

Democracy and Municipal Government in West Vancouver: The Case of 320 Taylor Way

ROFF JOHANNSON

Do the wishes of citizens matter in municipal politics in British Columbia? Are neighbourhood interests given significantly less importance than the vision for the larger community held and promoted by the municipality's authorities? Do the practices and institutions of municipal government help or hinder the individual citizen when community needs conflict with neighbourhood or individual interests? How much democracy is appropriate? At what point should the community's need overwhelm the needs of the individual? Surely, by this stage in our development as a democracy, such matters are settled through democratic choice, where the will of the majority is expressed at the ballot box. But where are we as a society when this truth is ignored? Do our institutions give undue power to those governing, at the expense of the governed? Have we lost a sense of balance between needs and rights?

Such questions flow from the study of a single development controversy in one community. Definitive answers to these questions are beyond the scope of a single study. Nonetheless, the study of one controversy in one community permits generalizations that are relevant throughout British Columbia, regarding treatment of the citizen by the Municipal Act. This study sheds light on the on-going confrontation between growth and anti-growth and, implicitly, between experts and citizens.¹

¹ "All conflict in Canadian urban politics is on a pro-development-anti-development spectrum." Andrew Sancton, in Magnusson and Sancton, *City Politics in Canada*, (Toronto: University of Toronto Press, 1983), 295.

A second confrontation, between "experts" and "citizens," is characterized as being between municipal staff and citizens' groups. "In effect, the power of elected and appointed officials is challenged by the mere existence of politically active unofficial groups. That tension goes a long way toward explaining why citizens' groups so often encounter such resistance from local authorities." Donald J. H. Higgins, *Local and Urban Politics in Canada* (Toronto: Gage, 1986), 277. The "experts" may include a wider group than just municipal staff; in general, they are identified by their contempt for the "NIMBY" (not in my back yard) syndrome. The view that "experts know best" runs throughout their statements. For a representative statement, see a series of articles by Michael Seelig and Alan Artubise, "Growing to Extremes," *Vancouver Sun*, 10-17 November 1990.

The power wielded by local government is significant. The character of neighbourhoods can be changed dramatically, and the value of family investments affected. Evidence of the influence and financial power of developers — and their willingness to be involved directly with municipal governments — would seem ample justification for more serious attention by scholars, reformers, and average citizens alike.² It may be that some urgency will be given this task, for the temperature of citizen interest in their local affairs is increasing.³

This is a study of democracy being frustrated by those in authority, who forced their definition of growth onto an opposing majority in the community. The issue became highly charged. The municipal government favoured constructing a high-rise building on municipally owned land; residents objected. The dispute led to a public referendum in which the electorate voted by a narrow margin to oppose the high-rise development. The electoral result was ignored by the municipal council, and construction began on the project. On the surface, this is about community dissent over the construction of a new building, but on another level it is about the health of democracy at the municipal level. The role played by the Municipal Act, which controls municipal government in British Columbia, is brought to light in this study.

The First Phase

The land in question — 320 Taylor Way — is one of the most active traffic intersections on the lower mainland, at Marine Drive and Taylor Way in West Vancouver. Traffic from Vancouver Island (the B.C. Ferries terminal at Horseshoe Bay) and vacation resorts (Whistler/Blackcomb) funnels past this corner en route to Vancouver. Most who have travelled from Nanaimo to Vancouver have passed through the intersection; it is memorable for the density of traffic volume and the frequent long waits to gain access to the Lions Gate Bridge.

² A study by the Toronto *Globe and Mail* found that \$1.3 million of the \$1.7 million in campaign funds raised by successful Toronto area aldermanic candidates originated with land developers, contractors, lawyers, real estate brokers, and construction supply companies. The information became available after the introduction of a financial reporting law in Ontario, loosely paralleling Quebec requirements. B.C. does not have such a law. *Globe and Mail*, 8 August 1989, A1, and 9 August 1989, A8.

³ In B.C., significant citizen concern about development has confronted municipal governments in Richmond (the Terra Nova lands), Delta (the Spetifore Lands), Nanaimo (industrial development proposals), North Vancouver (high-rise development), and Vancouver (affordable apartment housing, future transportation corridors, and new construction generally). For example, see Vancouver *Sun*, 7 February 1990, A4. The pace of new issues emerging is increasing, as is the temperature of the citizen involvement.

Since 1951, the southeast corner of the intersection was the site of a General Motors dealership. The land in question in this study (which is larger than that used by the dealership) was acquired by the West Vancouver municipality during the 1930s at tax sales for use as a public works yard.⁴ In 1979, the West Vancouver municipal council (hereafter WVMC) decided to relocate the works yard and to receive tenders for the land. Several proposals were received, but after receiving advice from a secret advisory committee, the council chose to establish more definitive objectives for the site and none of the original proposals was accepted.⁵ Instead, a second advisory committee was formed to develop criteria for new proposals.⁶ These changes coincided with preparation of a new community plan for the district and provided grist for the mill of public discussion in the municipality by ratepayers' groups and individual citizens.⁷

In West Vancouver, where property values are significantly affected by access to views and unobstructed vision, two issues constantly emerge in community plan considerations: trees (owned by other people, usually) and high-rise buildings. Trees are beyond the scope of this paper. High-rise buildings have had a contentious history in the community because of their impact on views. Following extensive discussion and heated debate in the late 1950s, WVMC zoned fifty acres for high-rise use in the Ambleside district.⁸ Buildings to a maximum of 180 feet were permitted. The decision was a contentious one, particularly after the buildings began to appear.

⁴ R. A. Harrison, West Vancouver Municipal Archivist, Memorandum to Council, 4 August 1988.

⁵ The "Advisory Committee on Taylor Way Development" was established 17 April 1979 to review the proposals on the basis of quality, financial aspects, short and long-term feasibility, and aesthetics. Five West Vancouver residents were appointed, some with close personal association with the development industry: Robert Bentall, Phillip Boname, Geoffrey Massey, John R. McLernon and Fred Russell (Chairman). M. W. Reigh, chairman of the Advisory Planning Commission, was added 14 May 1979. Letter from J. Douglas Allan, Municipal Clerk, to author, 16 October 1990. See also West Vancouver Municipal Council (hereafter WVMC) memorandum, 8 July 1988.

⁶ The "320 Taylor Way Committee" included Ald. R. Hicks (Chairman), Ald. D. Blackburn, V. P. Boname, F. Russell, and staff members I. T. Lester, Dr. R. W. Collier and G. Horwood. Letter from Allan to author, 16 October 1990.

⁷ A public meeting called by the Ambleside Ratepayers Association to discuss the need for a new community plan heard expressions of concern about increased traffic resulting from proposed commercial development of the public works yard. *The Citizen* (North Vancouver), 11 October 1979, 5. It is not clear that the work of the advisory committees was discussed publicly.

⁸ West Vancouver's development has been a topic of strong community interest over the years. An earlier study, which views the debate through the lens of Marxist conspiracy theories, is David M. Evans, "Demystifying Suburban Landscapes," in D. T. Herbert and R. J. Johnston, *Geography and the Urban Environment* (John Wiley & Sons Ltd., 1984), 321-48.

During the 1970s, continuing public disapproval led the WVMC to consider down-zoning some of the undeveloped sites within the zone, but the council eventually decided to require only mandatory development permit reviews for future apartment construction.⁹ For the residents of the eastern portion of the municipality in the Cedardale and Sentinel Hill districts, concern was expressed about the development of high-rise buildings on the Indian reserve south of the Park Royal shopping centre, where multi-storey construction was reportedly under consideration.¹⁰ Accordingly, discussion of the proposed use of land owned by the municipality was a focus of discussion in the development of the 1980 community plan.

Community plans represent a kind of contract between the governing and the governed; in a sense, they are an agreement setting out the general shape of development planned for the community. The Municipal Act describes the plan as a "general statement of the broad objectives and policies of the local government respecting the form and character of existing and proposed land use. . . ."¹¹ The Act provides that before being given final adoption, the community plan must be the subject of public hearings.

320 Taylor Way is in the Cedardale neighbourhood, which is defined in the plan as bounded by the Upper Levels highway on the north, Taylor Way to the west, and the Capilano River to the east and south.¹² Policies adopted by the 1980 plan seem to have committed the WVMC to maintaining the predominantly single-family dwelling character of the neighbourhood. The community plan stated that the major policy goals for Cedardale were to:

1. Maintain existing densities.
2. Allow remaining undeveloped parcels to be developed in cluster housing forms, but at existing densities.
3. Prepare design guidelines for cluster housing before permitting further development of such housing forms.¹³

Had these policies been rigorously applied, high-rise construction would not have been possible at 320 Taylor Way.

⁹ West Vancouver Community Plan: 1980, 34.

¹⁰ *North Shore News*, 6 June 1980, 3.

¹¹ Province of British Columbia, *Municipal Act*, RSBC 1979, Chapter 290 (Consolidated 2 Nov. 1987 to include amendments enacted 1987-38-16 to 18 effective 1 January 1988), sec. 945 (1), 287.

¹² West Vancouver Community Plan: 1980, 43.

¹³ *Ibid.*

However, the council's decision to pursue more definitive development plans for the former works yard resulted in a significantly different vision for the area. At a council meeting in November 1980, Alderman Bob Hicks, who had been given responsibility for co-ordinating the project, called for the development of a "gateway site" for the municipality.¹⁴ In January 1981, Mayor Derrick Humphries announced that the municipality had purchased the property from the auto dealership for \$1.1 million. He then described the intended use of the land:

The aim is to have a wide open public place, from the Capilano River bank, linking with the sea walk, through to the Taylor Way and Marine Drive intersection. . . . Public opinion will be sought, . . . in order that this area may become an uplifting public showpiece.¹⁵

The mayor's emphasis on the "park-like" nature of the proposal should be noted; without close reading it is not clear that high-rise buildings were intended. This sense was reinforced in a letter by the mayor to the Vancouver *Sun*:

The municipality has, happily, regained possession of the lands at the foot of Taylor Way in order that they may be opened up to a full park-like, open-view, public area through to the banks of the Capilano River. That land adjoins municipally held land on the bank of the river, which is being put together with the Greater Vancouver Regional District park land to ensure the full and perpetual continuity of the Capilano River's west bank.

Proposals for a development that would occupy a portion of the area in the southwest corner have been distributed to ratepayer associations for their study and comment, as is the practise in West Vancouver.¹⁶

Subsequently, the decision was made to lease the property, not sell it. Draft development objectives were then distributed to advisory and ratepayer groups for comment.

Discussion of the proposed development proved to be extensive and controversial. A special edition of the municipal newspaper was dedicated to the proposed project, which was an "executive hotel" of some 20 storeys.¹⁷ Recognizing that the issue was likely to interest large numbers of

¹⁴ "The land should be made into a 'total site,' with accommodation made for community and commercial use, Hicks explained. *Community use would likely include a park*, as there is no river access in the area, he said." (Emphasis added.) *North Shore News*, 16 November 1980, 3.

¹⁵ WVMC, "Mayor's Statement on 320 Taylor Way," 26 January 1981. The property had been sold by the municipality in 1951 for \$20,000. R. A. Harrison, West Vancouver Municipal Archivist, memorandum, 4 August 1988.

¹⁶ Vancouver *Sun*, 19 March 1981, Letters.

¹⁷ The original plan called for a floor area ratio of 2.25, a height restriction of 180 feet, construction of an access road beneath the Marine Drive bridges at the developer's expense, and a lease of sixty-five years. *West Vancouver News*, April 1981.

citizens, an attempt was made to move the public hearings to larger facilities. Alderman Diana Hutchinson asked that a facility other than council chambers be scheduled for the public hearing. Alderman Don Lanskaill opposed moving out of council chambers, warning that a larger facility would be "inviting a great big confrontation." Lanskaill called for adherence to Alderman Hicks' schedule. "We can't allow what would be tantamount to a filibuster if we didn't set a schedule," Lanskaill said.¹⁸ Citizens' groups were not supportive of high-rise buildings; suggestions were made for a "tent-in" on the site by opponents of the plan, who called for a referendum on the project.¹⁹ Residents of the area immediately affected were polled by the Cedardale Ratepayers Association: 45% of the respondents favoured low-rise, low density development on the site, 43% wanted the entire site devoted to parkland; only 12% supported a high-density high-rise building.²⁰

In the first phase, there were two public hearings on the proposed development. The hearing of 11 May was held in overcrowded municipal chambers. Opposition to the high-rise proposals and concern about traffic implications at the intersection were raised repeatedly in forty-seven submissions. A perusal of the submissions reveals that the various ratepayer groups supported one of three uses: low-rise development (Cedardale Ratepayers, Cypress Estates Homeowners' Association, Gleneagle Ratepayers, Horseshoe Bay Ratepayers), purely parks use of the land (Ambleside Ratepayers, Ambleside Waterfront Ratepayers), and high-rise (British Properties Ratepayers). A staff memorandum, summarizing the submissions, concluded that "the large majority favoured development in some form," while conceding that the community had expressed a desire for a project that was "more modest in scale."²¹ The first meeting was adjourned *sine die* (without right of recall) at 10:45 p.m.

A second public hearing was held 15 June 1981, again in council chambers, though it was sparsely attended. Perhaps this was because there was no public notice of the hearing, which lasted only twelve minutes and heard no public speakers. The main feature of the meeting was a recommendation from Alderman Dave Findlay to reduce the floor area ratio from 2.25 to 1.75, the figure which governed apartment buildings in the existing Ambleside apartment zone.²² Final reading of the amended by-law

¹⁸ *North Shore News*, 8 April 1981, 3.

¹⁹ Elizabeth Wooten, Letters to Editor, *North Shore News*, 15 April 1981.

²⁰ *The Sunday News*, *North Shore News*, 10 May 1981, A12.

²¹ Steve Nicholls, Senior Planner, to Municipal Manager, 1981, 1 June.

²² *WVMC Minutes*, 15 June 1981.

was given 27 August 1981 at a special council meeting held at 8 a.m. The legislation established a new type of community use zoning (CU-8), which permitted a hotel or apartment building or office building not exceeding 200 feet above grade.²³ This represented a new and creative use of the "community use" zoning concept, which governed land use such as parks, playgrounds, ski trails, picnic areas, watersheds, public access roads, caretaker buildings, non-profit society buildings, golf courses, and community-sponsored boarding homes.

During the succeeding months, four proposals for the project were received, though financial details were considered "unacceptable."²⁴ A collapse in the real estate market brought consideration of the project to an end.

The Second Phase

The second phase of the project began in the summer of 1986, when West Vancouver council carried on with plans laid down early in the decade, giving no consideration as to whether or not the original decision was appropriate or acceptable to the community.

New lease proposals were received by the municipality in July 1986. The council decided to ask for competitive bids, and advertised the offer locally and nationally.²⁵ A municipal staff document on the project stated:

Proposals must stress and exploit the natural features of the site and invite public use and passage through the site. The design of any buildings should be integrated with this site plan, promoting a sense of openness and moderate scale.²⁶

But there were several changes apparent from the 1981 Guidelines: the acceptable height was "approximately" 200 feet, but not exceeding the adjacent (and unpopular) Kiplano 100 building, which rises 167 feet, with an equipment penthouse totalling 182 feet; the municipality would build a two-way road under Marine Drive from 6th Street, but all site

²³ WVMC, Zoning By-law No. 2200, 1968, Amendment By-Law No. 2963, 27 August 1981. The height limit of 200 feet was in contrast to 175 feet which was advertised to the community during the public hearing process.

While the focus of public attention was on 320 Taylor Way, this was actually only one parcel of the lands re-zoned CU-8, which include "the lands contiguous on the east. . . ." *Ibid.*, 5. The municipality's eastern boundary is east of the Capilano River in this area. In effect, the creation of the CU-8 zone established a new high-rise zone in West Vancouver.

²⁴ WVMC Memo, 8 July 1988.

²⁵ *Ibid.*

²⁶ WVMC Staff "Development Objectives 320 Taylor Way Review of Site Guidelines," Memo, 6 July 1987, Ref. 220.

preparation costs, clearance, or demolitions would be the responsibility of the successful applicant.²⁷ The significance of these changes, which were not reflected in the changes to the by-law, were to become important later.

The 1980 community plan was revised during the spring of 1988. Of relevance to 320 Taylor Way was the addition of a sentence that dealt with the area:

Park Royal should continue to develop as a major concentration of retail, office, residential and recreational uses serving a regional market. *Future development will probably shift from retail towards residential and office uses within the next several years.*²⁸ (Emphasis added.)

The statement reflected the changes that had been taken after the 1980 community plan, but there was a jarring inconsistency between the proposed land uses for the same region between the two plans.

As 1988 unfolded, planning and negotiations continued. At the council level, an in-camera meeting on 24 February 1988 confirmed that residential use for the land would be pursued (removing the earlier idea of a hotel), and authorized formation of a negotiating committee.²⁹ Detailed negotiations on land lease were conducted in secret between the WVMC negotiating committee (I. T. Lester, Municipal Manager; S. J. Nicholls, Director of Planning and Development; Jim McLean, a land appraisal expert; solicitors from Owen Bird) and Newcorp, the highest bidder.³⁰ By May, a lease agreement was accepted unanimously in principle by the council.³¹ The provisional offer to lease was signed, and a \$300,000 deposit was presented to WVMC at an in-camera session. The offer required council approval by 31 May 1988.³² The meeting to provide the approval subsequently became famous. The normal Monday night meeting was cancelled because of the Victoria Day holiday, and a special meeting of the council was held on Thursday, 26 May. At the poorly attended meeting, the lease by-law was introduced with little discussion, given three readings, and passed. The three material changes from the 1981 guidelines noted

²⁷ Ibid.

²⁸ Corporation of the District of West Vancouver, Official Community Plan Bylaw No. 3413, 1988, 4.

²⁹ WVMC Minutes of in-camera meeting, 24 February 1988.

³⁰ WVMC Memo, 8 July 1988.

³¹ "Moved by Ald. Findlay, seconded by Ald. Day that the May 4 lease be accepted in principle and that postings proceed, bylaws be passed, and 'site development image' be submitted to council before passage." WVMC Minutes of in-camera meeting, 5 May 1988.

³² WVMC Memo, 8 July 1988.

above were included in the lease.³³ The existing by-law had to be modified to permit a three-foot high retaining wall to be constructed, facilitating higher underground parking and reducing the need for pumps to protect the lower levels of the underground garage. This three-foot wall, which seemed so innocuous, would soon engross the community in a furious debate.

Opposition to the proposed structure (now two high-rise buildings) was mobilized by members of the local ratepayers' group. Standing among cars in the morning rush hour at the intersection of Taylor Way and Marine Drive, the opponents handed out information leaflets about the project and asked for public input regarding the plan.³⁴ Three days later, a public hearing to consider the variation from existing by-laws for the three-foot parking wall was adjourned after an overflow crowd filled the municipal hall demanding to be heard.³⁵ Editorial comment in the local press turned against the project. The local political columnist observed:

There's no questioning the fact that West Van council "sneaked" the twin towers project at Marine and Taylor Way past the unsuspecting peasants. The only question is whether it was deliberate or mere sloppiness?³⁶

The issue then became a major community topic, particularly when it was learned that the municipality's Advisory Design Panel had expressed concern that the scheme "does not appear to fulfill the development objectives."³⁷ Subsequently, the panel recommended rejection of the whole project, on the basis of building orientation, restaurant location, the width of the two buildings and general design considerations.³⁸

Recognizing the emerging public furor, council formed a select citizens' task force to report on the subject. Mayor Don Lanskaill explained that it has become obvious that Council has made an error. Our mistake was in assuming that the public debate of 1981 and the zoning decision which followed later that year had resolved the issue of development of the municipally-owned land. . . . It is now apparent that the passage of time, changing circumstances and the presence of new people in the community, has created a clear need for a fundamental review of the issue. . . . It must now be recognized that this parcel, because of its strategic location, should have been sub-

³³ Ibid.

³⁴ *North Shore News*, 26 June 1988, 1.

³⁵ Ibid., 29 June 1988, 1.

³⁶ Ibid., 17 July 1988, 5.

³⁷ Memo from E. Neale, Secretary, Advisory Design Panel, to S. Nicholls, Director of Planning and Development, 11 July 1988.

³⁸ Memo from E. Neale, Director of Permits and Licenses to S. Nicholls, Director of Planning and Development, 11 August 1988.

jected to a much wider process of public discussion prior to the proposal call in 1987.

I recommend that we initiate immediately a process of community wide consultation with respect to the issue of appropriate public objectives for the municipally owned lands at 320 Taylor Way. . . . Review and consultation should be directed to three matters: One: The process involving negotiation and approval of the lease. . . . Two: The appropriateness of the zoning and permitted land uses for 320 Taylor Way as provided for in the development guidelines adopted following the public debates of 1981. . . . Three: The proposed twin tower residential development.³⁹

Two of the task force members were familiar with the project, having served as aldermen earlier in the decade: Diana Hutchinson and Robert Hicks had been members of the council that had approved the project in 1981. A prominent opponent of the proposed building who had been appointed to the task force resigned in mid-August, charging that the terms of reference of the group had been changed from those announced by the mayor.⁴⁰

Following hearings, interviews, and public submissions, the task force delivered a report in September 1988 that was sharply critical of the project and the council's management of it. Noting that council had proceeded as if no time had elapsed since 1981, the task force observed:

Technically, and as a matter of law, Council was not obliged to hold further Public Hearings. It was always the case, however, that those with the power to make decisions affecting the lives and environment of others should consult those who will be affected by their decisions before making them. It is the opinion of the Task Force that in this particular case, the citizens of West Vancouver had a right to be consulted after such a lapse of time.⁴¹

The task force chastised council for failing to follow its own 1981 guidelines for the project. It noted that the new project granted an additional 46,000 square feet (a 17 per cent increase), removed usual floor area ratio definitions, thereby providing another 10-15 per cent increase in floor area, permitted a ninety-nine-year lease instead of sixty-five years and made other concessions to the developer not envisioned in the original concept.⁴² The report observed that "when council establishes guidelines, the public is entitled to assume that they can be relied on and not altered without

³⁹ Mayor Don Lanskill, "Statement on 320 Taylor Way," 18 July 1988.

⁴⁰ Letter from Dr. Marion Crowhurst, Chairman, Capilano Public Lands Committee, to D. Bakewell, Chairman of the 320 Taylor Way Task Force, 10 August 1988.

⁴¹ Report of the Citizens' Task Force — 320 Taylor Way, 12 September 1988, 1. The task force thus implicitly called for a referendum of the citizens on the issue.

⁴² *Ibid.*, 2.

further input.”⁴³ The report made numerous other criticisms, including objection to the lack of proper traffic impact information, the lack of a view impact study, and the “unnecessary muddle” over the height of the proposed buildings. The task force concluded that it was “unanimously and strongly of the view that under no circumstances whatsoever shall any portion of any structure be permitted to exceed the elevation of the top of [neighbouring] Kapilano 100.”⁴⁴ However, on the question of land use, the task force concluded that “apartment use is appropriate for this land within the guidelines.”⁴⁵ A minority report disagreed, calling for a low-rise commercial project on the site.⁴⁶ The task force report was circulated to each home in the municipality, setting the stage for a series of tumultuous public meetings.

Because the turnout at the July meeting had overwhelmed the council chambers, the September public hearing was held in the auditorium of the West Vancouver Secondary School. All of the 615 seats were taken; the crowd overflowed into the aisles. Clearly, the subject was one of public interest. Throughout the course of the evening, the developer’s architect was the only person who spoke in favour of the proposal. Critical comments concerned the financial returns to the municipality, the project’s design, the impact of the proposed building on traffic at the municipality’s most busy intersection, the effective extension of the high-rise district (despite the promises of the community plan⁴⁷), the power of example of land use the community favoured on the neighbouring lands owned by the Capilano Indian band, the absence of impact studies, and, generally, the lack of adequate consultation with the community. Media accounts described the meeting as “wild” and “unruly,” and several of the council members (arrayed on the stage of the auditorium) were clearly uncomfortable. The remarks of the former mayor, who implied that his position would have been changed by the resolve expressed by the public, did little to ease their concerns. At the meeting’s conclusion, Alderman Mark Sager urged the council to show the council’s intent, noting that “We do not have any division in this community and there is nothing to weigh. There is adamant

⁴³ Ibid.

⁴⁴ Ibid., 5. That building, including the roof service facilities, stands 182 feet.

⁴⁵ Ibid., 4.

⁴⁶ Ibid., 3A.

⁴⁷ The 1988 plan states that “no extension of the Ambleside Apartment Area will be considered.” WVMC Official Community Plan Bylaw No. 3413, 1988, 12. The subtlety of allowing another apartment area in Ambleside to have the same zoning characteristics, yet *not* represent an extension of the existing area, seems to have been lost on the council.

opposition to this proposal.”⁴⁸ But Mayor Lanskail refused to take action during the evening, requesting a staff report on the hearing and calling for a re-convened meeting in two weeks.

The re-convened public hearing received a staff report on the previous meeting.⁴⁹ Before any further discussion was allowed, the mayor issued a statement on the events:

I am convinced it would be an error in the present circumstances to proceed further with plans for the development . . . The volume and intensity of the concern expressed on that occasion was something that no government can ignore and it becomes necessary in my opinion to reconsider of [*sic*] the issue in a fundamental way.⁵⁰

Lanskail suggested that the 1981 decision had rested on two policies, to use the land to produce a financial return (rather than a park), and to pursue the highest and best use of the land to achieve a combination of financial return and open space. He then listed all council members who had served since then and noted that no initiative had been made by any of them to vary those policies.⁵¹

He concluded by calling for a referendum vote on the issue: . . . because of the significant financial consequences stemming from a decision on the use of this land, the question almost takes on the characteristics of a money bylaw, which requires majority support at the ballot box.⁵²

The land use decision was then put to the community at the municipal elections in the form of a referendum vote.

The resulting referendum campaign was anything but harmonious. A major confrontation in council chambers over the wording of the referendum question was finally resolved by asking two questions:

1. Do you favour use of this 3.5 acre parcel of municipally owned land to generate revenue for the Municipality of West Vancouver?

⁴⁸ *North Shore News*, 21 September 1988, 3.

⁴⁹ Opponents of the proposed high-rise were critical of the staff report, which they considered highly selective and misleading.

⁵⁰ Mayor Don Lanskail, Statement to Public Hearing on 320 Taylor Way, 3 October 1988.

⁵¹ The mayor conveniently ignored the fact that one former alderman had publicly worked with the opposition, another worked in a quiet advisory capacity, and the former mayor had publicly questioned the merits of proceeding with the project at the public hearing.

⁵² Mayor Lanskail's statement, 3 October 1988, 6. The irony of his use of the words "majority support" should not be lost on subsequent developments in this incident.

2. If this 3.5 acre parcel of Municipally owned land is to be used to generate revenue for West Vancouver, do you support residential high-rise use?⁵³

The mayor took the unusual step of committing himself (and implicitly, his vote) to the referendum's outcome; when pressed by opponents, he went so far as to record his commitment in the minutes.⁵⁴ The municipal government's machinery was then put behind the effort to obtain a positive vote on each question: Direct mail on the mayor's stationery was sent to selected individuals, an entire issue of the *West Vancouver News* (delivered to all homes) was devoted to the topic, a separate mailing of an "information sheet" was made throughout the municipality, a newspaper ad (showing a photo of an uncharacteristically empty intersection of Taylor Way and Marine Drive) and the mayor's appearances on the North Shore community cable TV channel all supported the proposal. These announcements contained the following sentence: "If the referendum is defeated, it will be a direction to Council to withdraw from the agreement."⁵⁵ However, the intent of the advertising was to get acceptance of the proposal. Municipal Manager Terry Lester said he hoped the advertising campaign would persuade voters to support the project. When asked if he wanted the project to proceed, he said: "I certainly hope so. I can say that; maybe the politicians can't. I strongly support a 'Yes' response."⁵⁶ The cost of the municipality's promotional efforts was subsequently estimated at \$31,000.⁵⁷ Supplementing these efforts were those of the developer, who sent glossy brochures to every home in the municipality and bought newspaper ads in the local press. Arrayed against these presentations was a one-page sheet produced on a dot-matrix printer and hand-delivered by volunteers, and a single advertisement in the community newspaper. In an interesting development, the week before the vote the developer launched a lawsuit against the municipality, alleging that the municipality had reneged on promises to allow construction of the project.⁵⁸

⁵³ WVMC document, 31 October 1988. There were indications that the developer was given favoured opportunity to comment on the proposed questions. Information leaked to the Capilano Public Lands Committee (the opponents) showed that as late as 27 October the municipality was receiving comment from the developer on the wording; public comment was to have been in the hands of city hall by 21 October. Capilano Public Lands Committee, News Release, 4 November 1988.

⁵⁴ Mayor D. A. S. Lanskail advised he would be morally bound by the outcome of the questions on 320 Taylor Way." WVMC Minutes, 7 November 1989, 1.

⁵⁵ A representative example can be seen in the half-page advertisement in the *North Shore News*, 16 November 1988, 82.

⁵⁶ *Vancouver Sun*, 16 November 1988, A15.

⁵⁷ Letter from A. S. Brokenshire, Acting Mayor, to L. Lewis, 19 January 1989.

⁵⁸ *North Shore News*, 13 November 1988, 2.

The result of this furor was evidenced at the polls, when the municipality had the highest voter turnout in ten years.⁵⁹ On the two-question referendum, the electorate voted strongly in favour of the first question; 8,392 favoured generating revenue from the land at 320 Taylor Way, while 3,326 did not.⁶⁰ On the second question — that of building high rises on the site — the vote was close, but negative; 5,879 said they did not favour high rises, while 5,851 voted in favour of them, producing a margin of .12 per cent.⁶¹ The high-rise question received a negative answer at eight of the thirteen polls across the municipality. Analysis of the vote is complicated by the casual voting procedures. Electors may visit any polling station in the municipality, confusing the task of assigning regional preferences. However, if the assumption is made that the electors voted at the polling station closest to their homes, it is possible to identify three polls in the eastern end of the municipality that represented those electors most directly affected.⁶² At these three polls, the turnout was significantly higher than elsewhere in the municipality (up to 76 per cent), and all three polls defeated the high-rise question by a higher margin than the rest of the district.

Given the defeat by the community, the municipal council made a half-hearted legal effort to have the existing lease agreement (which they had approved, but not yet signed) examined by the courts for its validity. Specifically, the question of the term of the lease was to be tested.⁶³ However, once the arguments were heard, and given the reality that the municipality did not intend to contest “specific performance” of the contract, it seemed that the intent was to get the courts to order the municipality to proceed with the lease.⁶⁴ The Supreme Court did just that.⁶⁵ The council

⁵⁹ A “normal” turnout in West Vancouver elections is in the neighbourhood of 35% of the registered voters; the highest in 10 years had been 43%. In 1988, 55.8% of the electorate turned out. As there was no contest for the mayor’s election (though the lone candidate polled nearly one-third the votes of Lanskaill without posting a single campaign sign), and little excitement at the aldermanic level, it can be safely suggested that the debate over 320 Taylor Way was a major attraction.

⁶⁰ Corporation of the District of West Vancouver, Results of Poll, 24 November 1988.

⁶¹ *Ibid.*

⁶² The polls in question are at Hollyburn School, Ridgeview School, and Westcot School.

⁶³ Statement by Mayor Don Lanskaill, 22 December 1988.

⁶⁴ Local political columnist Noel Wright concluded that the objective of the legal enquiries was simply to “give council a wealth of ammunition for saying to West Van taxpayers: ‘We’ll have to ignore the referendum. As you can see, we’re stuck with the deal, because terminating it could cost you millions.’” *North Shore News*, 11 January 1989, 6.

⁶⁵ Supreme Court of British Columbia, Vancouver Registry, No. C885555, 13 April 1989.

then was treated to a highly charged statement from the mayor about the entire proceedings. The statement, which contained several inaccuracies,⁶⁶ distorted vote totals, seemingly seeking to show that the community had actually endorsed high-rise use:

A total of 11,718 people voted on the first part of the referendum and 11,730 voted on the second part. It can be properly concluded therefore that with a difference of only 12 votes, the overwhelming majority of voters voted on both parts of the question. 3326 voted against any revenue use for the land, and it is logical to assume that they would have also voted against residential high-rise use in the second part. It follows from this that of the 8392 who voted for revenue use, only 2553 were opposed to residential high-rise use. In other words, of the 72% overall majority of voters who favoured revenue use of the land, 70% favoured high-rise use.⁶⁷

In effect, this statement sought to disenfranchise the opposition, claiming that those who favoured revenue use for the land should have two votes, perhaps in order to deduce that the majority supported high-rise use!

If you read the thing as a whole, there was a clear expression by the community that they wanted revenue production and the maximum revenue production. And it wouldn't have been right to put the community in an expensive lawsuit over 26 votes.⁶⁸

Not surprisingly, the mayor concluded that council should implement the agreement.

Subsequent changes to the arrangements gave the developer even more generous scope for action than originally given. An agreement negotiated by the Director of Planning and Development gave the developer: vacant possession of the site; demolition costs; a commitment that the municipality would not object to the developer seeking approval for the parking structure wall; and enclosed solariums of up to 100 square feet per suite, which, like the lobby area, were to be exempt from the floor area ratio calculations. (The latter provision is contrary to conditions for high-rises elsewhere in West Vancouver.) As well, the municipality undertook to seek expeditious approval from the Planning and Land Use Committee to direct

⁶⁶ For example: He claimed only one ratepayers' group opposed the 1981 plans; the record cited here demonstrates otherwise. Second, he claimed that the task force endorsed the policy of high-rise development; in fact the task force endorsed apartment use for the site, which might mean low-rise development. Once again, he claimed that all past council members supported the project, despite public positions adopted by several of them and the forthright criticism of the project by the Citizens' Task Force, which included two former alderman. Mayor D. A. S. Lanskail "Statement on 320 Taylor Way, Lander Judgement," 24 April 1989.

⁶⁷ *Ibid.*, 5.

⁶⁸ *North Shore News*, 8 April 1990, 33.

the Advisory Design Panel (which had rejected the design) to review the design solely in relation to twin-tower residential development, to permit a restaurant on the site, and to refrain from appealing the Supreme Court decision. In exchange, the developer agreed to drop his damage suit against the municipality.⁶⁹ Subsequent events suggest that the council was not unduly influenced by the referendum, when townhouses were approved for the site, restricting public thoroughfare to a small path along the original sidewalk. Collectively, these changes essentially eliminated the "open, park-like public space" that had been promised. Further, the architect admitted that the tallest of the towers would rise 252 feet, well above the top of the existing 182 foot high Kapilano 100 building which was to have served as a maximum height for any building on the site.⁷⁰ Council members admitted that the building would exceed the by-law restriction on height, but claimed that the average height of the buildings would be below 200 feet.⁷¹

Observations and Conclusions

This event was a confrontation between the municipal council of West Vancouver and its citizens. Despite winning nearly every battle, the opponents of 320 Taylor Way lost the war. Individual citizens tried to stop a project they saw as being detrimental to their interests; they became involved, banded together to work within the system, convinced their neighbours of their arguments, and won a referendum.⁷² But ultimately, they had no effect. Indeed, the evidence suggests that their efforts exacted a price.

⁶⁹ Letter from S. J. Nicholls, Director of Development, to M. Decotiis, 12 May 1989.

⁷⁰ *North Shore News*, 13 October 1989, 3. The architect was reprimanded for his conduct, though not because of the height issue. Architectural Institute of British Columbia, "AIBC Council's Judgement Report: Inquiry into Conduct of Ronald Howard (MAIBC)," 27 August 1990.

⁷¹ *Vancouver Sun*, 18 October 1989, *North Shore Extra* 3, and *North Shore News*, 5 November 1989, 3. Final approval was in Zoning Bylaw No. 2200, 1968, Amendment Bylaw No. 3547, 1989, Adopted 6 November 1989.

⁷² The somewhat tortured prose of Marxism describes such events as "turf defence." "Social worlds with a certain consensus and status identity will aim to keep out that identity, via landscape control, those objects that are threatening to their esteem." Evans, "Demystifying Suburban Landscapes," 335. Another way of stating this might be that homeowners attempt to defend the value of their investments and quality of their lifestyles. To the class-based perspectives of Marxism, perhaps this is insightful. The Marxist case holds that localism and anti-growth are essentially elitist ideology. A somewhat different conclusion might be reached by recognizing the influence of the elite (the "experts") in this instance, particularly when contrasted with the results of the referendum.

In some important respects, the system failed these people. The community plan was modified quickly, early in the process, and after nearly a decade had passed, the appropriateness of the changes was not re-examined by the council. A more forthright approach might have seen a public discussion of the concept before approving the project in 1988. The Citizens' Task Force, which broadly endorsed the opponents' case, was essentially ignored in all but its most restricted sense by the council. The referendum result was ignored by the council. The buildings at 320 Taylor Way reflect a price paid for dissent: despite the task force's recommendation for buildings no taller than existing structures, despite the community's majority opposition to building high-rises on the site, the high-rises approved were bulkier and higher than anything contemplated at any of the earlier stages. Even ignoring the effects on the democratic process, the implications for future planning and consultation in the community would seem troubling to the most development-oriented observer. Such an outcome does not speak well for democracy, which has seen prouder moments.

What about the Municipal Act, the legislation governing and controlling these events? Several points are worth noting for their impact (or lack of it) on the democratic process.

First, there is the question of making changes to the community plan. Section 949 of the Act requires that council decisions be consistent with the plan. Where changes are required, the council must undergo a public hearing process. The case of 320 Taylor Way makes it apparent that it is possible to take a somewhat lax approach to the hearings procedure. A public hearing that has been adjourned *sine die* presumably cannot be re-convened. Yet a 1981 hearing was re-convened, without official notice, and amendments made to the proposed legislation. The resulting by-law would seem flawed, perhaps to the extent of being invalid.

Second, when changes are made to the community plan, more attention might be given to the terms of the Act. For instance, 320 Taylor Way was re-zoned "Community Use" property, which the Act defines as being "for pleasure, recreation or community uses of the public, including public library, art gallery, museum, arena and exhibition buildings."⁷³ The cynical use of 320 Taylor Way for luxury high-rise condominium apartments cannot, by any stretch of the imagination, fall within the confines of the Act's definition. Why not require zoning that is consistent with the Act? As it is, West Vancouver has now established precedents that may prove to be controversial in the future: community use zoning can be used for com-

⁷³ Municipal Act, sec. 679.

mercial high-rise projects, and a new high-rise apartment area has been created.

Third, why is there no requirement in the Act for a rezoning to demonstrate the impact of a project on existing properties? Changes to the neighbourhoods suggest the merit of examination of those changes, though there is no requirement for impact studies. Why was there no concern for the effect of these changes on established neighbourhoods? A requirement for view, traffic, parking, social/economic, and environmental impacts would seem to have been appropriate in this instance. An independent examination might give a community some confidence about the effects of changes of this sort. Such studies might also reduce friction and focus the debate onto the issues.

Fourth, why is there no requirement in the Act that the council accept the stated wishes of the community? It begs the question: why is there no vehicle in the political process that protects the interests of the neighbourhood against the broader community? Those neighbourhoods directly affected in this instance — Cedardale and Sentinel Hill — strongly opposed the high-rise proposal, as evidenced by poll results in 1981 and the referendum results in 1988. As the individuals most affected by the changes, should not these residents have influence over what happens to their neighbourhood? Debate on this issue heard occasional references to the financial aspects of the proposal, concerning the revenue to flow from the development into the municipal coffers. But there were other financial questions that were ignored completely. In a community where 30 per cent of property value is seen to be a function of views, the loss of views and privacy from a high-rise building surely need some calculation. Moreover, in a single-family neighbourhood under encroachment by the development process, property values of those left “holding the bag” and wanting to maintain single-family status need to be recognized. They were not.

A related question is why the Act does not require the council to accept the results of a public referendum. In this instance, the community was told that the subject was “like a money bill” by the mayor, invoking the procedures that are followed under section 299, which requires that a simple majority shall determine the outcome. By inference, through the mayor’s words, as well as the municipality’s advertising, the referendum was a decision to be made by the electorate; by result, it was not, as there was no majority approval for high-rise construction. Why not require the council to accept the community’s wishes?

Fifth, why doesn’t the Municipal Act provide for citizen relief? Why was there no legal recourse for the victors in the referendum? In a political

system that elsewhere depends upon the ballot box as the final arbiter of dispute, it seems inconsistent to have no room for recourse when the ballot box is ignored. If a mayor claimed the right to retain office because he only lost the election by twelve votes, one might doubt his commitment to democratic principles. Yet in the case of 320 Taylor Way, something quite similar took place. Relief at the ballot box was only possible at subsequent elections, after construction of the buildings was under way. Alternatively, the opponents in the community could have sought relief through the courts, suing their own municipality to halt the development. Even if possible, such a solution is expensive. Need democracy depend on deep pockets to be served?

Why is there no recourse to an overseer, short of the expense of appealing to the courts? The Municipal Affairs ministry refused requests for an inquiry on the subject, at least in part because section 745 of the Municipal Act appears to permit discretionary authority. Efforts to obtain a review of the proceedings by the Ombudsman were not successful. Residents appealed to the Ombudsman on the basis that the Municipal Affairs ministry had not responded to their request for an inquiry into procedures followed in 1981, when a public hearing was called without official notice, seemingly invalidating the enabling by-law that created Community Use 8.⁷⁴

West Vancouver's council supported development over democracy, and experts over citizens. Doing so, the council reflected the dominant role played in local politics by an elite composed of elected and appointed municipal officials.⁷⁵ But the effects of such activities are recognized for their negative implications for the policy process.

While they want the policy making process 'improved' and made more rational, most citizens also want it to be open and responsive to their particular views and concerns. They believe that the views of the populace affected by a potential decision are just as valid in the decision-making process as the testimony of technical experts. . . . To use some overworked terms, there is a widespread feeling that experts should be 'on tap, not on top,' and a fairly strong attitude of fear and mistrust of "the bureaucracy."⁷⁶

In this instance, the community's bureaucracy actively worked to promote the project, rather than adopting a position of neutral indifference to what was a hotly felt political issue. This reveals an important reality of local

⁷⁴ Letter from Capilano Public Lands Committee to Ombudsman, 11 October 1989.

⁷⁵ For a discussion of several studies of Canadian municipal elites, see C. Tindal and S. Tindal, *Local Government in Canada* (Toronto: McGraw Hill, 1984), 193-97. In this instance, it is worth noting that not all "experts" supported the council's decision: note that the Advisory Design Panel was overruled.

⁷⁶ *Ibid.*, 187.

politics. Despite claims that they are opposed to one another, developers and municipal officials are on the same side: they both find financial and career advantage in promoting growth. Both are on the “boosterism” side, one located inside city hall, the other outside. Politicians are the only source of citizen views and the only source of citizen protection for what transpires at city hall. The tension between democracy and the “experts” is inevitable. The tendency by “experts” to treat democratic rights lightly tends to exacerbate the tensions.⁷⁷ Such political circumstances should be recognized for their influence over subsequent events.⁷⁸

For democracy to be served, the appearance of commitment to democracy must be apparent. The 320 Taylor Way affair suggests that this is lacking. There were numerous instances of what can best be described as dubious procedures, including: early morning council meetings, not advertising for a re-opened public hearing that had been formally closed, not re-consulting the community about a contentious land use decision, holding meetings on unusual days of the week, ignoring the findings of a community task force, ignoring the results of a public referendum, and frustrating the search of public records by interested members of the public.⁷⁹ Individually, these incidents may appear trivial; seen as a whole, there is a pattern that borders on sinister activity.

⁷⁷ Consider the following statement, which contains the barest hint of contempt for democracy: “Municipal councils must stop throwing up their hands and letting individual neighborhoods decide the future of an entire city. The region must be given the power to make binding decisions.” Michael Seelig and Alan Artibise, “Growing to Extremes,” *Vancouver Sun*, 10 November 1990, B2. One wonders how the authors would respond in the face of a democratic majority opposing changes in their neighborhood.

⁷⁸ A fascinating replay of the 320 Taylor Way debate occurred two years later, when WVMC wanted to allow a developer to build a golf course high on Hollyburn mountain. Again, a major dispute arose. Again, a multi-part referendum was posed for the electorate and large amounts of municipal money spent to promote a “yes” outcome. Again, the community voted “no,” though by a much wider margin than in 1988. It might be argued that the manner in which 320 Taylor Way was resolved bore bitter fruit. Shortly thereafter, the municipal manager retired, at age 49, to pursue unstated career objectives. *North Shore News*, 2 January 1991, 8.

⁷⁹ Information surrounding 320 Taylor Way has been closely guarded by the municipality. For example, consider the work of the two 1979 advisory committees. These committees were seminal in setting the standards and expectations of subsequent proposals for the land, yet the committees’ work were not made public, nor were they examined by the citizens’ task force. Their work was termed a “land matter” and thus was dealt with “in camera” by the council. The author learned of the 1979 advisory committees quite by accident, after preparation of an original draft of this paper. An initial request for information was made in May, a preliminary response given in July, and final information made available in November 1990. The information finally revealed: (a) the names of the committee members, (b) members of the committees were developers, (c) the husband of Alderman Pat Boname was a member of both committees. Alderman Boname did not dissociate herself from the 1988 debates or voting about 320 Taylor Way.

This study must conclude that democracy is not very healthy in West Vancouver. The significance of these findings may go well beyond the confines of a single municipality. Given the political will, techniques similar to those applied in West Vancouver can be used anywhere in the province. The Municipal Act might usefully be re-examined to correct such impressions. In an environment that is increasingly highly charged politically, in which the electorate takes more active interest in such developments, the need for clearly designed, unbiased instruments of political behaviour seems paramount. The recent record suggests that public interest in municipal government is on the increase. In the absence of fairness and the triumph of democratic wishes, more court challenges, if not violence, may emerge.⁸⁰ In the context of increasing controversy over decisions made by local government, such questions may be timely to consider.

⁸⁰ The first home to be built on the controversial Terra Nova development in Richmond was heavily damaged by a fire of suspicious origins, which broke out at 3 a.m. Construction of the house had proceeded while approval for the development was before the Supreme Court of Canada. *Vancouver Sun*, 23 March 1990, A1.