



COUNCIL IN COMMITTEE OF THE WHOLE

July 12, 2010 3:30 p.m.
Committee Room 2, City Hall

MINUTES

PRESENT:

Mayor Wayne Wright
Councillor Jonathan Coté
Councillor Bill Harper
Councillor Bob Osterman
Councillor Jaimie McEvoy
Councillor Betty McIntosh
Councillor Lorrie Williams

STAFF:

Mr. Paul Daminato	- City Administrator
Mr. Rick Page	- Corporate Officer/Director of Legislative Services
Ms. Bev Grieve	- Acting Director of Development Services
Mr. Eugene Watt	- Acting Director of Engineering Services
Mr. Gary Holowatiuk	- Director of Finance & Information Technology
Ms. Joan Burgess	- Director of Human Resources
Mr. Dean Gibson	- Director of Parks and Recreation
Ms. Judi Turner	- Assistant Corporate Officer

ADDITIONS TO AGENDA

The agenda was varied as follows:

PRESENTATION

Director of Parks, Culture and Recreation

1. [Multi Use Civic Facility – Program Elements](#)

July 12, 2010 report providing programming options and seeking approval of the program elements.

- a) **Presentation: Grant Turnbull, Project Manager and Josh Henderson of Turnbull Construction Services Ltd., Brenda Beck of B.E. Beck and Associates**
- b) **Director of Parks Recreation and Culture report on behalf of the project management team “Multi Use Civic Facility – Program Elements”**

Grant Turnbull reviewed the priorities for the Multi-Use Civic facility, outlining the following milestones:

- Program elements of the facility
- Two year time frame for construction
- Seeking approval on the building program
- Have a developer process under way; will seek Council direction on this at the end of August
- Will proceed with an architect search to complete by end of August
- Will commence detailed design by September 2010
- Will commence construction June 1, 2011.

Brenda Beck made a presentation on the proposed functionality of the facility in a general way. Major elements included: the City's Museum and Archives, Lacrosse Hall of Fame, Police Museum, and a portion of the Regiment Museum, conference and multi-use space, arts functions space, theatre space, conference and multi-use space, community space, administration area, fine arts spaces, performing arts spaces, commercial/retail space.

During discussion, members made the following comments:

- Report on what museums or portions of museums will remain outside the new facility
- Advised that art that will be displayed on art gallery walls will be available to local artists or visiting artists
- Explore further what a fine arts and community gallery space ought to resemble (many examples elsewhere)
- A proper fine arts gallery will be a tourism draw
- Support for the multi-purpose theme of the facility which will result in a facility having significant vitality
- How is the need for small teaching studios determined – this should be determined before completing the design
- How will future programming needs be accommodated
- Facility must be child-friendly
- Ensure the multi-purpose room is of a proper size and with proper flooring and flexibility so that it can be used for a variety of uses, such as: meetings, receptions, dance classes, exercise classes, etc.
- Note a concern that the facility should not challenge the viability of businesses in the city.

MOVED and SECONDED

THAT a dedicated 2000 square foot fine arts/community gallery space be provided on the main floor of the Multi Use Civic Facility.

CARRIED.

All members of Council voted in favour of the motion.

- ** **MOVED and SECONDED and CARRIED, this Committee recommends:**
THAT the program elements of the Multi-use Civic Facility as outlined in the July 12, 2010 from the Director of Parks, Culture and Recreation be approved.
CARRIED.

All members of Committee voted in favour of the motion.

CONSENT AGENDA

MOVED and SECONDED

THAT the Consent Agenda be approved with the following deletions:

Items 3, 5, 6, 9, and 16

THAT the recommendations arising from the Consent Agenda, as revised, be approved as follows:

Director of Development Services

2. **[101/107 Agnes Street – Amendment to Heritage Revitalization Agreement No. 7077, 2005](#)**

July 12, 2010 report advising of a proposed amendment to HRA No. 7077, 2005.

THAT the July 12, 2010 report from the Director of Development Services relating to an amendment to Heritage Revitalization Agreement No. 7077, 2005 be received for information.

- 4 **[Proposed Rezoning of 428 and 432 Thirteenth Street, 1305 Cariboo Street and 1308 Fifth Avenue – Preliminary Report](#)**

July 12, 2010 report providing preliminary information on the proposed rezoning of 428 and 432 Thirteenth Street, 1305 Cariboo Street and 1308 Fifth Avenue.

THAT the July 12, 2010 report from the Director of Development Services relating to the proposed rezoning of 428 and 432 Thirteenth Street, 1305 Cariboo Street and 1308 Fifth Avenue be received for information.

7. **[Pet Store Bylaw No. 7398](#)**

July 12, 2010 report providing information on public feedback received regarding the Pet Store Bylaw.

- ** *THAT Pet Store Bylaw No. 7398, 2010 be referred to the Regular Council meeting of July 12, 2010 for adoption.*

8. **[Lafflines Comedy Club / Application to Transfer Liquor Primary License from 26 Fourth Street to 530 Columbia Street](#)**

July 12, 2010 report providing information regarding an application from Skyway Enterprises Ltd. to transfer its Liquor Primary License.

- ** WHEREAS** New Westminster City Council considered a staff report regarding an application from Lafflines Comedy Club to relocate its Liquor Primary License from 26 Fourth Street to 530 Columbia Street;
WHEREAS the proposed hours of operation (i.e. 9 am to 2 am seven days per week) and occupant load (i.e. 110 seats) are acceptable;
WHEREAS the proposal is not a concern in terms of parking, noise, traffic, proximity to other facilities and buildings, or growth in the area;
WHEREAS the operator has submitted the required rezoning application;
WHEREAS the New Westminster Police Service supports the application;
WHEREAS public input on the application was sought by a public hearing being held, the applicant meeting with the Downtown Residents' Association and the Downtown New Westminster Business Improvement Society, site signs being posted, and notices being sent to nearby residents and businesses, and no concerns were received regarding the application;
WHEREAS the proposal is consistent with City objectives for the area and will contribute to the heritage assets of the site being restored;
WHEREAS the City does not support exotic entertainment such as strippers;
THEREFORE BE IT RESOLVED:
THAT New Westminster City Council approves Lafflines Comedy Club's application to relocate its Liquor Primary License from 26 Fourth Street to 530 Columbia Street subject to a condition being placed on the License prohibiting exotic entertainment such as strippers.

10. Development Permit for 800 Boyd Street

July 12, 2010 report advising of an application for a Development Permit at 800 Boyd Street.

- ** THAT** Development Permit 036(Q) for 800 Boyd Street be approved and issued.

11. Official Community Plan and Queensborough Community Plan Amendments to Change the Land Use Designation for those Properties Located at 510 Ewen Avenue, 306 Wood Street and 703 Ewen Avenue, and Remove Said Properties from their Development Permit Area to Allow for Park Development.

July 12, 2010 report recommending first and second readings of Bylaw 7397, 2010 and Bylaw No. 7404-2010.

- ** THAT** Official Community Plan (Land Use Designation Amendment) Bylaw No. 7397, 2010 and Official Community Plan (Land Use Designation Amendment) Bylaw No. 7404, 2010 be referred to Council for consideration of first reading;
THAT Official Community Plan (Land Use Designation Amendment) Bylaw No. 7397, 2010 and Official Community Plan (Land Use Designation Amendment) Bylaw No. 7404, 2010 be considered in conjunction with the City's Financial Plan and Waste Management Plan; and
THAT Official Community Plan (Land Use Designation Amendment) Bylaw No. 7397, 2010 and Official Community Plan (Land Use Designation Amendment) Bylaw No. 7404, 2010 be referred to Council for consideration of second reading.

12. Proposed Park Districts (P1-10) Zoning Schedule for City Parks and the Proposed Rezoning of 510 Ewen Avenue, 306 Wood Street and 703 Ewen Avenue

July 12, 2010 report proposing a new zone for community parks and requesting the rezone of City owned properties.

- **** *THAT Zoning Amendment Bylaw 7405, 2010, to establish the Park Districts (P-10) zoning schedule and rezone 510 Ewen Avenue from Public and Institutional Districts (Low Rise) (P-1) to Park Districts (P-10) and 703 Ewen Avenue from Queensborough Neighbourhood Residential Dwelling Districts (RQ-1) to the Park Districts (P-10) be referred to Council for consideration of first and second reading, and*
THAT Zoning Amendment Bylaw 7406, 2010, to rezone 306 Wood Street from Queensborough Neighbourhood Residential Dwelling Districts (RQ-1) to the Park Districts (P-10) be referred to Council for consideration of first and second reading.

Director of Legislative Services

13. Resolution to change September 20, 2010 meeting from a Working Session to a Regular Meeting (Oral)

- **** *THAT the Working Session scheduled for September 20, 2010 be changed to a Regular Meeting.*

Director of Parks, Culture and Recreation

14. Parks Leases:

July 12, 2010 outlining proposed agreements and providing information for acceptance of the proposed lease agreements.

a) Queen's Park Preschool Society Lease Agreement (Bylaw No. 7347, 2010)

- **** *THAT Queen's Park Preschool Society Authorization Bylaw No. 7347, 2010, be forwarded to the Regular Council meeting of July 12, 2010 for consideration of first, second and third readings subject to the required public notification.*

b) Arts Council of New Westminster Lease Renewal (Bylaw No. 7344, 2010)

- **** *THAT Arts Council of New Westminster Leasing Bylaw No. 7344, 2010, be forwarded to the Regular Council meeting of July 12, 2010 for*

consideration of first, second and third readings subject to the required public notification.

c) New Westminster Lawn Bowling Club Lease Agreement Renewal (Bylaw No. 7342, 2010)

****** *THAT New Westminster Lawn Bowling Club Leasing Bylaw No. 7342, 2010 be forwarded to the Regular Council meeting of July 12, 2010 for consideration of first, second and third readings subject to the required public notification.*

d) New Westminster Tennis Club Lease Agreement (Bylaw No. 7346, 2010)

****** *THAT New Westminster Tennis Club Authorization Bylaw No. 7346, 2010, be forwarded to the Regular Council meeting of July 12, 2010 for consideration of first, second and third readings subject to the required public notification.*

15. World's Largest Tin Soldier

July 12, 2010 report outlining the proposed transfer of ownership.

****** **MOVED and SECONDED and CARRIED, this Committee recommends:**
THAT the Mayor and City Clerk be authorized to execute the Bill of Sale and Transfer of Ownership agreement for the World's Largest Tin Soldier with the Simon Fraser Society for Community Living, and
THAT the Mayor and City Clerk be authorized to execute a long-term lease with the River Market Westminster Quay Inc. to continue to locate the World's Largest Tin Soldier in its current location on River Market property.

MINUTES

17. MOTION TO ADOPT THE MINUTES OF: the Downtown Parking Commission meeting of June 9, 2010.

THAT the minutes of the Downtown Parking Commission meeting of June 9, 2010 be received and adopted.

18. MOTION TO ADOPT THE MINUTES OF: Environment Advisory Committee Special Meeting of June 22, 2010.

THAT the minutes of the Environment Advisory Committee special meeting held on June 22, 2010 be received and adopted.

19. MOTION TO ADOPT THE MINUTES OF: the Neighbourhood Traffic Advisory Committee meeting of May 19, 2010.

THAT the minutes of the Neighbourhood Traffic Advisory Committee meeting held on May 19, 2010 be received and adopted.

20. MOTION TO ADOPT THE MINUTES OF: Special Services & Access Committee meeting of June 10, 2010.

THAT the minutes of the Special Services and Access Committee meeting held on June 10, 2010 be received and adopted.

CARRIED.

All members of the Committee voted in favour of the motion.

Members removed the following from REPORTS FOR ACTION and moved them into the CONSENT AGENDA: 22, 23, 24, 26, 29, 31, and 32 with recommendation.

MOVED and SECONDED

THAT the following Reports for Action be moved to the Consent Agenda and the recommendations contained therein be approved:

22. Amendment to the Parks, Culture and Recreation Fees and Charges Bylaw

(Bylaw No. 7403, 2010)

July 12, 2010 report outlining recommended fees and charges.

**** *THAT Parks, Culture & Recreation Fee Amendment Bylaw No. 7403, 2010, be forwarded to the Regular Council meeting of July 12, 2010 for consideration of first, second and third readings.***

Director of Development Services

23. 101 Royal Avenue

July 12, 2010 report providing information regarding crime and nuisance concerns associated with 101 Royal Avenue.

THAT the July 12, 2010 report from the Director of Development Services regarding crime and nuisance concerns associated with the apartment building at 101 Royal Avenue be received for information.

24. Development Agreement Bylaw No. 7399, 2010 for Retail Phase of Plaza 88

July 12, 2010 report seeking approval of Downtown Development Agreement Bylaw.

**** *THAT Downtown Development Agreement Bylaw be forwarded to Council for consideration of first, second and third readings; and
THAT the Mayor and City Clerk be authorized to sign all documents.***

Director of Finance and Information Technology

26. Overview of the Proposed 2011 Budget Process

July 12, 2010 report providing an overview of the proposed 2011 budget process.

- ** *THAT the July 12, 2010 report from the Director of Finance and Information Technology be received for information and discussion; and
THAT the budget directives and the 2011 Budget Calendar be supported.*

Director of Human Resources

29. Summary of Public Review of the Updated Council Remuneration Policy

July 12, 2010 report providing an overview of the public review process on the updated Council Remuneration Policy.

- ** *THAT the July 12, 2010 report from the Director of Human Resources outlining the public review process on the updated Council Remuneration Policy be received for information; and
THAT staff be directed to proceed with implementation of the proposed policy.*

Director of Legislative Services:

31. International Relations – Student Visitation Policy

July 7, 2010 report outlining for consideration an International Student Visitation Policy 2010.

- ** *THAT the International Student Visitation Policy be endorsed as presented; and
THAT based on the International Student Visitation Policy, staff be directed to select four international students to visit the City during the fall of 2010.*

MINUTES:

32. MOTION TO ADOPT THE MINUTES OF: the Parks and Recreation Committee meeting of May 5, 2010.

THAT the minutes of the Parks and Recreation Committee meeting held on May 5, 2010 be received and adopted.

MOTION TO ADOPT THE RECOMMENDATIONS OF: the Parks and Recreation Committee meeting of May 5, 2010: Eva Markvoort Memorial Garden Naming Request, March 30, 2010

****** *THAT the correspondence from Diane McQuade be forwarded to City Council; and
THAT Council be requested to direct staff to identify options for an appropriate memorial to former City Ambassador Eva Markvoort*

CARRIED.

All members of Committee voted in favour of the motion.

ITEMS REMOVED FROM THE CONSENT AGENDA

3. [1016, 1020 and 1022 Fourth Avenue – Preliminary Report](#)

July 12, 2010 report providing preliminary information on the proposed rezoning of 1016, 1020, and 1022 Fourth Avenue.

Staff responded to a question regarding parks.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Development Services relating to the proposed rezoning of 1016, 1020 and 1022 Fourth Avenue be received for information.

CARRIED.

All members of the Committee voted in favour of the motion.

5. [Queensborough Community Plan Update – Summary of June 24, 2010 Open House](#)

July 12, 2010 report advising of the progress on the QB Community Plan and providing comments received at the Open House.

Staff responded to questions by advising that next steps regarding pedestrians by noting the matter will be considered by Engineering Department in their review of the Transportation Master Plan and be included in Development Services processes.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Development Services relating to an update of the Queensborough Community Plan and providing comments received at the Open House be received for information.

CARRIED.

All members of the Committee voted in favour of the motion.

6. [Proposed Solar Hot Water Ready Regulation for Single Detached Dwellings](#)

July 12, 2010 report seeking direction on opting-in to a proposed solar hot water ready regulation for single family dwellings.

During discussion, members raised the following issues:

- Is the proposal viable under very cold conditions – should solar hot water be an option rather than a requirement? *Staff response: National Resources Canada feels the proposal is viable in British Columbia; anti-freeze circulates in the pipes therefore addresses the concern over freezing*
- *Review the European system of “hot water on demand”*
- Needs to be a requirement.

** **MOVED and SECONDED and CARRIED, this Committee recommends:**

THAT the City of New Westminster opt-in to the proposed Solar Hot Water Ready Regulation and staff be directed to notify BC Building and Safety Policy staff accordingly; and

THAT the proposed Solar Ready Exemption be approved and staff be directed to consult with single family developers on their application and implementation.

CARRIED.

All members of the Committee voted in favour of the motion.

9. **Royal Canadian Legion / Application to Amend Liquor License**

July 12, 2010 report providing information regarding an application from the Royal Canadian Legion requesting a permanent change to its liquor license.

Members suggested closure of the patio at 10:00 p.m. and commented on smoking on the patio. Staff advised that the City cannot impose these restrictions on patios located on private property

** **MOVED and SECONDED and CARRIED, this Committee recommends:**

WHEREAS New Westminster City Council considered a staff report dated July 12, 2010 regarding an application from the Royal Canadian Legion, Branch No. 2 located at 631 Sixth Street to change their Liquor Primary Club License by amending the establishment’s hours of operations;

WHEREAS the application is supported by the New Westminster Police Services;

WHEREAS the business has not generated noise complaints or negative community impacts and the proposed changes are not expected to result in noise or other negative impacts to the community; and

WHEREAS the applicant placed a site sign in front of the premises for 30 days and two newspaper notices providing details of and inviting comments on the application and the concerns submitted have been addressed;

***THEREFORE BE IT RESOLVED THAT** New Westminster City Council approves the application from the Royal Canadian Legion, Branch No. 2 to extend the closing time to 12:00 midnight seven days per week subject to liquor service on the outdoor patio ceasing at 11:00 p.m.*

CARRIED.

All members of the Committee voted in favour of the motion.

16. **Youth Centre Project Update**

July 12, 2010 report providing an update on the progress of construction of the new youth centre and the related community fundraising campaign.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Parks, Culture and Recreation providing an update on the progress of construction of the new youth centre and the related community fundraising campaign be received for information.

CARRIED.

All members of the Committee voted in favour of the motion.

PROCEDURAL NOTE:

The Committee of the Whole meeting recessed at 4:50 p.m. and reconvened at 5:01 with all members of Council present.

REPORTS FOR ACTION

Director of Engineering

33. **Retaining Wall at 201 Queen's Avenue – Reconsideration of Remedial Action Order**
- a) **Representations by property owner**
 - b) **Director of Engineering Services report dated June 28, 2010**
 - c) **Decision**

Mayor Wright read a statement regarding a request to reconsider a remedial action order and the agenda for the hearing.

The owner of 201 Queens Avenue, Brian Drummond, was present and circulated a packet of information (which will be added to the Agenda) consisting of the following:

- Letter dated July 12, 2010 from Brian and Laura Drummond
- Document dated July 10, 2010, entitled REPORT, with subject line: Retaining Wall – Retaining City Lane and City Property at Back of 201 Queens Avenue
- Document entitled HISTORY, dated July 11, 2010, from Brian and Laura Drummond
- Sketch showing Drummond home and New Westminster City Lane
- Plot map showing 201 Queens Avenue and the lane and wall between 201 Queens and 212 Second Street
- Document entitled: RE: ENGINEERING DEPARTMENT REPORT INACCURACIES
- Letter dated July 12, 2010 from David Van Gruen and Dana Anderson
- Memo dated July 12, 2010 from Eric Smith, Conex Projects Inc.
- Letter dated July 5, 2010 from Donna Tays of Remax Advantage Realty
- Letter dated July 9, 2010 from Richard and Julie Crothers
- Letter dated June 28, 2010 from Mick McLennan
- Photo dated June 6, 2010 of a GMC truck on the lane
- Photo of Dynamex truck on lane.

Mr. Drummond made the following comments:

I will start with the history of the retaining wall not previously presented. Mr. Drummond then read the July 11, 2010 document entitled HISTORY which was contained in his submission.

Mr. Drummond then read his document entitled REPORT to Mayor Wright and Members of Council, subject line: Retaining Wall – Retaining City Land and City Property at Back of 201 Queens Avenue, also contained in his submission.

Additional comments made by Mr. Drummond while reading this segment of his presentation:

The retaining wall has not moved. I do understand the wall will have to be changed at some time.

I have no control of what travels on the retaining wall

From my construction review that is a diagram of likely what the wall looks like

Number 2:

To say that the wall is solely his responsibility is possibly an ignorant statement to make

There is no record of who built this wall.

The wall is required to retain a city lane.

Lastly there are a number of letters from residents regarding Engineering Department inaccuracies.

Mr. Drummond read the document entitled: Re: Engineering Department Report Inaccuracies and made the following additional comments:

So to say that every lane should provide access to city vehicles is not true.

The lane is only 10 feet wide and requires that you drive right on the wall.

I don't believe that is responsible.

80% of most walls fail because of drainage

I believe this wall is the City's responsibility and I should not be forced to pay \$40,000.

Large trucks will continue using it. It should not be the responsibility of any property owner.

The presentation by Mr. Drummond was followed by questions put to him by members of Council and his responses as follows:

Council member: Has your property been surveyed? Yes, if you look at the diagram the actual wall part - 8 inches of it is on my property.

Council member: Does the city have a copy of the survey? Response by Eugene Wat, Engineering Department: I am not aware we received a copy of the survey from the owner. I understand the document the owner has submitted indicates the vertical wall is on private property; we have no records of the actual structural design of the wall.

Mr. Drummond: There are three types of wall - this is most likely toe-heel. Until it is opened up, there is no proof. There would be considerable footing on city property.

Council member: Do we know when the wall was built? Was it built to correspond with the building of the lane? Mr. Drummond: There were no encroachment records or agreements - no records. I spent time trying to determine when the wall was built. There were no records.

Donna Tays was present and expressed a desire to speak. Reece Harding, Young Anderson, Solicitor for the City, advised Council that if someone wishes to address Council they can come forward and identify themselves. They are entitled to come forward as witnesses. They would then be subject to questions by staff and others.

The Mayor invited Ms. Tays to introduce herself.

Hi, I'm Donna Tays with Remax Realty. We did some research behind the wall. We found nothing in city records or archives. So I went back and traced old owners of the house. The house was built in 1951 – the current house. The Marions said when they took occupancy of the house, the lane was already in. The Marshalls were the first owners.

Mr. Drummond: The City owned this property previous to the Marshalls.

Council Member: When was that? Mr. Drummond: I believe it would have been in the late 30's to early 40's. We looked at the tax book in the archives in the basement. We did find the owner in one line – the City of New Westminster was the owner in 1939. In 1945, it was owned by the Marshalls.

Council Member: Donna, your letter includes a statement. You were told a city worker would look at the wall and get back to you. Do you know who you talked to?

Ms. Tays: I was not the listing agent but the selling agent. As selling agent, I investigated the property. I asked the listing agent did you ever check the wall. She said yes I contacted the City. I was worried about it and called the City. The listing agent has been made aware of today's meeting. She sought legal counsel and because of that meeting will not make a statement today. I represented the Drummonds in the purchase of this property. I live in New Westminster.

Council Member: Explain this diagram - there are footings for this wall? Mr. Drummond: Yes.

Council Member: You could dig down and find the footings for the wall. Mr. Drummond: That is a cross section of the wall. The only way to find out the type of footings would be to dig down 7 feet or dig out my paved side yard to dig up the footing. It is not a simple project. You have to open the whole lane.

Council member: The second question is about the drainage. Mr. Drummond: There is no record of any drainage but it would all be on the other side of the wall. The Sacre Davey engineering report said there is likely no drainage in the wall.

Council Member: Explain the yellow markings: Mr. Drummond: All the yellow marking is city property.

Council Member: This is your best guess. It is not fact. Mr. Drummond: No it is not fact. Engineering reports could not come up with facts. All the drainage aspects of this wall are on City property. There is likely footings on City property.

As there were no further questions, the Mayor invited Mr. Drummond to take a seat.

Mayor Wright called Eugene Wat, Manager of Infrastructure Planning, Engineering Department to come forward to make a statement.

Mr. Wat made the following statements:

Based on the letter of June 1, 2010, from Mr. Drummond, staff reviewed the contents and provided a report which is in the agenda package stating this is a private wall adjacent to a public lane way. It is recognized by our engineer that the wall is in a state of failure. Given its age and unknown design data, the wall is considered unsafe and requires removal and replacement. The engineering assessment is that it compromises the functionality of the public laneway.

In response to the issues raised in the Drummond letter, we have the following responses:

The first point is who is responsible for repairing the wall. The letter states that the city has duty as upslope property owner to prevent soil on its property from sliding onto property at 201 Queens. The City looked into this and could find no argument to support this claim. We found no court decision or statutory reference to support this. In consultation with city solicitor, staff maintains the position that the owner is responsible for the replacement of the unsafe wall.

The second point regarding who is causing damage to the wall - it is likely over 50 years old and may have only deteriorated in the last few years due to heavy construction vehicles used for the construction projects. Staff looked at construction in the area. We have no record of earlier concerns raised by the owner of 201 Queens regarding construction activity or problems causing the wall to lean or signs of failure of the wall. There were no records until it was brought to light in 2009 over the demolition of an older house on 214 Second Street. We asked the property owner if he used heavy equipment during the demolition process and received a letter from the owner who indicated he did not use that lane for the demolition. It is possible that the retaining wall may have started to fail over recent years.

The wall is likely 50 years old and has probably reached the end of its service life. But there is no report to suggest there was inappropriate use of the lane by vehicles.

Regarding recycling vehicles – the City does not use that lane as the trucks can't turn around.

The last point raised by the lawyer for Mr. Drummond regarding who is responsible for protecting the wall – he suggests that the City only imposed restrictions lately. If the City put in weight restrictions earlier there might not have been damage to the wall. There was no reason for the City to impose weight restrictions until we realized there was a failure of the lane.

Based on that information and in consultation with the City Solicitor, we believe the wall presents a safety risk and compromises the functionality of the lane because we can no longer use it for the uses we are supposed to. We have consulted with the City Solicitor and we believe the responsibility for repairing this private wall rests with the owner of 201 Queens Avenue and the May 17, 2010 Remedial Action order should be upheld.

The structural engineer from AECOM is also present to respond to questions as well as Todd Harvey who has been involved in this project last year as well and could respond to questions regarding activity in 2009.

Mayor: I open up the questioning to Council.

Council Member: it has been stated part of the wall is on City property – if that is the case, does this change who is responsible? Mr. Wat: based on the information that we have so far and the survey that has been conducted, the only exposed part of the wall is on private property. Now if the wall is on public property, I guess that would be a matter for the City Solicitor. So far, the vertical portion of the wall is exposed and it is on private property. This yellow part, the heel, we don't know whether that does exist. The structural engineer could not confirm whether the heel exists here or it may have existed on the other part – on the private site of the retaining wall. So there is no information unfortunately or records to indicate the actual design of the wall – the construction of the wall.

Council member: I just want to confirm that. So there is absolutely no record, no permit, nothing in the City data base about this wall, where it is located, whether there is drainage, what the footings may look like? This is 19 – well, we don't know when the wall was built. Mr. Wat: That's correct. We don't know when the wall was built. The house was built in 1951 and there was a lot of grading – I assume that was undertaken to level the lot when the house was built.

Council Member: So when the house was built, did the laneway exist? Mr. Wat: When the house was built in 1951 I believe, the laneway pre-existed at that time.

Council member: The laneway did exist? Mr. Wat: Yes, the laneway did exist prior to when the house was built.

Council member: So the assumption then by the City is the wall existed before the construction of the house? Mr. Wat: That is not necessarily the case because, depending on what the slope of the land was prior to the construction of the house – the laneway could have been constructed at grade and then may have just sloped down to Queens Avenue, but once the house was constructed, that building envelope has been flattened out, so there was some cut and fill that was done at that time obviously.

Council Member: Right, but the wall could have been built before the house was constructed? Mr. Wat: It's possible, but it could have been built at the same time as the house was built.

Council Member: So it could have been built in 1945. Mr. Wat: We have no record to indicate that.

Council Member: It could have been built in 1939. Mr. Wat: The lane was subdivided in 1944.

Council Member: The lane was subdivided? Mr. Wat: The subdivision plan showed the lane was created.

Council Member: Because there was a question raised about the City owned this property in 1945. Is that correct? That's what's been submitted to us. So the question that I had is perhaps the City built the wall while the City owned the property. Is that possible? Mr. Wat: I am not aware the City owned the property first thing.

Council member: We have no records, no permits given, there's no drawings. And yet we are making the assumption that this wall was built by the property owner when it could have been built by the City when they owned the property. Mr. Wat: Well I have no record that the City owned the property.

Council Member: So then my next question is that even if City had built it, would the City still be liable for it? Mr. Wat: That is a legal question.

Mr. Harding, Solicitor: I would agree with that. Through your Worship, that is a legal question that would call for a legal conclusion. If you wish to take advice on that, I can give advice but not in an open meeting.

Mayor: We're going to go back into Closed meeting with our lawyer, right?

Council member: So because the other thing that I think is at issue is does the City believe that part of this wall is on City property? The statement has been made in here with drawings submitted that perhaps the footings are actually on City property. You know, nobody has dug down, nobody's done anything to figure out whether or not those footings are on City property. But does the City believe that the footings are not on City property? Mr. Wat: There's a possibility that there's no footing or heel on the City

property. It could have been – the heel could have been facing the other direction inside the private property as well. We have no way to confirm that.

Council member: It goes both ways right? The heel. Mr. Wat: It could be only L-shaped. But perhaps the structural engineer who looked at it and can provide a comment.

My name is Sean O'Hagan. I work with AECOM, the structural engineer hired for the construction of the retaining walls. I would assume that the wall is of a cantilevered type of construction. Therefore, you would have a short toe on the down slope side of the wall and then a larger heel portion of the footing that would extend behind underneath the toe portion of the wall.

Council member: So that means it is on City property. Mr. O'Hagan: Yes.

Council Member: So this heel part is on City property? Mr. O'Hagan: Yes and that's what I would suspect from the wall. But in order to determine that, of course, you need to remove the fill and that's a considerable effort. So that hasn't been undertaken.

Council member: What we have here – what's your rationale about the safety issues with this wall? It's obviously leaning to some extent and what brought you to the conclusion that this wall is now unsafe? Mr. O'Hagan: well, normally walls are not sloped forwards which is one major tip off that there was most likely a problem with the wall. When you construct a retaining wall of any sort, it's either vertical on the front face or it leans slightly back towards the uphill side. So that was one of the concerns when we first came to the site to look at the wall. We realized that the wall was sloping forward. That set off some alarms for us to take a closer look at the wall.

Council Member: How much is it sloping? Mr. O'Hagan: I think at worst case it's about 1 to 12. So that would be – it's sloping at the top of the wall currently – it's sloping we have estimated approximately 6 inches.

Council member: And so at what point does it become unsafe? Mr. O'Hagan: It's difficult to determine without knowing the construction of the wall. We need to determine what the footing looks like and what the wall is actually composed of.

Council member: You've made the announcement that this is unsafe, right? Mr. O'Hagan: It's potentially unsafe, yes.

Council member: It's potentially unsafe – it's not unsafe. Mr. O'Hagan: Yeah, we can't prove that it's unsafe, but we – looking at the wall, we cannot determine whether it is or is not unsafe at this time.

Council member: What does the City use this lane for – garbage? Mr. Wat. No. We don't use it at all.

Council Member: So we don't use this lane at all, period. Cause I'm looking at right up to 224 on Second Street, there's obviously a big blank. Under most normal circumstances it would have been extended to 209. Mr. Wat: It is now.

Council member: So we don't use the wall. But the property of the L-shape belongs to the City. Right? Mr. Wat: the L-shaped lane is.

Council member: But we don't use it. Mr. Wat: It is open for public access now.

Council member: So if we closed it off here at 201 between 201 and 212 and said to heck with it – would that be the end of it? I mean I don't quite understand this – we're talking apples and a chicken. Do any of the homes – 201, 205, 209 and 211 access their vehicles to this lane to get out for a reason? Mr. Wat: Yes they do. It services 201 and 205.

Council Member: OK, so let's try the other track. There's a 10 foot wide wall – it's not suitable as a normal lane. Under normal engineering practices to do it right, would you then go back to these home owners and say I want 3 feet more from the back of your property and make a proper width lane. What I am getting at here is this is an oddball lane that doesn't work for anything and I'm trying to get this chicken and egg discussion sorted out of what the point is. Mr. Wat: Your Worship, the City does want to reinstate the full usage of the lane and I believe also there's a development as mentioned in the staff report on this on 214 and will be extending part of that lane.

Council member: So the lane will be extended down here and when the lane is extended it will then go to a normal width of a lane except that one piece that goes around the corner by 212? Mr. Wat: I have to ask the engineering tech who was working on that piece of development in terms of the details of that connection.

Todd Harvey, Engineering Department: Anthony Court is a road actually and the plan is to extend Anthony Court down and retain the existing lane as a laned access. It functions right now as a lane. It's wide enough for a three meter vehicle to access without any problem. The only problem being the load restrictions have been placed on the lane. So garbage trucks don't use the lane currently because they can't turn around in the lane, as said previously. There's no reason that any of those property owners currently would not use that lane for construction access if they were building a deck or doing renovations. As well as using for access for those properties. There's actually six properties that access their garages from that lane currently and with the reconfiguration of the property, I think we end up adding one additional property that will have access with the subdivision.

Mayor: I'll ask you to confine your questions to the state of the wall. Cause then we have to go back into Closed.

Council member: I have a few questions. The first is I just want to understand the handling of this situation. And this just reflects my own ignorance, but we've had other

situations where people come before us on unsafe issues. What I don't understand is the requirement to replace. With similar issues people demolish – if the issue is about their private property – they demolish an unsafe structure and it's done. No one gets ordered to replace. In this case, the order is to replace and Mr. Drummond has argued: well that is the City's interest, that's not my interest. So I'm trying to understand that. Is this the normal way to handle the City's interest? Are there other situations where we order somebody to construct something that the City needed constructed? Mr. Wat: Your Worship, in regards to the existing wall, it does basically support the laneway now and if the wall is not repaired or replaced then the lane would be compromised and no longer be able to function. Just the topography and the slope so because this wall, is indeed supporting the laneway itself, if it is not reinstated, the laneway would be compromised.

Council member: Are there other examples where the City can or had ordered people to construct structures because the City needs the structure? Mr. Wat: In terms of example, I guess I would pass that as a legal question.

Mayor: In that case, we'll leave that.

Council member: I have one more. Mr. Drummond has suggested he would happily donate a foot or two to the City. I'm not asking you to answer the political question, but is there any sort of engineering or structural reason, anything that could be found objectionable about that solution. It would mean the City would assume the cost, but is there anything from a professional standpoint or engineering standpoint that would say no we wouldn't accept that solution of acquiring a couple of feet of property? Mr. Wat: that's probably more of a design or engineering exercise to see whether it is feasible or whatever is required to be dedicated from 201 Queens Street in order to encompass a retaining wall of that sort.

Council Member: So you have to look at it? Mr. Wat: yes.

Mayor: Before we move any further, I need a resolution to continue the meeting.

MOVED and SECONDED

THAT the Committee of the Whole meeting continue beyond 6:00 p.m.

CARRIED.

All members of Committee voted in favour of the motion.

Council Member: The lane is going to stay is it – there's no way that we could close this lane – this is now providing access? Mr. Wat: That's correct.

Council Member: Is there any way that the wall could be removed and just a slope put in there? Is that a possibility? You said something about a rock garden. The wall must stay? Mr. Wat: yes in order to retain the laneway, otherwise the laneway will be compromised.

Council Member: But if the wall were removed and soil taken away – is that a possibility? Mr. Wat: There would be nothing supporting the lane way. Basically, the laneway is up here – there is the diagram showing the height. The laneway is up here and the sidewalk beside the garage of the house is way down here. If the wall is removed, there's nothing holding basically the lane up here. So, unless we grade it back on a slope, which would require to move over the lane.

Council member: So it's in our interest to have the lane? Mr. Wat: It is being used as public access right now with a weight restriction.

Mayor: Can we move forward then. What we are going to do is if you have any questions of Mr. Drummond for Mr. Wat.

Mr. Drummond: No.

Mayor: OK thank you very much. Then if we recess and we will go into our Closed meeting and I'll ask the public to leave unless there is anyone else who has anything to speak to this issue may come forward now. If there's anyone to speak to it, come forward. OK.

Todd Harvey, Engineering Department: Just a couple of points to make. One of them is just on the question of taking part of Mr. Drummond's property. I think from a building setback point of view, you wouldn't be able to take that away because the existing garage is too close to the property line, so if you took any property away it wouldn't meet Building Code setbacks, I don't think.

Council Member: So they'd have to apply for a variance. Mr. Harvey: Well, that is a possibility.

Mayor: Any other speakers, come forward.

Mr. Harvey: The only other thing I was going to mention is the other property's garage actually exists onto the lane. So if you removed it, they wouldn't have access. As part of the development, Anthony Court would be able to serve the other property's access if it was closed.

Mayor: I ask again. Mr. Drummond, you wanted to come forward.

Mr. Drummond: I just wanted to say in regards to the setback there's currently 5 ½ feet there which I think you could probably go to four feet with that setback. So there is room there to get the foot and a half if that's an issue. But I'm not sure it's either here or there, it would be an Engineering Department question.

Mayor: OK last call for anyone to speak. If not then I recess to Closed. Clear the room please.

PROCEDURAL NOTE:

The Committee of the Whole meeting recessed at 6:05 p.m. and reconvened 6:30 p.m. with all members of Council present.

Members discussed the evidence before them.

- ** **MOVED and SECONDED and CARRIED, this Committee recommends:**
THAT reconsideration of the Remedial Action Order issued on May 18, 2010 requiring the property owners of 201 Queens Avenue (Brian and Laura Drummond) to demolish and replace the retaining wall on their property, was tabled to allow staff time to review the package of information, after which the Hearing will be resumed.

CARRIED.

Opposed: Councillor Cote and Mayor Wright.

REPORTS FOR ACTION

Director of Parks, Culture and Recreation

21. [“Wait For Me Daddy” Public Art Installation](#)

July 12, 2010 providing information regarding the feasibility, methodologies and costs associated with reproducing the photograph.

MOVED and SECONDED

THAT the July 12, 2010 regarding the “Wait for Me Daddy” public art installation be referred to the August 30, 2010 Committee of the Whole meeting.

CARRIED.

All members of Council voted in favour of the motion.

Director of Engineering

25. [Richmond Street – Traffic Safety Concerns](#)

July 12, 2010 report providing information regarding recent traffic safety evaluation.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Engineering Services relating to the recent traffic safety evaluation in the 100, 200, 300 and 400 blocks of Richmond Street be referred to the July 12, 2010 Regular Council meeting.

CARRIED.

All members of the Committee voted in favour of the motion.

Director of Finance and Information Technology

27. [Analysis of Capital Asset Backlog and Funding Implications](#)

July 12, 2010 report providing an overview of the capital asset backlog and funding implications.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Finance and Information Technology regarding the analysis of capital asset backlog and funding implications be tabled.

CARRIED.

All members of the Committee voted in favour of the motion.

28. Honour House Correspondence

July 12, 2010 report providing correspondence from Honour House Society.

**** MOVED and SECONDED and CARRIED, this Committee recommends:**

THAT permit fees for Honour House be waived and their request for property tax exemption be referred to the annual property tax exemption application process.

CARRIED.

All members of the Committee voted in favour of the motion.

Director of Legislative Services

30. Tourism New Westminster Financing

July 12, 2010 report advising of the progress of Tourism New Westminster and to advise that the future of a professional tourism function is threatened.

MOVED and SECONDED

THAT the July 12, 2010 report from the Director of Legislative Services advising of the progress of Tourism New Westminster and to advise that the future of a professional tourism function is threatened be referred to the August 30, 2010 Committee of the Whole meeting.

CARRIED.

All members of the Committee voted in favour of the motion.

ADJOURNMENT

ON MOTION, the meeting adjourned at 6:40 p.m.

Certified Correct,

WAYNE WRIGHT
MAYOR

RICHARD L. PAGE
CORPORATE OFFICER