowledged that the Society, which was a non-profit organization that devoted a great deal of effort to fund-raising, would certainly prefer to use its limited financial resources for the purchase of life-saving equipment than for the rental of moorage space. More than this, however, he said the Society considered it essential, for operational and logistical reasons, that it be able to moor its spare vessel next to the boat house. As an example in this regard, he cited the frequent necessity for the transfer of supplies and equipment between the two vessels.

In consideration of the objections expressed by Oak Bay Marine Group, Mr. de Clare showed Council a preliminary rendering of what the Society felt would be a reasonable compromise solution, which would involve the addition of a narrow dock at right angles to the boat house, with the spare boat being moored parallel to that extension. This, he said, would increase the manoeuvring and docking area for a large vessel tied up alongside the main marina dock on the perimeter of its leased area.

It was noted by staff, however, that Bylaw No. 4474 could not be amended to incorporate the Society's compromise proposal in time for the June 22 public hearing to proceed as scheduled. The holding of a public hearing on that date, moreover, was an important milestone on the Society's critical time path. Furthermore, although he said that it was not dissimilar to a proposal which had been endorsed by Oak Bay Marine Group some time ago, Mr. de Clare acknowledged that the compromise proposal had not been specifically discussed with that organization.

Responding to a specific question from Council, the Municipal Administrator said he did not believe that the proposed dog-leg shape of the area proposed to be rezoned actually represented a direct breach of any term in the lease agreement between the Municipality and Oak Bay

Marine Group. He noted, however, that the Marine Group might well look to possible legal recourse if the Municipality, dealing directly with the Sea Rescue Society, facilitated a physical arrangement that interfered with its business operations. Mr. Cochrane also observed that the rezoning was a necessary but not sufficient condition for the realization of the Sea Rescue Society's desire to improve its moorage arrangements, and that the key to the whole exercise was the granting of a tenure by the Province, allowing the proposed use and development. In this regard, he said, Oak Bay Marine Group would have the opportunity to make representations to the Province to the effect that the granting of the new tenure would adversely affect its interests.

It was noted at the Council level that each member had an obligation to approach any public hearing with a mind reasonably amenable to persuasion by cogent argument. That said, however, it was pointed out to the Sea Rescue Society representatives in attendance that, given the position expressed in the June 3 letter from Oak Bay Marine Group, the probability of a favourable outcome from the Society's perspective appeared as though it would be quite high if the Bylaw were amended now to eliminate the dog-leg portion from the area proposed to be rezoned. If this turned out to be the result, and assuming that the licence process at the provincial level was not overly drawn out, the Society could at least achieve its principal objective of obtaining safe, covered moorage for its main vessel in the desired time frame.

Mr. de Clare responded, however, that the Society saw the adjacent moorage for the spare vessel as something so critical to its operations that it would prefer to take the chance of proceeding to public hearing with the dog-leg option, even if it meant that a failure of the Bylaw post-public hearing would put the entire boat house in jeopardy, at least for this year. He said he was confident that the arguments put forth by the Society in support of its position would be compelling enough to prevail.

With the Sea Rescue Society unambiguously expressing its preference that Council proceed to public hearing with the Bylaw as written (i.e., with the dog-leg configuration), along with a clear understanding of the consequences if the Bylaw did not pass in that form, the draft resolution that would have amended the Bylaw to substitute a rectangular configuration was not put forward. The Bylaw remained, therefore, in the state in which it received second reading on May 25.

ADJOURNMENT:

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss the disposition of land or improvements as Council considers that disclosure might reasonably be expected to harm the interests of the Municipality.

CARRIED

The Council meeting adjourned at 9:32 p.m.

Certified Correct:

Municipal Clerk

Acting Mayor