



City of Edmonds

Citizen Tree Board

Approved Meeting Summary Minutes

November 1, 2012

The meeting was called to order at 6:06 p.m. by Anna-Marie Heckman, Chair.

Members present: John Botton, Steve Hatzenbeler, Anna-Marie Heckman, Susan Paine, Sandy Seligmiller

Members absent: Rebecca Wolfe

Staff present: Rob Chave, Kernan Lien, Dave Timbrook

City Council Liaison present: Joan Bloom

Public attendee: Ken Reidy

The October 2012 minutes were approved with some corrections.

Susan Paine opened a discussion of the Board's tree code updating issues and process. She handed out an overview and outline notes, and expressed thanks to Rob Chave's staff for their help and information. She is working with former Board member Barbara Tipton on this project, but she emphasized that the process belongs to the entire group.

Some of the options we have are:

- 1) Do nothing—not really an option
- 2) Create interim ordinance to last for “X” years to update the immediate needs and do a meaningful cleanup
- 3) then do a more thorough analysis, incorporating into the next version such issues as low-impact development, stormwater, land use, environmental changes, etc.

Definitions of terms (some examples)

tree caliper—Shoreline uses 'American Forests' standard tree code definition, well backed up and universal for country. Dave asked if it makes a distinction between *significant and non-significant species*, Anna will check. Susan says yes. Alder is considered non-significant by Lynnwood.

When we consider the level of detail as we go, can more specific questions in code be directed to a separate 'Tree Manual' document? Palo Alto has one. You don't want your tree list in code since it changes over time, but a statement about how to treat different species can use 'recommended/not recommended trees' in code without specifying, then refer to an approved tree list elsewhere. Do we need to segregate this by land use, for example a distinction between public vs private or right-of-

way versus park? A good tree versus bad tree list should be universal. Right-of way is pretty specific. The current Street Tree Plan has a tree list from 2009. Wouldn't apply to private property owners.

dripline—could it be changed to 'critical root zone'.

public place—Seattle includes more than right-of-way. There are trees maintained by the city that are public place trees. There are street easements in the city with no street and lots of trees.

heritage—Would *significant* be broader?

There are some definitions in 18.45. Good policy pages in there. Good use of term *nuisances* in regards to safety issues, disease, including public utilities as well as private property. Put in street tree code or public works? Public works. Adds some level of public authority.

What is the goal of what you're doing now, and will we phase it out? Some things need updates fairly short-term. An interim code is a good idea, and will solve some short-term problems and allow for more thought for the longer term. It could be a challenge if it's an entirely new system. We would be updating the existing to current standards, and getting rid of inconsistencies. And providing definitions where there are none.

One thing we might want to focus on sooner rather than later is recommending fees charged, for example in critical areas. We need a stated minimum rather than just zero. Discretion without guidance is not helpful. Proposed Seattle code uses values from Council of Tree and Landscape Appraisers 'Guide for Plant Appraisal', and they are tripled (timber trespass) in certain circumstances. There are 3 ways to assess a tree. If there are 2 arborists, you can get 2 different assessments based on the method used. Is there a better way? It's up to the judge to decide. Can we specify only one method to be used? You may not want to use the same method in every circumstance. Specify who pays, and who does it? You can state that it is done by an arborist, a certified plant appraiser, or whatever we choose. The City would do it. The arborist represents the payer. We have 3-party contracts so no City money is involved, the violator pays for any studies done. Appraisal cost would be outside of any fines.

To maintain our Tree City USA status, which Council wants to do, the City needs to have an arborist on staff. Dave does this now, even though he's actually an employee who happens to be a certified arborist. Will we have an arborist on contract in the future, or use an approved list? Maybe fees can pay. How do you manage your permits? What if you don't have one, what are the penalties? If it's an honest mistake, the City doesn't penalize. But if we know they knew they were in error or are an habitual violator, we'll go to the maximum.

Standards

Existing code caliper minimums of 1.5"-1.75" seem small. For a street tree properly pruned, usually it's 2" caliper but these have a rootball of 3'. Edmonds has many 2' wide planting strips and needs smaller caliper trees to fit. These limitations put a huge impact on the maintenance department to properly prune for maturity.

Do we have standards we want to impose on private trees? What about view clearance, what would view corridors and view protection look like? We don't really have anything now for view protection, just view easements. In a Critical Area, code takes precedence. View covenants will always be trumped by code. Should view issues be better addressed through positive education? It's the 'the tree is the view' hot button issue between arborists and property people. Might it be cleaner if we left view protection out of the code, so the community won't have the expectation of it? Is that feasible? There are no codified corridors, and covenants aren't supported by code. There is nothing in code now that protects private views. Some discussion is in the comprehensive plan about public view corridors—in downtown on Dayton, Main, along waterfront. There are private easements between homeowners which come up consistently as violations to code. Palo Alto has 'protected' and 'non-protected' trees defined.

There is a relationship between views and maintenance. When can you cut, what is maintenance versus more radical cutting? If you let go for years, pruning ends up being more of a topping situation. Lack of timely maintenance creates many of view easement issues. We need education on regular maintenance, definition of *topping*. Even Critical Areas have exceptions for maintenance. *Maintenance* needs to be defined. What are accepted practices?

Is there language in code now about topping vs regular maintenance? Topping isn't mentioned in the code, but have had an arborist determine that cutting back to previous topping is considered regular maintenance. No definition as to how long ago it occurred. In Critical Areas, topping is considered an alteration and is prohibited. It will be difficult to define maintenance. If we can't define it, then we will have to define what *acceptable practices* are. Routine maintenance is defined in 18.45.040 as "tree trimming and ground cover management" with no specific descriptions.

You're dealing with a matter of opinion. You can define whose opinion is going to be acceptable. There is some of this in the code now. Anna would push for a Certified Risk Assessor, who is not necessarily a certified arborist. The national standard is used now, with qualitative designations rather than a numerical system. Would it be important in the code to have it be a 'third party'. Or we could come up with an approved list? Seattle has a list of qualified arborists online.

Returning to the minimum diameter for trees, is it appropriate to even be planting in a 2' planting strip? We could have a minimum, but with wording about having some discretion when you don't have enough room. Dave said that on sidewalk repairs with narrow strip, we cut the sidewalk. Anna: Do you see any problem with increasing that caliper size? Dave: We've been using 3' x 3' rootball and at least 2" diameter, and barerooting in all of our planting. This additional size helps protect against vandalism. Anna: And 2" diameter trees are tall enough to prune for clearance. Kernan: In Critical Areas the standards for replanting are a minimum of 1" diameter for deciduous and at least 6' height for evergreen. Dave: I would like to see these be at least the same (2" diameter) for better survival rate, and closer to 8' conifer height.

Do you have a requirement for a maintenance guarantee that they establish? Yes, for a street tree, a developer is required to include one. There is bonding requirement for a developer. On hazard tree removal, there is no bond requirement. There is no established criteria in Critical Areas. You do require a planting plan to be approved. Critical areas differ greatly, and need to be less specific than with street trees. Steve: I've heard that if you have the option to plant smaller trees, that they have a higher survival rate and establish faster. Anna: It's situational. Dave: Sometimes we need them to be large enough to hold off undergrowth. Anna: The Critical Areas ordinance talks about using best available science for proposed mitigation.

Preservation

There is no presale, pre-development clearing without a permit by the City. 18.40.050 mentions that root zones are protected during all construction activity. Another issue we have with tree preservation is 'trees shall be retained to the maximum extent feasible' in the comprehensive plan. Who determines this? It goes back to your development code. The city of Anacortes does it by canopy basis. An arborist goes in first and they decide where to keep trees to meet a canopy requirement as well as the developer's needs, doing any hazardous tree removal, etc., rather than just using caliper size or number of trees. Lake Forest Park uses this also. Developers seem to appreciate this approach. You want to save these trees to the maximum percent, as part of the whole development plan. Have also seen retaining a certain percentage of a certain diameter. Susan: This could be a part of phase 2. It will take more conversation and public involvement. We might need to start making some canopy goal recommendations. Anna: I'm working on this now and will be discussing it in December.

Permitting Requirements

Do all the requirements need to be listed in code? It might be more efficient for staff to have an approved application form with handouts of additional information. We now have a higher fee for single family development than for multi-family. Should it be reversed, or just be even? Does a private home owner

need a permit? Single family needs a permit on a slope of 15-45% or in a critical area or if sub-dividable. 18.45.50 lists 6 protection areas, which are outdated or too specific. These could be in a permit-protection measure. Things like these (ie: rope barrier) change over time. Kernan: I would like some sort of guidance. Anna: We can have it in another document or a standard of management practices. The intent is there already, you don't need the specifics. Joan: In terms of the staff, I would like them to have something to refer to so they don't have to be going to something else. If referring to something else, can you enforce it? Susan: The 'Tree Manual' would carry it, and can be updated without public process (it is adopted by 'Director's Rule' in Seattle). Anna: We can easily bring in funding to create a Tree Manual.

Before a big tree code update, can a 'Tree Policy Plan' be part of this process? You could reference your 'Tree Manual' in the code in the code. It doesn't have to be a huge document. And it's enforceable? Yes, if your code says you have to go to it, you have to go to it. What's most functional for staff? We need input to manage this transition process. How do you decide what is appropriate to go in code vs a Tree Manual? Specific, changeable practices go in the Manual. Code is more for direction for staff, a Tree Manual a supplement for code. It will possibly be as difficult to come up with. We can also make it more user friendly. Seattle's is simple to read and update, and lawyers OK'd it. Does the City have a deviation process if you have a small variance from something? We have a variance process, but it's far from small.

Do we want to move forward with other components of the code now or at another time? We need to clarify what we're trying to accomplish tonight. Is it what to develop further in the plan for the presentation to Council? This is going to be a huge task. What resources and support will we need? What are our recommendations to Council that are more immediate? We want to get a sense of direction. What are the critical points in the code we need to be focusing on so we can move forward with some more refined recommendations for Council? Anna: I don't see us making specific recommendations at this time. But can we ask permission for them to give edits? If we give written remarks/recommendations such as 'definition changes', and we create 3-4 major things we see that we want to change with what we need to get the job done, we can put that into the presentation to Council.

We need to outline specific areas and what resources we will need to get to that point. Do you think we have identified, so far, the areas that are important to staff right now? Kernan: Definitions are huge for us. Enforcement and penalties are also big issues. Definitions will help with enforcement. Penalties now provide flexibility without guidance. Anna: Does anyone want to talk about enforcement or penalties right now, or should we read this and come prepared for next month. What do you think a minimum penalty should be and why? Kernan: There is a fine for a 0-3" diameter tree, and that doesn't even meet our definition of a tree. Right now, if someone clears a bunch of 1" alder sprouts, at \$9000 each the fine could add up quickly. That's one of our biggest headaches. Develop interim ordinance while we work on larger code, definitions, some clarity on penalties. Susan: Let's do that for next month.

A lot of the tree issues come back to Views. How do we address this in a code? A lot of it happens in critical areas. We have to address it in larger code rewrite. It is broader than this Board, we have to involve Council. We need a 'tree policy' of what we want with trees, go through Council, then develop code. Look at Shoreline and Palo Alto. We need to talk about canopy goals as part of policy development. In code? In a comprehensive Urban Forestry Management Plan. We'll talk about canopy goals next time, and how to set and reach them. At the January meeting we'll continue with more code discussion. Later, community outreach.

Public Remarks

Ken Reidy addressed the Board:

In creating a Tree Manual, with the process for making updates, what kind of approval is needed?

Susan: Seattle does it by 'Director's Rule' and just has written public notice for changes made—if the Manual is referred to in the code, you always have your Council approval.

Ken: Protection depends on proper disclosure to the City during the development process. Now, the burden is on the innocent harmed citizen to enforce the code. I would like much better disclosure during the application process, including requirement of disclosure of neighboring trees and their root zones.

20.75.040 'C' has a mistake—"survey map is required by..." refers to the wrong number. 20.75.060, which it should refer to, has an error—"required information on preliminary plats include location of tree covered...". There is no actual job title 'Planning Director'. And why would that be discretionary? It should just be required. When items are not disclosed, most applications say 'hold harmless'—so it is not enforced. Because of the fear of the Land Use Petition Act (LUPA) laws, if it's 21 days after the initial date, it is uncontested and they're not liable.

Who regulates arborists? Who can file a complaint against one? Does the State regulate City standards and laws? The City may not know that the State isn't regulating these experts related to City laws. 'Reasonable economic use of property' can conflict with protection of trees. There is no zoning that is 'Critical Area' with no building allowed—this might make sense someday. Reasonable use is a 'takings' issue, might have to use 'eminent domain and compensate' if you want to prohibit development in critical areas. Regarding code enforcement—don't underestimate the harm /burden to neighbors. They are put in the position of filing for enforcement and feeling the discomfort of living next door to the accused.

New Business:

There is \$17,000 in the Memorial Tree Fund which may be accessible, possibly for a Canopy Assessment with matching funds.

Steve knows someone working on a neighborhood project and in need of plants for creek restoration. Do we have Board access to funding or resources? Dave mentioned a local nursery he works with that may donate, Anna mentioned the Snohomish County Native Plant Program.

1) Next month we'll be going over the Tree City USA Application and the Tree City Growth Awards. There are things going on in the city that are tree related such as the Garden Club Memorial tree planting with the Boy Scouts. This could tie in with a growth award. Anna is tying in with Rich Lindsay about tracking tree expenditures. Keep feelers out for projects.

2) There is an opportunity for a table at Edmonds Alive in January or February.

3) There's an opportunity for a project for Tree City USA grants—anything tree related. Due December 10.

Who of the members whose terms are expiring will be rejoining the Board next year? Please let Jana know so she can advertise. Only Susan and Rebecca will continue without renewal.

The meeting was adjourned at 8:14 p.m.

Respectfully submitted by:
Sandy Seligmiller