

MINUTES of a regular meeting of COMMITTEE OF THE WHOLE 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, April 6, 2009 at 7:30 p.m.

PRESENT: Councillor H. Braithwaite  
Councillor A. R. Cassidy  
Councillor P. Copley, Acting Chairman  
Councillor J. D. Herbert  
Councillor N. B. Jensen  
Councillor T. Ney  
STAFF: Municipal Administrator, W. E. Cochrane  
Municipal Clerk, L. Hilton  
Confidential Secretary, K. Green  
Director of Building and Planning, R. Thomassen  
Director of Engineering Services, D. Marshall

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

RECREATION SECTION: (Chairman – Councillor Braithwaite)

1. 2009-128 OAK BAY PARKS AND RECREATION COMMISSION, April 1, 2009  
Re Minutes of Meeting

*(Lorna Curtis, Manager, Recreation Program Services, and Frank Carson, Acting Chairman, Oak Bay Parks and Recreation Commission, in attendance for this item.)*

*Pesticide Use Reduction Bylaw Proposal*

A Committee member drew attention to the decision of the Commission regarding Council's referral on the issue of implementing pesticide regulations, asking for clarification of the Commission's intention to wait for other local governments to adopt pesticide use reduction bylaws.

Mr. Carson explained that at its meeting, the Commission had an in-depth discussion on the subject and felt it would be reasonable to wait for other local governments to develop pesticide use reduction bylaws. He said that it was determined at the meeting that the Manager of Parks Services and Matt Fairbarns, a Commission member and Botanist who is very knowledgeable in this regard, would work together to bring forward a report to the Commission in September, once they had time to review the bylaws of those other local governments to compare options and help determine what might be suitable regulations for Oak Bay.

The view was expressed that Oak Bay should be a leader in adopting a pesticide use reduction bylaw, similar to the Capital Regional District's (CRD) model, versus the Commission's approach of waiting for other local governments in the region to adopt a bylaw.

Mr. Carson acknowledged that the Commission is aware of the Capital Regional District's model bylaw that is available to municipalities which would address the environmental impact of pesticide use and said that it will be taken into consideration during the review process. It was noted by Mr. Carson that such a bylaw would be far reaching in that it would capture both public and private properties, and therefore extensive consideration by the Commission in putting forward a recommendation to Council was required.

It was mentioned that Council had requested that the report for the Commission include some interpretation of the terms used in the Capital Regional District's model bylaw, including the commercial names of the products included in it. Mr. Carson confirmed that this will be addressed in the report.

Further discussion ensued, and it emerged that it was the majority view of the Committee members that the possible creation of a pesticide use reduction bylaw should not be rushed into, and that it was acceptable to await a full report in the fall, as proposed.

*Tree Protection Bylaw – Diameter Limits*

In response to a question from the Committee, the Municipal Administrator gave an overview of the two options he previously provided to the Committee regarding possible amendments to the Tree Protection Bylaw, should an amendment be desired. That report, it was noted, was forwarded to the Parks and Recreation Commission to assist with making a recommendation to the Committee with respect to any amendment to the Bylaw.

Discussion ensued regarding the Bylaw as it currently stands and its limitations with respect to permitting removal of some trees, and Mr. Carson noted that it was the original view of the Commission that the current formula works well, and no changes were recommended, as noted in the minutes. However, he said, since that time a member of the Commission has rethought the recommendation and has a potential compromise to discuss with the Commission. Therefore, Mr. Carson said, should the Committee wish, the subject can be referred back to the Commission for further consideration.

There was further discussion regarding the Oak Bay Parks and Recreation Commission minutes, and Mr. Carson answered various questions from the Committee in that regard.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That the minutes of the meeting of the Oak Bay Parks and Recreation Commission held on Wednesday, April 1, 2009, and the recommendations contained therein, be approved with the exception of the recommendation with respect to the Tree Protection Bylaw, which is referred back to Oak Bay Parks and Recreation Commission for further consideration.

CARRIED

PUBLIC WORKS SECTION: (Chairman – Councillor Herbert)

2.     2009-129     DIRECTOR OF ENGINEERING SERVICES, April 2, 2009  
       2009-129-1   CHRISTIN GEALL, March 4, 2009  
                  Re Boulevard Encroachment Application – 686 Linkleas Avenue

Responding to questions, the Director of Engineering Services commented that the only concern with respect to the boulevard encroachment application would be access to the underground storm and water main and the possible tripping hazard associated with the existing rockwork and loose rocks situated on the boulevard.

Mr. Marshall advised that while the loose rocks could be removed easily, the rock wall could not.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That it be recommended to Council that permission be granted for an encroachment onto the boulevard abutting 686 Linkleas Avenue, consisting of plantings of the size and type and in the locations shown attached to correspondence item no. 2009-129-1, and an existing rock wall, subject to the loose rocks being removed from the boulevard, and subject to the owners of the property entering into a boulevard encroachment agreement.

Although the view was expressed that, if anything, the rock wall would pose more of an issue than the loose rocks, it was the majority view of the Committee that the loose rocks should not be included in the encroachment agreement and should be removed.

The question was then called.

CARRIED

*(Councillor Cassidy against the motion)*

3. 2009-130 DIRECTOR OF ENGINEERING SERVICES, April 2, 2009  
2009-130-1 JOSEPH BLAKE AND LYNNE MILNES, March 23, 2009  
Re Boulevard Encroachment Application – 2124 McLaren Avenue

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That it be recommended to Council that permission be granted for an encroachment onto the boulevard abutting 2124 McLaren Avenue, consisting of plantings of the size and type and in the locations shown attached to correspondence item no. 2009-130-1, subject to the owners of the property entering into a boulevard encroachment agreement.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

4. 2009-131 ROSEMARY LAWRENCE AND RAULPH SCHOEDDERT, April 1, 2009  
2009-131-1 J. H. AND MARY CROFT, April 2, 2009  
2009-122 DIRECTOR OF BUILDING AND PLANNING, March 13, 2009  
2009-122-1 J. H. AND MARY CROFT, March 16, 2009  
Re Request to Amend Restrictive Covenant – 57 Sylvan Lane

Councillor Cassidy advised that the applicants have submitted further detail regarding their proposal to expand the restrictive covenant boundaries to allow construction of a garage.

In response to concerns expressed by their neighbours at 52 Sylvan Lane, Rosemary Lawrence, homeowner, explained the changes to their original request, which include a proposed ten metre setback from the front lot line for the north boundary of the covenant area versus the 7.62 metre setback originally requested, along with a height restriction for the proposed garage.

With respect to preserving the intention of the covenant, Ms. Lawrence said the height of the garage will be limited to below the existing windows on the lower floor of the house, which would not affect the neighbour's view. As well, she said that rather than angling the boundary of the covenant as it relates to the northwest portion of the lot as suggested by the Crofts, they

wish to leave the boundary parallel to the north property line as proposed to allow them options for siting of the garage, which would perhaps also safeguard more trees.

There was discussion regarding the neighbour's suggested option of angling the covenant boundary on the northwest side of the property to only expand the covenant area to the extent necessary for a garage, with differing views being expressed in this regard.

The Chairman suggested that the applicants first explore their options for siting the garage then provide a defined location for it to more clearly articulate where the covenant boundary would need to be drawn to accommodate the proposed garage.

Raulph Schoeddert, homeowner, said they would prefer to keep their options open for siting the garage and also expressed concerns that the existing poured concrete pad would have to be completely removed in order to determine the location of the foundation to assist with determining an appropriate location for the garage. However, responding to questions in this regard, the Director of Building and Planning advised that he felt some work could be done without extensive disruption to the concrete.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the request to amend the Restrictive Covenant registered against 57 Sylvan Lane, as attached to correspondence item 2009-131, be deferred, and that the applicants be requested to provide plans that include a predetermined location for the garage to be brought forward for further consideration by the Committee of the Whole.

While it was acknowledged by some members of the Committee that the applicants have already made changes to the proposal in response to the Crofts' concerns, and that the remaining neighbours had no objections, it was felt by the majority of the Committee that further information on the garage location was desirable prior to making a decision.

The question was then called.

CARRIED

*(Councillors Jensen and Ney against the motion)*

5.     2009-132     DIRECTOR OF BUILDING AND PLANNING, March 30, 2009  
                         Re Development Variance Permit Application – 2128 Neil Street

Archie Willie, A. Willie Design, said the homeowners would like to construct a new deck and a two storey addition at the back of the house which requires variances to the gross floor area and minimum interior side lot line setback for the second storey, as shown in the plans attached to correspondence item no. 2009-132. Mr. Willie drew attention to the existing lower level saying that it is just two inches shy of being considered a basement and therefore is considered the first storey, resulting in the need for the second storey setback.

In response to a question from a Committee member, Mr. Willie confirmed that there would be no obvious change to the view of the dwelling from the street with respect to the proposed rear addition.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2128 Neil Street, as outlined in correspondence item no. 2009-132, be prepared and brought forward to Council for consideration.

CARRIED

6. 2009-133 DIRECTOR OF BUILDING AND PLANNING, March 31, 2009  
Re Development Variance Permit Application – 2156 Brighton Avenue

Stephen Earthy, homeowner, explained that the reason for the requested variance to eliminate the requirement for covered parking is due to discovering that the garage, which has now been removed, was situated over sewer and water lines, and that there are the existing power lines running diagonally across the driveway. Therefore, he said, their options for siting a new garage are very limited.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2156 Brighton Avenue, as outlined in correspondence item no. 2009-133, be prepared and brought forward to Council for consideration.

The question was then called.

CARRIED

*(Councillor Cassidy against the motion)*

7. 2009-134 DIRECTOR OF BUILDING AND PLANNING, March 31, 2009  
Re Development Variance Permit Application – 2438 Heron Street

Andrew Jirasek, homeowner, explained that he wishes to raise his house one foot to create a full height basement.

It was noted that the existing siting of the home is considered legal non-conforming and would require three setback variances as described in correspondence item no. 2009-134 as a result of raising it.

In response to a question from a Committee member, it was noted that there would be no obvious change to the view of the dwelling from the street.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2438 Heron Street, as outlined in correspondence item no. 2009-134, be prepared and brought forward to Council for consideration.

CARRIED

8. 2009-135 DIRECTOR OF BUILDING AND PLANNING, March 31, 2009  
Re Development Variance Permit Application – 1198 Victoria Avenue

Michael Lloyd, Quest Renovations, described the proposed changes that would require a front lot line setback variance to allow the homeowners to repair the stairs and to restore and expand the enclosure of the existing porch to its original 1912 design. Mr. Lloyd added that the existing granite pillars will remain.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 1198 Victoria Avenue, as outlined in correspondence item no. 2009-135, be prepared and brought forward to Council for consideration.

CARRIED

9. 2009-136 DIRECTOR OF BUILDING AND PLANNING, April 1, 2009  
Re Development Variance Permit Application – 2677 Musgrave Street

Ray and Lynn France, homeowners, said that the height variance being requested is to accommodate the renovation of the attic, which is to be used as a storage area.

Responding to questions from the Committee, Ms. France confirmed that other than the two new windows being added, the design and massing of the house will remain the same.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2677 Musgrave Street, as outlined in correspondence item no. 2009-136, be prepared and brought forward to Council for consideration.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the meeting of Committee of the Whole be adjourned.

CARRIED

The meeting adjourned at 9:01 p.m.

Certified Correct:

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Municipal Clerk

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Chairman, Recreation Section

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Chairman, Land Use Section

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Chairman, Public Works Section