



FRIENDS OF BEACON HILL PARK SOCIETY

December 2020

Friends of Beacon Hill Park Annual General Meeting

The 2020 Annual General Meeting was scheduled to be held on November 22nd, 2020. Three days before the meeting, Dr. Bonnie Henry announced the disheartening COVID-19 statistics and recommended that all social and other gatherings to be held indoors be cancelled. It was necessary to cancel the AGM.

The Friends of Beacon Hill Park is a registered charitable society dedicated to preserving the natural and cultural features of Beacon Hill Park and promoting appropriate uses in keeping with its Trust (1882). We count on your support to help us protect the park.

As well as receiving the newsletter, benefits of membership include the satisfaction of helping preserve the park, input into the management of the park and participating in the Society's activities. You are welcome to attend the monthly directors' meetings. Please call for date and location.

Annual membership is \$10.00 per household and is due on Jan. 1.

We have two options at this time : 1) reschedule a physical meeting at a later date, or 2) make plans for an online meeting using Zoom or some other online meeting software.

Many members, especially the long-time members, have no ability to meet online.

And many members have the ability to Zoom.

Other software is much-less in use by users, so we immediately limited online to Zooming.

Having used Zoom on two very capable systems, I have become aware of its limitations. I did two presentations that left more questions than answers. On both occasions the meeting was run by very capable moderators. The speaker (me) was less capable The attendees were somewhat less capable still. So Zoom is plan B.

A new years date for a physical meeting at Cook St. Village Activity Centre is now the preferred option. The regulations established by the COVID-19 pandemic allow it to be delayed to sometime in 2021. Plan B online Zoom remains as an option if a physical meeting cannot be held.

All members will get notice sometime in the near future.

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Helen Oldershaw 1944-2020

(by Roy Fletcher)

Helen was the founder of Friends of Beacon Hill Park along with my sister Ann Fletcher. She was a director continuously for thirty-one years since its incorporation in 1989. Helen was present and the lead for most of the FBHP activities since its inception.

She was also one of the founding members of the Fairfield Community Association and a founding member of the Fairfield New Horizons, the precursor to the Cook St. Village Activity Centre, along with current FBHP director, Joan Halvorsen.

But Helen was much more than that. She was an active member of the Native Plant Study Group, an active member of the Heritage Tree Group and a tireless advocate for native plants in BHP along with her good friend, Dr. Chris Brayshaw. She was a proud mother to Galen Arthur, her son and a devoted partner to Axel Brock-Miller her long-time friend and husband. And, unknown to most, Helen was a very good swimmer and singer.

Helen, the second daughter, was born in Vancouver during the war while her father served on the west coast. The family, which eventually included two younger sisters, returned to their native home on the east coast in Hantsport, Nova Scotia, a village on the Minas Basin of the Bay of Fundy. After graduating as a teacher from Kings College of Dalhousie University, Helen set out for the west coast, first to the Nass Valley at Iansch and then to Vancouver Island. Victoria was her home for 45 years.

Helen helped save the SouthEast Woods from being cleared in 1988. That led to the incorporation of FBHP in 1989.

While doing that, the professional botanists that had been recruited to advise on the SEWoods advised that Garry oak ecosystems were the real endangered ecosystem. They suggested Helen and Ann take up that challenge. And that they did.

She helped organize the Girl Guides native areas restoration in the SEWoods. In 1992 she helped organize the FBHP annual Camas Day in Beacon Hill Park which ran continuously for 27 years.. Two years later she was successful in convincing the Great Canadian Family Picnic to move from the

natural areas/First Nations burial area to the centre of the park.

She was one of the main organizers of the Beacon Hill Park Rescue Coalition that was successful in stopping a large music festival from being held in the natural areas of the park. The Wilson decision in BC Supreme Court that ended that proposed festival led to the establishment of the Beacon Hill Park Round Table. She was at that roundtable. It was a very taxing process that led to special events guidelines being established for organized users of BHP. She was one of the main sponsors who helped Jeff Ralph start the SouthEast Woods Environmental Restoration Project. Jeff was a recruit from the Environmental Restoration Program at UVic. Over the

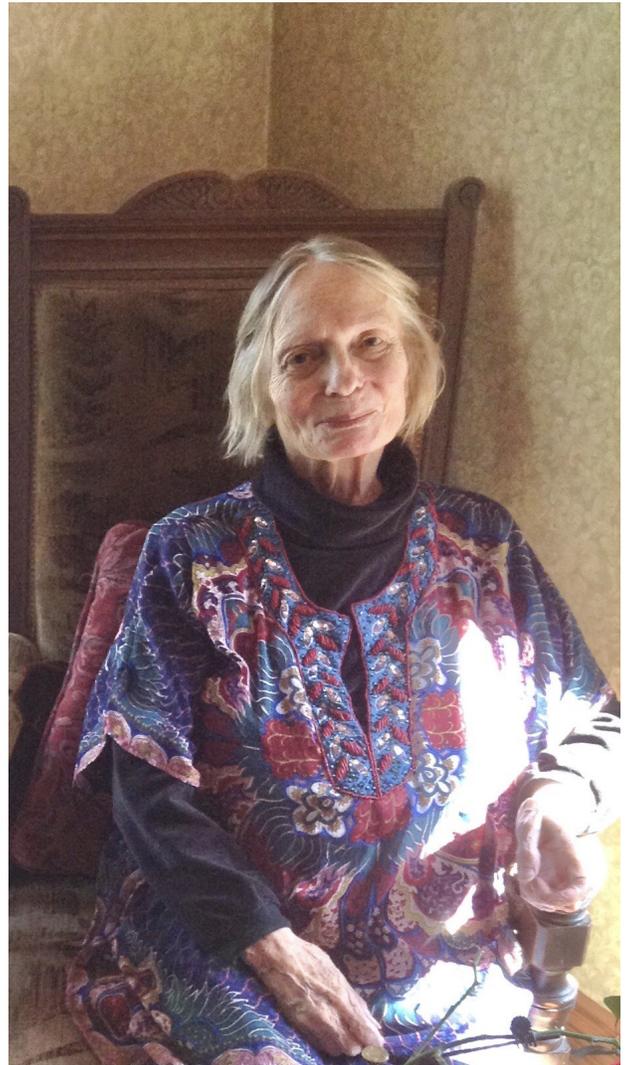


Fig. 1 : Helen Oldershaw 2019

Helen Oldershaw 1944-2020

(cont.)

years, three more Uvic students would do environmental studies in BHP with the encouragement of Helen.

In 2005 came the now infamous civic scrap over the Luminara Festival. The festival did win out but it was obvious to all involved that it would not be in the park much longer. In 2008, it was terminated. After that scrap, FBHP along with Victoria Natural History Society and the City of Victoria installed six natural areas signs in BHP with a further three designed and ready to be installed whenever an opportunity presents itself.

Then came some years of relative peace before the sewage pipeline and the cycle path were proposed for the Dallas Rd. area. Helen and FBHP did fight long and hard to locate the cycle path on the road and not route it through the moist deciduous groves south of Dallas Rd. That was not a victory for FBHP.

I frequently had to keep Helen enthused after what seemed like endless fights. Our favourite quote in

stressful times came from Thomas Merton :

Do not depend on the hope of results. When you are doing the sort of work you have taken on, ... you may have to face the fact that your work will be apparently worthless and even achieve no result at all, if not perhaps results opposite to what you expect. As you get used to this idea, you start more and more to concentrate not on the results but on the value, the rightness, the truth of the work itself.

Helen is greatly missed by all those who are active in FBHP.

Helen never got the recognition in life for all that she did. FBHP would like to have a memorial bench with a plaque recognizing all that she did tirelessly and with no pay. A fund has been established to purchase a park bench in Helen's memory. Any who would like to contribute can contact the author through the FBHP website.



Victoria Women's Newcomers Club Tour of BHP

(by Joan Halvorsen)

It was a brisk day on November 10, 2020 when members of Victoria Women's Newcomers Club toured Beacon Hill Park. Two groups of twelve people each walked through the southern part of the Park. FBHP President, Roy Fletcher, (pictured right) led the tours and explained about the history of the Park and the native habitat. An eagle majestically perched atop the totem pole. When studying three of the signs with photos of wildflowers, which were placed in the Park by FBHP in conjunction with the Victoria Natural History Society and the City of Victoria, participants remarked on how amazing it is that such different native plants are located in specific areas so close to each other. Thanks to Maureen Motter-Hodgson (pictured left) from Victoria Women's Newcomers Club who arranged for these tours.



Fig. 2 : Victoria Women's Newcomers Club on Beacon Hill

Glennis Sanders (by Roy Fletcher)

We had the resignation from the Directors of Glennis Sanders.

Glennis has been a sitting director for ten+ years and during that time we have had both controversy and peaceful times.

Glennis is Victoria born and Victoria raised. She was fortunate to live the first 16 years of her life on Hollywood Crescent looking directly onto Juan de Fuca Strait. In 1960 the family moved to Metchosin for four years then moved to Oak Bay. After time spent in Vancouver and various other places, she found herself back in Victoria living on Park Boulevard right opposite BHP.

It was at this time that director Cornelia Lange recruited her to get active in the park. After some years she became a director and was present for quiet times and some times of conflict.

In 2015, the Capital Regional District began plans for a sewage pipeline through the park with a cycle path slated to be atop the pipeline on Dallas Rd. Before long, the pipeline was routed through the moist

deciduous groves south of Dallas Rd. FBHP hired a lawyer and attempted to have the pipeline and cycle path on the Dallas Rd. route. Glennis and Helen O. were the main instigators in this battle and Glennis funded much of the legal costs. We were not successful but we did assert our presence in BHP.

Glennis now finds herself slowing down and has determined that this is the best time to step away from BHP battles.

In the meantime, Joan Halvorsen, who lives directly beside Beacon Hill Park and who was assisting the directors as a Director's assistant, has agreed to serve in a temporary role as a Director.

Joan has been attending meetings with the lawyers to act as a second hand on all decisions.



The GoFundMe page and the Current Court Action (by Roy Fletcher)

FBHP originally sought a legal solution to camping in Beacon Hill Park by being accepted as a respondent or intervener in the City of Victoria injunction to move the campers from the environmentally sensitive areas to the planted turf areas of the park. See the next article for details of that court action. We were not successful.

We had funds remaining so we immediately began action under our own Notice of Civil Claim against the CofV. This is a direct action under the Trustee Act of BC.

All voting residents of the CofV are beneficiaries of

the BHP Trust. The Trust was established in 1882. It asserted that BHP was for the "use and enjoyment of the public" and stated that CofV was entrusted to "preserve and protect" the park.

Just one year later the BHP Trust had a court challenge from a citizen determined to stop the CofV from granting away a small corner of the park. Judge Matthew Begbie ruled that no amount of land could be severed from the park and further stated that the Trust did not allow the park to be used for "profit or utility".

In 1998, the park was again in court because the CofV wanted to allow a large music festival to commandeer the park for ten days. The Wilson

The GoFundMe page and the Current Court Action (cont.)

Decision 1998, a judicial review, stated that the park was a pleasure ground with natural elements and that it could not be used as a festival venue with fences and paid attendance. FBHP were the lead organizers of the opposition at that court date.

Now we have another challenge to the Trust. This time CofV Councillors want to allow camping in the cultivated areas of the park. Some Councillors and concerned citizens want to have full services available to the campers in the park : a warming tent, showers, food service, medical attention etc.

The campers have retained Catherine Boies Parker as their counsel. In the earlier court hearing, she asserted that the campers feel their charter rights to security of the person are being violated. She hinted to Justice Gaul that there would be a

prolonged court hearing to deal with the Canadian Charter of Rights and Freedoms (CCRF).

For the above reasons, and not wanting to cave in on what we perceive as a deliberate attempt to diminish the Trust, we have elected to keep the GoFundMe page active.

We filed a Notice of Civil Claim on Dec. 4th. A court date may not be available for a month or two, but we want to have all the forms filed and be ready to proceed.

For this reason, we are still actively seeking funds to continue what may be an expensive fight.



The FBHP Court Action to Join the City of Victoria Injunction of July 27th (by Roy Fletcher)

The Supreme Court rejected Friends of Beacon Hill Park's petition to join the City of Victoria's injunction to move campers from the ecologically-sensitive areas of Beacon Hill Park. We were seeking to present two relevant judgments from previous Supreme Court decisions on the BHP Trust. Those two judgments are the Begbie decision of 1884 and the Wilson decision of 1998. We wanted to present the Trust and assert that 24/7 camping in BHP is against the Trust.

The reason for rejecting our participation was that the July 27th injunction was a statutory injunction. The CofV, in the first hearing against the campers, was trying to enforce one or more items in the Parks Bylaw.

In the second hearing, Justice Gaul ruled that the bylaw exists and there is no legal precedent to allow a citizen-group input to enforcement of a municipal

bylaw.

He did not rule that the bylaw was or was not in contravention of the Trust.

He reiterated that there was a valid argument that the bylaw may be in contravention of the Trust but that the standing injunction cannot hear that argument.

He added that a separate challenge under the Trust was the correct route to challenge the bylaw and the current injunction.

That is what the current FBHP court challenge of Dec. 4th is doing. We are asserting that 24/7 camping is not a permitted use of the Park as set out in the BHP Trust.

Catherine Boise Parker was present at the hearing to represent the campers. She hinted that any challenge to 24/7 camping in BHP or any park will lead to a full hearing involving the Canadian Charter of Rights

The FBHP Court Action to Join the City of Victoria Injunction of July 27th (cont.)

and Freedoms (CCRF).

She was the lawyer who represented the campers in the 2009 case that allowed overnight sheltering in parks. That 2009 ruling from Justice Carol Ross said that denying homeless people the right to erect overnight shelter was contrary to Section 7 of the CCRF.

I was present for that hearing and the appeal that came out of it. I now conclude that it was a waste of time. Instead of encouraging City Council to work towards a housing solution for the homeless it just encouraged them to sit on their hands because they have a parks solution.

If no action is taken to assert camping in urban parks is both illegal and an abuse of the homeless, it will give City Council, the Province of BC and the federal government the green light to prevaricate for many more years.

There are solutions that can be implemented right now that require only political will. Converting parkland to housing is one solution that should never be on the agenda. All neighbourhoods in Victoria are in deficit for parks and greenspace.

Some CofV Councillors and senior staff have been very negative towards the Trust for many years. 30+ years ago a City Councillor had promised a personal friend that he could operate a restaurant atop Beacon Hill. She was unaware that BHP was granted to the City under a Trust and had a previous court judgment in 1884 that prohibited commercial activity in the park.

She thought that a land trust was a mere impediment that could be pushed aside by a resolution of City Council. She became very annoyed that a trust is not something that a municipal council can replace at will.

Many CofV councillors and administrators over the years have held a similar position with regard to the Trust. We now have 7 of 8 Councillors that regard the Trust as a minor impediment that can be disregarded at Council's will.

Some of the Councillors have no knowledge that trust law is a part of the laws of equity, the laws that distinguish English common law from other legal systems throughout the world. They want to operate as though the FBHP Trust is civil law. As a point of law, in most instances, laws of equity are superior to the civil laws of every jurisdiction.

The homeless camp was not an accident waiting to happen. It has been in the planning stages for at least three years.

First it was Topaz Park which was targeted as the sight of a permanent homeless camp. The neighbours of that park expressed their displeasure and the plan was scuttled.

Then, when the pandemic first hit and shelters where the homeless were staying were either shuttered or reduced, Topaz, Beacon Hill and Royal Athletic Parks were put forward as a solution for homeless camps. Beacon Hill was almost immediately excluded by Dr. Richard Stanwick for many reasons.

Topaz was the site of a homeless camp that was short-lived. Minister Farnworth from the Prov. Of BC ordered it shut down.

Meanwhile, campers were taking up shelter in Beacon Hill Park, many in the natural, ecologically-sensitive areas. It was at this point that the City shut down all the park roads. That immediately left the van campers with no access to the main parking lot. Shortly after the total closure, one park road was reopened. That road was the one used by van campers to access the main parking lot. Probably not entirely by coincidence!

So that's where camping in BHP is at the present moment. CofV has an amendment to the Parks Bylaw to terminate camping beginning April 1. That is, of course, April Fools Day.



Roads in Beacon Hill Park (by Roy Fletcher)

A month ago, this email was sent to the BHP email box.

You say the goal of your group is "To Promote & Protect the Natural & Cultural History of Beacon Hill Park." So why do you not support restricting car use in the park? The increase in cars, roads, and parking areas in the park has been the single most destructive thing to the beauty and natural environment of the park, and to the safe and peaceful enjoyment of the park by residents. Yes, it's okay to have a small amount of road access and parking for those with disabilities, but that doesn't mean that every corner of the park must be criss-crossed with roads and parking.

I'm a senior, and I've really enjoyed being able to use the park over the summer without having to dodge cars. I don't agree that a parking lot is the best use for the beautiful summit of Beacon Hill. Imagine if there had never been a parking lot up there, and someone suggested building one at that beautiful, pristine location. The outcry would be huge!

We had to respond :

This is a long response to a short question. It has to be.

I can easily agree that the "Blair Plan" was a very bad design for Beacon Hill Park (BHP). It established all the roads.

But John Blair was not a futurist; he could never have imagined anything but horse-and-buggy. And, yes, we would oppose a road to the top of Beacon Hill if it was proposed today.

Twenty years ago, Friends of Beacon Hill Park (FBHP) participated in the Beacon Hill Park Roundtable, which was convened to establish guidelines for a BHP Management Plan. Parks professionals from the neighbouring municipalities were there as resource.

One person in particular was Lloyd Rushton from the Capital Regional District (CRD). He was the head of CRD Parks.

If you admire the tremendous amount of natural areas in parks scattered throughout the CRD, Lloyd is the person who directed the development of those

parks.

He built coalitions of various users of the parks so that he could exclude some uses that would destroy the parks. He was a master at it.

At the Roundtable, Lloyd pulled us (FBHP) aside and said that if we wanted to preserve the natural areas of BHP, we would have to reach consensus with those other users of the park who did not have any real understanding of the value of natural areas. Or, as he said it, we were attempting to evict from the park the very people who would support our cause if we respected theirs.

He grasped the BHP Trust where other current parks managers had no idea how the Trust was more relevant today than the day it was enacted in 1882.

I can give you one example.

In 1994 FBHP successfully convinced the Great Canadian Picnic(GCP) that they should move from the natural areas to the centre of the park.

That preserved the natural areas. Absolutely.

It also excluded many people from the children's play area and cultivated gardens who had no interest in a large gathering.

The sponsors of the GCP soon started hearing from the citizens evicted from their park.

They cancelled sponsorship of the picnic and

corrected an error we should not have participated in.

The picnic was terminated four years later correcting an error we should never have made.

In 1994, the picnic should not have been moved; it should have been cancelled.

So that has been central to any strategy we have to preserving the natural areas of the park.

The family picnics, the young mothers that meet with babes-in-arms, the language schools that picnic, the family reunions with two or three vans with whatever, the seniors' assisted-living residences that bus people to the park, weddings in the park, wedding photos in the park, etc.

These are all valid users of an urban park. They use areas of the park that were established, perhaps in error, many years ago.

Roads in Beacon Hill Park (cont.)

Correcting those errors would require millions of dollars that are never going to be available. Bike lanes are commandeering parks budgets

BHP is an urban park.
Parks managers in the past who were active naturalists (Herb Warren gets star mention) controlled users through placement or removal of amenities and facilities.

In 1971, some roads in the park were closed. This was a very successful program.

In 2008, a second round of road closures was started. This program was far less successful.
They closed the road that gave access to the one amenity that all users wanted access to : the main washrooms.
So they then established a handicapped parking area. Which interfered with the movement of parks vehicles.
Instead of a solution to a problem, there was a problem to the solution.
There was only one solution : re-open the road. And that did happen.

BHP cannot be managed for the sole convenience of a few neighbours who can walk to the park.
All neighbourhoods in Victoria are in deficit for parks and green space if measured by the Urban Planning Institute's guidelines.
This probably happened because BHP was such a dominant part of the Victoria landbase.

People are going to return to BHP, perhaps as soon as next spring.
If the road and parking lot to the main children's play

area is closed, they will use, and fill up, the main parking area.
Other users will park on Dallas Rd. and establish a multitude of paths through the natural areas to access the centre of the park.

Ball players and their families that currently use Arbutus Way as parking will park in residential zones and get tickets.
They and the neighbours will then demand, and get, a parking lot in Heywood Meadow : more mature trees chopped down.

Others want Arbutus Way to be converted back into a two-way road just as it was before 1971.
Nonsense!
The "code" that road-builders must follow when designing an intersection or a road has changed (I'm an engineer).
The intersection at Southgate would require modifying the roads, blasting away rock, chopping down about ten mature chestnuts, running the new roadbed over a patch that hosts a glorious growth of satin flower every spring and covering a patch of very rare red-listed plants with fill.

Closing roads might sound reasonable but it is not.
If the roads are left closed, there will be many years of changes to the park that no one anticipated.
But it will be too late to reverse the effects.

The current road closures were done to accommodate the campers and for no other reason.



Fallen and Potentially Dangerous Trees and the City's Liability

(by Wayne Hollohan)

Who is responsible and pays the bill when a tree kills someone. If a two-plus ton tree, 100 to 150 feet long lands on you, you won't have to worry about being injured.

After seeing this resulting from our last wind storm and certainly one of many wind storms to come over the winter. I spoke with a couple of people who are living in the area. Without even asking a question, I was told of locations over by this and that. The ground at the roots of a number of trees was raising up each time the wind blew. Some of them are now leaning over. You don't have to be an expert to see how small and shallow the root structure is for both of the trees. This type and size of tree is standard throughout the park. The more the trees are separated from each other, the more vulnerable they are. Neighbouring trees can't limit their swaying in the wind. This is the case all throughout Beacon Hill Park.

The city in its wisdom to protect the homeless has literally placed them where they can lose their lives. In the City of Victoria we have branches that can flatten the roof of a car.

The moment you direct/place people in Beacon Hill Park, the city (we) has taken on the liability for their safety and well being. Just hope when the person is killed, they have no extended family.

A significant number of people who were placed in the park, given the location of their tents, are at high risk. What happens if five trees fall the next time.

We live across the street from the park. We hear and see similar trees falling in the park every winter.



Fig. 3 : A fallen tree in BHP with a tent among similar trees



Fig. 4 : A tree leaning and about to fall

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The Friends of Beacon Hill Park

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FBHP Directors

Friends of Beacon Hill Park
#101-1041 Richardson St., Victoria, B.C. V8V 3C6
www.friendsofbeaconhillpark.ca
info@friendsofbeaconhillpark.ca

Chairperson:

Roy Fletcher (250) 380-5023
uy205@victoria.tc.ca

Directors:

Renata Varwig (membership) (250) 383-9194

Newsletter editor : Roy Fletcher (250)-380-5023

Treasurer:

Joan Halvorsen

Friends of Beacon Hill Park Society

Membership Form

Name: _____

Address: _____ Postal Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Mailing Address:

#101-1041 Richardson St.
Victoria BC
V8V 3C6

I wish to join the Friends of Beacon Hill Park Society for a fee of \$10.00

I wish to renew my membership for another year for \$10.00

I wish to donate to the Friends of Beacon Hill Park \$ _____

I only wish to receive the newsletter for an annual fee of \$10.00

I am interested in volunteering