

DISTRICT OF SAANICH
MINUTES OF THE COUNCIL MEETING
HELD AT THE SAANICH MUNICIPAL HALL, 770 VERNON AVENUE
MONDAY, APRIL 25, 2016

Present: **Chair:** Mayor Atwell
Council: Councillors Brice, Brownoff, Derman, Haynes, Murdock, Plant, Sanders and Wergeland
Staff: Paul Thorkelsson, Chief Administrative Officer; Carrie MacPhee, Director of Legislative Services (7:00 p.m.); Sharon Hvozdzanski, Director of Planning (7:00 p.m.); Laura Ciarniello, Director of Corporate Services; Harley Machielse, Director of Engineering; Donna Dupas, Legislative Manager; Adriane Pollard, Manager of Environmental Services (7:00 p.m.); and Lynn Merry, Senior Committee Clerk (7:00 p.m.)

Mayor Atwell called the regular Council meeting to order at 6:00 p.m. in Committee Room No. 2.

In Camera Motion **MOVED by Councillor Brownoff and Seconded by Councillor Haynes: "That pursuant to Sections 90 (1)(c) and 90 (2)(b) the *Community Charter*, the following meeting be closed to the public as the subject matters being considered relate to:**

- Labour relations or other employee relations; and
- Consideration of information received and held in confidence relating to negotiations between the District and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

CARRIED

Adjournment On a motion from Councillor Derman, the meeting adjourned to In Camera at 6:01 p.m.

The regular Council meeting reconvened in Council Chambers at 7:05 p.m.

The Director of Engineering returned to the meeting at 7:05 p.m.

Minutes **ADOPTION OF MINUTES**

MOVED by Councillor Brownoff and Seconded by Councillor Wergeland: "That Council adopt the minutes of the April 18, 2016 Council and Committee of the Whole meetings and the April 19, 2016 Special Committee of the Whole and Council meetings."

CARRIED

BYLAWS FOR FINAL READING

2870-30
Cordova Bay
Road

4655 CORDOVA BAY ROAD – SEWER SERVICE AREA INCLUSION
Final Reading of the "Sanitary Sewer Bylaw, 2006, Amendment Bylaw, 2016, No. 9371". To extend the sewer service area to include the property at 4655 Cordova Bay Road.

xref: 6840-20
Sanitary
Sewer Area

MOVED by Councillor Brice and Seconded by Councillor Sanders: “That Bylaw No. 9371 be adopted by Council and the Seal of the Corporation be attached thereto.”

CARRIED

PUBLIC INPUT ON COUNCIL AGENDA ITEMS

Public Input
on Council
Agenda Items

J. Schmuck, Rock Street, stated:

Council Procedure Bylaw:

- The new setup of Council Chambers is more comfortable; starting the Open Forum at 7:00 p.m. would be appreciated.
- Holding Open Forums at the first meeting of each month should be considered.

1110-30
Council
Procedure
Bylaw

Draft Terms of Reference – Environmental Development Permit Area (EDPA) Review

1220-20
EDPA Bylaw

- It is difficult to comment on the draft Terms of Reference without having the Rollo Report available.

2860-25
Removal
EDPA

J. Miskelly, Durrance Road:

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- Photos should not be relied upon for a botanical inventory; preparing an inventory requires a high degree of familiarity with ecosystems and species.
- The purpose of the EDPA is to protect sensitive ecosystems and species at risk; scientific information is needed to make decisions.

T. Bijold, Rainbow Street;

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- It is the opinion of the biologist that there may be native plants suppressed in the soil on the property but the biologist has never been on the property.
- There is insufficient data provided on the subject properties to confirm if there are any dormant or inconspicuous Garry oak meadow features; staff states that there is the possibility of restoration of the property.
- A biologist was hired and no sensitive ecosystems were found on the property; the property should be removed from the EDPA in accordance with the current EDPA Bylaw.

C. Phillips, Gordon Head Road:

Removal Request – EDPA – 4351 Gordon Head Road

- There are inconsistencies in the staff report; the covenants on the property and the increase of area in the EDPA on the property were a result of the biologist’s report; staff recommended the use of the biologist who is not a registered professional biologist.
- The EDPA protecting the Coastal Bluff Sensitive Ecosystem and the Marine Backshore has resulted in BC Assessment decreasing the value of the property.
- Two registered professional biologists have provided reports that state that there are no sensitive ecosystems on the property; the property should be removed from the EDPA.

C. Phillips, Gordon Head Road:

Removal Request – EDPA – 4351 Gordon Head Road

- The buildable area on the property is significantly less than neighbouring properties; the EDPA Bylaw has caused an unreasonable hardship for the owners in relation to the biologist fees and the loss of property value.
- The maps should be refined using ground truthing; removing the property from the EDPA will not result in a significant loss of Coastal Bluff in the EDPA.

T. Lea, Cedarglen Road:

Removal Request – EDPA – 4351 Gordon Head Road

- In accordance with Federal and Provincial Inventory Standards and Saanich guidance documents, there are no Coastal Bluff sensitive ecosystems on the property; the property is dominated by invasive species and if there are areas to be protected under the EDPA, it will become completely covered with invasive species.
- Field verification of the property is needed; the land owners said they will preserve the Garry oak grove on the property.
- The property should be removed from the EDPA as it is not a Coastal Bluff ecosystem.

J. Alexander, Bastion Square:

Removal Request – EDPA – 4351 Gordon Head Road

- The EDPA Bylaw is good public policy; the mapping causes difficulty for land use.
- The interpretation and application of the bylaw is a concern; sections 14 and 15 of the EDPA states an exemption could be granted if a registered professional shows that the maps are not accurate or if there are minor or inconsequential intrusions and there is an equal or greater area that is protected by covenant by exchange; in these cases, a development permit would not be needed; this property has both.
- The options outlined in the report both state that the maps are wrong.

H. Charania, on behalf of the North Quadra Community Association:

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- No new additional information was provided by the applicants in relation to the request to remove the property from the EDPA; the Rollo Report and the report from BC Assessment are still outstanding.
- There is concern about the impact on the natural covenanted dedicated park area to the east of these two properties; the biologists' reports suggest that there are environmental and ecological values on the neighbouring property.
- The Association does not support the removal of the properties from the EDPA until the EDPA review process is completed.

Draft Terms of Reference – EDPA Review

- The Community Association supports option 2 to create new opportunities for the public to be consulted and involved in determining alternatives for moving forward; disrespectful remarks to staff or citizens should not be tolerated.
- Option 1 could be supported if potential solutions could be debated in an open meeting.

J. Ball, Cordova Bay Road:

Draft Terms of Reference – EDPA Review

- The EDPA should be replaced with researched and informed legislation and include Saanich-owned properties; the public was not given enough time to review the draft Terms of Reference.
- The Terms of Reference does not specify how independent a study will be; a third party steering committee comprised of registered professional biologists and affected parties should be considered to review the EDPA bylaw.

K. Harper, Bonair Place:

Draft Terms of Reference – EDPA Review

- Not enough time was given for the public to review the draft Terms of Reference; time must be allowed for doing an independent review and affected parties should be given the opportunity to provide input.

D. Doore, Mayfair Drive:

Draft Terms of Reference – EDPA Review

- The public was not given enough time to properly review the draft Terms of Reference.

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- The home owners are being treated unfairly; in accordance with the EDPA bylaw, the properties should be removed.

C. Davidson, West Saanich Road:

Draft Terms of Reference – EDPA Review

- Staff has the right to provide input into the review but should not have control over the process; an independent study is needed.

A. Bull, Wilkinson Road:

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- Removal of the properties from the EDPA is encouraged; the stress this bylaw has put on the home owners and the decrease in property value are concerns.
- Home owners should be able to sell their properties in a timely manner and at a fair market value; the bylaw should be based on scientific evidence.
- A registered professional biologist states that there are no sensitive ecosystems on the properties.
- Council should accept the biologists' reports and approve removal of the properties from the EDPA.

MOVED by Councillor Derman and Seconded by Councillor Haynes: “That Council waive the requirement that no person address Council more than one time at a regular Council meeting, as outlined in Section 53 (b) of the *Council Procedure Bylaw*, and allow Mr. Lea to speak a second time on a different item.”

Councillor Plant stated:

- He is concerned that allowing a member of the public to speak twice may be precedent-setting.

Councillor Murdock stated:

- The speaker will be providing input on a different agenda item; this is not a regular occurrence.

Mayor Atwell stated:

- A member of the public would be allowed to speak to more than one agenda item at a Committee of the Whole meeting.

The Motion was then Put and CARRIED

T. Lea, Cedarglen Road:

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- There are no sensitive ecosystems on the properties; urban Garry oak trees surrounded by lawn, grasses and daffodils are not considered a viable Garry oak ecosystem; the Tree Protection Bylaw protects Garry oak trees.
- Mapping should not include polygon areas dominated by lawns or ornamentals; there are no sensitive ecosystems remaining south of Christmas Hill Park.
- The Sensitive Ecosystem Inventory (SEI) mapping was never meant to map corridors or areas that could be restored as Garry oak ecosystems; if left alone, these areas will be overgrown with invasive species very quickly.

L. Husted, Cyril Owen Place:

Removal Request – EDPA – 4007 and 4011 Rainbow Street

- The Sector Environmental Resource Consulting (SERC) report states that the entirety of both properties should be removed from the EDPA on the condition that no subsurface excavation with the potential to harm the roots of the present Garry oaks will occur on the property; however, if the properties are developed, the Tree Protection Bylaw will not protect the Garry oak trees.
- Council is urged to provide protection for the trees before the properties are removed from the EDPA.

Y. Zanatta, High Street:

Draft Terms of Reference – EDPA Review

- She is disappointed with the lack of notice given to the public to review the proposed Terms of Reference; an independent study should not be managed by staff.
- An independent committee could be formed that reports to Council and includes those directly affected by the EDPA including the scientific community, property owners, and members of community organizations; it may be a conflict of interest if Saanich staff provides information for the study.
- Option 3 for a collaborative approach is supportable.

G. Tripp, Cordova Bay Road:

Draft Terms of Reference – EDPA Review

- Citizens did not have enough time to properly review the draft Terms of Reference; the process should not be rushed.
- A short term solution should be brought forward to give relief to property owners; Option 3 is supportable.
- It will be important to include land owners in the review process; EDPAs from other jurisdictions should be reviewed.
- Creative ways to deal with rural and shoreline areas could be explored; encouragement and education should be provided to land owners.

- A complete analysis of the science and the premise behind the implementation of the bylaw is needed along with an audit of the Environmentally Sensitive Areas (ESA) including field evaluation.
- Voluntary stewardship, incentives, compensation, and what restrictions should be left in the bylaw should be considered; assessment of ecosystems in Saanich parks and public lands should take place.

 Councillor Plant left the meeting at 8:30 p.m. The Director of Legislative Services arrived at 8:30 p.m.

BYLAWS

1110-30
 Council
 Procedure
 Bylaw

COUNCIL PROCEDURE BYLAW

Report of the Director of Legislative Services dated April 21, 2016 and Three Readings of the "Council Procedure Bylaw, 2015, Amendment Bylaw, 2016, No. 9376". To update the bylaw with the proposed amendments from the review held in December 2015.

MOVED by Councillor Haynes and Seconded by Councillor Derman: "That Bylaw No. 9376 be introduced and read."

CARRIED

 Councillor Plant returned to the meeting at 8:33 p.m.

MOVED by Councillor Haynes and Seconded by Councillor Derman: "That Bylaw No. 9376 be read a second time."

CARRIED

MOVED by Councillor Plant and Seconded by Councillor Haynes: "That Section 52 (i) of the Council Procedure Bylaw be amended to add: (iv) refer the matter to a Town Hall meeting, or a future Council or Committee of the Whole meeting."

In response to a question from Council, the Director of Legislative Services stated:

- A staff report or referral to an Advisory Committee is generally requested before Council refers information to a Council or Committee of the Whole meeting for further discussion.
- Council could suspend the rules of the Council Procedure Bylaw if they wish to refer information from a delegation to a future Council, Committee of the Whole or Town Hall meeting.

Councillor Murdock stated:

- Referring to staff for a report or to an Advisory Committee before further discussion is appropriate.
- Council can suspend the rules of the Council Procedure Bylaw if need be.

Councillor Brice stated:

- It is unlikely that Council would send a delegation to a Town Hall meeting; public notification is not given for delegations and the public does not have an opportunity to provide input.

Councillor Derman stated:

- Council should not make decisions when the public has not had the opportunity to provide input.

Councillor Sanders stated:

- The intent of a delegation is to provide awareness; if further discussion is needed, the rules of the Council Procedure Bylaw could be suspended and the item referred to a Council or Committee of the Whole meeting.

Councillor Haynes stated:

- A delegation does not require public notice and does not allow for public input; suspending the rules of the Council Procedure Bylaw will allow the item to be referred to a Council or Committee of the Whole meeting if that is the wish.

Councillor Brownoff stated:

- Members of Advisory Committees have the necessary expertise; the rules could be suspended should Council feel that information should be forwarded to a Council or Committee of the Whole meeting.

Councillor Plant stated:

- Amending the bylaw to include the ability to refer a delegation to a Town Hall, Council or Committee of the Whole meeting gives Council three more avenues to act on information.

Councillor Derman stated:

- Amending the bylaw for referral to a future meeting is not necessary; the Council Procedure Bylaw can be suspended to allow that.

Councillor Wergeland stated:

- An item from a delegation would not typically be referred to a Town Hall meeting without a staff report.

Mayor Atwell stated:

- The purpose of a delegation is to provide Council with information; the actions outlined in the report may be too prescriptive.

**The Amendment to the Motion was DEFEATED
with Councillors Brice, Brownoff, Derman, Haynes, Murdock, Sanders and
Wergeland OPPOSED**

The Director of Legislative Services stated:

- Subsection 31 (d) should be amended by deleting the second sentence to reflect the current practice of Council.

MOVED by Councillor Derman and Seconded by Councillor Murdock: “That Subsection 31 (d) of the Council Procedure Bylaw be amended to delete the second sentence and read as follows: No member shall speak until recognized by the Mayor and no member shall speak more than once until all members have had the opportunity to speak. No member without the leave of Council shall speak to any question, or in reply for longer than ten minutes.”

CARRIED

MOVED by Councillor Derman and Seconded by Councillor Wergeland: “That Bylaw No. 9376 be given third reading as amended.”

CARRIED

with Councillor Plant OPPOSED

RESOLUTIONS FOR ADOPTION

1410-04
Report -
Engineering

TENDER 05/16 – 2016 STORM AND SANITARY SEWER CIPP LINING

Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 05/16 for 2016 Storm and Sanitary CIPP Lining, and change orders within project budget, to Insituform Technologies Limited in the amount of \$1,521,299 (excluding GST).

xref: 5370-30
Tender 05/16

MOVED by Councillor Haynes and Seconded by Councillor Wergeland: “That Tender 05/16 for storm and sanitary sewer CIPP lining, and change orders within project budget, be awarded to Insituform Technologies Limited, in the amount of \$1,521,299 (excluding GST).”

CARRIED

1410-04
Report –
Engineering

TENDER 10/16 – SUPPLY HOT AND COLD MIX ASPHALT – FOB PLANT

Report from the Director of Engineering dated April 13, 2016 recommending that Council award Tender 10/16 – Supply Hot and Cold Mix Asphalt – FOB Plant to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$399,825 (based on estimated quantities and excluding taxes).

xref: 5370-30
Tender 10/16

MOVED by Councillor Wergeland and Seconded by Councillor Brownoff: “That Tender 10/16 – Supply Hot and Cold Mix Asphalt – FOB Plant be awarded to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$399,825 (based on estimated quantities and excluding taxes).”

CARRIED

1410-04
Report –
Engineering

TENDER 11/16 – ASPHALT PAVING WORKS

Report of the Director of Engineering dated April 19, 2016 recommending that Council award Tender 11/16 – Asphalt Paving Works to Capital City Paving Ltd. in the amount of \$1,709,237.50 (based on estimated quantities and excluding taxes).

xref: 5370-30
Tender 11/16

MOVED by Councillor Brice and Seconded by Councillor Haynes: “That Tender 11/16 for asphalt paving works be awarded to Capital City Paving Ltd. in the amount of \$1,709,237.50 (based on estimated quantities and excluding taxes).”

CARRIED

1410-04
Report –
Engineering

xref: 5370-30
Tender 12/16

TENDER 12/16 – CONSTRUCTION OF CONCRETE CURB AND GUTTER
Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 12/16 for construction of curb and gutter to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$1,043,865 (based on estimated quantities and excluding taxes).

MOVED by Councillor Derman and Seconded by Councillor Wergeland: “That Tender 12/16 for construction of curb and gutter be awarded to Island Asphalt Company (Division of O.K. Industries Ltd.) in the amount of \$1,043,865 (based on estimated quantities and excluding taxes).”

CARRIED

1410-04
Report –
Engineering

xref: 5370-30
Tender 14/16

TENDER 14/16 – COLD ASPHALT MILLING
Report of the Director of Engineering dated April 15, 2016 recommending that Council award Tender 14/16 for Cold Asphalt Milling to Capital City Paving in the amount of \$616,800 (based on estimated quantities and excluding taxes).

MOVED by Councillor Wergeland and Seconded by Councillor Brice: “That Tender 14/16 for Cold Asphalt Milling be awarded to Capital City Paving in the amount of \$616,800 (based on estimated quantities and excluding taxes).”

CARRIED

The Director of Engineering left the meeting at 9:00 p.m.

1410-04
Report –
Administration

xref: 1790-20
Privacy

PROTECTING PERSONAL INFORMATION – IMPLEMENTING A MORE COMPREHENSIVE PRIVACY MANAGEMENT PROGRAM
Report of the Chief Administrative Officer dated April 21, 2016 recommending that Council receive the report for information.

MOVED by Councillor Brice and Seconded by Councillor Wergeland: “That the report of the Chief Administrative Officer dated April 21, 2016 be received for information.”

The Chief Administrative Officer stated:
- In April, 2015, Council adopted the five recommendations outlined in the report of Elizabeth Denham, British Columbia’s Information and Privacy Commissioner; the final step in the report was for the Chief Administrative Officer to report out.
- The Directors of Legislative Services and Corporate Services are to be commended for the work done to implement the recommendations.

- Mr. David Loukidelis, QC, was hired to provide staff with advice, assistance and guidance throughout the process.
- Recommendations 1, 2 and 3 are complete; recommendations 4 and 5 are being implemented.
- A Privacy Officer is in place; additional resources may be necessary and will be identified in the 2017 financial plan.

Councillor Derman stated:

- Two major areas of concern are inappropriate collection and use of data on the part of the municipality and external breaches.
- The municipality is ensuring that adequate safe guards are in place.

Councillor Brownoff stated:

- It is important to keep current with the different forms of external breaches; computer security personnel may need to be hired.

In response to questions from Council, the Chief Administrative Officer stated:

- The Privacy Officer is working on the Privacy Management program and will provide a progress report to Council on a regular basis.
- Mr. Loukidelis completed the work on the comprehensive audit on the District's compliance with the provisions of the *Freedom of Information and Protection of Privacy Act (FIPPA)*.
- Training under the new framework began in May 2015 and could take approximately 18 months to complete.

The Motion was then Put and CARRIED

 The Director of Corporate Services left the meeting at 9:12 p.m.

1410-04
Report -
Planning

DRAFT TERMS OF REFERENCE – ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) REVIEW

Report from the Director of Planning dated April 18, 2016 recommending that Council endorse the draft Terms of Reference with direction for any changes and that Council give direction as to the desired level of public engagement.

xref: 1220-20
EDPA Bylaw

The Director of Legislative Services stated: in regard to the requests for removal of the properties from the EDPA, Mr. Alexander had stated that Council had no other option than to send the applications forward to a Public Hearing. The Land Use and Development Procedures Bylaw, 2007, No. 8857, section 9(a) states that every application for a bylaw amendment under Section 2(a) of this bylaw shall be considered at a Council or Committee of the Whole meeting at which time Council may:

- (i) Forward the application to a Public Hearing;
- (ii) Amend and then forward the application to a Public Hearing; or
- (iii) Reject the application.

MOVED by Councillor Wergeland and Seconded by Councillor Haynes: “That consideration of the report of the Director of Planning dated April 18, 2016 - Draft Terms of Reference for the Environmental Development Permit Area Review, be postponed for two weeks to allow Council and the public more time to review the report.”

In response to questions from Council, the Director of Legislative Services stated:

- Council could suspend the rules of the Council Procedure Bylaw to not receive further public input when the item is brought forward at a future meeting.

Councillor Plant stated:

- Postponing the item is not supportable.

Councillor Derman stated:

- He is not opposed to postponing the item but believed the residents wanted the EDPA discussed in a timely manner; if postponement is approved to give the public the opportunity to review the report, they should be able to provide input at the future meeting.

Councillor Haynes stated:

- The public wants to be more engaged in the process; he supports the motion to postpone.

**The Motion was then Put and CARRIED
with Councillor Plant OPPOSED**

The Chief Administrative Officer stated:

- The draft Terms of Reference and staff report could be posted on the website.

The Director of Legislative Services stated:

- A notice could be advertised in the Saanich News.

The Director of Legislative Services left the meeting at 9:25 p.m.

1410-04
Report
Planning

xref: 2860-25
Removal
EDPA

ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) – REMOVAL REQUEST – 4007 AND 4011 RAINBOW STREET

Report of the Director of Planning dated April 15, 2016 recommending that Council not support the request to remove the subject properties from the EDPA as outlined in Option 1 of the report.

In response to questions from Council, the Manager of Environmental Services stated:

- Mr. Lea’s report states that on one of the properties there are shooting stars, fools onion plants and Garry oak trees.
- The list of plants in the Enkon Environmental report are specific to the adjacent properties but the subject properties are in the same polygon; time of year could affect the inventory.

Mayor Atwell stated:

- It is difficult to evaluate the information; there are several reports from different experts done over different periods of time and based on different specifications of the property.

In response to questions from Council, the Manager of Environmental Services stated:

- The EDPA is a product of the Official Community Plan (OCP) which guides our daily work; the policies speak about protecting and restoring endangered species, habitats and ecosystems, using corridors, seeking opportunities to restore ecosystems and the importance of the Christmas Hill Nature Sanctuary and the area around it.

In response to a question from Council, the Director of Planning stated:

- The EDPA bylaw is encompassed within the OCP and they are of equal weight.

In response to questions from Council, the Manager of Environmental Services stated:

- Exemption 14 allows for a registered biologist or other appropriate professional to look at the mapping on the ground; if there is a development proposal being considered on the property, staff could provide a letter with a draft map, confirming they are preparing to recommend to Council to change the mapping so that the development proposal would not be delayed.
- Exemption 15 gives flexibility to the land owner; if they need to intrude into a protected ecosystem, they can secure another area in lieu of that area so there is no net loss of ecosystem; it is a balance between allowing development or improvements and protecting the ecosystem.
- Areas of critical habitat can be protected through covenants.
- Biologists may choose not to become a Registered Professional Biologists (RPBios) but may have the same education and experience; RPBios have annual professional development and they must abide by a Code of Ethics.
- The Code of Ethics does not document what methodology a biologist must use, just that they must document the methodology used.
- The Sector Report recommends that the property owner sign a notarized Statement of Commitment to protect the Garry oak trees on the property; regardless of the Tree Protection Bylaw, a development application could open the door to removal of trees on the property.

In response to questions from Council, the Chief Administrative Officer stated:

- Exemptions 14 and 15 are meant to give flexibility to property owners in the development process.
- To remove properties from the EDPA, Council must adjudicate a change to the bylaw and all the information in the OCP and EDPA must be taken into account; the staff recommendation to not remove the properties is based on the guidance in the OCP and EDPA.

In response to a question from Council, the Director of Planning stated:

- The EDPA bylaw references the OCP.

In response to questions from Council, the Manager of Environmental Services stated:

- It was recommended that the areas with the Garry oak canopy be retained during the development process and secured by bond for restoration in the future.
- Ground truthing was not done on these properties.

MOVED by Councillor Derman and Seconded by Councillor Sanders: “That the request to remove the subject properties at 4007 and 4011 Rainbow Street from the Environmental Development Permit Area not be supported, and that staff be directed to expedite the process to update the EDPA Atlas for the properties to increase its accuracy based on the presence of a Woodland polygon.”

Councillor Derman stated:

- The concerns of the property owners are understandable; it would be preferable not to remove properties until the process of reviewing the EDPA bylaw is complete.
- Staff have indicated that changes to mapping would be expedited.
- There are a significant number of Garry oak trees on the property that are contiguous; development on the property would mean that the Garry oaks could be removed.

Mayor Atwell requested that Mr. Lea return to answer questions of Council. Mr. Lea stated:

- The trees on the property can be replaced; during development, if a protected tree is permitted for removal, tree replacement is needed.
- The public should be encouraged to plant next-generation trees.
- If Garry oak trees are left alone and protected, they would eventually die; there would also be invasive species and shrubs underneath because restoration has not been done.
- Corridors were never meant to be included in mapping; they need to be significant and contiguous.
- There are errors in the mapping; ground truthing was not done.

In response to questions from Council, the Manager of Environmental Services stated:

- If the motion is approved, the update to the EDPA Atlas would be forwarded to a Public Hearing.

Councillor Murdock stated:

- Exemptions 14 and 15 are not about removing properties from the EDPA; they are about making revisions to mapping.
- The EDPA Atlas needs to be refined; the appeal and adjudication process needs to be developed with informed expertise that allows Council to make decisions.

In response to questions from Council, the Manager of Environmental Services stated:

- To increase the accuracy of the mapping, field verification would take place by staff and consider critical root zones, native soils, what is in the soil, and if there is rare sedge on the property.
- Property owners have the option of hiring their own biologist; unless there is a development proposal, staff can provide the service free of charge.

Mayor Atwell stated:

- There is no structured appeal process; it is the function of Council to adjudicate the process.

In response to a question from Council, the Manager of Environmental Services stated:

- Exemption 14 allows for refinement to the mapping during the development process.

In response to a question from Council, the Director of Planning stated:

- Staff feels that there is value in keeping the land in the EDPA but the mapping should be refined.

In response to questions from Council, the Manager of Environmental Services stated:

- Restoration goals could be discussed should a development application come forward for the property.

Councillor Wergeland stated:

- The rights of property owners should be respected; residents should not be held to a flawed bylaw.

Councillor Sanders stated:

- The properties have been identified as having environmental value; the Garry oaks on the property would not be protected should development occur.
- Refinements to the mapping should be considered; there is a need to complete the EDPA review.
- There may be a mechanism to protect the Garry oaks if the property is removed from the EDPA.

Councillor Derman stated:

- There is a need to encourage and educate the public in relation to preserving and rehabilitating ecosystems; the loss of biodiversity is tragic.

In response to a question from Council, the Director of Planning stated:

- If, in a development application, no variances are required, the Approving Officer could approve development of the property.

Councillor Brownoff stated:

- There is a need to protect the Garry oaks on the property; it would be helpful to have the additional information from the EDPA review.
- Amending the EDPA Atlas would be expedited.

Councillor Brice stated:

- Council has said it would consider removal of properties on a case-by-case basis; there may be another instrument to protect the Garry oak trees on the property.
- Tree preservation should be considered during development and include the highest level of tree replacement.

Councillor Haynes stated:

- If Council believes a removal request has merit, a Public Hearing will be called.
- Council had decided to review the removal of properties on a case-by-case basis.
- There may be another mechanism to preserve the Garry oaks.

In response to a question from Council, the Director of Planning stated:

- A restrictive covenant could be placed on the property to protect the Garry oaks.

Mayor Atwell stated:

- Although the EDPA bylaw has good intentions, it may not stand up to scrutiny; the Tree Protection Bylaw may need to be strengthened.
- If the properties are protected and left alone, they will be overrun by invasive species; the maps need to be refined.
- There are no incentives to encourage preservation or restoration; there is no value in the way the bylaw is being applied; the process needs to be simplified.

Councillor Plant stated:

- The bylaw allows for removal of properties; the biologists have been on the property and the reports says that there are no sensitive ecosystems.

**The Motion was DEFEATED
with Mayor Atwell and Councillors Brice, Haynes, Plant and Wergeland
OPPOSED**

MOVED by Councillor Plant and Seconded by Councillor Haynes: “That a Public Hearing be called to further consider an amendment to Plate 18 of Schedule 3 to Appendix N of the OCP Bylaw, 2008, No. 8940 for the removal of 4007 and 4011 Rainbow Street from the EDPA Atlas.”

Councillor Derman stated:

- The Garry oak trees on the property need to be protected; no subsurface excavation with the potential to harm the roots of the present Garry oaks should occur on the property.

MOVED by Councillor Brice and Seconded by Councillor Derman: “That the motion be amended to include that the applicant provide further information on their commitment to protecting the Garry oak trees on the properties.”

Councillor Brice stated:

- The property owners need to commit to ensuring the Garry oaks are protected.

In response to a question from Council, the Manager of Environmental Services stated:

- A covenant generally includes the critical root zone and can be determined by an arborist.

Councillor Wergeland stated:

- Covenants on all trees on a property makes for a bad subdivision.

Councillor Murdock stated:

- A Public Hearing is appropriate although it would have been preferable to refine the EDPA bylaw first.

MOVED by Councillor Plant and Seconded by Councillor Haynes: “That the meeting continue past 11:00 p.m.

CARRIED

Councillor Sanders stated:

- It would have been preferable to have the EDPA bylaw reviewed before removal of the property; a covenant on the Garry oaks is supportable.

Councillor Haynes stated:

- The presence of Garry oak trees on the property could add to the value of the property; there is concern with the scope of a covenant.

Councillor Brownoff stated:

- Preservation of the Garry oaks should be taken seriously.

Councillor Derman stated:

- It is appropriate to make a commitment to preserve the trees; if and when development comes forward in the future, the trees and tree replacement will be discussed further.

In response to questions from Council, the Director of Planning stated:

- An arborist's report would specify which trees were healthy and worthy of protection and which trees were dead, diseased or dying and appropriate to be removed.
- A covenant could be put on a tree and the understorey.

Councillor Brice stated:

- The onus is on the property owners to show how they will commit to protecting the Garry oaks.

In response to a question from Council, the Legislative Manager stated:

- A commitment to enter into a covenant for the protection of the the trees would be submitted in advance of the Public Hearing and would be part of the agenda package.

Councillor Derman stated:

- It would be appropriate to have a covenant on the Garry oaks.

In response to a question from Council, the Chief Administrative Officer stated:

- The discussions from the public at the Public Hearing may change what Council may wish to have in the scope of a covenant; the motion signals the applicant to consider protecting the trees.

The Amendment to the Motion was then Put and CARRIED

The Main Motion, as Amended, was then Put and CARRIED

Motion as Amended:

"That:

1. a Public Hearing be called to further consider an amendment to Plate 18 of Schedule 3 to Appendix N of the OCP Bylaw, 2008, No. 8940 for the removal of 4007 and 4011 Rainbow Street from the EDPA Atlas; and
2. the applicant provide further information on their commitment to protecting the Garry oak trees on the properties."

1410-04
Report
Planning

xref: 2860-25
Removal
EDPA

– **ENVIRONMENTAL DEVELOPMENT PERMIT AREA (EDPA) – REMOVAL REQUEST – 4351 GORDON HEAD ROAD**

Report of the Director of Planning dated April 18, 2016 recommending that Council not support the request to remove the Coastal Bluff and associated covenant of the EDPA from the subject property as outlined in Option 1 of the report.

MOVED by Councillor Haynes and Seconded by Councillor Plant: “That Council support Option 2 that:

- 1. Covenant CA3924305 be discharged; and**
- 2. A Public Hearing be called to further consider an amendment to Plate 29 of Schedule 3 to Appendix N of the OCP Bylaw, 2008, No. 8940 for the removal of the Coastal Bluff at 4351 Gordon Head Road from the EDPA Atlas.”**

Councillor Haynes stated:

- The owners have a right to use their property; there are conflicting professional biologists' reports.
- The owners have expressed hardship.

Councillor Plant stated:

- The human side needs to be considered; the owners have committed to not building within the Marine Backshore.

Councillor Wergeland stated:

- Forwarding the application to a Public Hearing is appropriate.

Councillor Derman stated:

- There is no conclusive evidence to suggest there are no sensitive ecosystems on the property; there may be the possibility for rehabilitation.

MOVED by Councillor Derman and Seconded by Councillor Sanders: “That the motion be amended to include that the applicant provide a notarized Statement of Commitment to the effect that the 0.18 ha (0.45 acres) area marked in red on Figure 1 of the Sector Report dated April 5, 2016, encompassing environmental features which merit avoidance from major land altering actions will not be subjected to any form of development or land altering activities, and that routine yard care and maintenance conducted on those areas will be undertaken in accordance with sound diligent environmental best practices. These entail scattered areas of bedrock and/or thin soil and a deep soiled terrace which retain some semblance of their original ecological integrity; the mid-terrace Garry oak grove; and the cliff front backshore of the property.”

In response to a question from Council, the Chief Administrative Officer stated:

- A notarized Statement of Commitment would only apply to the current owner of the property; a covenant would apply to the property.
- The property currently has two covenants on it.

Mayor Atwell stated:

- The amendment is not supportable; it gives the appearance that the municipality is micromanaging the properties.

Councillor Derman stated:

- Coastal Bluff ecosystems are very rare; the property has the potential for having a sensitive ecosystem.
- There is a need to err on the side of caution and not remove the property from the EDPA; the biologists' reports state that there is some value to the ecosystems on the property.

Councillor Haynes stated:

- The applicant can address Council's comments at the Public Hearing.

In response to a question from Council, the Manager of Environmental Services stated:

- According to the biologist's report, there is a sensitive ecosystem on the property that should be protected.

Councillor Murdock stated:

- It is difficult to make a decision with conflicting biologists' reports; opportunities should be explored to secure the stewardship of the property.

In response to questions from Council, the Manager of Environmental Services stated:

- Many biologists are practicing and have years of experience but may not be a member of the College of Applied Biology; specific projects may need different experts such as rare species ecology.
- If there is a development proposal, and a biologist is needed, owners can get a list of biologists through various sources; staff, if asked, can provide the names of biologists that have worked for Saanich previously for EDPA or who are specialized in the ecosystem mapped on the property.

In response to a question from Council, the Chief Administrative Officer stated:

- Staff cannot draw any conclusions on the context of the email sent to the property owners by the biologist.
- Council must adjudicate the process based on the information provided.

In response to questions from Council, the Manager of Environmental Services stated:

- The EDPA or a covenant does not restrict the removal of invasive species; a Natural State Covenant does say that invasive species should not be allowed to take over a property.
- The biologists have conflicting opinions and methodologies.

In response to a question from Council, the Chief Administrative Officer stated:

- Council deals with conflicting information all the time; it is Council's role to adjudicate based on policy framework that staff provides.

**The Amendment was then DEFEATED
with Mayor Atwell and Councillors Brice, Brownoff, Haynes, Plant and
Wergeland OPPOSED**

**The Main Motion was then Put and CARRIED
with Councillors Derman, Murdock and Sanders OPPOSED**

2870-30
Lurline
Avenue

CORRECTION TO THE PROCEDURAL PROCESS – BYLAW NO. 9352

Memo from the Legislative Manager dated April 25, 2016 requesting Council rescind bylaw readings to correct a procedural error.

MOVED by Councillor Brice and Seconded by Councillor Plant: “That Council:

- 1. Rescind approval of the application to rezone from RS-6 to RD-1 and the conditions attached to the approval.**
- 2. Rescind second reading of Bylaw No. 9352;**
- 3. Rescind third reading of Bylaw No. 9352; and**
- 4. Rescind the recommendation to approve the Development Permit DPR00593 on Lot 9, Block 1, Section 81, Victoria District, Plan 1006 (40 Lurline Avenue).”**

CARRIED

MOVED by Councillor Wergeland and Seconded by Councillor Plant: “That Bylaw No. 9352 be introduced and read.”

CARRIED

MOVED by Councillor Wergeland and Seconded by Councillor Brice: “That in accordance with Section 464(2) of the *Local Government Act*, a Public Hearing be waived for the rezoning application on Lot 9, Block 1, Section 81, Victoria District, Plan 1006 (40 Lurline Avenue).”

CARRIED

Adjournment On a motion from Councillor Brice, the meeting adjourned at 11:55 p.m.

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MAYOR

I hereby certify these Minutes are accurate.

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MUNICIPAL CLERK