

**MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF TRUSTEES OF
LUDLOW MAINTENANCE COMMISSION, INC.**

Wednesday, September 6, 2006– 3:30 p.m. – Bay View Room

Trustees Present: Vaughn Bradshaw, Terry O'Brien, Ian Feltham, Jerry Nelson, Bruce Pyles, Sonny Sanzaro. and John Van Zonneveld.

President O'Brien called the meeting to order at 3:30 p.m. and did the roll call in Secretary Moyer's absence. All trustees noted above were in attendance with Trustees Art Moyer and Amy Recht being absent and Trustee Pyles being a few minutes late.

Paul Taylor (Camano Lane lot # 2-2-035) Appeal Hearing for a Composite Shed:

The Board considered Mr. Taylor's appeal of the ACC decision to deny his request to install a composite shed on his Camano Lane lot # 2-2-035. Following brief introduction made by President O'Brien, explaining the format of the appeal hearing, ACC Chair Veronica Ryan was called to the stand to present her case of ACC involvement in this matter.

The ACC acts according to the LMC regulations that dictate that all structures be as compatible as possible with each other and with their natural surroundings. The ACC does not object to the Taylors putting a shed on their property. The only thing the ACC is questioning is the Taylors' choice of material for their shed, specifically composition plastic. The regulations allow the ACC to consider newly developed materials, however, the ACC does not find composition plastic acceptable at this time. Ms. Ryan gave a history of the request. Mr. Taylor has applied for the same shed twice and twice his application was rejected based on the choice of materials. The committee recommended that the Taylors build a wooden shed. They chose not to execute this option. There was a case when the Board had approved a similar Costco composition shed earlier this year on an appeal of the ACC decision to deny that request. The shed approved was to be installed in the area not seen from the street and the adjacent property owners consented to its installation. At that time the Board had commended the ACC for following the CC&Rs and made a case by case decision on that plastic shed. The Board did not give the ACC an approval for that particular material to be approved. The neighbors have not been notified in the Taylors' case because the application was denied based on the choice of materials. Per Board's request, Ms. Ryan read material specifications submitted with the application. This shed if allowed will be visible from Camano Lane. If the ACC had not denied it based on the choice of materials the neighbors would have been notified.

Following Ms. Ryan's presentation, Mr. Taylor was given an opportunity to present his appeal. Mr. Taylor has chosen this particular type of a shed because it was advertised not to rust, deteriorate, or fade. He brought in a picture of the shed and a plot plan. He talked with his neighbor across the street and got a written approval for his shed. His next door neighbor (100 Camano Lane) also wrote him a letter of approval. The property behind the Taylors is undeveloped at this time, which will make the shed not visible from Rainier Lane. The neighbors have vegetation and a four-foot burn by the proposed shed location, which will screen the shed from their view. Mr. Taylor is planning to plant an evergreen hedge to screen the shed from Camano Lane. He is also planning to put a shed on a cement or stone pad. Mr. Taylor had

not considered any other sheds since he believes this shed would go better with the architecture of his house and be easy to maintain.

At 4:00 p.m. the Board retired to the Gallery Room for deliberations.

They reconvened in an open session at 5:00 p.m.

Trustee Pyles made a motion that the LMC Board upholds the decision of the ACC at this time based on the LMC governing documents and regulations. Trustee Feltham seconded this motion. This motion carried by a vote of 5:0. Trustees Bradshaw and Sanzaro have abstained as they serve on the ACC. President O'Brien stated that the Board would be sending to the CRC a directive to write guidelines for building sheds. At this point in time the LMC governing documents are not sufficient to grant Mr. Taylor's request. Granting this appeal will be inconsistent with the Board's interpretation of the documents. It is incumbent upon the Board to review the governing documents and send them back to the respective committees for clarification and definitions that may or may not allow sheds.

The meeting went into a brief recess at 5:10 p.m.

The meeting reconvened at 5:15 p.m.

Kevin and Shelly Eckstrom (11 Harms Lane lot # 2-3-201) Appeal Hearing for Tree Removal: The Board considered Mr. & Mrs. Eckstrom's appeal of the Operations Committee decision in their request to remove a number of trees from the Kehele Park. Trustees Van Zonneveld, Nelson, and Pyles have recused themselves from this appeal. Following brief introduction made by President O'Brien, Operations Committee Chair Carol Shamhart was called to the stand to present her case of Operations Committee involvement in this matter.

While preparing for this appeal, Ms. Shamhart searched the LMC governing documents, specifically looking for language on views. The one thing that stands out very clearly, is that there is no definition of what constitutes a view, and the fact that no property is guaranteed a specific view. Views can range from peak-a-boo to panoramic, and because views are subjective, committees are left with trying to determine what is reasonable. This is what the Operations Committee has attempted to do.

Mr. & Mrs. Eckstrom purchased Lot 201 (11 Harms Lane) in Port Ludlow 2, Area 3 on 7/15/04, from Barbara Currier, a resident well known for her love of trees. Prior to putting her home on the market, Ms. Currier cut approximately 20 alders and other lower-growing plants in the greenbelt without authorization from the Greenbelt Committee. In April 2004, she submitted requests to both the Architectural Control and Greenbelt Committees, asking for "some limbing for water view." The Architectural Committee approved her request on April 28, 2004, but before the Greenbelt Committee could consider the request, Ms. Currier cut several additional alders in the greenbelt, and then planted four red cedar trees and two vine maples in the area. In July 2004, the Greenbelt Committee closed the matter because the property was sold to the Eckstroms.

From July 2005, until this matter was transferred to the Operations Committee from the Greenbelt Committee in mid-May 2006, Mr. & Mrs. Eckstrom filed two separate requests with the Architectural Control Committee and the Greenbelt Committee to remove 22 conifers from

their lot and the Kehele Park property. The first request in July 2005 stated removal was based on a report from Scott's Tree Service that the trees were diseased.

Additional tree examination by two professional foresters, including Richard Atkins and LMC own Grant Sharpe, failed to support the Scott's Tree Service report and the request was denied by both the Architectural Control Committee and Greenbelt Committee. The trees were deemed to be in no worse condition than what would normally be found in Port Ludlow.

The Drainage District was consulted in August 2005. Drainage District Commissioner Dick Regan expressed his opinion that "removal of all the trees and small brush from this lot (#201) will increase the runoff both in volume and peak discharge from the lot." He further recommended the applicants "develop or have developed by a licensed engineer a plan that will prevent drainage and soil stabilization problems from occurring."

On October 18, 2005, the Architectural Control Committee sent the Eckstroms a letter denying their request based on the trees being diseased. The committee told the Eckstroms, "if it is your desire to resubmit your application showing other (than disease) reasons, we will be happy to consider your application" and "if the trees were to be approved for removal, we would like to see a landscaping plan for the affected area and a staged tree removal."

The Greenbelt Committee followed the Architectural Control Committee on November 15, 2005, with a denial letter based on the opinion of two professional foresters, the fact the trees were in no worse condition than what would normally be found in Port Ludlow, and the professional forester's opinion that the condition of the trees did not merit removal.

In January 2006, the Eckstroms submitted identical second requests to the Architectural Control Committee and Greenbelt Committee, asking for permission to remove 22 conifers, approximately 20 wild cherry and other deciduous trees from their property and/or what was then considered greenbelt property. Windowing of the remaining trees was also requested. This request was based on landscaping and view. No mention of disease was made.

In an approval letter dated March 30, 2006, the Eckstroms were notified that the Architectural Control Committee had approved removal of all the requested trees within the Eckstrom's property boundaries. The Architectural Control Committee recommended Greenbelt Committee approval be obtained before removing or limbing any trees that were not clearly on their property. No mention was made of the Drainage District's recommendation in August 2005 or a replanting plan.

In their 21-day letter to 30 area residents on April 17, 2006, the Greenbelt Committee stated, "The Greenbelt Committee tentatively approved 5 conifer trees be removed and 11 specified conifers be pruned from the bottom, not to exceed 24 feet." (The five conifers were trees #2, 6, 11, 15 and 16). Final approval was contingent upon the Eckstroms' replanting with acceptable lower-growing vegetation to fill the area. Again, there was no mention of the August 2005 Drainage District recommendation.

It should be noted that during July 2005 and until July 2006, the Architectural Control Committee, Greenbelt Committee and Operations Committee had made numerous requests to the Eckstroms, asking them to mark their property boundaries. As of this date, the property has not been surveyed.

In early May 2006, the Eckstrom file was transferred from the Greenbelt Committee to the Operations Committee. The transfer was based on a unanimous decision by the Board of Trustees in February 2003 that all responsibility for Kehele Park be assigned to the Operations Committee. The Operations Committee's first official discussion on this case was on May 16, 2006.

It was obvious to the Operations Committee that not only did this matter affect the Eckstroms and their Harms Lane neighbors, the entire LMC membership would be involved to some degree as co-owners of Kehele Park. Because of the sensitivity and visibility of the park property, the Committee felt strongly that all Committee members should be involved in the process to try to minimize disruption of the community.

An Operations Committee subcommittee was formed to oversee the matter, and within the next month all Operations Committee members toured the Eckstroms' property and studied its relationship with the Kehele Park property. Using the tree map and tree sizes described in the June 13, 2005 report from Scott's Tree Service, Beach Club General Manager, Brian Belmont, identified and marked the trees that had been designated as being on "greenbelt property," a total of 12 conifers, with one tree, specifically tree #4, being on "the fence" because the Eckstroms had not identified and marked their property boundaries. It was too close to call either way.

While the Operations Committee appreciated the Eckstroms and their Harms Lane neighbors' desire to improve their view, the committee felt it would not be in the best interest of the LMC members to simply approve such a massive cutting of large evergreens at one time. In addition, the committee took into consideration how the park property would be affected by removal of these trees, the recommendations of the Drainage District in 2005, and the esthetics of the park property in general.

The Eckstroms filed their first Notice of Appeal dated July 7, 2006, the day after the Operations Committee voted on their request. This appeal was rejected by the LMC Trustees because the Eckstroms had not yet received the Operations Committee's decision letter. The decision letter was sent on July 13, 2006, and on July 28, the Eckstroms filed a second Notice of Appeal. In both appeals, the Eckstroms declared the Operations Committee's decision had caused them undue hardship by:

- 1. Preventing them from accessing a view that is protected by the Covenants.** Response - When the Eckstroms purchased their home in July 2004, their view was limited to a very narrow corridor that was created by the former owner prior to placing her home on the market. Attempting to create a view is not protected by the Covenants, nor are there any guarantees in the Governing Documents that the view you have initially will not change. In addition, prior to requesting any tree removal on the Kehele Park property, it would have been appropriate and saved everyone a lot of time if the Eckstroms had established boundaries for their property.
- 2. The removal of only four trees and all deciduous trees may only negligibly improve their view.** Response – The trees approved by the Operations Committee, in conjunction with the trees previously approved by the Architectural Control Committee would, in fact, make a significant difference in the Eckstrom's view. The Operations Committee explained to the Eckstroms in their decision letter that this first cutting would be Step One and that following completion of Step One, the Operations

Committee would reassess the Eckstroms request to determine if further cutting on the park property was warranted.

3. **Removal of the four trees would only slightly improve ventilation around their home.** Response: With the number of trees currently approved by the Architectural Control Committee for the Eckstrom's property, and the trees approved by the Operations Committee, there will be significant improvement in air circulation and sunlight to Lot 201 and, specifically, the north side of the house which appears to be the only area with a sunlight and ventilation problem.
4. **A two-step process would cost the Eckstroms extra money.** Response: John Van Zonneveld, Trustee member of the Operations Committee, contacted three tree-cutting services to clarify this point. John Van reported that Yeoman Tree Cutting Service in Nordland, Dave Keeler service on Marrowstone Island and Landmark Excavating in Port Townsend all confirmed there would be no added cost to the job for multiple trips over an extended period of time.
5. **Removal of only dead branches on the requested park trees does not significantly improve the homeowner's view. By not allowing windowing of the park trees, the homeowners are denied access to view.** Response: The two-step process would enable the Eckstroms to remove the trees previously approved by the Architectural Control Committee on their property and four conifers on the Park property. With removal of these trees, along with the large amount of deciduous trees on the park property, it all adds up to a huge amount of trees to be removed at one time. The Eckstrom's view would be greatly improved. Windowing of park trees would be considered as part of Step Two.
6. **Comparison with other homeowners fronting the park is given.** Response: To my knowledge, the other homes fronting Kehele Park have never had to deal with removal of a large amount of evergreen trees for their view. The Operations Committee is not trying to punish the Eckstroms, but there is concern about the appearance of the Park property in relation to the Eckstrom property. Step-One will give immediate relief and will offer time to deal with the Drainage District's recommendations and a replacement planting plan.
7. **The process for seeking tree removal has been going on for a year (7/12/05). This has incurred undue hardship on the owners as well as a lack of goodwill toward the community's political process and agenda.** Response: One of the main delays in this matter has been the Eckstroms' failure to properly identify their property boundary with Kehele Park. It was only until July 2006 that Mr. Eckstrom attempted to mark the northwest and northeast corners of their property. The property still shows no details of an official survey despite requests from the Greenbelt and Operations Committees.

The Operations Committee received the Eckstrom file in mid May of this year and immediately proceeded to review the Eckstrom request. Their decision letter was sent to the Eckstroms July 13, 2006, two months after receiving the file. Taking into consideration the time of year and the busy summer schedules many of the committee members have, Ms. Shamhart felt the Operations Committee did an excellent job in expediting this case.

The lack of a feeling of good will toward the community's political process and agenda is puzzling. When Brian Belmont and Ms. Shamhart spoke with Mr. Eckstrom at his home on July 5, 2006, there was no mention of a lack of good will or anything related. From the standpoint of good will among neighbors, Ms. Shamhart personally believes the Harms Lane neighbors would have been better served by filing their own requests for view preservation.

In closing, the Operations Committee's goal in this matter was to not only assist the Eckstroms with their request, but to also fulfill the committee's obligation to preserve one of the LMC's most valuable and visible assets for its members.... Kehele Park. To allow a large number of trees to be removed between the Eckstrom's property and Kehele Park in one cutting would not only leave a large gaping hole on the park property, it would be a disservice to all LMC members. Once trees are cut down, there is no putting them back.

While reviewing the Eckstrom's file, Ms. Shamhart noted in their March 30, 2006 approval letter, the Architectural Control made no mention of a definitive plan for soil stabilization and/or a replanting plan following removal of the trees on the Eckstrom's lot. Although the Architectural Control Committee had previously mentioned a landscaping plan and a staged tree removal in their October 18, 2005 correspondence to the Eckstroms, it was omitted in the March 30th approval letter. The Eckstroms were told, "The ACC came to the unanimous conclusion that we have no objection to your removal or limbing of the trees that are clearly growing within your property boundaries". Ms. Shamhart questioned the committee's decision not to include the Drainage District's previous recommendations and a request for a replanting plan, especially since Drainage District Commissioner, Dick Regan, had clearly voiced his opinion that there would be an increase in runoff, both in volume and peak discharge from the lot. Certainly, proper drainage and soil conservation are key factors in any tree removal in North Bay and should not be disregarded.

After careful consideration, the Operations Committee unanimously approved the aforementioned two-step process that would allow the Eckstroms immediate improvement of their view, sunlight and ventilation. With removal of the previously approved Architectural Control Committee trees, as well as all the park deciduous trees, and the additional four park trees approved by the Operations Committee (trees #4, 14, 15 and 16), the Committee unanimously agreed the Eckstroms would receive significant relief.

It should be noted that after Mr. Eckstrom marked the north side of his property (Pioneer Side) in July 2006, tree #4, the large 21" Cedar in close proximity to the Eckstrom's deck, is clearly on the Eckstrom property, not the park property.

Also included as part of the Operations Committee's Step-one was the replanting of the Eckstrom's lot following removal of approved trees. The replanting would be an integral part of the Operations Committee's reassessment of the Eckstrom's request, to provide further view relief, if warranted. Although the Eckstroms had provided example photos of their landscaping at another residence with their second request, the Operations Committee wanted to be certain that before any further cutting was done, the drainage issue was addressed and the replanting had taken place.

The Operations Committee believes the two-step process is one that will work. Ms. Shamhart asked the Trustees to uphold the committee's decision in this matter.

The Operations Committee has not specified a replanting plan for the property at this time. Replanting plan was to be discussed if and when the second step was to be considered. Ms. Shamhart could not definitively conclude that Step-one by itself would not cause a drainage problem in the area.

Following Ms. Shamhart's presentation, Ms. Ryan was given an opportunity to present the Eckstrom's appeal. Ms. Ryan is Eckstrom's neighbor. They have asked her to represent them in this appeal. Mrs. Eckstrom was in the audience.

Ms. Ryan found it interesting that the Eckstroms received a letter from the Board of Trustees asking them to be able to defend Regulation I. She read paragraph 9 of the above named regulation, which talks about trees, views and sunlight and landscaping of private lots. Ms. Ryan argued that this regulation did not apply to this case.

Ms. Ryan read from Operations Committee Guidelines set up for evaluation and enforcement of the regulation noted. The document clearly states that it does not address the loss of view due to the greenbelt or common area property owned by the LMC. Ms. Ryan questioned the Board's request to the Eckstroms to defend their position by using these documents.

Ms. Ryan argued that Harms Lane homes above the Kehele Park at one time had views from mount Baker to mount Rainier and had been sold as view lots. She stated that the owners on Harms Lane understand that there is a scattering of trees that had grown over the years and are perfectly content with the idea of having some trees in their water view for which they pay higher taxes. Ms. Ryan stated that Harms Lane property owners had been penalized because of one neighbor in the past, Barbara Currier, who lived at 11 Harms Lane and did not want any trees to be removed until the time she had removed some trees to sell the house. The Eckstroms were sold a view property.

Looking at the LMC guidelines for enforcement, Ms. Ryan argued that the Operations Committee should be looking at view properties on a case by case basis. Ms. Ryan went over the general principles for considering trees and views requests one by one. She argued that the Eckstroms had lost 95% of their property's original view by showing pictures taken off the Eckstrom's deck. She argued that this caused the other neighbors to lose their water views as well. President O'Brien reminded Ms. Ryan that this was the Eckstrom's appeal and their application and that view loss from the neighboring properties was irrelevant to the case. Ms. Ryan argued that that information was relevant to the case since the neighbors had submitted written comments supporting this tree removal.

Ms. Ryan argued that since there were no trees approved for removal on the north side of the property, air circulation would not improve. She argued that Eckstroms have an air circulation problem on their property.

Ms. Ryan brought in a bank statement showing that the value of the property will increase by forty thousand dollars if the trees were removed. The Eckstroms had applied for a home equity loan to pay for the tree removal.

Ms. Ryan argued that the Eckstroms had no intentions to take down all of the trees or all of the underbrush. According to Ms. Ryan, the Eckstroms believe that the trees are a positive thing and

that they enhance their view. In their tree removal application for the Kehele Park they requested removal of ten trees and retention of eleven. Ms. Ryan argued that PLDD comments were based on a false assumption that everything would be removed. On the contrary, the Eckstroms had asked for a GBC approved list of vegetation to replant, which shows their commitment to replanting.

Ms. Ryan argued that none of the other neighbors needed an opportunity to remove a large amount of trees from the park to enhance views because they were given the rights to develop their properties right up to the park. The fact that Ms. Currier had chosen not to do that, in Ms. Ryan's opinion, should not mean that it was not allowed at the time her house was built.

Ms. Ryan showed an aerial photo of the property, which presently looks like a forest. The Eckstroms would prefer it to be landscaped with trees and shrubs approved and more compliant with the rest of the immediate neighborhood.

Ms. Ryan stated that the ACC only approved trees they felt were damaged and unsafe.

Ms. Ryan argued that the trees by the Eckstrom's property did not comply with the current regulations because they did not represent a scattering.

She stated that the process was very long and discouraging for the Eckstroms and that they have not been given any guidelines from the Operations Committee. She argued that they did everything they were supposed to do including hiring a professional to assess the health of the trees. Ms. Ryan argued that the Eckstroms felt strongly that a survey was an unnecessary expense since the request included the properties adjacent to their lot. They were not avoiding a survey. Ms. Ryan stated that the neighbors are fully in support with the Eckstrom's request to reestablish their view.

Responding to Trustee Sanzaro, Mrs. Eckstrom stated that she did not feel pressured by the neighbors and that her husband and she wanted the trees removed. They have lived here for two years. Responding to Trustee Feltham, Ms. Ryan explained that the Eckstroms have a permission from the ACC to remove 5 trees from their property (# 4, 5, 9, 11, and 1), therefore, saving seven trees in addition to their request to remove ten evergreen and all deciduous trees from the park property. The Operations Committee approved removal of only three trees. The Eckstroms would like to remove all trees requested in one step. Ms. Ryan explained that Mr. Regan was concerned with this tree removal because the drainage system by the park is already overloaded.

Ms. Ryan stated that the Eckstroms could accept a complete approved step by step plan granting their request.

Ms. Shamhart was given an opportunity to respond.

Ms. Ryan was given an opportunity to rebuttal.

Ms. Durling was allowed to make a brief comment. She testified that there was never any view from the Eckstrom's property.

At 6:30 p.m. the Board retired to the Gallery Room for deliberations.

They reconvened in an open session at 6:45 p.m.

Trustee Sanzaro made a motion that the LMC Board upholds the decision of the Operations Committee and denies the appeal. Trustee Feltham seconded this motion. This motion carried by unanimous vote of the Board.

The meeting was adjourned at 6:50 p.m.

Respectfully submitted,