

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 Tuesday, October 9, 2012 at 7:30 p.m.

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

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

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

PRESENTATION:

1. -- OAK BAY HERITAGE COMMISSION  
Re Art in Chambers Project– Artist Recognition

Pat Wilson, Oak Bay Heritage Commission, was in attendance to present two original pen and ink drawings illustrating the heritage homes at 929 Island Road and 825 Foul Bay Road to be added to the artwork collection displayed in the Council Chambers as part of the Art in Chambers project. Ms. Wilson introduced and thanked the local artist Carl Peterson for his contribution. She also presented a copy of the drawing of 929 Island Road to Gertrude Fendall, the property owner.

Mayor Jensen, on behalf of Council, thanked the artist, the Heritage Commission and Ms. Fendall for their participation in the Art in Chambers project.

ADOPTION OF MINUTES:

*Council – September 24, 2012*

MOVED by Councillor Copley  
Seconded by Councillor Herbert, That the minutes of the Council meeting held on Monday, September 24, 2012, be adopted.

CARRIED

MAYOR'S REMARKS:

Mayor Jensen displayed the Integrated Watershed Management EcoStar Award, noting that it was received jointly by Oak Bay, Saanich and Victoria for the Bowker Creek Blueprint project. This is a great achievement, he said, for both the volunteers and staff members who contributed to the project.

Mayor Jensen noted that the District of Oak Bay hosted a tree planting event today in Beacon Hill Park in celebration of the 150<sup>th</sup> anniversary of the City of Victoria. He also stated that, on behalf of Oak Bay Council, he presented a memorial brick for the Esquimalt Centennial Walkway at last week's celebration of the Township of Esquimalt's 100<sup>th</sup> anniversary.

Councillor Ney entered the meeting at 7:40 p.m.

In concluding his remarks, Mayor Jensen commended students at Oak Bay High School for raising almost \$50,000 for the Cops for Cancer fund and noted that the Goodlife Victoria Fitness Marathon held last weekend was very successful.

PUBLIC PARTICIPATION PERIOD:

No members of the public rose to speak.

COMMUNICATIONS:

2. 2012-300 OAK BAY BUSINESS IMPROVEMENT ASSOCIATION, September 26, 2012
- 2012-300-1 MUNICIPAL CLERK, October 3, 2012
  1. Request to Waive Staff Costs for Pumpkin Art Display
  2. Request to Occupy Public Property – Storage Containers

A discussion ensued with respect to the request from the Oak Bay Business Improvement Association to place storage containers at the Scout Hall property. A member of Council expressed concern regarding the potential implications of changing the zoning to accommodate the request while another member spoke in support of the request, given that another storage container is already located on the site.

The Municipal Clerk clarified that the zoning does permit sports equipment storage, which includes the storage container currently located on the property.

MOVED by Councillor Herbert

Seconded by Councillor Green, That staff be directed to provide a report on the implications of amending the Zoning Bylaw to accommodate the Oak Bay Business Improvement Association's request to place two storage containers on Municipal Property.

In response to questions from Council, Heather Leary, Oak Bay Business Improvement Association, stated that finding sufficient storage space has been a challenge for the Business Improvement Association and that renting storage space can be costly. The storage containers, she said, would only be accessed from the Scout Hall property once a year for the pumpkin art display event.

A member of Council commented on the need to find a balance between making the event sustainable and an appropriate use of the property.

The question was then called.

CARRIED

MOVED by Councillor Herbert,

Seconded by Councillor Green, That inasmuch as the pumpkin art display is a community event unrelated to the purposed of the Oak Bay Business Improvement Association's promotion scheme, approval be given to waive staff costs related to installing and removing the pumpkin art display on the light standards along Oak Bay Avenue.

CARRIED

3. 2012-301 DIRECTOR OF BUILDING AND PLANNING, October 2, 2012
  - 2012-301-1 JAMES CHESTNUT, October 5, 2012
  - 2012-301-2 JAMES CHESTNUT, October 5, 2012
  - 2012-301-3 JAMES CHESTNUT, October 8, 2012
- Re Heritage Alteration Permit – 1936 Hampshire Road

James Chestnut, applicant, provided an overview of the proposed heritage alterations laid out in his new application, noting that the streetscape would remain virtually unchanged and that the side walls and a portion of the garage roof would be retained. Mr. Chestnut noted that the rear wall of the garage would be removed to allow vehicles to pass through the structure on to the site and that a space for vehicles to turn around and a new garage with a complementary design would also be constructed. Unfortunately, he said, the two protected chestnut trees on site would need to be removed.

In response to questions from Council, Mr. Chestnut clarified that the proposed garage will be wider than the existing garage. He noted that he is hopeful that blasting will not be required, but that can only be confirmed once excavation is underway.

Regarding the suggestion that the new application be referred to the Heritage Commission, Pat Wilson, Heritage Commission, Chair, noted that the Heritage Commission has already commented on the heritage issues with respect to 1936 Hampshire Road. Ms. Wilson stated that though this application is an improvement over the previous proposal, it will still result in the removal of two protected chestnut trees, which is contrary to the concerns expressed by the community with respect to preserving heritage landscapes. In conclusion, she remarked that alterations to heritage-designated properties should have a minimal impact, which is not the case with the current application.

A discussion ensued with respect to differing information regarding the traffic safety on Hampshire Road, received from a member of the Oak Bay Police Department and in reports from Engineering Department staff, which were provided for the previous Heritage Alteration Permit application.

A member of Council stated that there are many properties in the Municipality that require the residents to reverse their vehicles on to streets with traffic conditions similar to Hampshire Road.

MOVED by Councillor Kirby

Seconded by Councillor Ney, That the Director of Building and Planning be authorized to issue a Heritage Alteration Permit for 1936 Hampshire Road in respect to the plans presented in his report dated October 2, 2012 (correspondence item 2012-301).

Mr. Chestnut responded to questions from Council, noting that it is his understanding that a heritage alteration permit can be granted to address issues of safety and livability. He stated that there are unique elements to the site which make reversing a vehicle on to the street from the existing garage particularly difficult, including the following: the garage is located very near the road and has a narrow entrance; the property is located on the crest of a hill; and the stairs near the existing garage block the view of pedestrians. The neighbouring residents, he said, agree that the traffic issues on Hampshire Road have increased over the last 20 years.

Mr. Chestnut commented that every design option that would address the safety concerns has been considered and that it will not be possible to construct a turn around space without impacting the chestnut trees. He stated that he is willing to replace the chestnut trees and to provide funds for additional tree planting. He concluded his remarks stating that the property is currently on the market as they are concerned regarding the outcome of the Heritage Alteration Permit process.

The Municipal Clerk noted that it is difficult to comment on liability issues due to the contrasting opinions of a member of the Oak Bay Police Department and the Design Engineer. Ms. Hilton also clarified that the applicant's offer to provide additional funds for tree planting elsewhere in the Municipality would not be an appropriate condition of approval for the proposed Heritage Alteration Permit.

Members of Council provided an overview of their considerations in respect to making a decision. Many drew attention to the difficulty of the decision before Council, given the importance of heritage in the community, along with wanting to ensure that heritage properties remained as livable as possible. While some members of Council expressed concern that the proposed alterations would be out of keeping with the recent heritage designation of the property, the majority of Council expressed that the current proposal was supportable as it preserved the heritage streetscape while still addressing the safety concerns of the applicant.

The question was then called.

CARRIED  
*Councillor Green against the motion*

4. 2012-302 DIANA BUTLER, October 1, 2012  
Re Development Variance Permit – 2171 Granite Street
5. 2012-303 CLAIRE HUNTER, October 2, 2012  
Re Development Variance Permit – 2346 Heron Street

MOVED by Councillor Herbert

Seconded by Councillor Murdoch, That correspondence items no. 2012-302 and 2012-303 be received for information.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

No items of New Business were raised.

TABLED:

***Development Variance Permit – 2346 Heron Street***

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 2346 Heron Street (Lot 2, Section 61, Victoria District, Plan 49252), varying the following provision of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:*

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (6) (a) Maximum gross floor area above 0.8 meters below grade	240 m <sup>2</sup>	283.7 m <sup>2</sup>	43.7 m <sup>2</sup>

to accommodate the construction of a rear deck as shown on the plans appended to Committee of the Whole agenda item 2012-284 being a memorandum from the Director of Building and Planning dated September 12, 2012.

CARRIED

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

CARRIED

***Development Variance Permit – 2171 Granite 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 2171 Granite Street (Lot A, Section 23, Victoria District, Plan VIP82707), varying the following provision 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	25%	58.3%	33.3%
Maximum paved surface (front yard)	37.8 m <sup>2</sup>	88.3 m <sup>2</sup>	50.5 m <sup>2</sup>

to accommodate the paved garage access area as shown on the plan appended to Committee of the Whole agenda item 2012-285 being a memorandum from the Director of Building and Planning dated September 12, 2012.

CARRIED

On behalf of the applicant, Dave Meade, Klad Custom Building, responded to the questions raised in correspondence item no. 2012-302, clarifying the location of the paved garage access area and noting that the proposed additional on-site parking stall would provide sufficient space for the residents to park without impacting the shared driveway.

The Director of Building and Planning noted that the applicant's proposal outlines both the use of permeable pavers and the proposed tree retention efforts.

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 – 1237 St. David Street***

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 1237 St. David Street (Lot 1, Section 23, Victoria District, Plan 17838), varying the following provision of Bylaw No. 3531, Zoning Bylaw, 1986, as amended:*

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4. (3) (a)	7.32 m	8.37 m	1.05 m
Maximum building height			

*to accommodate the construction of a dormer on the north side of the building as shown on the plans appended to Committee of the Whole agenda item 2012-286 being a memorandum from the Director of Building and Planning dated September 13, 2012.*

CARRIED

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

CARRIED

BYLAWS:

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Bylaw No. 4574, *Financial Plan Bylaw, 2012, Amendment Bylaw No. 3, 2012*, be adopted.

Mayor Jensen asked if anyone in attendance wished to address Council regarding the *Financial Plan Bylaw, 2012, Amendment Bylaw No. 3, 2012*. No one came forward.

The question was then called.

CARRIED

MOVED by Councillor Herbert

Seconded by Councillor Copley, That Bylaw No. 4575, *Capital Works and Equipment Reserve Fund Appropriation Bylaw, No. 2, 2012*, be adopted.

CARRIED

MOVED by Councillor Green

Seconded by Councillor Murdoch, Bylaw No. 4577, *Property Tax Exemption Bylaw, 2012*, be introduced and read first time.

CARRIED

MOVED by Councillor Green

Seconded by Councillor Herbert, Bylaw No. 4577, *Property Tax Exemption Bylaw, 2012*, be read a second time.

The question was then called.

CARRIED

MOVED by Councillor Green

Seconded by Councillor Herbert, Bylaw No. 4577, *Property Tax Exemption Bylaw, 2012*, be read a third time.

CARRIED

ADJOURNMENT:

MOVED by Councillor Kirby

Seconded by Councillor Murdoch, 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; and 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.

CARRIED

The meeting adjourned 8:56 p.m.

Certified Correct:

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Municipal Clerk

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Mayor