

**MINUTES OF THE MEETING OF THE SUBDIVISION  
AND DEVELOPMENT APPEAL BOARD**

**MONDAY, JULY 9, 2012 @ 7:00 p.m.**

PRESENT: Members: B. Hawrelak, D. Kilpatrick, V. Lutz,  
P. Monteith, E. Reimer, G. Shipley

Municipal Manager D. Wolanski  
Recording Secretary S. Simon  
Bylaw Enforcement Officer B. McMillan

Appellant D. Minor  
Friend of Appellant Dennis Lewis  
Friend of Appellant Mike Nieman

Adjacent Landowner Mark Payne (712 Main Street SE)  
Adjacent Landowner Linda Porter (721 Main Street SE)  
Adjacent Landowner Jeff Waites (725 Main Street SE)  
Adjacent Landowner Derek Drinkwater (708 1<sup>st</sup> Street SE)

**1. CALL TO ORDER**

Recording Secretary called the appeal hearing to order at 7:05 p.m., confirmed there was a quorum present to hear this appeal; and opened nominations for Chairman.

**2. ELECTION OF CHAIRMAN**

P. Monteith nominated D. Kilpatrick to be Chairman, seconded by E. Reimer. D. Kilpatrick accepted and assumed the chair for the appeal hearing.

**3. Appeal of Remedial Order**

**David Minor**

**Lot 31 & 32, Block 5, Plan 1117V (722 1 Street SE)**

**Contravention of Section 3.3 of Bylaw 1575/208, Nuisance and Unsightly Premises Bylaw**

Chairman Kilpatrick asked D. Minor, if he had any objection to any board members hearing the appeal. D. Minor advised he had no objections to any of the board members.

**a. PRESENTATION OF APPELLANT**

D. Minor addressed the Board and commented that he is unsure of the process but advised that he has taken several pictures of other properties in the Town. Mr. Minor indicated he does not understand what he has been asked to do. The Bylaw Enforcement Officer stopped by two weeks ago and said he had motors in the yard. Mr. Minor had explained that he was providing some training to some boys from the high school. Mr. Minor advised the motors have since been removed and he has receipts proving that. He also indicated that he did his best to clean up the yard and advised he has no debris in his yard and has mowed the

grass. Further that he had asked the Bylaw Enforcement Officer what more he wanted done.

Mr. Minor said that when he was speaking with the Bylaw Enforcement Officer he had inquired about a property further up the street and the Bylaw Enforcement Officer would not discuss the matter and left. Mr. Minor felt that this was not proper conduct and feels there is something else going on.

Mr. Minor also indicated he had asked about the wording on the order which specified removal of dilapidated furniture, appliances and machinery and commented that he does not have any of those items on the property. Mr. Minor was advised that if the items are not there just to ignore those items on the order, Mr. Minor said he doesn't know how to just ignore it.

Mr. Minor advised that last year he provided the Bylaw Enforcement Officer with registration for the vehicles on the property and has brought them with him tonight. He advised he does not have any dilapidated vehicles on site, they are all licensed and insured and they are not missing any parts.

He indicated he wants to be told what he needs to do. He commented that the Bylaw Enforcement Officer had to stand on the back of his truck to take pictures into his yards and he took offence to that.

Mr. Minor continued to show the Board several pictures and make statements about other properties in Town which he feels are worse than his.

**b. PRESENTATION OF MUNICIPAL MANAGER**

Municipal Manager advised he was here to speak in general terms as it relates to Bylaws and Policies.

Municipal Manager commented that the only matter for consideration before the board is the order that was issued to Mr. Minor. Although Mr. Minor has brought forward many examples they are not relevant to the case being considered tonight. Municipal Manager provided an analogy of a group of speeders and only one getting stopped – the speeder cannot say that you cannot give me a ticket because you didn't give all the others a ticket. Thus, one in the Town cannot say that you cannot give me a ticket because you have not given others a ticket.

The Municipal Manager advised that with regard to bylaw enforcement the Town is both proactive and reactive (complaint driven). The Town has a policy which says it will be the policy of the Town to selectively enforce all bylaws of the Town. Further that when a complaint is received the severity of the infraction as well as budget restraints will be considered when determining any action taken.

Municipal Manager also explained that there is always ongoing enforcement being conducted in Town which may or may not be readily visible ie: working with property owners, orders may or may not have been issued, ongoing investigations, cases proceeding to court action, etc. Resolution of these issues can be lengthy sometimes taking up to two years to resolve.

With regard to persons inquiring about enforcement activity on other properties, the Municipal Manager advised that under the Freedom of Information and Protection of Privacy Act the Town is not able to confirm or release any details of enforcement action taken against anyone else's property. The Town can only advise that if an infraction occurs the Town will enforce according to its bylaws and policies.

With regard to specific complaints about the bylaw enforcement officer, there is a mechanism in the bylaw with which to lodge a formal complaint separate from the appeal process. The Municipal Manager advised that Mr. Minor has been advised of this process.

Municipal Manager also commented that with regard to the order it is written in a manner to be all inclusive including all items listed in the bylaw versus listing specific items.

B. Hawrelak asked the Municipal Manager to clarify what the order specifically asks Mr. Minor to do. Municipal Manager advised the Bylaw Enforcement Officer can speak to the specifics of the Order as he is only speaking in general terms.

c. **PRESENTATION OF BYLAW ENFORCEMENT OFFICER**

The Bylaw Enforcement Officer addressed the Board and advising his presentation has been prepared for the Board in support of the enforcement action that has been initiated as a result of the condition of the property that is subject to this appeal.

The Bylaw Enforcement Officer advised he is employed by the Town of Redcliff to enforce the bylaws legislated by the Town of Redcliff which are created for the overall betterment of the Town and its citizens. He has been employed in this role for 9 1/2 yrs., and prior to that he was employed by the RCMP for 32 yrs. The appeal notice filed by Mr. Minor alludes to unfair treatment in that he is being singled out, and that there are worse places than his, unfortunately in law enforcement not always the fastest speeder, the biggest drug dealer, nor the most violent offender always be apprehended in that order. Each investigation must stand or fall on its own merits.

The Bylaw Enforcement Officer advised the remedial order was issued as a result of numerous citizen complaints accumulated over the past 2 years. He noted that for the majority of the complaints received the callers wished to remain anonymous, not wanting to cause any bad feelings, but all felt their property was being de-valued by Mr. Minor's conduct.

The Bylaw Enforcement Officer noted the following: (taken from report)

- Mr. Minor has constructed a high fence around his back yard that hides much from view, along with a solid metal gate that although I have not measured it, I would estimate it to be at least 6 ft. high.

- On May 1<sup>st</sup>, 2010 I attended a complaint at the Minor residence where a neighbour was unhappy with the "wrecking yard next door", and at the time of my arrival he and Mr. Minor were in the midst of a heated discussion that, had I not been present would have escalated into a physical dispute. This originated over the neighbour's frustration over the number of wrecked and dismantled vehicles in the backyard. The neighbour has since sold his house and moved to another location in Redcliff.
- On March 8<sup>th</sup>, 2011 during patrols I looked into Minor's backyard and there were a total of 8 vehicles inside the fence. This included trailers and vehicles that appeared to be operable, and some in obvious states of disrepair. At this time I left a copy of the provisions of the Nuisance and Unsanitary Premises Bylaw, which outlined and define unsightly, at the residence for Mr. Minor's attention.
- On March 11<sup>th</sup>, 2011, Mr. Minor came to my office, and agreed that the property needed cleaning up and stated that he would as soon as it was dry enough to get in there with his Tow Truck.
- On March 16<sup>th</sup>, 2011 all wrecked vehicles and visible auto parts were removed and all that remained in the back yard was an enclosed tandem axle auto trailer, a flat deck trailer and a Tow Truck.
- Throughout the month of May and into the first of June, 2012, more calls were made to my office phone advising me of the ongoing coming and going of vehicles in various stages of repair, or dis-repair, and allegations of a 'wrecking yard' going on at 722 – 1<sup>st</sup>. St. S.E. With this in mind, on June 6<sup>th</sup> 2012, I approached Mr. Minor and provided him with the pertinent definitions as provided in the Nuisance and Unsanitary Premises Bylaw defining the term 'Unsanitary', to which Mr. Minor told me he wouldn't read it and went back into his residence.
- On June 11<sup>th</sup>, 2012 I attended at 722 – 1<sup>st</sup>. St. S.E. and took photos of the back yard, which you have before you, which I strongly suggest is not a stereotypical residential backyard, the oil spills in the backyard that are visible are no doubt the reason for the water runoff in the alley directly behind 722 having the petroleum product rainbow in the puddles. I then proceeded to the front of the residence where I photographed 2 more vehicles parked on the front lawn, as well as a truck with a damaged vehicle loaded onto a trailer hitched to the truck parked on the street, belonging to Mr. Minor, and a pickup truck and motorhome parked on the front lawn of a vacant house across the street, these vehicles also are associated to 722 – 1<sup>st</sup>. St. S.E. After taking the photos and before leaving a male came out of the residence at 722 and I was approached in an abrupt and abrasive manner demanding to know who I was, and why I was taking pictures when I had no authority to be doing so, or being on the property. When asked who he was he did not give me a name other than that he was a friend of Mr. Minor, I attempted to explain to him that under the provisions of the bylaw, I had the full authority granted to me under the bylaw to enter onto the property to further my investigation. He asked me for a business card, which I provided to him, then drove away from the area.

- At 1:15 p.m. the same date, moments after leaving 722 – 1<sup>st</sup>. St. S.E., I returned to the Town Office and as I approached the front of the office I noted Mr. Minor along with his associate I had dealt with moments earlier, standing at the front counter and Mr. Minor holding a camera telling me to 'smile pretty' because I took picture of his house he was now taking pictures of me. At this time the Municipal. Manager came to the front counter having become aware of the increasing hostility on the part of Mr. Minor, who was pulled away from the counter by his associate following a brief conversation with the Town Manager.
- Although Mr. Minor, nor his associate would listen to me in providing my grounds for the investigative action I was taking, both were bordering very close to a Criminal Code charge of Obstruct Peace Office in the performance of his duty.
- On June 13<sup>th</sup> at 12:50 p.m. I found Mr. Minor in his back yard working on a truck, I asked him to come to the fence as I had some papers to serve on him, and which point he became angry, once he approached the fence I gave him a copy of the remedial order, along with the appeal form, and copy of the bylaw provisions that gave me authority to enter onto his property in the course of my investigation, at which point Mr. Minor told me in a threatening manner not to ever set foot on his property, or I would be very sorry. At this point he climbed over the fence and began to run up and down the alley pointing at various backyards demanding that I issue them orders, then went on about all the other places in Redcliff that he felt were unsightly. An attempt was made to explain to Mr. Minor that all issues reported are investigated and stand or fall on their own merit, not always is the fastest car on the highway given a speeding ticket, but all may be charged who are found to be in violation, at this point the analogy I used was if little Suzy threw a rock through the school window, that did not excuse others from doing the same. Due to the agitated state of Mr. Minor, I was unable to reason with him so I drove away leaving him pacing up and down the alley shouting about all the problems he stated existed with his neighbours backyards.
- I must point out to the Board, that at no time in the past 9 plus years have I encountered as many concerns over an individual property, this is not to say that there may not be others as bad or worse, but this has generated more concern. It is ironical that despite the ongoing what has been described as a wrecking yard appearance, so many people are still reluctant to report on a neighbour who appears to care so little about his neighbourhood.
- It is of note that Mr. Minor is the owner of his own Tow Truck. The board has to consider that there is no person, to my knowledge, that owns a Tow Truck, that is not in the towing business. The only reason that I am aware of that any person would need such a vehicle, is to move vehicles from one place to another that are no longer operable. Mr. Minor does not have a Town of Redcliff Business License for the Tow Truck, and how many wrecked vehicles does a residential property owner need, or own. This Tow Truck is in addition to a tandem open trailer that is also frequently parked in front of his

residence with a vehicle loaded onto the trailer. The volume of vehicles coming and going from one residential address has to be a concern not only to the surrounding property owners, but also to the Town.

- At the onset of this investigation, while discussing the condition of his property, I told Mr. Minor that I would not want him to be my neighbour, and he asked my why, and I told him that in the 10 years I have lived in Redcliff I do not recall even 1 neighbour hauling in a wrecked vehicle to dump in their yard, or even seeing one parked on the street, loaded on a trailer, or hanging off the back of a Tow Truck. Mr. Minor told me that he used to store these vehicles on a farm, however the farmer no longer wanted to store the vehicles and he is trying to clean them up, this is the same story supplied to me by Mr. Minor when dealing with him in Mar of 2011.

Following the presentation of the Bylaw Enforcement Officer, B. Hawrelak questioned how many complaints have been received. The Bylaw Enforcement Officer advised that many complaints were received and most often people do not want to give their names. However, he could safely say there have been a minimum of 10 complaints in the past 2 years.

Discussion ensued with regard to how many vehicles are parked on the property, whether it is the same vehicles all the time and whether there is a business license associated with the property.

**d. PRESENTATION OF ANYONE SERVED NOTICE OF HEARING**

Jeff Waites – 725 Main Street South

Mr. Waites advised he moved to this residence in 2008. Initially there were no problems. However, when Mr. Minor moved into the residence at 722 1<sup>st</sup> Street SE he brought with him a lot of stuff mostly automotive in nature. Mr. Waites indicated he had spoken with Mr. Minor at the time who had said the stuff was going to be moved. Mr. Waites advised that stuff is always coming and going, including crushed vehicles on a trailer and noted that the yard has never reached a state of cleanliness. He noted that another neighbor has brought along a video of a recent incident with a vehicle. Mr. Waites advised he can appreciate the high fence but he can still see Mr. Minor's backyard from his deck and the view is not nice. There is constant noise from wrenches, pneumatic wrenches, constant hammering, and vehicles left idling. Mr. Waites commented he has safety concerns with his children and will no longer let them ride their bikes in the alley. He mentioned a recent incident with Mr. Minor moving a vehicle with the tow truck winch with the vehicle hanging in midair and the window exploding out. Mr. Waites also expressed concern that the value of his property has decreased. He advised that this is more than just a hobby and this is not normal residential activity. He further commented that his neighbours are concerned that if they complain there will be some form of retaliation.

Linda Porter – 721 Main Street South

An email submitted by Mrs. Porter was presented to the Board.

Mrs. Porter expressed concern that her property value has decreased in the last 3 years since Mr. Minor moved in. She indicated that she has the same concerns that were expressed by Mr. Waites and said she has a video of when Mr. Minor was pulling a vehicle out of his yard into the back alley with his tow truck and the window exploding out which was taken from her kitchen window. She presented the Board with pictures she had taken this afternoon. She commented that vehicles are always coming and going and that noise is a concern continuing until at least seven or eight in the evening.

e. **PRESENTATION OF ANYONE CLAIMING TO BE AFFECTED**

Mark Payne – 712 1 Street SE

Mr. Payne advised his biggest concern is the view from his deck which is not very appealing. He also expressed concern with the front of the street and there being no parking available because the appellant has eight vehicles parked on the street (tow truck, Grand Torino, Lincoln, Ford Mustang, white truck with trailer, damaged minivan, jeep etc.). He feels it's a disgrace to drive down the street. He advised he has only been here for the past 20 months but is already thinking of moving. He has no problem with the person saying it's nothing personal. He has friends or family visit and they cannot park anywhere near his house. Mr. Payne presented pictures to the board. He would also like to suggest that each household be limited to having a certain number of vehicles.

Derek Drinkwater – 708 1<sup>st</sup> Street SE

Mr. Drinkwater commented he echoes everything the other people have already said, noting it is nothing personal – he feels his property value has decreased in the last 2-3 years commenting that he works in a bank and is familiar with the property values and markets. He said there is limited parking on the street. He feels the property is unsightly and commented the area is not zoned for a commercial use and is residential. He also commented that it appears there are people staying in the motorhome across the street at times. There is a constant rotation of vehicles coming and going and feels Mr. Minor is being a bad neighbor and would like him to give consideration to others living in the area. He also advised that he has a letter stating similar concerns from the resident at 726 1<sup>st</sup> Street. However, he did not wish to have his letter submitted to the Board.

Michael Nieman – resident of the City of Medicine Hat, friend of the appellant.

Mr. Nieman stated he thinks there are more things going on then he may be aware of. He noted that he borrowed Mr. Minor's truck and trailer, which is properly insured and registered and was dropping it off. While he was there he saw the Bylaw Enforcement Officer looking over the fence and taking pictures. He approached the Bylaw Enforcement Officer asking him to identify himself and explain what he was doing. The situation escalated into a situation he thought was very unprofessional and feels his friend was being harassed. He noted Mr. Minor is trying to clean up his yard and admitted that he didn't consider neighboring properties and the view they may have into the yard. Further, commenting that he thought that the privacy fence would be sufficient. He commented that Mr. Minor needs clarification as to what he needs to do in order

to clean up the yard as the order is unclear as to what needs to be done. He commented that when he visits he has no issues with parking. He also advised that it is his understanding that the fronting street does not belong to any one person and anyone can park there. He also noted that some of the vehicles parked there belong to Mr. Minor's sons and grandsons. He indicated he was unsure what to think of the situation after hearing the comments from some of the others.

Dennis Lewis, visitor from U.S.

Mr. Lewis advised that he frequently visits Redcliff and is impressed with how well it has been cleaned up in the last 20 years and commended the Town on a job well done.

He explained that both Mr. Minor and his wife are ill and commented that they often have their sons and grandsons visit that would contribute to the number of vehicles in the area.

Mr. Lewis stated that a policy and a bylaw are different and asked that the Town explain to Mr. Minor the difference.

f. **REBUTTAL OF APPLICANT**

D. Minor commented that he does not understand the five people speeding analogy presented by the Municipal Manager. He is not saying that because there are other properties that are in worse condition that he should be exempt; he just wants to be judged on the same scale.

He referenced the comments by his neighbors that their property values are decreasing due to his property and presented a picture of another property in the area and suggested the reason their value is decreasing is because of this other property and not his. Mr. Payne commented that that is a separate issue which they have already addressed with the person.

Mr. Minor referred back to the comments of the Municipal Manager that some enforcement issues can be lengthy to resolve and questioned why they cannot be resolved quicker. Again referencing other properties, stating that he has made complaints but they seem to go unheard. With regard to the comment about not being able to bring inoperative vehicles onto your property, what if the u-joint or something goes on your vehicle - you can bring that back to your property. He stated there has to be some balance.

He stated that all his vehicles are in working order and registered and that there is no proof they are not working.

With regard to B. McMillan's comment of a heated discussion on May 1 2010 between him and his neighbour, Mr. Minor explained that was not true and explained how it happened.

With regard to photos of an oilspill and water runoff in the back alley, he explained that it was because his neighbor was dumping used oil in the dumpster. Any engines that he has received have all been drained of any oil. He explained that his yard had been reclaimed and he has the certificate and



before he graveled his yard he put in a clay liner, plastic and gravel and if any oil were to spill it would not go any further. Further commenting that used oil is removed from the site.

Mr. Minor noted that B. McMillan's recount of events on June 13 are incorrect.

With regard to Cst. Waites. Mr. Minor commended him for being a police officer. However, he does not recall ever speaking to him about and agreeing that his vehicles would be sold and stuff moved. Further questioning why the police did not respond when he called in an incident about ATV's. About the van hitting a pole, Mr. Minor responded it is my pole, my gate, my yard. Mr. Waites advised it was his responsibility to ensure the safety of his children. Mr. Minor also advised that he does not have a dodge caravan and Mr. Waites should know the difference between different makes of vehicles because of his position as a police officer.

With regard to the claim that he uses pneumatic wrenches, Mr. Minor advised he only uses hand tools. Mr. Minor explained that he sees a Doctor once a month and receives treatments which renders him unable to work for at least a week. He also has nerve damage. Due to health he estimates he is only able to work in the yard 2-3 hours a day.

Mr. Minor explained that he and his wife know many people and he will often help them out by fixing their vehicles. He also explained the many occasions where he has helped his neighbors out in various situations at no cost, he does this for free. He is not trying to be a bad neighbor.

Mr. Minor spoke about various confrontations he has had with his neighbors the Porter's.

Mr. Minor commented that the noise from using power tools is no different than that of a lawn mower. He also advised that having too many vehicles is not illegal and there is no limit to how many he can have parked on the street, which he has confirmed with the Bylaw Enforcement Officer.

Mr. Minor questioned Mr. Payne about parking his motorcycle in the wrong direction on the street.

With regard to someone living in the motorhome, Mr. Minor advised that no one is living in the motorhome nor has anyone lived in it previously.

Mr. Minor asked Mr. Drinkwater for proof that Mr. Minor's property is causing Mr. Drinkwater's property to be devalued. Mr. Drinkwater replied that it is speculation.

Mr. Minor continued to describe different incidents where he had helped others out, stating he is not operating a business. He stated he has many friends and so do his sons and grandsons. He has a tow truck because he owned a bodyshop previously and just because one owns a tow truck does not mean he is operating a business. Mr. Minor continued to reference other issues within the town.

Mr. Minor stated he is not intending on hurting anyone and will do what he is asked as long as it is within the bylaws.

D. Kilpatrick questioned Mr. Minor if he thinks he has cleaned up his yard to the satisfaction of the Bylaw Enforcement Officer. Mr. Minor replied yes.

E. Reimer questioned if he has discussed with his neighbors what he can do to make his yard acceptable. Discussion ensued.

P. Monteith questioned if he considered what he is doing as a business or a hobby. Mr. Minor explained that he is not doing anything for profit but just to help others out.

The Board asked Mr. Minor how many vehicles are on his property that he owns and how many are on the street. He replied that he has five on the property and two on the street.

B. Hawrelak questioned Mr. Minor why he put down a contaminant retention system on his property to which Mr. Minor explained that is what he knows how to do.

g. **OTHER**  
No further comments.

h. **RECESS**  
V. Lutz moved the Board to recess at 8:52 p.m. and the Board met in camera.

B. McMillan, D. Wolanski, D. Minor, D. Lewis, M. Nieman, J. Waites, L. Porter, M. Payne, D. Drinkwater left the room at 8:54 p.m.

i. **DECISION**  
G. Shipley moved that the appeal from David Minor regarding Remedial Order issued to David Minor {Lot 31 & 32, Block 5, Plan 1117V (722 1 Street SE)} - Contravention of Section 3.3 of Bylaw 1575/208, Nuisance and Unsightly Premises Bylaw be denied. Further that the order be confirmed and the time to comply with the order be varied to July 30, 2012.

The Board's reason for the decision is due to the multiple complaints received from owners in the area and the owner should adhere to the Town of Redcliff's Nuisance and Unsightly Premises Bylaw.

The Board reconvened at 9:25 p.m.

B. McMillan, D. Wolanski, and M. Payne rejoined the meeting at 9:25 p.m.

Chairman Kilpatrick advised of the Board's decision and reasoning, noting the appellant would be notified of the decision via mail.

Discussion ensued. It was suggested that consideration should be given to limiting the number of vehicles allowed on one property.

4. **ADJOURNMENT**

B. Hawrelak moved the meeting be adjourned at 9:35 p.m.



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Chairman



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S. Simon, Recording Secretary