

FRIENDS OF BEACON HILL PARK

2021 Annual General Meeting Minutes

November 17, 2021, at 7:00 pm
By Zoom

1. **Welcome**

Roy Fletcher

Roy Fletcher, President, welcomed everyone to the AGM.

2. **Establish Quorum**

Joan Halvorsen

Maureen Applewhaite confirmed that we have a quorum.

3. **Agenda Acceptance**

Roy Fletcher

Maureen Applewhaite moved, and Tom Epplett seconded that the Agenda be accepted. Carried.

4. **Minutes of 2020 AGM**

Joan Halvorsen

Joan Halvorsen moved, and Tom Epplett seconded that the minutes be accepted. Carried.

5. **Treasurer's Report**

Tom Epplett

Tom Epplett presented the financial statement for 2020. Tom Epplett moved, and Peter Lowry seconded that the 2020 financial statement be accepted. Carried. Tom presented the financial year to date for 2021 and indicated that the annual membership which is currently \$10 will be raised to \$20 for individuals in 2022.

6. **President's Report**

Roy Fletcher

First and most important I have to say that Justice Punnett has still not delivered a decision in the court case.

And 2021 was another year that we couldn't have Camas Day and couldn't do natural areas restoration in Beacon Hill Park.
The last organized restoration day was in March of 2020.
The last Camas Day, the 28th annual, was held in April 2019.

But we were able to get a BHP Trust hearing in the BC Supreme Court (BCSC) in 2021.
In November 2020, FBHP filed a notice of civil claim that argued full-time sheltering in BHP was against the Trust.
In exchange for suspending that civil claim, in December 2020 the City of Victoria (CofV) agreed to submit the question of sheltering in the park to the BCSC.
The CofV sought an Application for Direction under section 86 of the BC Trustee Act.

In March of this year, CofV filed the court papers.
FBHP were granted full responder status in the hearing.
Our lawyers, John Alexander and Lindsay LeBlanc, had contacted Dr. Ron Williams, a professor-emeritus at Concordia University in Montreal. He submitted a report and prepared an affidavit giving an expert opinion on the formation of urban parks in the mid-to-late 19th century.

In the meantime, the CofV Council issued a two-year prohibition on sheltering in BHP. This included overnight sheltering referred to as 7-to-7 sheltering. The ban was established to help the restoration of damaged areas of the park.

CofV Council also discussed the road closures that were established in 2020 during the early days of the pandemic. They did not re-open Arbutus Way, the extension of Quadra St. into the park.

In September, the CofV did offer a somewhat-limited solution to the washroom access - they restored the lower section of Bridge Way from Heywood Way to the washrooms. That road is now a two-way road with shared access with bicycles. This minor concession to vehicle access seems to be little used by any park visitors.

On September 20th the court hearing opened.

CofV opened with a very short presentation on the Park and the BHP Trust.

FBHP followed with their presentation which stated that BHP was transferred to the CofV as a grant and therefore the original wording and intent of the Trust cannot be altered by the trustee - the CofV.

The shelterers followed arguing that sheltering had become an established use of the park long before the COVID pandemic. They also stated that the Canadian Charter of Rights and Freedoms over-rides the Trust.

The Together Against Poverty Society presented an almost identical argument.

The Attorney-General presented last. They asserted that BHP was transferred to the CofV as a statutory transfer and therefore all usage of the park was subject to modern rule. They also asserted that the A-G BBC was also Housing Minister and had assented that CofV could use BHP for sheltering until other suitable indoor spaces were acquired.

In the final arguments, our lawyer demonstrated that the BHP Trust was definitely a grant not a statutory land transfer and "modern rule" does not apply; the court must make a decision on the original wording of the Trust.

The CofV agreed with our lawyer that BHP is a grant and pointed out that there are thousands of similar grants throughout the province and if it is ruled a statutory land transfer, municipalities throughout the province have no assurance that any grant cannot be arbitrarily modified by relevant persons pleading "modern rule".

The AG-BC finally argued that the Justice did not need to rule if the Trust is a grant and can make a ruling without speaking to that issue.

And that's where we are at the present time. I can say that the hearing was very amicable; most usages of the term "my friend" were spoken without subtle moderation of tone of voice that usually occurs when one counsel is referring to another counsel.

In the meantime, FBHP remain active in restarting our Saturday morning restoration in BHP and other CofV parks.

The CofV has committed \$1/2 million for restoration of BHP and other CofV parks but there are very few details available about how the money will be allocated.

7. New Business

Roy Fletcher

There was discussion about the court case, membership, website, social media, founding Director Helen Oldershaw, and restoration.

8. Election of Board of Directors

Maureen Applewhaite

A Notice for Nominations was sent out inviting any members who were interested in standing for election as Directors to contact FBHP at that time as we would not be accepting any nominations from the floor. This was to allow the opportunity to explain ahead of the AGM, the responsibilities, expectations, and the fun nature of the Board. Maureen Applewhaite moved, and Peter Lowry seconded that we accept the slate of Maureen Applewhaite, Tom Epplott, Roy Fletcher, and Joan Halvorsen as Directors. Carried.

9. Adjournment

Roy Fletcher

Ron Mahoney moved adjournment at 8:55 pm.