



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

May 12, 2009

Rose

Mayor Rose called the meeting to order at 7:00 pm.

**PRESENT:** Mayor John Rose, Councilmembers Steve Eulau, Mike Hillberg, Richard Leider, and Aaron Sharp. Councilmember Carol Clemett arrived at 7:15pm.

**EXCUSED:** None.

**STAFF:** Clerk-Treasurer Sue Ann Spens, Water Supervisor Bob Durr, Deputy Clerk Angela Kulp.

**GUESTS:** Tom Stowe, Susan Kennedy, Paula Dix.

**MINUTES:** Councilmember Leider moved to approve the April 14, 2009 minutes as written. Councilmember Hillberg seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

**WARRANTS:** Councilmember Leider moved to approve the May 12, 2009 warrants, numbers 8031 through 8056 in the amount of \$45,475.52. Councilmember Sharp seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

#### **CLERK'S REPORT:**

**FILING FOR MAYOR/COUNCIL ELECTIONS:** Clerk-Treasurer Spens distributed materials to Councilmembers Leider, Hillberg, Sharp, and Clemett regarding filing for re-election and pointed out that the filing period runs from 8:30am on June 1 through 4:30pm on June 5. She added that information about filing will be including in the upcoming Town newsletter so that any resident who may to run for Council can do so. She then explained that if no one files for a given position, the County elections department will hold a special filing period for those positions only and added that if the position still has no candidates after the special filing period, the incumbent serves until the Council can find and appoint a successor.

**SHORELINE MANAGEMENT PROGRAM UPDATES:** Clerk-Treasurer Spens reported that a letter arrived yesterday stating that the Town is eligible for a \$40,000 grant from the State to update our Shoreline Management Program. To apply for this funding, the Town must prepare a Scope of Work that includes measureable goals, deliverables, and estimated completion dates. She asked the Council to authorize Town Planner Green to prepare this Scope of Work to ensure that it is meaningful and realistic. After some discussion, it was the consensus of the Council that Mayor Rose will discuss the project with Ms. Green to determine if she can develop a Scope of Work for less than \$2,000 and whether there is a risk of not receiving the grant.

**CITY OF BELLEVUE'S PLANNED IMPROVEMENTS TO 108<sup>TH</sup> AVE NE:** Clerk-

Treasurer Spens reported that the Town still has not received any official communication from the City of Bellevue about this project but she has heard that Bellevue is weighing the option of asking Beaux Arts to de-annex a 15-foot wide strip of 108<sup>th</sup> Ave SE and its ROW on the Beaux Arts side to Bellevue so that the project can be uniform and continuous along the entire length of 108<sup>th</sup> from Bellevue Way to the southern end of 108<sup>th</sup>. The pavement on the BAV side of the centerline is eleven feet wide.

Mayor Rose stated that the Council cannot make a decision on how to proceed without knowing Bellevue's plans for the area; however, he added that he thinks the Town will have to decide among the following four options:

1. Decide we like the project and offer to pay our share. This could be a very expensive option.
2. Decide we do not like the project and that we do not wish to participate in any way.
3. De-annex the street and ROW to Bellevue so that the project can proceed according to Bellevue's plans and at their expense.
4. Allow Bellevue to proceed with the project at their expense while we retain ownership of the property.

Councilmember Sharp commented that, based on comments at last night's Bellevue Council meeting, we should receive a letter in the next week or two outlining Bellevue's preference regarding the four options above.

Susan Kennedy, who lives along 108<sup>th</sup>, asked if the Council knows why this is coming up now when the project is not slated to begin until 2011 or 2012. Councilmember Sharp commented he is not certain the project will move forward after hearing comments from some Bellevue councilmembers last night.

Mayor Rose concluded the discussion by asking the Council to give some thought to these options, recognizing that any decision should include plenty of input from the public.

**MARSHAL'S REPORT:** No report.

**WATER REPORT:** Water Supervisor Bob Durr reported that Superintendent Bill Beck has signed up for training that will fulfill the requirements for renewal of his operator's license, noting that one of this classes is in Yakima and will require an overnight stay. He asked the Council if Mr. Beck can submit receipts for reimbursement of his lodging and meals. It was the consensus of the Council that such reimbursements customary and that, as long as the charges are reasonable, they will be reimbursed in full upon presentation of receipts.

**WABA REPORT:** No report.

Mayor Rose noted that after last meeting's discussion of whether WABA intended to continue its former practice of sending a regular representative to Town Council meetings, WABA President Dan Bridges had suggested that WABA and the Council take turns sending representatives of the others' meetings and asked the Council to consider the request.

**EMERGENCY PREPAREDNESS:** Councilmember Eulau reported that he has been

working to adapt a Comprehensive Emergency Management Plan (CEMP) template that he received from Dave Hall, an Emergency Management coordinator for the State of Washington. He added that he has a few more items to complete for the draft CEMP and has asked Clerk-Treasurer Spens for help in developing an ordinance to provide for continuity of government in the event of an emergency. He pointed out that the Town will need an Emergency Management Committee to help plan for the Town's response to emergencies and to review and update the Town's CEMP periodically. He also reported that the Town may have an opportunity to participate with the City of Bellevue in a coordinated emergency-response drill.

**STORMWATER SYSTEM UPDATE:** Councilmember Sharp reported that work on the survey of the Town's existing stormwater system began almost immediately after the contract was let to Axis Survey & Mapping. He also reported that he is working to obtain bids to repair the outfall at the end of 102<sup>nd</sup> St. SE.

**CONFIRMATION OF BRIAN KEMP'S APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Mayor Rose reported that Brian Kemp has agreed to serve on the Board of Adjustment replacing Robin Stefan, who recently resigned, and asked the Council to confirm this appointment. Mr. Kemp will complete the remainder of Ms. Stefan's term, which expires December 31, 2010.

**MOTION:** Councilmember Leider moved to confirm the appointment of Brian Kemp to the Board of Adjustment for a term that expires on 12/31/2010. Councilmember Clemett seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

**PROPOSED ORDINANCE ESTABLISHING THE CONTINUITY OF GOVERNMENT:** Clerk-Treasurer Spens commented that she would like more time to complete research on this ordinance, including obtaining copies of two ordinances from the Town of Woodway that will help us accomplish this task. It was the consensus of the Council to continue this item until next month.

**PROPOSED RIGHT-OF-WAY-USE ORDINANCE:** Mayor Rose asked for Council feedback on the proposed ordinance in its current form.

Councilmember Hillberg stated that he feels it is too ambiguous and vague in some areas, particularly regarding trees on the ROW. He also noted that the ordinance does not specify penalties. Other Councilmembers agreed with this assessment.

Councilmember Leider suggested that the ordinance be sent back to the Planning Commission with Council comments and questions so that the Planning Commission can complete the needed work. Councilmember Sharp cautioned that before sending it back, the Council should be sure of the philosophy that they want the ordinance to convey.

Councilmember Leider added that the original philosophy behind the ordinance was to specify what you CAN do on the ROW and that anything not specifically allowed is prohibited.

Mayor Rose noted that since the Planning Commission has already completed a lot of work on

this ordinance and has other issues they are working on now. He suggested that it might be more efficient to have one or two councilmembers attend the next Planning Commission meeting to outline the questions and concerns and bring the answers and feedback to the Council so that the Council can complete the ordinance.

Councilmember Clemett asked if the Council wishes to impose a moratorium on improvements to the ROW until the ordinance is complete and enacted. It was the consensus of the Council that no moratorium was needed at this time.

After some discussion of just what questions to pose to the Planning Commission, Councilmembers Clemett and Hillberg offered to attend the next Planning Commission meeting to pose the Council's questions and return to the Council with answers so the Council can complete work on this ordinance. It was the consensus of the Council that this is an appropriate approach.

**RESIDENT CONCERNS ABOUT RESTRICTIONS IN CURRENT ZONING CODE:**

Paula Dix appeared before the Council to outline her concerns about the current zoning code and its application to her property. She explained that during the process of designing a modest addition to her home, she discovered that a small portion of the house seemed to be non-conforming for setbacks. This non-conformity meant that she needed to apply for a variance to be able to remodel the home, even though the remodel would not increase her non-conformity in any way. It also meant that she could not expand the floor area of her home by more than 20%, which for her already small home means an increase of no more than 449 sq. ft. Ms. Dix stated that the variance process cannot relieve this second restriction. She added that she feels the 20% restriction on the smaller homes in the Village will encourage people to remove and replace them rather than trying to remodel them.

Ms. Dix commented that she had a survey done on her property and has now discovered that her home does not encroach upon the setback, but she still feels the issue is important enough to ask the Council to consider changing the Zoning Code.

Deputy Clerk Angela Kulp explained that the current rules in the Zoning Code were written so that non-conforming structures would be replaced with conforming structures over time. She added that the Planning Commission is aware of the problems with focusing on eliminating non-conformity: principally, the loss of Village character as older structures are replaced because their non-conformities place unrealistic limits on the owners' remodeling options. She noted that they are currently reviewing both the \$250,000 threshold for defining a project as reconstruction (vs. a remodel) and the 20% limit on additions to non-conforming structures and whether they are too restrictive for small homes.

After some discussion, Councilmember Leider suggested that, since the Planning Commission is already considering this topic, Councilmembers Hillberg and Clemett could present the Council's concerns when they attend the next Planning Commission meeting. The Planning Commission can continue their work on this issue and forward proposed amendments to the Zoning Code ordinance for future Council action. It was the consensus of the Council that this suggestion is appropriate.

**POTENTIAL HOUSING ALTERNATIVES:** Councilmember Leider reported that the committee has been formed and an outlined distributed, but they have not yet had their first meeting. He asked that this item be made an agenda-update item (just as Emergency Management and the Stormwater System items are) for future agendas.

**PROPOSED PARKING ORDINANCE:** Clerk-Treasurer Spens reported that she has determined that the Town's Parking Ordinance No. 274 was never repealed. She added that it appears the rules were merely reiterated in the latest Zoning Code, possibly to reinforce them. However, she noted that this could lead to a situation where the rules in the Zoning Code are out of sync with the current Parking Rules, so it is probably better to proceed with removing them from that ordinance.

She then asked the Council to consider adding a prohibition against parking on unused Path ROWs, which would solve the problem of cars parking in such areas and blocking pedestrian access to paths. After some discussion, it was the consensus of the Council to add such a prohibition and review the amended ordinance at the next meeting.

**MAYOR AND COUNCILMEMBER REPORTS:**

**TREE WORK:** Councilmember Hillberg reported that he attended an Urban Forest symposium. He is also having some work done on ROW trees next to McCorristons.

**STREET PAVING PROJECTS:** Councilmember Sharp reported that he is planning to have the Town's paving projects completed this fall.

**2009 BUDGET REPORT:** Councilmember Leider reported that for the First Quarter of 2009, Town revenues are slightly down and expenditures are on target relative to the budget.

**1Q2009 TREASURER'S REPORTS:** Councilmember Leider reported that he has completed his review of the 1Q2009 Treasurer's Reports and found them to be accurate and complete. He has signed them to indicate approval.

**RECOGNITION FOR PAULA DIX:** Councilmember Clemett asked that the Council recognize the work Paula Dix has done for the Town to organize and manage the Fall and Spring Cleanups.

**MAYOR'S RESIGNATION:** Mayor Rose then explained that he and his wife have purchased a home on Queen Anne. He added that the decision was sudden but that it makes sense for them going forward. He stated that they plan to move soon so he must tender his resignation effective under one of the following scenarios:

1. Effective tonight, in which case Councilmember Leider, as Mayor ProTem, would take over until a replacement can be found.
2. Effective in two weeks, when the Council can hold a Special Meeting to hear from potential candidates and choose a successor.
3. Effective as of the June meeting.

It was the consensus of the Council that option 2 gives the Council some time to publicize the vacancy and talk to potential candidates about the position.

**MOTION:** Councilmember Clemett moved to hold a special Council meeting 7pm on Tuesday May 26, 2009 her house to act on Mayor Rose's resignation and appoint a replacement for the remainder of his term. Councilmember Sharp seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that the next regular Council meeting will be held at 7:00pm on Tuesday June 9, 2009 at Aaron Sharp's house.

**ADJOURN:** Councilmember Eulau moved to adjourn the meeting at 10:00 pm. Councilmember Leider seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer