

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 Tuesday, May 19, 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 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. 2009-174 MUNICIPAL TREASURER, May 1, 2009  
Re Monthly Financial Reports

The Municipal Treasurer noted that the tax notices were sent out May 15<sup>th</sup> and payments totalling over \$120,000 have already been received.

MOVED by Councillor Herbert

Seconded by Councillor Cassidy, That the April monthly financial reports be received.

CARRIED

RECREATION SECTION: (Chairman – Councillor Braithwaite)

2. 2009-175 OAK BAY PARKS AND RECREATION COMMISSION May 6, 2009  
Re Minutes of the Meeting

*(Agnes Szilos, Director of Parks and Recreation, and Monty Holding, Chairman, Oak Bay Parks and Recreation Commission, in attendance for this item.)*

*Kindergarten Care Program*

Responding to a question from a Committee member regarding the proposed expansion of the Kindergarten care program, Ms. Szilos noted that it arose in response to market demand and discussions with the principal from Willows Elementary.

*Heat Exchanger*

Ms. Szilos advised that due to the unexpected failure of the nine year old domestic water system heat exchanger she will be bringing forward a request to Council for early Capital

spending approval to replace the exchanger. It has been determined that it cannot be repaired and a new one has been ordered, she said.

Ms. Szilos answered various questions from the Committee with respect to the heat exchanger.

*Scented Garden – Windsor Park*

Councillor Herbert expressed his appreciation to staff for the great job they have done in constructing the accessible scented garden at Windsor Park.

*Tree Protection Bylaw*

It was noted that at a previous meeting Committee of the Whole referred the question of amending the formula for calculating diameter limits for multi-stemmed trees to the Parks and Recreation Commission for a recommendation in that regard.

Responding to questions, Ms. Szilos advised that following discussion, the Commission determined that any amendment to the Bylaw would not necessarily address multiple situations. Therefore, the Commission felt that issues arising from the application of the Bylaw should be tracked and then reviewed in a few years time to see if there are any trends that might warrant an amendment. Accordingly, the Commission recommended that no amendment be made with respect to diameter limits at this time, she said.

MOVED by Councillor Herbert

Seconded by Councillor Copley, That the minutes of the meeting of the Oak Bay Parks and Recreation Commission held on Wednesday, May 6, 2009, and the recommendations contained therein, be adopted.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

3. 2009-176 DIRECTOR OF BUILDING AND PLANNING, May 5, 2009  
Re Uplands Building Permit Application – 3025 Devon Road

MOVED by Councillor Ney

Seconded by Councillor Herbert, That it be recommended to Council that the plans to construct a greenhouse at 3025 Devon Road be approved as to siting and architectural design.

CARRIED

4. 2009-177 DIRECTOR OF BUILDING AND PLANNING, May 11, 2009  
Re Development Variance Permit Application – 190 King George Terrace

Bruce Wilkin, Bruce Wilkin Design, was in attendance on behalf of the homeowners, noting that the renovations are designed to make for a better layout of the floor plan, and will increase the floor area by approximately 300 square feet. He said that he felt the views of the houses behind 190 King George Terrace would not be affected by the plans inasmuch as they do not include building over the garage which is the main view corridor for those properties.

Paul Pallan, owner, commented that he has been in touch with his neighbours regarding the proposed plans, and the initial feedback has been very positive.

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 190 King George Terrace, as outlined in correspondence item no. 2009-177, be prepared and brought forward to Council for consideration.

CARRIED

5. 2009-178 DIRECTOR OF BUILDING AND PLANNING, May 11, 2009  
Re Development Variance Permit Application – 2218 Central Avenue

Damon Schooley, Morris and Schooley Construction Ltd., answered questions from the Committee noting that with the enclosure of the existing garage, two on-site and uncovered parking spaces are being proposed in the application.

A member of the Committee observed that green space would be eliminated in order to provide the second parking space, suggesting that providing only one uncovered space would be supportable. Mr. Schooley confirmed that the applicant would actually prefer to provide only one parking space if that was possible.

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 2218 Central Avenue to reduce the number of required parking spaces from two to one and to relax the requirement that one-half (1/2) of the required parking spaces be contained within a building, be prepared and brought forward to Council for consideration.

The view was expressed that reducing the number of parking stalls on site would increase parking congestion on the street and it was suggested that if the Bylaw is to be continuously varied, perhaps it should be reviewed for its appropriateness. Concern that a future owner may need more than one space for vehicles was also expressed.

It was noted that inasmuch as the resolution does not reflect the parking proposal shown in the plans included with the application and attached to correspondence item 2009-178, a new plan showing the revised parking configuration for the one parking stall should be submitted prior to the next Council meeting.

CARRIED

*(Councillors Braithwaite, Cassidy and Herbert against the motion)*

6. 2009-179 DIRECTOR OF BUILDING AND PLANNING, May 12, 2009  
Re Development Variance Permit Application – 476 Transit Road

Mayor Causton indicated a conflict as he lives next to the subject property, advising that he would be unable to participate in discussion or vote on the matter. He left the meeting at 8:07 p.m.

The Director of Building and Planning answered questions from the Committee, noting that the existing house will be moved off-site for the construction of a new single family dwelling.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 476 Transit Road, as outlined in correspondence item no. 2009-179, be prepared and brought forward to Council for consideration.

CARRIED

Mayor Causton returned to the meeting at 8:10 p.m.

7. 2009-180 DIRECTOR OF BUILDING AND PLANNING, May 12, 2009  
Re Development Variance Permit Application – 677 Beach Drive

A member of the Committee drew attention to the proposed design of the new single family dwelling, noting the prominence of the three car garage at the front of the property, saying that it is not in keeping with the existing streetscape.

Bruce Wilkin, Bruce Wilkin Design, explained the circumstances of the property, noting that there is a sewer right of way running along the lot that limits the design options and has resulted in the need for a contextual setback variance.

There was further discussion, and concerns arose from other members of the Committee regarding the siting of the garage at the front of the lot and how its presence there does not fit with the streetscape that sees other garages on the street being located at the rear of the property and accessed off of Radcliffe Lane. The suggestion was made that perhaps an alternative design would fit the area better.

Mr. Wilkin responded noting that his clients require the size of the three car garage to accommodate their parking needs, and in his view the parking should be on the Beach Drive side. The design, he said, also provides for a courtyard area between the house and the garage which would be sheltered from the wind.

However, acknowledging the concerns expressed with respect to the proposed plans, Mr. Wilkin agreed that he would consult with his client regarding an alternate design that would address the issues that have been raised, and bring back an amended design for the Committee's consideration.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That correspondence item no. 2009-180 be deferred pending receipt of revised plans from the applicant.

CARRIED

8. 2009-181 DIRECTOR OF BUILDING AND PLANNING, May 13, 2009  
Re Development Variance Permit Application – 2120 Fair Street

In response to questions from the Committee, the Director of Building and Planning advised that the new shed dormers in the rear of the house would not be any closer to neighbouring properties than the existing house, however, the new construction at the front of the house does extend further out.

Leonard Cole, owner, provided additional information in response to questions, noting that the dormers and deck will allow for covered parking below. He also noted that while the dormers in the front would extend out, they do not encroach into the required setback.

With respect to the neighbours' response to the plans, Mr. Cole advised that they are thrilled with the proposed renovations as the current house is somewhat of an eyesore.

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 2120 Fair Street, as outlined in correspondence item no. 2009-181, be prepared and brought forward to Council for consideration.

CARRIED

9. 2009-182 DIRECTOR OF BUILDING AND PLANNING, May 13, 2009  
Re Development Variance Permit Application – 1941 Crescent Road

Russ Collins, Zebra Design, provided an overview of the four variances being requested in respect to the proposed new single family dwelling, two of which are for floor area, one for the maximum paved surface of the front yard and the fourth for the interior side lot line setback for the second storey.

Mr. Collins explained that the owners require a ramp for wheelchair access to the house for their parents, resulting in the need for a variance to the maximum allowable paved surface regulation.

With respect to the second storey side lot line setback, Mr. Collins noted that he did not foresee the need for that variance as through his interpretation of the Zoning Bylaw the design met the setback requirement. However, he said, the Building and Planning Department has advised otherwise.

Mr. Collins responded to various questions from the Committee regarding the proposed design in terms of providing wheelchair ramp access to the basement, noting that the sloping site reduces the options available in this regard.

As far as the requested variances for floor area are concerned, said Mr. Collins, the floor area proposed would have been permitted under the previous floor area ratio regulations.

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 1941 Crescent Road, as outlined in correspondence item no. 2009-182, be prepared and brought forward to Council for consideration.

CARRIED

PUBLIC WORKS SECTION: (Chairman – Councillor Herbert)

10. 2009-183 SCOTT WOODCOCK AND ANNA MASON, April 28, 2009  
2009-183-1 MUNICIPAL CLERK, May 13, 2009  
Re Request for Amendment to Driveway Access Bylaw

The Municipal Clerk provided a summary of the request for an amendment to the Driveway Access Bylaw as laid out in correspondence item 2009-183, advising that even if an amendment was made to that Bylaw to allow two driveways so that the owners can retain the original driveway at 2180 Musgrave along with the new driveway to the new garage, the existing driveway would not meet the minimum stall length and maximum slope requirements of the Parking Facilities Bylaw. It was also pointed out by a member of the Committee that parking in the existing driveway would result in vehicles extending onto the public boulevard.

Scott Woodcock, owner, 2180 Musgrave, queried why, if he is already providing parking in the new driveway and garage that meets the Parking Facilities Bylaw requirements, the existing driveway could not just remain, but not as a means of providing the required off-street parking.

Ms. Hilton, responding to questions from the Committee, advised that a driveway access must lead to off-street parking, which would not be satisfied in the current situation, and under the current regulations, the driveway crossing would have to be removed.

Dr. Woodcock answered questions from the Committee regarding why he wished to retain the existing driveway, noting that parking in the area is very congested being so close to Willows School, and that he wished to be able to park near his entrance to his house for easier access versus on the new driveway which would be located towards the back of the property.

The point was made that if the owners of 2180 Musgrave had not applied for a permit to renovate their home, the deficiencies of the driveway as a parking area resulting from the garage being closed in would not have been known to staff. It was further pointed out that there are similar non-conforming driveways/parking areas throughout the Municipality.

Various suggestions outside of amending the necessary bylaws for addressing the parking needs of the owners were discussed, including the implementation of resident only parking regulations, although none emerged that were supported by the Committee.

Responding to questions regarding whether or not, in recognizing that the existing driveway does not meet the Parking Facilities Bylaw requirements for a proper parking space, the driveway access could be left as is (i.e. not removed) as long as it was not used for parking, Ms. Hilton reiterated that this would not be possible in light of the requirement for a driveway access to extend onto a parcel of land to provide for off-street parking.

Some members of the Committee noted that this situation was not one which warranted consideration of core bylaw amendments, and that without retaining the existing driveway the owners of 2180 Musgrave would still have the new driveway and garage for parking, and that, perhaps, the issue lies more with the inconvenience of the location of that available parking compared to the existing driveway.

It was, however, the majority view of the Committee that this is a good time to consider amendments to the Bylaws involved and that further information should be provided regarding the bylaw amendments that would be required to address the situation at hand and then the potential consequences of those amendments could be explored.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That staff provide a report on the steps required to amend the applicable bylaws to accommodate the retention of the existing driveway at 2180 Musgrave Street for consideration by Committee of the Whole.

CARRIED

*(Councillors Braithwaite, Cassidy and Herbert against the motion)*

11.   2009-184     MUNICIPAL ADMINISTRATOR, May 1, 2009  
      2009-184-1   SHELBY DONALD, April 29, 2009  
                  Re Boulevard Encroachment Application – 2981 Larkdowne Road

Attention was drawn to the memorandum from the Municipal Administrator with respect to an application to retain a grass-grid surface on a portion of the boulevard adjacent to 2981 Larkdowne Road, and the view was expressed that the alternative provided was a good solution to protect the boulevard from vehicles accessing the garage at the back of the property without the use of additional concrete.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That it be recommended to Council that the boulevard encroachment option laid out in correspondence item no. 2009-184, being a memorandum from the Municipal Administrator dated May 1, 2009, be approved.

CARRIED

12.   2009-185     DIRECTOR OF ENGINEERING SERVICES, May 13, 2009  
      2009-185-1   KATHY FIELDS, April 16, 2009  
                  Re Boulevard Encroachment Application – 2633 Estevan Avenue

The Director of Engineering Services noted that there have been numerous requests received recently for permission to encroach onto municipal property, drawing attention to some of the issues that arise for staff with the boulevard encroachment agreement process, such as the amount of time required to assess each application and provide a report and recommendation to the Committee, and the inability for Public Works staff to locate and access water metres where encroachments tend to hide them.

Mr. Marshall put forward the idea of the Committee reconsidering allowing any boulevard encroachments due to the time and staff resources required to process the applications, and said that, in any event, he has developed a standardized staff report to accompany boulevard encroachment requests as attached to each of the encroachment requests on the May 19th Committee of the Whole agenda, to help streamline the process. The new format, he noted, basically lists the set of criteria staff use in evaluating applications, and identifies which criteria the application satisfies, and which it does not.

It was felt that perhaps a broader discussion on the issue could occur at another time, along with the possibility of implementing an application fee for boulevard encroachment applications.

The discussion turned to the application at hand and the Director of Engineering Services' assessment of it contained in his memorandum.

MOVED by Councillor Cassidy

Seconded by Councillor Jensen, That it be recommended to Council that permission be granted for an encroachment onto the boulevard abutting 2633 Estevan Avenue, consisting of plantings of the size and type and in the locations shown attached to correspondence item no. 2009-185-1, subject to the owners of the property entering into a boulevard encroachment agreement.

CARRIED

13. 2009-186 DIRECTOR OF ENGINEERING SERVICES, May 13, 2009  
2009-186-1 RUBY CHAPMAN, April 20, 2009  
Re Boulevard Encroachment Application – 3230 Henderson Road

A concern was raised regarding the possible effect of the proposed plantings on the root structure of the existing boulevard tree.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That the application for an encroachment onto the boulevard abutting 3230 Henderson Road be deferred pending receipt from the applicant's Arborist regarding the potential for damage to the existing boulevard tree as a result of the proposed encroachment.

CARRIED

14. 2009-187 DIRECTOR OF ENGINEERING SERVICES, May 13, 2009  
2009-187-1 MARK DAVIES, April 28, 2009  
Re Boulevard Encroachment Application – 658 Transit Road

Attention was drawn to the staff report indicating that Parks Department staff recommend denial of the request to plant Katsura trees on the public boulevard due to the potential for the trees to interfere with overhead power lines once they mature.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That it be recommended to Council that the request for a boulevard encroachment at 658 Transit Road for the purpose of planting three Katsura trees be denied.

It was pointed out that while Katsura trees have not been deemed to be suitable by Parks staff, there may be other species of trees that would be acceptable, and that the applicants could inquire with the Parks Department in this regard.

CARRIED



15. 2009-188 DIRECTOR OF ENGINEERING SERVICES, May 13, 2009  
2009-188-1 AILEEN PARKINSON AND SCOTT HUTCHINSON, April 27, 2009  
Re Boulevard Encroachment Application – 2568 Eastdowne Road

Members of the Committee referred to the staff memorandum on the application, noting that the encroachment application, if approved, would see 2568 Eastdowne Road being the only property with boulevard plantings right up to the back of the sidewalk.

It was also noted that the encroachment would give the appearance that the public boulevard is being taken over for private use.

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That it be recommended to Council that the application for an encroachment onto the boulevard abutting 2568 Eastdowne Road be denied.

CARRIED

16. 2009-189 DIRECTOR OF ENGINEERING SERVICES, May 13, 2009  
2009-189-1 ERIN RENWICK AND JACQUES BOISVERT, April 29, 2009  
Re Boulevard Encroachment Application – 733 St. Patrick Street

Erin Renwick, Greenspace Designs, confirmed that the proposed plantings would be located two metres back from the edge of the public sidewalk.

In response to questions regarding the possible interference of the proposed plantings with any storm drain work on the boulevard that might be required, the Director of Engineering Services indicated that the plantings are likely sufficiently far away from the area that would be needed for trenching, and therefore the work would probably not be too detrimental to the plantings.

Ms. Renwick responded to questions, noting that in her view, the proposed encroachment would be an enhancement to the existing streetscape.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That it be recommended to Council that permission be granted for an encroachment onto the boulevard abutting 733 St. Patrick Street, consisting of plantings of the size and type and in the locations shown attached to correspondence item no. 2009-189-1, subject to the owners of the property entering into a boulevard encroachment agreement.

Attention turned to the boulevard tree located in the vicinity of the proposed plantings, and concerns were raised regarding the possible effect of the plantings on the tree.

In response to questions regarding any suggestions she may have for improving the boulevard encroachment application process, Ms. Renwick indicated that she found the guidelines for applications on the municipal website which were easy to follow, although it would be helpful if there was a list of plants deemed appropriate to choose from.

CARRIED

*(Councillor Cassidy against the motion)*

Mayor Causton invited staff to provide recommendations to the Committee regarding boulevard encroachment applications and a possible application fee schedule.

ADJOURNMENT:

MOVED by Councillor Braithwaite

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

CARRIED

The meeting adjourned at 10:30 p.m.

Certified Correct:

---

Municipal Clerk

---

Chairman, Finance Section

---

Chairman, Recreation Section

---

Chairman, Land Use Section

---

Chairman, Public Works Section