

Notes and Comments

Response to “Democracy and Municipal Government in West Vancouver: The Case of 320 Taylor Way,” by Roff Johannson*

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The article by Roff Johannson in the Autumn-Winter 1991-92 volume of *BC Studies*, entitled “Democracy in Municipal Government in West Vancouver: The Case of 320 Taylor Way,” presents such a one-sided and biased picture of the controversy about 320 Taylor Way (a twin-tower development on municipal land at Marine Drive and Taylor Way) that it requires a response. I am surprised that a respected and scholarly journal such as *BC Studies* would publish a partisan political article written by the co-chairman of the 320 Taylor Way opposition group (the Capilano Public Lands Committee). By failing to identify his central role in the controversy, and by pretending that he was only an observer in the process, Mr. Johannson has misled the editors of *BC Studies* and therefore its readers.

My specific concerns are (1) that the analysis contains fundamental errors of fact that would lead the reader to false conclusions, (2) that it uses emotional phrases in order to create the impression that there are additional hidden facts, (3) that the research for the investigation is of less than learned standard, and (4) that a balanced enquiry is not achieved.

History

The 3.8 acre site was used simultaneously as a municipal works yard and as a car dealership. These unsightly usages were considered inadequate for the entrance to the municipality. Accordingly, the municipality removed the works yard in 1978 and acquired the automobile dealership in 1981. The site is located in the Park Royal shopping centre area, not in the Cedardale residential neighbourhood to the north, as the author claims. Park Royal contains extensive commercial facilities and several high-rise buildings, and is in certain ways an economic continuation of downtown Vancouver.

West Vancouver has no industry and owns very little land. Moreover,

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in the late 1970s council began to acquire waterfront lands from 13th to 18th streets for public usage, an expensive undertaking. Council thus decided that the 320 Taylor Way site, one of the rare pieces of commercially valuable property in its possession, might suitably be used as a source of much-needed income for the municipality. Council began to study potential uses of the site in 1979, establishing an ad hoc committee of economic advisors and seeking the views of ratepayer groups and advisory commissions. Special public meetings to discuss proposed guidelines for development were held in March and April 1981.

As a result of this input, revised guidelines were brought forward, including suggestions for residential, commercial, and/or hotel uses and a density (floor area ratio) of 2.25. This was described in detail in the April 1981 issue of the West Vancouver newspaper. Public hearings for the proposed zoning amendments were held, and there was considerable debate over rezoning the site. The suggestion to reduce the proposed density from 2.25 to 1.75, the same density that applied in the municipality's apartment zones, was adopted by council in its guidelines.

In July 1981, after adoption of the revised zoning bylaw, a nationally advertised call for proposals was sent out. The favoured proposal was a twin-tower office development by Intrawest, designed by Arthur Erickson, but failure to agree on the financial component, and a falling market, resulted in the negotiations being abandoned.

The market improved in 1986, and in July 1987 the project was again put out for proposals based upon the 1981 guidelines. Four proposals were received, and the bid by Newcorp was eventually approved after months of negotiations on its financial and lease terms. Their offer of a long-term lease and of \$10 million in payments over time substantially exceeded both the independent appraisal commissioned by the municipality and the other three bids. And it had the advantage that West Vancouver would retain ownership of the land.

The detailed development of the design, further zoning modifications, and the eventual finalization of the lease took place between 1988 and 1989 with much debate, a referendum, and a Supreme Court case, as described in Mr. Johannson's article. However, he did not describe the facts of the process accurately, and his interpretation of those "facts" was highly misleading.

Errors of fact

1. Mr. Johannson states that the successful bidder, Newcorp, received unanticipated bonuses.

In fact, the site went out for formal bids with all the parameters described. Some details (e.g., demolition costs) were modified as part of the total financial package which was negotiated, a package which not only exceeded all other bids and the independently commissioned appraisal, but also substantially increased the original offer submitted by Newcorp. In other instances (e.g., balcony enclosures, parking garage deck height) the provisions were subject to council consideration at a rezoning public hearing and were not prior commitments. All were subject to approval at public council meetings.

2. Mr. Johannson states that the elements of the zoning changes noted above (subsequently approved after the hearings) were "contrary to conditions for high-rises elsewhere in West Vancouver" (p. 166).

In fact, the provisions are the same as contained in every apartment zone in West Vancouver. The municipal floor area ratio standards were applied more strictly than is the case in the high-rise zones.

3. The author claims that the original guidelines for the site changed in some obscure way from an "executive hotel" in one building (p. 156) to a twin-tower development.

The original 1981 guidelines sent to all residents in the special edition of the municipal newspaper state that the proposed site use was high-rise development of offices, apartments, or executive style hotel, or any combination thereof. The Intrawest/Erickson proposal that was selected in 1982 was a twin-tower office development.

4. Mr. Johannson refers to the 11 May 1981, public hearing, stating that it was held in a crowded council chambers and was illegally adjourned and re-opened on 15 June 1981.

He ignores the public meeting on the proposed site guidelines of March 1981, held at the West Vancouver Secondary School theatre and extended to April 1981 to allow further comments. The zoning proposal was based on comments received at the earlier meetings, and council subsequently reduced the allowable density from 2.25 to 1.75. The floor area ratio defined in West Vancouver's zoning by-law for high-rise apartment buildings was not altered to accommodate the development, as claimed by the author. Moreover, in 1981, the Municipal Act provided for public hearings to be adjourned sine die and re-opened. The author is referring to requirements which were not in the Act until 1986.

5. On page 154, Mr. Johannson refers to the formation of a "secret advisory committee," with "close personal association with the development industry," to review the 1979 proposals. On page 171 he states that "information surrounding 320 Taylor Way has been closely guarded by

the municipality” and that “the [1979] committees’ work were [*sic*] not made public, nor were they [*sic*] examined by the citizens’ task force” established in 1981.

The ad hoc committee of 1979 consisted of West Vancouver residents who were development industry experts whom council asked for advice. It was not publicized as a task force and was not a policy or decision-making body. It advised council to establish public guidelines for the use of the site, hardly a sinister action. The 1981 task force was formed to draw up these guidelines; hence it was well aware of the 1979 committee’s deliberations; indeed, one or two members of the 1981 committee sat on the task force, providing continuity.

Mr. Johannson refers to Councillor Boname’s husband as being an advisor in 1979 and notes that she did not dissociate herself from the 1988 debates or voting. Mr. Boname, a highly regarded expert in the field, was asked by council to help analyse various financial aspects of the 1981 proposal. His advice in 1988 (nine years later) was specifically not requested by the municipality because of the potential for conflict once Mrs. Boname had become a councillor.

6. Mr. Johannson makes various references to community plans being “modified quickly” (p. 168), to hastily called council meetings, and to “in camera” land discussions, creating the impression that something was going on that the public were not aware of.

This is not borne out by his description of the various public meetings at which he spoke in opposition or by the detailed descriptions contained in the West Vancouver *Municipal News* and in the press generally.

As an example of damaging innuendo, Mr. Johannson states (p. 167) that the architect “admitted” to a building height of 252 feet, for which he was reprimanded for his conduct by the Architectural Institute. This reprimand had nothing whatsoever to do with the architect’s conduct in the hearings, with the design, or with the public process, but rather stemmed from his failure to notify the developer’s initial architect that he had been asked by the former to undertake the detailed design work.

7. Mr. Johannson also implies that the design that was considered by council was contrary to the Advisory Design Panel’s recommendation. He fails to note that the height of the east tower was raised to twenty-three storeys so that the west tower could be lowered to seventeen at the design panel’s request. As a result of the design panel’s initial criticisms of the project, which centred on the bulk rather than the height of the buildings, council formed a special committee of architects composed of present and former members of the design panel, which worked with the developer’s

architect. This committee reached an accord with the developer which led to a re-orienting of the towers and a trimming down of both the bulk and the height of the two buildings. The townhouses were introduced partly to compensate the developer for the space he has lost in reducing the height and width of the two buildings and partly to fulfil the committee's suggestion for ground-oriented units by the river.

Mr. Johannson chooses to omit from his paper that the project brought with it major community benefits. While retaining ownership of the land through a long-term lease, the municipality is receiving \$10 million in leasehold fees, plus \$350,000 per year in taxes. In a community which has no industry and no land bank of its own, and which is committed to buying up expensive waterfront land between 13th and 18th streets for public and parks purposes, such an income seemed a welcome windfall. The site, located in the heart of the Park Royal shopping centre, was surrounded by other high-rise buildings, and was located near all forms of transportation; it seemed ideal for high-rise development.

8. Mr. Johannson states that council's decision legally to challenge the validity of the contract was "half-hearted." Nothing could be further from the truth. Several of the members of the newly elected council had been involved in the early 1980s on various advisory and ad hoc commissions which had dealt with the first project that had failed to materialize in 1982, and the memory was still fresh of the graceful lines of the Arthur Erickson design. Assuming that the project was a good one for the municipality, council proceeded to authorize a second bid in 1986, using the same guidelines. As delicate property negotiations were involved, the financial aspects of the discussions were held in camera. Council thus pursued a policy which had gone through an extensive public process five years earlier and assumed that the community input on design was all that would be required. It acted legally, but it was caught by surprise by the intensity of the public reaction to an agreement that had already been signed. The size and bulk of the buildings were the main issues.

A referendum on the issue divided the community right down the middle which further complicated the issue. Opinion on council reflected the divisions within the community. After much debate, council decided to challenge the validity of the contract in court and hired a respected lawyer and legal firm to do so. Some councillors hoped that the courts would find the contract invalid; others hoped for the opposite. But once the courts had declared the contract legal and ordered performance, public liability was such that council concluded unanimously that it had no choice save to proceed.

Sources

Mr. Johannson tends to define the community as those who share his viewpoint. The "others," whom he attacks, include four elected municipal councils, their advisory bodies, municipal staff, and presumably the 5,851 voters (half the electorate) who cast referendum ballots in favour of high-rise development on the site. Given such an extreme view, it is not surprising that the author is very selective in regard to his sources.

Mr. Johannson cites, for example, Noel Wright, a local editorial writer for the *North Shore News* whose professional role is to generate discussion. Mr. Wright's frequently provocative comments represent his personal opinions and are not put forward as factual by the *North Shore News*. The author also cites the municipal publications and reports which he states throughout his article either are not available or are biased and unreliable.

Finally, Mr. Johannson cites books on municipal politics and political theory. These may well be relevant to his thesis, but they are not a source of information on the 320 Taylor Way issue. By implication, he indicates that the issues and actions that are reported elsewhere also occurred in West Vancouver, and that the Marxist philosophy has direct relevance to a community filled with middle-class experts. All this is very far-fetched.

The fourth source of information is the author himself. He fails, of course, to identify his partisan role in the issue, and, in fact refers to "the opponents" (p. 164, note 53) as if he were a student of the subject instead of the major player that he was. West Vancouver is a well-educated community with an unusually high degree of community participation and a higher than average turn-out at the polls. It seems unlikely that the kind of conspiracy against the public about which Mr. Johannson so darkly hints could flourish over a period of nine years and four councils in a community such as this.

Such questions as the role that referendums could play as opposed to the more traditional view that councils are elected to govern, or the possibility that the actions of politicians could be improved if they were more specifically prescribed by legislation, are worthy of discussion. Our question here is whether Mr. Johannson's paper constitutes the kind of rigorous analysis useful to those studying the strengths and weaknesses of the municipal form of government. The truth is that Mr. Johannson used a discussion of legitimate issues of government as a means of furthering his own partisan political position in the municipal arena in which he is an active participant.

A Reply

ROFF JOHANNSON

Councillor Day does not address the thesis of my article, which is that the terms of this province's Municipal Act permit the democratic process to be abused. Rather, it would appear that he argues that for \$10 million and annual tax payments, we should accept abuse. My perspective on this is that a society claiming to be a democracy should act like a democracy, by respecting the will of the majority. Instead of addressing this, Councillor Day hangs his criticism of my article on eight "errors of fact," to which I am happy to respond.

1. I am accused of stating that the developer received "unanticipated bonuses." The original commitment to the citizens of West Vancouver, made in the municipal council's own newspaper in 1981, was that no building on the site would exceed 180 feet in height. In fact, both new buildings significantly exceed this height, which certainly would seem to be a measurable bonus. The Report of the Citizens Task Force (which included two former aldermen) was far more critical than me about this point.
2. On the matter of zoning differences: Calculation of the floor area ratio (FAR) for 320 Taylor Way does not include the enclosed balconies of 100 square feet per suite. In the Ambleside high-rise district, enclosed balconies are included in the calculation of FAR. This seems to me to be a not insignificant difference in zoning.
3. The "error of fact" cited is a quotation from the municipality's own newspaper. If an error exists, it is not mine.
4. The point about public meetings being adjourned *sine die* and subsequently re-opened pertains to the Municipal Act and was made in support of the central thesis of the paper.
5. Point 5 does not contain any suggested error of fact on my part.
6. The commentator has mis-stated my words. I did *not* imply that there was any connection between the height of the buildings and the reprimand given the architect by the AIBC. Indeed, I specifically denied that there was any linkage! Any "damaging innuendo" is done by the commentator.
7. The original design considered by the council was not supported by the Advisory Design Panel.
8. Because of secrecy about "land" matters, the commentator has had access to records that are not public. The appeal to the Supreme Court certainly looked half-hearted. I also have reason to doubt that council "concluded unanimously" to proceed with construction.

Thus, of the claimed “errors of fact,” none have any relevance to the thesis of the article.

The denunciation of the sources utilized seems unduly mean-spirited. Surely, the comments by a neighbourhood political columnist are an appropriate source to reflect community opinion. No references are given to support the claim that I referred to municipal reports as “biased and unreliable.” I did not say or imply anything of the sort.

Finally, there are the commentator’s views about my own role in this incident. I did not “pretend” to be an observer and I did not “mislead” the editors, outside reviewers, or readers of *BC Studies*. If Councillor Day feels that an active participant cannot present the facts or offer commentary, then what value does he ascribe to his own commentary? The central reality of this incident is that citizens voted democratically to oppose construction of the high-rise buildings; the municipal council went ahead with the construction. My argument in the paper, and now, is that the Municipal Act should be more democratic. That is the extent of my “partisan political position.”

I trust the vetting and review processes to which the paper was subjected before publication. I stand by my presentation of the facts and their interpretation.