

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, June 16, 2008 following the Special meeting of Council at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman  
Councillor A. R. Cassidy  
Councillor S. F. B. Carson  
Councillor P. Copley  
Councillor J. D. Herbert  
Councillor N. B. Jensen

STAFF: Municipal Administrator, W. E. Cochrane  
Municipal Clerk, L. Hilton  
Confidential Secretary, K. Green  
Director of Building and Planning, N. Beattie  
Municipal Treasurer, P. A. Walker

Mayor Causton called the meeting to order at 7:35 p.m.

RECREATION SECTION: (Chairman – Councillor Carson)

1. 2008-156 OAK BAY PARKS AND RECREATION COMMISSION, June 4, 2008  
Re Minutes of the Meeting

*(Lorna Curtis, Manager of Recreation Program Services, and Stephen Gorman, Chairman, Oak Bay Parks and Recreation Commission, in attendance for this item.)*

*Expansion of Monteith Community Gardens*

Attention was drawn to the initiative to explore possible expansion of the community gardens to the vacant land next to the existing garden plots, and support for the concept was noted by Committee members in general. Support for a user group to perhaps take on the administration of the existing and potential new community gardens was also noted, although it was recognized that further work to explore the possibility would be required.

Questions arose with respect to other potential pieces of land that could be used for community gardens, and Mr. Gorman indicated that over the past few years the Commission has investigated other locations which have each been eliminated as good potential sites for various reasons.

In response to questions, Mr. Gorman noted that there would be capital improvements needed to expand the gardens, and that the possibility of partnering with the Bowker Creek Initiative group to apply for a grant in that regard is under discussion. Further information on this and the possible expansion in general, said Mr. Gorman, would be gathered by staff and reported back to the Commission in the future.

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, June 4, 2008, and the recommendations contained therein, be adopted.

CARRIED

FINANCE AND REGULATORY SECTION: (Acing Chairman – Mayor Causton)

2. 2008-157 MUNICIPAL TREASURER, May 31, 2008  
Re Monthly Financial Report

MOVED by Councillor Jensen  
Seconded by Councillor Herbert, That the May monthly financial reports be received.

CARRIED

3. 2008-158 MUNICIPAL ADMINISTRATOR, June 12, 2008  
Re Proposed Amendment to Tree Protection Bylaw

The Municipal Administrator, referring to his memorandum, noted that the Tree Protection Bylaw, which was comprehensively re-written in 2006, has been working very well to date. He went on to note that the current Bylaw sets out the circumstances where the Manager of Parks Services can issue a permit for the removal of a protected tree. However, said Mr. Cochrane, staff has drawn attention to a situation that is not covered in the Bylaw, and that is allowing removal of a protected tree which is in the late stages of a severe and irreversible decline but does not actually pose a hazard.

Mr. Cochrane referred to the proposed draft bylaw attached to his memorandum that could address this issue, noting that it includes a replacement tree requirement being triggered in the case of a permit being issued under this proposed amendment.

There was discussion regarding the recourse an applicant would have following a refusal to issue a permit to remove a tree under this amendment, and it was noted that should there be disagreement with that decision, applicants could appeal to Council under the 'reconsideration' provision in the Bylaw.

MOVED by Councillor Jensen  
Seconded by Councillor Herbert, That the draft bylaw attached to the memorandum from the Municipal Administrator dated June 12, 2008 (correspondence item no. 2008-158), be brought forward to the next meeting of Council for formal introduction.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

4. 2008-159 MUNICIPAL ADMINISTRATOR, June 10, 2008  
2008-159-1 LAURA NICHOLLS, May 29, 2008  
2008-159-2 DOROTHY COLLINS, May 29, 2008  
2008-159-3 ANDREA HUGHES, May 29, 2008  
2008-159-4 KAREN PLATT AND CHRIS DENNY, May 29, 2008  
2008-159-5 SAFER CYCLING OAK BAY, May 29, 2008  
2008-159-6 LOUISE PETERS, May 30, 2008  
2008-159-7 MICHELLE KIRBY, May, 30, 2008  
2008-159-8 BRITT KARLSTROM, May 30, 2008  
2008-159-9 JON SVOVELAND, May 30, 2008  
2008-159-10 MICHELLE HILTS, May 30, 2008  
2008-159-11 SUZANNE MACLEOD, June 1, 2008  
2008-159-12 CRISTEN AND GEOFFREY DALLAS, June 2, 2008

2008-159-13	RON CARTER, June 2, 2008
2008-159-14	VICKI ZIEGLER, June 3, 2008
2008-159-15	TREVOR AND VALERIE WILLIAMS, June 3, 2008
2008-159-16	DAVID GODFREY AND T. HUNTER, June 3, 2008
2008-159-17	MARLOWE ANDERSON, June 3, 2008
2008-159-18	DAVID GREER, June 5, 2008
2008-159-19	KATHLEEN MANNING AND FAMILY, June 8, 2008
2008-159-20	OAK BAY GREEN COMMITTEE, June 8, 2008
2008-159-21	EARL AND HEIDI DAVIS, June 9, 2008

Re Land Use Regulations Affecting Outdoor Produce Sales

Councillor Cassidy explained that the task assigned to the Committee was to look into alternatives for amending some of the Zoning Bylaw regulations that currently restrict the potential for outdoor produce markets. At present, he observed, such a use was permitted only on public streets pursuant to special licence issued by Council, and only in commercial areas.

Councillor Cassidy noted that with the exception of the provision with regard to public streets, the existing regulations effectively prevented the establishment of outdoor produce markets on both public and private property. As far as commercially zoned private property was concerned, he could foresee a recommendation to ease the current restrictions wherever a retail use was allowed. With respect to public lands, however, there were, broadly speaking, two alternative approaches that could be taken. One would be to make the use in question possible on virtually all public land from a land use regulation point of view, with individual applications then being dealt with by the Municipality – or, in a few cases, by another public body such as the School District – as land owner. The other general approach would be to leave the regulations for public lands unchanged at this point and deal with individual rezoning proposals on a case by case basis. The regulatory framework for the existing “soft plastic” recycling operation at Carnarvon Park was an example of the latter model.

Responding to a question from the Committee, the Municipal Administrator said that a local government’s zoning authority would not extend to specifying the origin of the produce proposed to be sold – i.e., that it be local as opposed to imported. In situations where the Municipality was the land owner, however, this issue could be addressed in a licence agreement if that was the desired policy direction.

Councillor Herbert observed that, regardless of the regulatory framework, in approving specific locations the Municipality as land owner should be sensitive to the interests of existing grocery retailers, who should not be placed in situations where they were facing unfair competition from outdoor market operators with significantly lower overhead costs.

Councillor Copley noted that the few outdoor market proposals which had come forward to date were typical of others throughout the Capital Region in that they were focused on local food self-sufficiency and were very small in scale. These attributes, she said, would likely reduce the potential for conflict with traditional suppliers, and in fact there had not been reports of problems in this regard as far as she was aware.

Susan Tychie, Director, FoodRoots Distributors Co-operative, explained that the FoodRoots organization operated many of the small produce markets in the Capital Region. Generally, she said, FoodRoots would set up a market as an invitee of a strata council, a business, or a large government office. The organization attempted to meet an identifiable demand for a convenient source of local produce, which was otherwise difficult to find, at least within walking distance. The markets, she said, also brought people together and in that sense helped to create a sense of community.

Ms. Tychie said that her organization was also interested in partnering with local recreation centres, as it had already done with the Pearkes Centre in Saanich. It had been exploring possibilities along this line with the Oak Bay Parks and Recreation Commission. She felt that the combination was a natural one as both types of organizations were devoted to the promotion of healthy living.

In response to a question from the Committee, the Municipal Administrator said that zoning regulations could properly be used to limit the size of outdoor markets, and Ms. Tychie confirmed that the “pocket markets” operated by FoodRoots typically only required three or four tables. Furthermore, she said that the markets would generally be set up only for a few hours on one day in any given week.

Ms. Tychie also said that FoodRoots worked closely with the Vancouver Island Health Authority, which regulated the health aspects of food sales and could be expected to inspect any outdoor produce market operation.

Addressing an issue raised by Councillor Copley, Ms. Tychie said that although the mandate of FoodRoots was not necessarily to make a profit, at the same time it had made a conscious decision not to seek non-profit status. Any profits that were made, however, were re-invested into the infrastructure required to support the local food supply system.

Michelle Kirby, 2215 Dalhousie Street, said that she appreciated what an organization such as FoodRoots was contributing towards the objective of local food security. She hoped that any regulatory scheme would be as liberal as possible, providing a potential for more than one outlet within the community, so that in most neighbourhoods there would be a source of local produce within reasonable walking distance.

Rene de Vos, 2168 Guernsey Street, also supported the adoption of regulations that would facilitate the establishment of a number of small markets. Although, he said, the plastic recycling depot that he had been associated with at Carnarvon Park had been successful, he had observed that most users arrived by automobile, which was the inevitable result of focusing such an activity in one central location.

Councillor Jensen observed that the incorporation of reasonable regulations governing the size, duration and frequency of outdoor produce markets, particularly in light of the information conveyed by Ms. Tychie with regard to the nature of these operations, could help to allay any concerns from competing interests. Under the existing rules, there would still remain the potential for a larger market in a public street location where the adjacent businesses agreed that it would be mutually beneficial.

Councillor Carson reminded the Committee that if the zoning created the potential for such a use in a park, then input from Parks and Recreation should be sought whenever Council, as land owner, was called upon to deal with a specific proposal for the establishment of a market on any land in that category. He noted that such a course would acknowledge the responsibility of the Parks and Recreation Commission as custodian of the Municipality’s parks; that it would avoid conflict with other uses, and that it would be consistent with past practice.

MOVED by Councillor Herbert

Seconded by Councillor Jensen, That staff be asked to report back to Committee with a draft Zoning Bylaw amendment that would establish outdoor produce markets as a permitted use on private property where a retail use was already allowed, and also on public lands, with the amendment to incorporate limitations as to scale, duration and frequency consistent with established “pocket market” examples in the Capital Region.

CARRIED

The Municipal Administrator advised that it would be prudent, in light of the broad permissive approach contemplated with respect to park land, to draft a companion amendment to the Official Community Plan to clarify that a small scale produce market, properly regulated, would not necessarily be inconsistent with the fundamental purpose of a park as a place for the recreation of the public.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That, pursuant to the requirements of Section 879 of the *Local Government Act*, it be recommended to Council that the following consultation plan be adopted with respect to the proposed Official Community Plan amendment to allow commercial activity on park land where permitted by the Municipality as land owner:

- Newspaper advertisement regarding the possible Official Community Plan amendment, noting the opportunity to provide input at the meeting of Committee of the Whole when the draft amendment is first considered and at each subsequent meeting dealing with the subject.

CARRIED

Noting that it would take several months, because of the various statutory requirements applicable to community plan amendments and rezonings, to bring the contemplated bylaws to the point where adoption could be considered, Mayor Causton suggested that, for the assistance of local business groups and potential market operators, staff compile a list of public street locations that would qualify for Council approval under the current regulatory scheme.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That correspondence items no. 2008-159 to 2008-159-21 be received.

CARRIED

4. 2008-160 DIRECTOR OF BUILDING AND PLANNING, June 2, 2008  
Re Application for Heritage Revitalization Agreement – 1587/1595  
York Place

Steve Cockayne, 1587 York Place, described the changes to the application since it had first been received by Council, noting that two dwelling units above the carriage house have been removed along with providing more off-street parking, leaving a total of five proposed residential units and nine parking spaces.

It was noted that the Heritage Advisory Panel has reviewed the application, as amended, and is in support of the proposed changes, however, wishes to see continued sensitivity to the heritage characteristics while the work is undertaken.

Attention was drawn to the recommendation from the Fire Inspector to sprinkler and alarm the building, and Mr. Cockayne noted that while he had not fully costed out the work, he does not see providing sprinklers as a problem at this point.

Mr. Joe Newell, Joe Newell Architect Inc., drew attention to the fire separation work that would be undertaken between the suites and confirmed that preliminary costs estimates have been obtained with respect to the installation of sprinklers.

Responding to questions, the Municipal Administrator noted that the process, if Council was in support of the application, would be to direct staff to draft an agreement which would then be presented to the applicants for signature prior to a Bylaw authorizing the Agreement being put before Council for consideration. In this regard, said Mr. Cochrane, direction would be required with respect to whether or not sprinklering is to be included in the agreement.

MOVED by Councillor Copley

Seconded by Councillor Jensen, That staff be directed to draft a Heritage Revitalization Agreement for 1587/1595 York Place, including a requirement for sprinklering the building, for review by the applicants and then brought to Council in Bylaw form for consideration once executed.

CARRIED

5. 2008-161 DIRECTOR OF BUILDING AND PLANNING, June 3, 2008  
Re Development Variance Permit Application – 1613 Elgin Road

Kristina Stevens, 1613 Elgin Road, said that she is requesting variances with respect to constructing a pergola. Ms. Stevens said that the proposed pergola would be placed in the area where a Dogwood tree once stood, which unfortunately died and had to be removed (through the permitting process), which has opened up the yard for use of the now available sunshine.

MOVED by Councillor Herbert

Seconded by Councillor Carson, That a resolution authorizing the Director of Building and Planning to issue a development variance permit for 1613 Elgin Road, as outlined in correspondence item no. 2008-162, be prepared and brought forward to Council for consideration.

Responding to a question from a Committee member, Ms. Stevens noted that the paved area is just big enough to place an outdoor table on and permeable material will be used.

CARRIED

6. 2008-162 DIRECTOR OF BUILDING AND PLANNING, June 5, 2008  
Re Uplands Building Permit / Development Variance Permit Application  
– 2757 Dorset Road

MOVED by Councillor Herbert

Seconded by Councillor Carson, That it be recommended to Council that the plans to construct three pergolas at 2757 Dorset 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

ADJOURNMENT:

MOVED by Councillor Carson

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

CARRIED

The meeting adjourned at 9:28 p.m.

Certified Correct:

---

Municipal Clerk

---

Chairman, Recreation Section

---

Acting Chairman, Finance and  
Regulatory Section

---

Chairman, Land Use Section