



TOWN OF BEAUX ARTS VILLAGE
PLANNING COMMISSION
MINUTES

December 10, 2007
Casey

Present: Acting Chairperson Dennis Casey, Commissioners Karen Scott, Scott Harpster, and Gordon Roberts.

Excused: Commissioner Jake Donoghue

Staff: Deputy Town Clerk Angela Kulp and Town Planner Mona Green.

Guests: Town Council and Tree Committee Member Bruce Young, Tree Committee Member Robin Stefan, Residents Sylvia Hobbs, Paula Dix, Henry Heckendorn, Joann Bromberg and Steve Miller.

Acting Chair Casey called the meeting to order at 7:34pm.

Minutes: Acting Chair Casey motioned to approve the November 20, 2007 minutes as written. Commissioner Roberts seconded. Vote: 3 For, 0 Against, 1 Abstain. Motion carried. (Commissioner Scott was too late for the vote after being sent to retrieve a last minute e-mail from Commissioner Donoghue so she was considered as abstaining.)

Old Business- Tree Ordinance:

Copies of the revised proposed Tree Ordinance (Draft #4A) were offered to those in attendance by Deputy Clerk Kulp. Acting Chair Casey picked out three of the eleven letters received by the Planning Commission since the Public Hearing to read aloud, citing their support of the Ordinance. Commissioner Roberts shared when asked that many neighbors he has talked to were verbally against any ordinance governing private property, but they were not comfortable putting their position on paper. Acting Chair Casey allowed public comments during the discussion, so Sylvia Hobbs asked if the letters received could be tallied as for or against the Ordinance. Deputy Clerk Kulp pointed out most of the letters received just wanted more changes made to this Ordinance version and some didn't indicate whether they supported any Tree Ordinance or not. After some insistence by the group, Deputy Clerk Kulp tallied the letters; one was too hard to judge, and the other ten were counted as being in favor, as those in question didn't specifically say they were against having an Ordinance.

Tree Committee Member Stefan urged the Commissioners not to "throw the baby out with the bath water" by recommending the passage of the Ordinance onto the Council after reiterating the background and main points of purpose, education process, and cited reasonable revisions that had been made after the public hearing.

Acting Chair Casey shared he felt the original Ordinance didn't have enough "teeth" and this revision was too watered down for his expectations. Commissioner Scott complimented the Tree Committee's efforts, and inquired several times if easements were ever considered for landmark trees as a way to preserve the older trees and compensate property owners for the encumbrance. Tree Committee Member Stefan stated this option was discussed, but dismissed as it went too far, seemed like an unfair burden and was too complicated to implement. Tree Committee Member Young indicated it could be considered again later if there was interest. Acting Chair Casey agreed with Ms. Stefan and asked Town Planner Green if other jurisdictions in this area have a tree ordinance. Ms. Green stated other jurisdictions *do* have a tree ordinance or are considering one; she used Bellevue as a recent example that is being implemented now.

Steve Miller, a previous land-use attorney, shared his discouragement on the long-lasting tree issue here and reminded the group that the balance between community and private property needs is just the *beginning* of this difficult conversation. Mr. Miller stated the current ordinance isn't enough to handle this balance need. He cautioned the Commissioners and Council not to water the ordinance down anymore and stressed civility, coherence and community. He shared that he liked the shorter process time and felt creating incentives and simplifying the variance process to be more flexible could save old trees and old houses. Town Planner Green indicated protecting a tree could be criteria for unique circumstances in the variance process if the Ordinance gets passed. Mr. Miller urged the Commissioners not to adopt the Ordinance as it is written today, but to take the time to get it right without just rushing it through.

Deputy Clerk Kulp read a handful of the letters received at the last minute as some of the Commissioners had not read them yet. Safety, canopy and tree species concerns along with support of tree preservation were at the heart of those letters read. Deputy Clerk Kulp noted than some of the letters received were quite detailed with suggestions and copies of all letters would be made available to the Tree Committee for revision considerations. Letters received for the record were from Residents Julia Morse, Forrest Kulp, Gail D'Alessio, Linda Mui and Mike Hillberg, Sheila Justus, Terry Dempster, Sylvia Hobbs, William Armbruster, Paula Dix, Paige McGrath, Helen and Del Lewis, and excused Commissioner Jake Donoghue. Commissioner Donoghue stated in his letter he did not like regulating private property, but was interested in seeking a comprehensive plan that would help manage and protect all property in the village. He raised concerns about hazardous trees, tree removal, and mitigation. He urged we take our time to get it right, thanked the Tree Committee for their work, and felt additional revisions would help make an amenable resolution for all.

Commissioner Harpster stated he is in favor of the Ordinance, but believed it needed more work. Commissioner Scott echoed his sentiments as he went through his concerns by section and topic, inquiring first how canopy cover is applied, measured and tracked. Town Planner Green shared it could be added to the permit process rather than the Ordinance itself. Commissioner Harpster stated protected trees shouldn't be divided over their size and have different rules, instead they should all be

treated the same. He inquired who would monitor the 20% rule and why it was necessary. Tree Committee Member Stefan shared that the town would handle the 20% calculation as part of their tree inventory by permit, and it was added to slow the process and prevent clear-cutting. Commissioner Harpster inquired about how much the fees would be and Ms. Stefan stated discussions so far are leaning towards a nominal permit fee of about \$75, plus the hourly arborist rate and the cost of tree removal. Commissioner Harpster stated the hazardous tree section needed to be re-written, and Tree Committee Member Young agreed. Commissioner Harpster stressed his concern over the possible abuse one might take with the emergency tree section, and stated he didn't have enough information from the Tree Committee on mitigation, the reference book and canopy cover to answer all his questions. Commissioner Harpster shared his concern over setback issues with regard to trees and variances. Town Planner Green reiterated that the validity of the tree ordinance would help with the variance process. Commissioner Harpster proposed a public vote be considered after the Council's public hearing instead of a Town Council vote as he doubted the Council could be completely impartial since two Council members helped write the Ordinance as Tree Committee Members. He added this tree issue is too big to let it ride on a Council vote; the public should have a voice with a vote, not just another hearing.

Commissioner Roberts suggested a circumference be used instead of diameter as not everyone knows or remembers how to figure diameter. Residents concerned about canopy had also indicated circumference could be helpful for calculating canopy as well. Tree Committee Member Stefan offered the calculation for diameter could be added into the Ordinance and asked if the moratorium could be extended until the Ordinance was passed.

Commissioner Scott closed by sharing she agreed with Commissioner Donoghue about regulating private property, and believed the majority of villagers did not want to cut trees. Paula Dix voiced concern over the size of trees planted and length of care. Henry Heckendorn raised concerns repeatedly about cost and the possibility of having a grandfather clause. Acting Chair Casey urged Mr. Heckendorn to take his cost concerns to the Town Council citing the cost of handling an ordinance was a cost we all must bear.

Acting Chair Casey asked if there was a motion to recommend passage to the Town Council based upon proposed suggestions tonight. Commissioners Harpster and Scott shared they could not recommend passage until they had seen the additional proposed revisions included in the Ordinance at their January meeting. Commissioner Roberts motioned the additional proposed revisions be reviewed by the Planning Commission at their January meeting before making a recommendation to the Council. Commissioner Scott seconded. Vote 4 For, 0 Against, 0 Abstain. Motion passed.

Next Meeting: The next meeting will be held on Thursday, January 17, 2008 at 7:30pm at Commissioner Harpster's home. The Commissioners noted this date would still give the Council enough time to prepare for a public hearing at their February meeting.

Adjourn: Commissioner Scott motioned to adjourn the meeting at 9:47pm. Commissioner Harpster seconded. Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Angela Kulp, Deputy Town Clerk