

MINUTES of a special meeting of the Municipal Council of The Corporation of the District of Oak Bay, held in the Garry Oak Room, Monterey Centre, 1442 Monterey Avenue, Oak Bay, B.C., on Monday, January 6, 2010 at 6:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen
Councillor T. Ney

STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Engineering Services, D. Marshall

GUESTS: Rob Warren, Jeff Howard, and Ted Steele, Kerr Wood Leidal Associates Ltd.
Dwayne Kalynchuk, Capital Regional District Project Director, Core Area Wastewater Treatment

Mayor Causton called the meeting to order at 6:30 p.m.

PRESENTATION:

Rob Warren, Kerr Wood Leidal Associates Ltd., provided a Powerpoint presentation much like that given December 14, 2009 that described all aspects of a low pressure sewer system, how it was arrived at as the proposed system compared with other options, and provided visual examples of different pipe installation details for both gravity and low pressure systems.

COMMUNICATIONS:

Public Comment:

2010-19-1 PAUL WORSLEY, November 15, 2009
2010-19-2 IAN AND GILLIAN STEWART, December 3, 2009
2010-19-3 DAVID BLACK *et al*, December 3, 2009
2010-19-4 MICHAEL AND KARIN O'CONNOR, December 7, 2009
2010-19-5 DON AND GAIL LUCAS, December 8, 2009
2010-19-6 JACK AND GAIL SHORE, December 9, 2009
2010-19-7 ROBERT JANUS, December 10, 2009
2010-19-8 DARRELL AND PENNY MCLEAN, December 10, 2009
2010-19-9 DAVID AND SUSAN MCMILLAN, December 10, 2009
2010-19-10 BRAD AND JANE COLBERT, December 12, 2009
2010-19-11 PAUL WORSLEY, December 12, 2009
2010-19-12 E. GEORGE MACMINN, December 14, 2009
2010-19-13 GERRY SHELTON, December 14, 2009
2010-19-14 DAVID MILLER, [Undated]
2010-19-15 JIM AND JANE DUTTON, December 14, 2009
2010-19-16 ERIK AND MARY ANN BENTZON, December 14, 2009
2010-19-17 PAM AND BRUCE CAMPBELL, December 14, 2009
2010-19-18 BRUCE CAMPBELL, December 16, 2009
2010-19-19 ROBERT BARRIGAR, December 22, 2009
2010-19-20 JOAN AND NORMAN WALE, December 26, 2009

2010-19-21 JOAN AND NORMAN WALE, December 26, 2009
2010-19-22 DAVID AND MARY DUMMER, December 28, 2009
2010-19-23 HARVEY PINCH, December 29, 2009
2010-19-24 ROGER AND MOIRA BERNARD, December 29, 2009
2010-19-25 JOHN AND PAT PALMER, December 29, 2009
2010-19-26 NORMAN WALE, January 2, 2010
2010-19-27 ED AND DIANA LIFE, January 3, 2010
2010-19-28 GERRY SHELTON, January 4, 2010
2010-19-29 JAMES COLLINS, January 6, 2010
2010-19-30 GEOFFREY CASTLE, January 4, 2010

Engineering and Project Management Contract:

2010-1 MUNICIPAL ADMINISTRATOR, December 8, 2009

PUBLIC INPUT / QUESTION AND ANSWER SESSION:

Stuart Silver, Uplands resident, asked for clarification about work on private property, wondering if the estimates provided are based on new subdivisions or existing single family dwellings.

Mr. Silver said if costs would actually be \$20,000 to the homeowner, as was suggested by a resident at the December 14th meeting of Council, he felt that Uplands residents would still prefer the gravity system, because there would be no maintenance or liability issues.

Rob Warren, Kerr Wood Leidal Associates Ltd., confirmed that the historical costs are based on existing single family dwellings in other jurisdictions.

Responding to a question regarding potential archaeological costs, Mr. Warren advised that narrower and shallower trenches and flexible pipes required for the low pressure system would result in less chance of archaeological finds, reducing costs in that regard.

Shirley Hunter, Uplands resident, acknowledged that something has to be done about separating the sewer system in the Uplands, but felt that the mechanical pump system, with its expected problems, would end up costing more than the gravity system in the long term.

Speaking to maintenance issues, Mr. Warren said that in relation to other pump installations in various municipalities, reliability reports from the Engineering Departments have been excellent where the pumps have been properly installed.

Ted Steele, Kerr Wood Leidal Associates Ltd., pointed out that in terms of pump reliability, owners are responsible for what enters their systems and, therefore, control the life of a pump.

Ms. Hunter went on to express her concerns about a previous suggestion to flush out the tank when going away for an extended period of time, noting that given the demographics in the Uplands, and that many residents travel extensively, the need to flush the system was not very comforting.

Mr. Warren clarified that no maintenance issues arise when the sewer is not being used, such as when residents are away, and flushing the tank with a bathtub full of water prior to a long holiday was suggested to avoid potential odour issues.

Mr. Duncan, Uplands resident, reiterated a question that arose at the December 14th Council meeting about having Uplands property owners retain storm water on their own lots and use the existing combined sewer pipe for just sanitary sewer, and it was noted that many requirements need to be met under the municipal regulations to allow the handling of storm water on site, which many properties may not be able to meet.

Dwayne Kalynchuk, Capital Regional District Project Director, Core Area Wastewater Treatment, drew attention to the requirement of the Municipal Sewage Regulation that requires separation of the combined sewer, pointing out that rain water run off from roads also contributes to the storm overflows and needs to be dealt with through a separate system, requiring new infrastructure.

Responding to a question regarding what system was originally proposed to meet the Provincial regulation, the Municipal Administrator noted that two years ago Council endorsed installing a new gravity storm sewer system in the street by laying lengths of pipe gradually over a number of years, until the overflows were reduced to an acceptable level.

David Anderson, Uplands resident, said he had yet to hear any information on what the problem is as a result of overflows, noting he personally has never seen or heard of any issues along the beach in that regard. Mr. Anderson felt that the whole issue is inappropriate government regulation and Council should appeal to higher levels of government in that regard.

As requested, Mr. Cochrane provided a review of the conditions attached to the Province's approval of the Capital Regional District's Liquid Waste Management Plan, noting that the Province required Oak Bay to adopt a plan by March 2008 to eliminate the combined sewers in Oak Bay.

The issue, therefore, said Mr. Cochrane, is one of compliance with the Provincial mandate. He said that with no studies to illustrate the deleterious impact of the Humber and Rutland Road overflows, the mandate is frustrating. However, he said, the Municipality does not have the ability to say it will not comply.

Responding to a question from Robert Barrigar, Uplands resident, Mr. Warren explained that the use of a generator during a power outage would see the low pressure system continue to work for that individual property.

Mr. Barrigar asked why, if the original plan was to be implemented over 50 years, there was a need to rush a low pressure system just to get grant funding. Mr. Cochrane clarified that the plan on file with the Province is a new gravity storm sewer not sanitary sewer and noted that the municipality would not install a gravity sanitary system over a 50 year period because there would be no environmental benefit realized until the last house was hooked up.

Referring to the technical memorandum on the municipal website, Rob Janus, Uplands resident, asked if increased pumping rates at the Humber and Rutland stations would reduce the overflows to an acceptable rate.

Mr. Kalynchuk advised that higher pumping rates would not eliminate storm water overflows, adding that even if a treatment facility was built north of Oak Bay in the future, overflows would still occur during some storm events.

In response to questions raised by Mr. Janus, the Director of Engineering Services said that even if all the flow from Saanich residents was removed from the East Coast Interceptor, during heavy rainfall the flow from Uplands residents and the rest of Oak Bay would still exceed the pumping capacity at Currie Road.

Responding to Gail Shore, Uplands resident, Mayor Causton said Council is trying to look at the best solution for the community at large while still complying with the Provincial requirements imposed on the Municipality.

With respect to Norman Wale, Uplands resident, expressing his view that Uplands residents were not well informed by Council and that some of the information posted on the website was misleading, Mayor Causton said there have been many public meetings on the subject and, until recently, Council thought they had until 2016 to complete this project, which has shortened consultation opportunities.

Mr. Wale wondered who would ensure that the system worked on private property, and Mr. Warren described the warranty that would accompany the pump.

With respect to the question about whether residents would be compelled to connect, Mr. Cochrane said it would be required and non-compliance would be enforced as with other bylaws where a community benefit is involved.

Responding to points that had been raised about ownership and maintenance of the pumps, Mr. Cochrane said staff had recently been advised that according to the terms of the contribution agreement for the grant, ownership of the pumps would have to remain with the Municipality for a ten year period, or a proportionate amount of the cost of the pump would have to be repaid, which would also include maintenance responsibility for that time. This, he said, was not originally contemplated by Council and complicates the project.

Jack Shore, Uplands resident, noted that there was no tender process for the proposed contract for the design and project management, which he felt there should have been time for. He suggested that perhaps a different firm than Kerr Wood Leidal Associates Ltd. might come up with a different plan for the Uplands sewer system.

Mr. Cochrane explained how the process had unfolded to this point, noting that given the deadlines associated with the grant, there is no hope of meeting the deadline should a competitive tender process be undertaken. He also went on to describe the exception in the Trade Investment Labour Mobility Agreement (TILMA) to the requirement to tender with respect to unforeseeable urgencies and water works, which Provincial representatives had said includes sewers as well.

Mr. Shore expressed his concerns with the potential impact of the low pressure system on property values in the Uplands along with the extra worry associated with maintenance of the pump for mobility impaired or elderly residents.

David Miller, Uplands resident, questioned why the vacuum system, which had been explored as a potential option some time again, was not feasible.

Rob Warren explained the various aspects of the system and why it was found to not be feasible in this situation, noting that type of system has a poor track record as well.

Acknowledging the various comments made regarding the Uplands residents having to upgrade the system serving them and pay for the work on private property, Mr. Marshall drew attention to the inflow and infiltration issues in south Oak Bay, which, he said, will also have to be addressed through sewer upgrades. In those cases, he noted, homeowners will be required to pay for the work on their private property as well.

Mayor Causton called for a five minute recess at 8:43 p.m.

Ms. McKerrell, Uplands resident, queried why the grant could not be used for a gravity system instead of the proposed low pressure system and expressed her concerns over possible backups with that system.

Mr. Marshall explained that the grant had been approved based on the low pressure system application, which cited various environmental improvements. Mr. Warren went on to describe how the low pressure system was expected to result in a lower carbon footprint.

Mr. Warren reiterated earlier comments about the risks associated with a backup of a gravity system, which would see sewer from the street backing up into basements, versus a potential backup with the pump system, which would just overflow into a yard with only the waste from that property.

Ms. Ahmadisatar, Uplands resident, said she felt offended by the lack of information given about work required on private property, saying that there has not been enough time to explore the options. She suggested that perhaps the Uplands residents should pay the Municipality to do the work on private property, which would address a concern raised earlier about inflated prices for work on Uplands properties versus elsewhere.

There was further discussion on the cost of the public portion of a gravity system per Oak Bay property and Mr. Cochrane provided a rough estimate of a 10 % tax levy increase for the project, based on borrowing 18.5 million dollars over 20 years at current interest rates.

Jim O'Brien, Uplands resident, said it looked to him like the low pressure system option was a done deal. He said he felt that Oak Bay should own and maintain the pumps and that he is scared of being held for ransom by contractors for work on private property.

A south Oak Bay resident expressed her concern over the costs to be shared by the Municipality if the low pressure system is not built while funding is available, saying she felt there has been worthwhile discussion and consultation on the proposal, which is a good one. She noted that as a south Oak Bay resident, like Uplands residents, she will also be facing costs of upgrading her system on private property due to inflow and infiltration issues, as was noted earlier.

Alex Murdoch, Uplands resident, noted his property is south of the Uplands area that would be subject to the low pressure system. He said he is willing to pay for a new system with increased taxes if necessary for environmental reasons, however, there seems to be a question as to the justification for the sewer separation, just like with the proposed sewage treatment for the region.

Brad Colbert, Uplands resident, said he was informed additional warranty for the pumps would be available (up to five years), drawing attention to the fact that the supplier of pumps could vary depending on the warranty offered. He also said that with Oak Bay having to be responsible for the pumps for 10 years, it had bargaining power with respect to any contracts for the installation and maintenance of the pumps with potential suppliers.

Mr. Cochrane responded noting that if the Municipality was to own and therefore maintain the pumps for 10 years it would be up to the Municipality to decide whether or not to buy extended warranties as ultimately it would be the Municipality that would benefit from them.

Peter Reader, Uplands resident, said the project is all about money, noting that the system should have been twinned well before now, because now the Municipality is caught up in Provincial regulations.

Mr. Steele answered questions from Mr. Reader and Mr. Colbert regarding the pressure of the system and the logistics of accessing the pump to maintain it.

Mr. Colbert expressed his concern about relying on pumps and said he thought the cost for work on private property was likely to be close to \$20,000 on average. The current system, he said, works well.

Jim Collins, Uplands resident, said he felt a gravity system was still a possibility, but that it should have been discussed back when the low pressure system option was first raised. He said he felt the photographs supplied showing excavation for gravity systems were not consistent with the conditions in the Uplands and questioned whether or not a lower carbon footprint would be associated with a low pressure system. He said he would have like to have seen an application for funding for a gravity system submitted rather than for the low pressure system.

Mr. Collins went on to describe what he saw as a potential conflict of interest for the consultant, noting that the recommended pump system would see a larger contract associated with it.

Mr. Collins drew attention to a letter he submitted to Council that provided information on a similar low pressure system installed in an affluent community in Virginia, USA, noting the average cost for private property work was \$25,000. For the Uplands, he said, he was apprehensive that the cost estimates provided by the consultant were optimistic.

Responding to questions, Mr. Marshall said that there are so many variables relating to cost that they cannot be specified. He said that with a gravity system, there is not the option of going around structures and trees etc., like you can with the shallow and flexible low pressure pipe.

Mr. Warren responded to the points raised by Mr. Collins, noting that a gravity system would likely result in higher engineering costs than the low pressure system. With respect to the pictures used to illustrate the various types of trenching that might be implemented, Mr. Warren indicated there were local examples included, adding that Workers Compensation requires trench boxes at a certain depth of excavation.

Archie Campbell, Uplands resident, raised questions in relation to the carbon footprint of the low pressure system compared to the current use of the Humber and Rutland pumping stations. Mr. Warren provided a detailed review of how the carbon footprint was determined.

Mr. Campbell went on to express his view that a gravity system is the only way to go, noting that the Uplands is a special area that deserves better than a pump system. He noted the fears of residents about the impact on yards with the installation of a pump. Mr.

Campbell further suggested that the new system could be laid in the trench used to build the current system, which would also provide an opportunity to investigate the status of the current pipe in the ground.

He concluded by noting the construction of a low pressure system would be a travesty.

Responding to questions, Mr. Marshall reiterated the risk of a sewer backup associated with a gravity system compared to a low pressure system.

Rob Adams, Uplands resident, noted his concern regarding the cost of work on private property, saying he felt estimates for various properties should have been available for the meeting and, in any event, need to be known as soon as possible.

Rob Warren indicated that information might be available by the end of the week in that regard.

A member of Council pointed out that the interest is really in the differential between a gravity system and a low pressure system, as the system has to be separated one way or another.

David Black, Uplands resident, noted his background in civil engineering, and said in his estimation, most of the 400 Uplands property owners are against the proposed low pressure system.

Mr. Black acknowledged the time line issues associated with the grant, but suggested that perhaps a gravity project could go forward, divided into two parts, as it was his understanding that a gravity design was already “shovel ready” and previously recommended by the consultants. He also suggested that perhaps discussions with the Provincial and Federal governments would see some flexibility in changing to a gravity system, offering to be part of a steering committee to work towards such a change.

In relation to the estimated \$8 million extra to construct a gravity system, Mr. Black said it is justified by the number of years the system will last, questioning the longevity of the low pressure system and its ability to withstand an earthquake due to its pressurized nature. The difference over the long run, he said, is negligible compared to the taxes Uplands residents already pay.

Responding to questions, Mr. Cochrane explained that the grant application submitted was based on a concept developed in great detail, and that, given the timelines, it was unrealistic to make a new application at this point. He also noted that there is no “shovel ready” plan for a gravity system.

Mr. Black confirmed that he would support a gravity system even if it meant there was no grant, noting, however, that he felt a new design for a gravity system could be done quite quickly, and the higher levels of government approached regarding the flexibility to switch to a gravity system and still benefit from the grant funding.

Paul Worsley, Uplands resident, referred to receiving fictional information, noting that there has not been enough time to explore other options like those mentioned by Mr. Black.

A gravity system, said Mr. Worsley, is what residents want and what is the best option, saying the more complex the system the more complex the problems that will arise. If

Council is looking at the project from the perspective of the whole community, he said, then Uplands representatives need to be involved.

Michael O'Connor, Uplands resident, endorsed the comments of Mr. Black and others, noting it is abundantly clear that no Uplands residents support the low pressure system. The Uplands, he said, should have the same gravity system as the rest of the Municipality.

Faith Collins, Uplands resident, indicated her support for the previous speakers, questioning why there has only been two weeks for deliberations with Uplands residents when it has been known since September that the grant application was successful.

Gerry Smith, Uplands resident, said the cost of a gravity system should be paid for by all property owners in Oak Bay.

Bill Darling, Oak Bay resident, said he will be affected by the proposed system because he lives in Oak Bay. He wants what is best for Oak Bay, he said, and he had not yet heard that the low pressure system is the best.

Mr. Marshall, responding to previous comments, noted that if a new gravity system were to be installed, it would be impossible to install it in the same trenches as the current pipe in some areas. Additionally, he said, many properties would still require a pump.

With respect to questions from members of Council on costs for work on private property, Mr. Warren said that, on average, the costs associated with a gravity system will be higher than with a low pressure system. As to the estimated capital costs for a gravity system, he said that could be even higher if the cost of working through rock and potential archaeologist costs are factored in.

Carol Thompson, Uplands resident, made the point that the residents have never been asked if they are prepared to pay for the better gravity system.

Eric Shafonsky, Uplands resident, noted the sewer system should be of concern to the whole community, saying that it should be considered in terms of now and in the future. The 100 year old pipe is still good, he said, encouraging Council to reflect on its decision in terms of the impact on future generations.

Gail Young, Uplands resident, said she was opposed to the low pressure system, and noted her concerns about backups and pumps. Mr. Steele reiterated earlier points made about there being no protection from backups of a gravity system, and the ability of residents to control what is put into their pump system which would affect how it functions.

Ian Waters, Uplands resident, asked Council not to be driven by the grant, but by what is the best decision for the community as a whole. He drew attention to the reliability of the current system, and asked how much storage a pump system would provide in a power outage.

Mr. Warren advised that the tank would supply on average eight hours of storage during a power outage, noting that appliances such as dishwashers and clothes washers would not contribute to the sewer system when there is no electricity. He went on to answer further questions about where a pump would be located on private property and the possibility of a break in the line just like with a gas line, noting the pump would then have to be shut off.

Corey Burger, inquired about the result of borrowing for a gravity system on future projects.

Mr. Cochrane explained the borrowing limits for Municipalities, and that in his opinion, the borrowing would not preclude additional borrowing for other projects.

Tim O'Connor, Uplands resident, wondered what the consultants would choose as a system if it was in their neighbourhoods, noting he heard no residents speak in favour of the low pressure system, Mr. Warren confirmed that should the cost be the same, gravity would be preferred.

The suggestion was made to pump storm water instead of sewage, and Mr. Warren pointed out that while that would be conceivably possible, there would be much more volume involved, with bigger pumps and even higher capital costs.

Responding to questions from Chris Rust, Uplands resident, about the ability for just the road runoff to be handled by the existing pipe, thereby addressing the over flow issues, Mr. Marshall noted that while the existing sewer is in quite good condition, the joints are not water tight, resulting in inflow and infiltration issues that would increase the amount of water getting into the pipe. Getting the storm water out of the system, he said, is paramount.

MOVED by Councillor Braithwaite

Seconded by Councillor Ney, That the meeting proceed beyond the 11 o'clock p.m. hour of adjournment fixed by the Procedure Bylaw.

CARRIED UNANIMOUSLY

Rob Janus, Uplands resident, asked about the performance of another separated sewer in Oak Bay, and Mr. Cochrane provided an overview of the gravity separation project on Penzance in the 1980's, acknowledging that while the gravity option was very feasible in that situation, it was not in the order of magnitude of the Uplands project. He also described a project where the last properties with septic tanks were required to connect to a new sanitary sewer and the Municipality supplied the properties with pumps where required, and the installation and maintenance of the pumps were the owner's responsibility.

A member of the public representing a property owner on Lansdowne Road said in his experience a two pump system is needed, which would double the costs. He said in his profession he services grinder pumps in Oak Bay, noting it is intolerable to have only one pump.

Mr. Warren noted that while a second pump would afford more security to a homeowner, the evidence says that one pump would be adequate.

Greg Young, Uplands resident, said he favours a gravity system, or alternately, a vacuum system, which had been referred to earlier in the evening, which would be maintained and owned by the Municipality indefinitely.

John Neal, Oak Bay resident, referred to the good discussion on the subject, which, he felt, should have been started some time ago. The low pressure system is a "Mickey Mouse band-aid solution", he said, and Council should adhere to the input it was receiving and forget about the grant.

Harold Turnham, Uplands resident, reiterated earlier comments that there is no problem to be fixed, and noted his dismay that there has not been more push back regarding the Municipal Sewage Regulation inasmuch as the current system works well. If a decision is made to follow through with the low pressure system, he said, Council will not find any gratitude from residents for imposing the system on them.

Mr. Turnham said that the topography of the Uplands lends itself well to a gravity system, and if the low pressure system does not work, he said, it is Council that will face the legal liability. The proposed system, he said, is not good enough for the Uplands and is not acceptable.

David Black urged Council not to make a decision at this meeting if they have not been persuaded against the low pressure system. He said he would even be in favour of a special assessment area that just Uplands property owners would have to pay for if necessary to get a gravity system.

Responding to questions, Mr. Cochrane noted that the earlier estimate of the required tax increase to pay for a gravity system contemplated all properties paying for the system. The individual costs for Uplands homeowners would be very much higher if a local area service, where just Uplands properties would be taxed, was implemented. He went on to outline the legislation around the establishment of a local area service which, he said, was conceptually feasible.

Norman Wale said he would gladly pay extra for a gravity system as well, urging Council not to make a decision at this time.

With no further members of the public wishing to speak, the discussion turned to members of Council, who asked various questions of staff and the consultants in attendance.

With respect to the possibility of Oak Bay being granted an exemption from the Municipal Sewage Regulation that the sewer separation is meant to satisfy, Mr. Cochrane said that while there are incongruous aspects of the Regulation, he did not expect there would be any chance for Oak Bay to achieve this and be treated differently than the rest of the Province. Separation of some sort, he said, would be required.

As for the possibility of using the grant for a gravity system instead, Mr. Cochrane said he did not see how the project completion deadlines could be met if a new project was contemplated at this point.

Mr. Steele, responding to questions, noted that in his experience, gravity systems are being pursued in most other jurisdictions where separation is required.

Councillor Cassidy said that it is clear that a solution must be found as there is a provincial mandate to separate the combined sewer system. He said that to this point Council has proceeded in good faith to find the best solution, as has Kerr Wood Leidal based upon the criteria provided. The low pressure system was found to be a reasonable compromise, he said.

However, said Councillor Cassidy, he has now heard that people want a gravity system, and because of that, Council should move away from the low pressure system and set in motion an initiative for the installation of a gravity system.

After canvassing the remaining members of Council, it was the majority view that further discussion and a decision should be deferred to the next meeting of Council.

ADJOURNMENT:

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That the special meeting of Council be adjourned.

CARRIED

The meeting adjourned at 11:45 p.m.

Certified Correct:

Municipal Clerk

Mayor