

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, January 5, 2009 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
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
Municipal Treasurer, P. Walker
Director of Engineering Services, D. Marshall

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

FINANCE SECTION: (Chairman – Councillor Jensen)

1. 2009-18 MUNICIPAL TREASURER, December 1, 2008
Re November Monthly Financial Report

Responding to questions from Councillor Jensen, the Municipal Treasurer provided an overview of the revenue and expense report for November, pointing out that the grant in lieu from the University of Victoria has since been received, the building permit and dog licence revenues are higher than projected, and the expenses are relatively as projected, with the exception of the snow clearing costs, which are expected to be over budget but have yet to be calculated.

With respect to unspent sewer capital, Ms. Walker noted that some capital sewer projects have been postponed until this year.

Ms. Walker confirmed that requests for early spending approval will likely be forthcoming for similar amounts as in past years.

MOVED by Councillor Copley
Seconded by Councillor Herbert, That the November monthly financial reports be received.

CARRIED

RECREATION SECTION: (Chairman – Councillor Braithwaite)

2. 2009-19 OAK BAY PARKS AND RECREATION COMMISSION, December 3, 2008
Re Minutes of the Meeting

(Agnes Szilos, Director of Parks and Recreation, in attendance for this item)

The Director of Parks and Recreation responded to various questions raised by members of the Committee.

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, December 3, 2008, and the recommendations contained therein, be adopted.

CARRIED

PUBLIC WORKS SECTION: (Chairman – Councillor Herbert)

3. -- EXCERPT FROM COUNCIL MEETING MINUTES, December 15, 2008
- 2009-20 HUGH AND YVONNE RORISON, December 19, 2008
- 2009-8 DIRECTOR OF ENGINEERING SERVICES, December 10, 2008
- 2009-8-1 HUGH AND YVONNE RORISON, December 2, 2008
- 2007-275 DIRECTOR OF ENGINEERING SERVICES, October 9, 2007
- 2007-275-1 HUGH AND YVONNE RORISON, [Undated]
Re Boulevard Encroachment Application – 15 Beach Drive

It was noted that as requested at the December 15, 2008 meeting of Council, the original boulevard encroachment application and agreement, which was previously approved, has been provided for the Committee's information and comparison to the new application. The new application includes a different style of fence (chain link) and an encroachment for a portion of the applicant's pond which has been built partially on public property, along with changes with respect to responsibility for the pre-existing boulevard trees.

The Committee invited Mr. Rorison to speak to his latest submission, and he provided an overview of the chain of events that led to the application that was now before the Committee, including the pond that has been constructed. Mr. Rorison noted that he was not aware that the pond would require an encroachment agreement, and indicated his willingness to take on the responsibility for its existence on public property, along with the proposed fence which he felt would improve public safety as a barrier to the sloped property.

There was discussion regarding the pond partially located on public property, and concerns were raised by some members of the Committee regarding potential municipal liability in this regard.

In response to questions from the Committee, it was pointed out by the Municipal Administrator that the standard form of boulevard encroachment agreement includes the adjacent owner indemnifying the Municipality from any liability in relation to the encroachment and taking on the obligation of informing any subsequent owners of the agreement. It was suggested, however, that inasmuch as this application was for more than the typical plantings on the boulevard, and given that such agreements do not run with the land, additional clauses could be added to require the removal of the encroachment prior to selling the property, or, alternatively, requiring the new owners to sign an agreement. It was pointed out that some sort of security would have to be provided to ensure the work to remove the pond was carried down the road.

Following further discussion regarding the application, the aesthetic quality of the pond was acknowledged by members of the Committee, however there remained some concern about a pond being partially situated on municipal property which would not normally be approved.

On balance, it was the majority view of the Committee that the added fence provided some community benefit in separating the public from the steep slope leading down to the pond.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That it be recommended to Council that approval be given for a boulevard encroachment adjacent to 15 Beach Drive for the purpose of installing and maintaining fencing, vegetation, and a portion of a pond, as detailed in the plans attached to correspondence item 2009-20.

MOVED by Councillor Cassidy

Seconded by Councillor Braithwaite, That the motion be amended to include in an agreement the undertaking of the adjacent owner to remove the pond encroachment prior to the transfer of 15 Beach Drive to a subsequent owner, with a security deposit being required in relation to that undertaking.

The question on the amendment was called.

DEFEATED

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

The question on the main motion was then called.

CARRIED

(Councillors Braithwaite and Cassidy against the motion)

LAND USE SECTION: (Chairman – Councillor Cassidy)

There was consensus to amend the order of the agenda.

4. -- EXCERPT FROM COMMITTEE OF THE WHOLE MEETING
MINUTES, November 17, 2008
2008-288 DIRECTOR OF BUILDING AND PLANNING, November 13, 2008
Re Development Variance Permit Application – 2078 Carnarvon Street

It was noted that at the November 17, 2008 Committee of the Whole meeting the application for a development variance permit for 2078 Carnarvon Street was deferred in order for the applicant to have the opportunity to attend a future meeting to answer questions and other enquiries about the proposed application that had arisen.

Judi Bowman, applicant, addressed her application, noting that she wished to widen her driveway to accommodate the two required parking spaces side by side.

Responding to questions, the Municipal Administrator advised that the Driveway Access Bylaw regulates the width of driveways where they cross the municipal boulevard, noting that the crossing width was not variable by Council, therefore Ms. Bowman's request was not an available option.

With respect to what options Ms. Bowman does have, Mr. Cochrane acknowledged that the basement could be redeveloped to provide the required covered parking or the application could be amended to reduce the required parking spaces from two to one, eliminating the need for the wider driveway to accommodate two cars, however, a revised plan would need to be submitted in that regard, he said.

The Director of Building and Planning, responding to questions, noted that the Engineering Department had done some modelling of the proposed parking area and found that in any configuration, vehicles would be driving over the boulevard to access the parking.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the applicant be requested to submit a revised application for consideration at a future Committee of the Whole meeting.

CARRIED

Ms. Bowman indicated her agreement to revise her application as discussed, acknowledging the benefits of the reduced paving should the requirement for the second parking space be varied.

It was noted that if a revised application was to move forward, it would include a notice to nearby residents inviting comment on the proposal.

5. 2009-22 DIRECTOR OF BUILDING AND PLANNING, December 18, 2008
Re Development Variance Permit Application – 1218 Hewlett Place

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That a resolution authorizing the issuance of a development variance permit for 1218 Hewlett Place, as outlined in correspondence item no. 2009-22, be prepared and brought forward to Council for consideration.

CARRIED

6. 2009-23 DIRECTOR OF BUILDING AND PLANNING, December 23, 2008
Re Development Variance Permit Application – 3156 Woodburn Avenue

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That a resolution authorizing the issuance of a development variance permit for 3156 Woodburn Avenue, as outlined in correspondence item no. 2009-23, be prepared and brought forward to Council for consideration.

As requested, the Director of Building and Planning provided an overview of the application, noting that although a building permit has been issued for the renovations being undertaken, the plans did not include the construction of a deck. A stop work order has been imposed in this regard, he said.

Mr. Thomassen went on to point out that the renovations, without the proposed deck, conform to the regulations with respect to building and occupiable height. However, he said, the addition of the deck results in a change to the natural average grade calculation due to the slope of the lot, which lowers the grade and results in those heights no longer meeting the Zoning Bylaw requirements.

Mr. Thomassen confirmed that with the renovations the building does reach the maximum permitted lot coverage and floor area.

The question was then called.

CARRIED

7. 2009-24 DIRECTOR OF BUILDING AND PLANNING, December 30, 2008
Re Development Variance Permit Application – 2509 Estevan Avenue

Maria Elwood, who proposes to lease 2509 Estevan Avenue to operate a cupcake coffee shop, noted that she wished to provide a family friendly establishment which she feels is needed in the Estevan Village. She went on to note that she has received positive feedback from merchants in the Village regarding her proposed business, and that inasmuch as the focus is on a neighbourhood business, she anticipates that parking will not be an issue as patrons will likely get there by walking and cycling from close by.

Responding to questions from the Committee, the Director of Building and Planning noted that the current retail use with two dwelling units has long been legally non-conforming with respect to the off-street parking provided. He said that there are three off-street parking spaces on the property currently, and if the regulations applied (i.e. were put in place before the current use) a total of 13 spaces would be required. With the change to a coffee shop use plus the two dwelling units, he said, 16 parking spaces would be required, resulting in the requested variance of 13 parking spaces.

It was pointed out that there is another land use application before Council for Estevan Village that is also requesting a variance to the parking requirements, and it was suggested that if both were to be approved, it could have a significant impact on parking in that Village. The view was also expressed that there have been other businesses with many patrons in the Village in the past that did not generate any observable parking issues, therefore the impact may be minimal, and the potential benefit to the Village as a whole with the addition of the business should be balanced against any possible parking issues.

Following further discussion it was noted that should a resolution be forwarded to Council to approve the application, the process would lead to notification of nearby property owners and tenants, and that feedback on the proposal from those who would be affected by the variance would be received for Council's consideration prior to making a final decision.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That a resolution authorizing the issuance of a development variance permit for 2509 Estevan Avenue, as outlined in correspondence item no. 2009-24, be prepared and brought forward to Council for consideration.

CARRIED

It was agreed that in addition to receiving possible comment from owners and tenants in the area should the application proceed to the notification stage, it would be useful for staff to provide information on the actual number of dwelling units and the parking provided in that regard within the Estevan Village, although there was no desire to delay the application before the Committee to await the information.

8. 2008-289 MUNICIPAL ADMINISTRATOR, November 12, 2008
2009-21 DIRECTOR OF BUILDING AND PLANNING, December 30, 2008
2009-21-1 BRENT FIELDS, December 9, 2008
Re Accessory Building Lot Coverage Regulations

Councillor Cassidy drew attention to the visual representations provided for potential options to amend the site coverage regulations for accessory buildings to allow the construction of a double garage on a wider range of lots, as was requested at the November 17, 2008 meeting.

Following review of the various drawings provided, it was

MOVED by Councillor Herbert

Seconded by Councillor Copley, That a bylaw be brought forward to Council to implement, for the RS-4 and RS-5 zones, an accessory building site coverage limit that is the greater of:

- (a) 44 sq. metres or 7% of lot area, whichever is less; and
- (b) 5% of lot area.

CARRIED

ADJOURNMENT:

MOVED by Councillor Jensen

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

CARRIED

The meeting adjourned at 9:26 p.m.

Certified Correct:

Municipal Clerk

Chairman, Finance Section

Chairman, Recreation Section

Chairman, Public Works Section

Chairman, Land Use Section