

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, December 7, 2009 at 7:30 p.m.

PRESENT: Acting Mayor N. B. Jensen, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
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. Walker
Director of Engineering Services, D. Marshall

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

RECREATION SECTION: (Chairman – Councillor Braithwaite)

1. 2009-369 OAK BAY PARKS AND RECREATION COMMISSION, December 2, 2009
Re Minutes of the Meeting

(Lorna Curtis, Director of Parks and Recreation, in attendance for this item.)

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the minutes of the meeting of the Oak Bay Parks and Recreation Commission held on Wednesday, December 2, 2009, and the recommendations contained therein, be adopted.

CARRIED

Oak Bay High School Visioning Day

Acting Mayor Jensen drew attention to the Oak Bay High School Visioning Day that took place December 5, 2009, saying he felt it was a success and thanking Ms. Curtis for her valuable representation and introduction of possibilities that could be considered regarding the rebuilding of the school.

FINANCE SECTION: (Chairman – Councillor Jensen)

2. 2009-370 MUNICIPAL TREASURER, December 1, 2009
2009-370-1 LEN AND LI-ANN SKIBO, August 27, 2009
Re 2010 Water Rates

The Municipal Treasurer provided an overview of her memorandum which noted that staff is seeking confirmation from Council as to whether it wishes to continue with the existing formulas to fund the water and sewer utilities, noting that bylaws to amend the water and sewer user charges will be brought forward at the next meeting.

With respect to the current formulas, Ms. Walker drew attention first to the water charges saying there is a daily fixed charge, which covers 35% of the net costs of the Water Fund, with the remainder being recovered through the consumption charge. The philosophy behind the daily charge, said Ms. Walker, is to ensure funding for the maintenance of the water mains which is required regardless of the amount of water being consumed. A flat daily charge guarantees a certain amount of revenue for this purpose, she said.

With respect to the sewer costs, Ms. Walker advised that prior to 2006 all sewer fund costs were recovered through property taxes. In 2006, Council directed that 70% of the municipal costs in the sewer fund were to be collected through a user charge based on the quantity of water used by a property with the remaining 30% continuing to be raised through taxes.

Referring to the increase in the cost of water noted in the memorandum, Councillor Herbert expressed the view that raising the water rates by almost 22% is irresponsible of the Water Board, and that the amount of water in the reservoirs could have been sold to increase revenue rather than implementing such strict water restrictions during the dryer months. Being permitted to water greenery, including vegetable gardens, he said, would also have been environmentally beneficial.

Further, Councillor Herbert commented that the existing dam has been paid for by current users, and he felt that there should be a mechanism in place whereby any new water customers should contribute to a fund to be used for future reservoir expansions to increase capacity if required.

As Oak Bay's Regional Water Supply Commission representative, Acting Mayor Jensen clarified that the existing reservoir is being paid for over the life of the dam so the cost is borne by existing and new customers. He added that although the wholesale water cost increase appears to be high, the region still benefits from some of the lowest water rates in Canada.

Acting Mayor Jensen noted that conserving water extends the life of the dam, uses less electricity and chemicals (used to purify the water), and reduces the overall water production costs while supporting the environment.

MOVED by Councillor, Braithwaite

Seconded by Councillor Ney, That the current sewer and water funding formulas be endorsed and that staff be directed to draft amendments to the Sewer and Water Rate Bylaws as detailed in the memorandum from the Municipal Treasurer (correspondence item no. 2009-370).

CARRIED

PUBLIC WORKS SECTION: (Chairman – Councillor Herbert)

3. 2009-371 DIRECTOR OF ENGINEERING SERVICES, December 3, 2009
2009-371-1 LANDECA, October 19, 2009
Re Boulevard Encroachment Application – 2508 Eastdowne Road

Responding to questions from a member of the Committee, the Director of Engineering Services outlined the deficiencies of the application noted in his memorandum with respect to the raised garden beds and the ground cover adjacent to the sidewalk, stating the proposed plantings should be two metres from the back of the sidewalk to ensure there is no conflict with pedestrians who may use the boulevard.

With respect to the proposed Woolly Thyme, Councillor Copley expressed the view that as a low growing, walkable ground cover, it would be suitable for the intended purpose.

MOVED by Councillor Braithwaite

Seconded by Councillor Copley, That it be recommended to Council that permission be granted for an encroachment onto the boulevard abutting 2508 Eastdowne Road, consisting of plantings of the size and type and in the locations shown attached to correspondence item no. 2009-371-1, subject to the Woolly Thyme being planted two metres back from the public sidewalk, and, subject to the owners of the property entering into a boulevard encroachment agreement.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

4. 2009-372 DIRECTOR OF BUILDING AND PLANNING, December 1, 2009
Re Uplands Building Permit Application – 2880 Beach Drive

Councillor Cassidy declared a conflict of interest with respect to this item due to a shared financial interest with the applicant's architect. He left the meeting at 7:51 p.m. Acting Mayor Jensen assumed the chair for this item.

Noting that the previous design application for 2880 Beach Drive was rejected by Council, Alan Lowe, Alan Lowe Architect Inc., advised that the current proposal has reduced the house size by 2,000 square feet and includes a smaller inner courtyard. He added that from the street the house will look more like a one storey building and that dormer windows have been added to the second floor. He noted that the same finishing materials would be used as previously proposed.

Members of the Committee felt that the revised design and lower profile is more in keeping with the neighbourhood and will complement the park like setting of the Uplands.

Responding to a question raised as to whether the existing home would be moved rather than demolished, Mr. Lowe responded that it would depend on if a buyer can be found and if not the house would be deconstructed rather than demolished.

The topic turned to environmental considerations, and Mr. Lowe advised that a geothermal pool system would be installed, as well as a heat pump, double paned windows, and water conserving fixtures.

With respect to the setbacks, it was confirmed by Mr. Lowe that the setbacks are the same as originally proposed, except that the Porte Cochere has been removed from the design providing a larger setback in that area.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That it be recommended to Council that the construction plans for a new dwelling at 2880 Beach Drive be approved as to siting and architectural design.

CARRIED

Councillor Cassidy returned to the meeting at 7:59 p.m. and resumed the Chair.

5. 2009-373 DIRECTOR OF BUILDING AND PLANNING, December 1, 2009
Re Uplands Building Permit Application – 3295 Ripon Road

MOVED by Councillor Copley

Seconded by Councillor Ney, That it be recommended to Council that the construction of a deck at 3295 Ripon Road be approved as to siting and architectural design.

CARRIED

6. 2009-374 DIRECTOR OF BUILDING AND PLANNING, December 1, 2009
2009-374-1 HUGH AND MARCIA LAMONT, September 5, 2008
Re Uplands Building Permit Application – 3175 Ripon Road

Councillor Cassidy advised that during the site visit, members of the Uplands Building Permits Subcommittee queried the necessity of building exterior stairs to a separate entry to an upstairs bedroom rather than having stairs built inside the house.

Responding to questions regarding concerns raised in the letter received about the stairs appearing to lead to a suite, whether there was any building code requirements for the stairs, and if they were built without a permit, Mr. Thomassen advised that the stairs are not required, and were built without a permit. With respect to the existence of a suite, he noted one has not been observed by staff, although any investigation of that would be done by staff at the building permit stage.

Nigel Banks, Banks Design, in attendance on behalf of the homeowners, confirmed that the exterior staircase was designed for the daughter of the applicant to have a second way to access her room, and Mr. Banks clarified that there is also access to the bedroom from the interior of the house.

Hugh Lamont, resident, reiterated points raised in his letter to Council, and said that from his house he sees what looks like a big fire escape that is an eyesore and wondered if the bylaw requirements have been met in this regard.

Dissatisfaction was expressed by members of the Committee that the appropriate process was not followed, and that with respect to the application for design and siting approval at hand, the exterior staircase was not suitable or in keeping with the design in the Uplands area.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That it be recommended to Council that design and siting approval for the construction of stairs to the rear of the house at 3175 Ripon Road be denied.

CARRIED

7. 2009-375 DIRECTOR OF BUILDING AND PLANNING, December 1, 2009
Re Uplands Building Permit / Development Variance Permit Application –
3465 Midland Road

With respect to the two variances being requested it was noted that the existing roof height and occupiable height are non-conforming and that the proposed plans do not increase the existing non-conformities.

Attention was draw to the Municipal Arborist's memorandum expressing concern that a Garry Oak tree is located close to the garage. Responding, the Director of Building and Planning

advised that some redesign of the site of the garage has taken place (in particular a parking pad has been removed) to enhance the protection of the Garry Oak tree.

Gerry Troesch, Residential Design, confirmed that it was felt the tree could be saved by using a special foundation at that corner of the garage.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That it be recommended to Council that the plans to renovate the dwelling at 3465 Midland Road be approved as to siting and architectural design, subject to the issuance of a development variance permit, and further that a resolution authorizing the issuance of a development variance permit be prepared and brought forward to the next meeting of Council for consideration.

CARRIED

8. 2009-376 DIRECTOR OF BUILDING AND PLANNING, December 3, 2009
Re Development Variance Permit Application – 195 Sunny Lane

Keith Forshaw, applicant, said he wishes to resurface the existing parking area that currently has several different types of surfaces, some of which are falling apart.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 195 Sunny Lane, as outlined in correspondence item no. 2009-376, be prepared and brought forward to Council for consideration.

CARRIED

9. 2009-377 MUNICIPAL ADMINISTRATOR, November 26, 2009
2009-377-1 GREATER VICTORIA SCHOOL DISTRICT, November 9, 2009
Re Official Community Plan Amendment – Reduction of Greenhouse Gas Emissions

The Municipal Administrator provided a summary of his memorandum noting that the Official Community Plan amendment was drafted to include a target for the reduction of greenhouse gas emissions in the community at large, along with a statement of philosophy and general strategy on how to achieve the target. Emissions from municipal operations, he said, are addressed through the Province's Community Act Charter, to which Oak Bay is a signatory.

Mr. Cochrane noted that the District of Oak Bay has the lowest emissions per capita in the Capital Regional District, although, with there being no industry there is less opportunity for emissions to be reduced. It was clarified that the target set out by the Municipality would be considered "aspirational" with no legal consequences to not meeting it.

Responding to questions, Mr. Cochrane advised that, as far as he was aware, besides Oak Bay, the only other municipality in the region that had brought forward an Official Community Plan amendment regarding the reduction of greenhouse gas emissions was Central Saanich.

MOVED by Councillor Herbert

Seconded by Councillor Ney, That the Official Community Plan amendment required to accommodate a new Provincial requirement to reduce greenhouse gas emissions, as outlined in correspondence item no. 2009-377, be forwarded to Council for formal introduction.

CARRIED

REGULATORY SECTION: (Chairman – Councillor Jensen)

10. 2009-378 DIRECTOR OF BUILDING AND PLANNING, November 25, 2009
Re Proposed Amendment to the Building and Plumbing Bylaw

The Director of Building and Planning provided an overview of his memorandum addressing suggested amendments to the Building and Plumbing Bylaw.

With respect to building permit application fees, Mr. Thomassen noted that currently the Bylaw does not provide for a non-refundable application fee to be paid at the time of submission. In this regard, he said, over the past two years the Building Department has reviewed and completed applications for approximately 25 projects, all of which never proceeded with construction, resulting in a loss of valuable staff time without any payment.

Implementation of a non-refundable application fee of 20% of the building permit fee, to be collected at the time of submission, is recommended, said Mr. Thomassen. Responding to questions regarding Uplands building permits, which are regulated pursuant to the Oak Bay Special Powers Act and require design and siting approval, Mr. Thomassen said the non-refundable application fees would not apply to those applications as the building permit process follows a review by the Advisory Design Panel.

Discussion turned to demolition/deconstruction permits and whether the current fee level provides incentive to encourage deconstruction versus demolition, and it was noted that the fee is now \$50 for deconstruction, which is quite minimal.

A member of the Committee said he remembered when the demolition/deconstruction fees were implemented two years ago and at that time it was recognized that the difference between the two would only be a small incentive. However, he added that the fees for demolition should not be raised to create more of an incentive for deconstruction as it would be punitive in nature.

Responding to questions about any legislative requirements around application fees, the Municipal Administrator noted that unlike land use application fees, which must reflect the actual work involved in processing an application, the demolition/deconstruction fees do not. However, he said, there is a requirement for Council to be able to provide just reasons for fees.

Mr. Cochrane further added that sometimes there is no market for deconstructed materials, although any future ban of such materials at the landfill site would offer a disincentive to demolish a building.

Responding to questions regarding the other proposed changes to the Bylaw, Mr. Thomassen advised he suggests a change to require a building permit for a retaining wall of 1.2 metres and higher versus the current 1.5 metre, to match the height at which a professional engineer design is required. The other changes he said were minor in nature.

MOVED by Councillor Braithwaite

Seconded by Councillor Cassidy, That staff be directed to bring forward for formal consideration by Council an amendment to the Building and Plumbing Bylaw to implement a non-refundable application fee of 20% of the building permit fee, to reduce the height where retaining structures require a building permit to 1.2 meters, and to address some minor housekeeping changes.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite
Seconded by Councillor Cassidy, That the open portion of the meeting of the Committee of the Whole be adjourned and that a closed session be convened to discuss the disposition of land or improvements, as the Committee of the Whole considers that disclosure could reasonably be expected to harm the interests of the municipality.

CARRIED

The meeting adjourned at 9:12 p.m.

Certified Correct:

Municipal Clerk

Chairman, Recreation Section

Chairman, Finance and Regulatory
Section

Chairman, Public Works Section

Chairman, Land Use Section