



TOWN OF BEAUX ARTS VILLAGE
TOWN COUNCIL MINUTES

June 9, 2009
Sharp

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

PRESENT: Mayor Richard Leider, Councilmembers Steve Eulau, Mike Hillberg, and Aaron Sharp.

EXCUSED: Councilmember Carol Clemett.

STAFF: Clerk-Treasurer Sue Ann Spens, Town Marshal Walter Scott.

GUESTS: Tom Stowe, Susan Kennedy, Peggie Bates, Dan Bridges, David Dempster, Gregory Ashley, Manfred Schindler, Martha Schindler, Donna Stowe, Annmari Simonsen, Bernard vandeKamp, Mary Spens, Ann Bowen.

CONFIRMATION OF TOM STOWE'S APPOINTMENT TO FILL VACANT

COUNCIL POSITION: Mayor Leider announced that he has appointed Tom Stowe to fill the Council vacancy created when he moved into the Mayor position. This position will be open for election this fall, and Mr. Stowe has filed to run.

MOTION: Councilmember Eulau moved to confirm Tom Stowe's appointment to the Council filling Position No. 3, which was vacated by Mayor Leider. Councilmember Sharp seconded. Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

Clerk-Treasurer Spens administered the Oath of Office, and Councilmember Stowe joined the proceedings.

MINUTES: Councilmember Eulau moved to approve the May 12, 2009 minutes as amended. Councilmember Sharp seconded.

Vote: 3 For, 0 Against, 1 Abstain (Stowe). Motion carried.

WARRANTS: Councilmember Sharp moved to approve the June 9, 2009 warrants, numbers 8057 through 8085 in the amount of \$19,366.42. Councilmember Eulau seconded.

Vote: 4 For, 0 Against, 1 Abstain (Stowe). Motion carried.

CLERK'S REPORT:

SPECIAL FILING PERIOD FOR COUNCIL ELECTIONS: Clerk-Treasurer Spens reported that no one filed for Council Position No. 4 (currently held by Carol Clemett), so that position will be included a Special Filing Period that opens Monday June 15 through Wednesday June 17. She will post notices on the mailstands with information about how to file.

WATER DEPARTMENT DRAWINGS: Clerk-Treasurer Spens reported that the Water Department needs additional copies of drawings made by D. R. Strong for the Town's 2001

Water Main Replacement project and that Bob Durr has obtained a quote of \$200 from D. R. Strong to have them retrieve the drawings and make copies, including a pdf set, to send to the Town. Councilmember Sharp asked if D. R. Strong can also provide CAD drawings. Clerk-Treasurer Spens replied that she doesn't know if those are available but she will check.

MOTION: Councilmember Sharp moved to approve the \$200 expenditure to obtain the drawings, including pdf versions. Councilmember Hillberg seconded.

Vote: 3 For, 0 Against, 1 Abstain (Stowe). Motion carried.

STREAMLINED SALES TAX (SST): Clerk-Treasurer Spens reported that the Town's First Quarter increase in sales tax revenues as a result of SST is about \$7,600.

MAYOR PRO TEMPORE: Clerk-Treasurer Spens reminded the Council that Mayor Leider had been serving as our Mayor ProTem, and with his move into the Mayor's position, the Council needs to elect a new Mayor ProTem. After some discussion, it was the consensus of the Council to wait and make a selection in July.

MARSHAL'S REPORT: Town Marshal Walter Scott reported that there have been a couple of minor burglaries in recent months: one through an open garage door and another through an open window. He explained that we often see an increase in car prowls and burglaries during the summer months, because people leave their homes more open in the good weather. He reminded residents to lock their cars (even in the garage) to thwart prowls and to lock their houses, garages, and windows to prevent entry.

Town Marshal Scott also noted that the cost of policing by the King County Sheriff's Office (KCSO) is expected to increase for 2009 by more than was originally anticipated: from \$13,000 in 2008 to \$19,000 in 2009. He asked the Council if they would like him to approach Bellevue Police for an estimated cost. Mayor Leider commented that cost was one of the reasons Beaux Arts chose to remain with KCSO and that the cost of marine services, which is part of the KCSO contract price, is about \$3,000 of the total, so any cost comparison must include marine services. It was the consensus of the Council that Marshal Scott may contact Bellevue for an updated cost of services as the Council is always willing to consider making a change for a better value.

WATER REPORT: Nothing to report.

WABA REPORT: Nothing to report.

EMERGENCY PREPAREDNESS: Councilmember Eulau reported that the Comprehensive Emergency Management Plan (CEMP) that he distributed to Councilmembers last month has refined and will be ready to send to the State for review after the passage of two ordinances that are listed on tonight's agenda: Ord 366 establishing the Continuity of Government and Ord 367 creating the Town's Emergency Services Organization. He added that after these two ordinances are enacted and added to the CEMP, Clerk-Treasurer Spens will forward the final draft to the State for review and comments.

Councilmember Eulau explained that the final version will come to the Council for adoption

once the State's edits have been incorporated and that adoption will make the Town eligible for Emergency Response grants in the future. He added that the next step after adoption is to develop checklists and other tools that will enhance the Town's response efforts in the event of an emergency.

STORMWATER SYSTEM UPDATE: Councilmember Sharp reported that Axis Survey has completed 75% of the field survey work needed to map our existing storm drain system and that the final deliverables will include CAD and hard copies of the survey map.

COTTAGE HOUSING: No report.

CITY OF BELLEVUE'S PLANNED IMPROVEMENTS TO 108TH AVE NE: Mayor Leider opened the discussion by stating that tonight's discussion has two purposes:

- to review the letter from Bellevue, including graphics, that gives more detail about the project, and
- to hear comments from residents about the project, particularly from those who would be affected directly.

He then reiterated the options outlined at last month's Council meeting and noted that Bellevue anticipates completing the design phase in 2010 and beginning construction in 2011.

Councilmember Stowe commented that if Bellevue is on track to meet those deadlines, he would have expected more details about the project to be available already. Mayor Leider asked the Council if they need more information before they can make a decision about how to proceed. The consensus among Councilmembers was yes.

Councilmember Stowe offered that he needs to know what Bellevue wants to do, preferably by seeing detailed plans, and how much ROW Bellevue needs to do it. He stated that the width of the paved road is 12 feet and wants to know how much of the unpaved ROW Bellevue plans to use. He also indicated that he currently prefers that the Town maintain control over this property and consider executing an Interlocal Agreement with Bellevue for road maintenance rather than ceding complete control to Bellevue. He commented that he thinks Clyde Hill has a similar agreement with Bellevue for maintaining 98th Ave NE.

Mayor Leider stated that the Council's focus will be on what is in the Town's best interest, which would include considering the cost to maintain 108th Ave SE. Councilmember Sharp added that in all his time on the Council, we have never budgeted money to repair or maintain 108th Ave SE. He stated that because of this, it may make sense for Beaux Arts to try to work with Bellevue in some fashion to minimize or eliminate any future significant costs to Beaux Arts for maintaining our half of this street.

Councilmember Stowe wondered why we've never included 108th Ave SE in our annual Transportation Improvement Plans. Councilmember Sharp said he doesn't know but it was probably overlooked beginning long before he took over street-maintenance responsibility.

Mayor Leider then asked for comments from the public.

Donna Stowe said that the without details from Bellevue, it is impossible to evaluate their

plans, and that she would like to know the traffic counts along 108th, since traffic calming is one of the “selling points” of the project. She added that the Town should look closely at how this project would be of benefit to Beaux Arts.

Mary Spens asked if Bellevue will accommodate residents’ driveways that exit to 108th. She added that none of these driveways are used regularly, but they are available to all residents along the northern end of 107th when inclement weather makes the hill on 107th impassable.

Susan Kennedy stated that she doesn’t want a sidewalk along 108th next to her property. She is concerned about potential loss of trees and shrubs on the ROW and on adjacent properties.

Bernard vandeKamp commented that the ROW along 108th is in bad shape and that during the rainy season it is always muddy and often difficult for pedestrians to use. He thinks a sidewalk would be an improvement in this area. He added that while he works for Bellevue Transportation, he is unfamiliar with the details for the project, but he suggested that the Council have someone from that department who is working on this project come to a Council meeting to give more information and answer questions.

Walter Scott remarked that added lighting along 108th could make it safer provided the lighting is shielded from neighbors’ homes.

Martha Schindler stated that she feels the area looks dumpier and needs cleaning and improving. Manfred Schindler added that adding a sidewalk with lights would be a big improvement.

Mayor Leider stated that he will prepare a response to Bellevue Mayor Degginger’s letter asking him who to contact for more information and letting him know that the Beaux Arts Council will not make a decision until they have enough information and time for careful deliberation. Councilmember Stowe suggested that we ask the Town Attorney for input on the process of de-annexation so that we understand it as well.

PUBLIC HEARING: PROPOSED LETTER OF EXEMPTION FOR WABA: Mayor Leider opened the public hearing at 8:03pm and asked Town Planner Mona Green to present her staff report. Planner Green began by explaining that Beaux Arts Ordinance Nos. 89 and 100 set forth the Town’s Shoreline Management Plan and require that the Council review and approve all construction activity at the beach whether the activity requires a Substantial Development Permit (SDP) or qualifies for an exemption from the need for such a permit. She explained that other jurisdictions allow for Letters of Exemption (LoE) to be granted administratively.

She then explained that WABA’s recent replacement of the fire pit and picnic structure on their property at the beach constitutes a replacement and, thus, qualifies for a Letter of Exemption. She also noted that Building Official Crystal Kolke reviewed the project and determined that it did not require a building permit but did require an Electrical Permit, which WABA had obtained from State L&I prior to starting the project.

WABA President Dan Bridges commented that he believe the concept of the exemption is being misused in this instance and remains firm in his belief that no exemption is needed for

replacement work. He added that if the Town wishes to issue the LoE anyway, WABA will accept it.

Peggie Bates asked why no permit is required and why WABA was not required to obtain prior approval before proceeding with their project. She said that it would appear they are begging forgiveness rather than asking permission. Planner Green answered that she did not know why WABA did not apply in advance and that the Town was unaware of the project before it was completed. Ann Bowen commented that it appears that at this point the Town is focusing on correcting an oversight, and Planner Green agreed.

WABA President Bridges reiterated his statement that, as a replacement, this project should not need an exemption. Planner Green responded that she consulted with former Mayor John Rose and with the Town Attorney and that both agreed with her analysis.

Mayor Leider recapped the question of whether an SDP or LoE is required. Councilmember Sharp confirmed that there is no fee to an applicant for asking what permits, if any, a project may need and that Ordinance No. 100 requires that the applicant seek a LoE, if the project does not need an SDP.

Mayor Leider asked for additional comments from the public, and as there were none, he closed the public hearing at 8:30pm. Councilmembers had no further comments for deliberation.

MOTION: Councilmember Sharp moved to furnish WABA with a Letter of Exemption for the fire pit and picnic structure replacement at the Beaux Arts Beach. Councilmember Hillberg seconded.

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

CURRENT PERMIT REQUIREMENTS FOR DOCK REPAIRS/MAINTENANCE:

Mayor Leider asked David Dempster, WABA Dockmaster, to proceed with his presentation. Mr. Dempster provided the Council with an in-depth look at the process for obtaining the various permits needed for the construction, repairs, and maintenance of the Beaux Arts boat docks. He then reviewed a list of the various small maintenance projects that the docks will need over the course of several years and asked the Council to help WABA coordinate permits and simplify the process whenever possible so that the permitting burden does not stop important maintenance from happening. Because of the length of and level of detail contained in Mr. Dempster's presentation, it is not reiterated in full in these minutes; however, a copy of the presentation may be obtained either from the Town Clerk or the WABA Clerk.

SHORELINE MANAGEMENT PLAN GRANT: Mayor Leider asked Planner Green to update the Council on this process. Planner Green explained that the Town is required to update its Shoreline Master Plan by December 31, 2012 and is eligible for a \$40,000 grant to complete this work. She added that the State emphasizes public involvement in project such as this to ensure that the plan is reflective of the community and its goals.

Planner Green then outlined the steps of the update process:

- Step 1 is to review and summarize the current ecological function of the shoreline and

the aquatic environment adjacent. She explained that the Town will have to hire a biologist to complete this work but added that other jurisdictions in the area have already done similar work, so Beaux Arts should be able to save some money on this step by hiring someone who is already familiar with the vicinity by virtue of having recently performed similar work nearby.

- Step 2 is to develop a regulatory process that protects the shoreline and aquatic environment so that there will be no loss in ecological function.
- Step 3 is to obtain public comment on the draft plan and forward it to the State for final review and approval.
- Step 4 is for the Council to adopt the updated plan once the State approves it. In addition, the updated Plan will be similar to the Town's Comprehensive Plan in that it will guide the Council in developing additional ordinances that serve to protect the Town's shoreline asset.

Mayor Leider asked if the Department of Ecology (DOE) or Washington Department of Fish and Wildlife (WDFW) have statistics demonstrating real improvements that are the result of all this regulatory oversight. Planner Green answered that DOE and WDFW have not provided hard statistics but they are trying to be proactive so that the rules and related mitigations change over time to take advantage of what works vs. what doesn't.

Planner Green then noted that the State grant will pay for her time and the other expert help needed to produce the updated plan. She added that since she will be doing this work concurrently for Beaux Arts, Hunts Point, and Yarrow Point, all three communities will realize cost savings on her time.

David Dempster commented that WABA has received a \$50,000 grant to study the shoreline to improve fish habitat and will be happy to share any findings with the Town. He added that former WABA President Joann Bromberg is the lead on that project.

Councilmember Sharp asked if the \$40,000 grant will cover all of the costs associated with this project or is there a chance of cost overruns and if the Council can see a cost projection for each step before we start the project. Mayor Leider answered that we will need to manage the project and make sure we have a handle on the costs along the way. Planner Green added that she is already in contact with firms who can assist in completing this project and she will contact them for cost estimates.

Mayor Leider asked Planner Green for the next step. Planner Green will bring a cost estimate for the project, a proposed contract, and a draft Scope of Work to the July Council meeting for review and approval.

PROPOSED RIGHT-OF-WAY-USE ORDINANCE: Councilmember Hillberg reported that, based on his review of the current version of this proposed ordinance, it appears that the purpose of the ordinance is to describe what residents are allowed to do with and without a permit on the ROW adjacent to their property. He added that it also appears that if something is not specifically allowed, then it is not allowed. Other Councilmembers agreed with this assessment.

Councilmember Hillberg then asked how specific the ordinance should be. For example, the ordinance allows the use of pervious materials but does not define what “pervious” means. He also added that residents are expected to prune shrubbery to maintain visibility and visibility but the ordinance doesn’t specify what pruning is or specifically allow it. He also expressed concern that actions requiring a Conditional Use permit must be approved by the Council.

Councilmember Sharp commented that he thinks the ordinance should focus on the big picture, i.e. maintaining visibility and access, controlling runoff by limiting impervious materials, and promoting trees on the ROW.

After additional discussion, the Council asked Councilmember Hillberg to put together a final draft of the ordinance and to schedule a public hearing in July.

PROPOSED ORDINANCE NO. 366 ESTABLISHING THE CONTINUITY OF GOVERNMENT AND ORDINANCE NO. 367 CREATING AN EMERGENCY SERVICES ORGANIZATION:

Councilmember Eulau explained that these two ordinances are the remaining pieces needed to complete the Town’s draft CEMP. Clerk-Treasurer Spens added that the ordinances were written using ordinance from the Town of Woodway as a template. Woodway was chosen because its CEMP is serving as the template for Beaux Arts’ plan.

MOTION: Councilmember Sharp moved to pass Ordinance No. 366 establishing the continuity of Town government. Councilmember Stowe seconded.

Vote: 4 For, 0 Against, 0 Abstain.

Councilmember Sharp moved to pass Ordinance No. 367 establishing the Town’s Emergency Services organization. Councilmember Hillberg seconded.

Vote: 4 For, 0 Against, 0 Abstain.

PROPOSED RESOLUTION NO. 251 FOR STORMWATER FUNDING: Clerk-Treasurer Spens reported that she received a proposed Interlocal Agreement between the King County Flood Control District and the Town for opportunity funds that the Town could use to help pay for improvements to our storm water system.

Councilmember Sharp expressed concerns about whether there are onerous reporting or other requirements buried in the agreement adding that the strings that come with the funding might make the funding less attractive. Mayor Leider offered to review the agreement thoroughly before signing it.

MOTION: Councilmember Sharp moved to adopt Resolution No. 251 authorizing the Mayor to execute an Interlocal Cooperation Agreement with the King County Flood Control District for Opportunity Project Funds. Councilmember Eulau seconded.

Vote: 3 For, 0 Against, 1 Abstain. Motion carried.

MAYOR AND COUNCILMEMBER REPORTS:

STREET PAVING PROJECTS: Councilmember Sharp reported that he will obtain bids for repairing 105th Ave SE but is waiting for the Guillet building project to be farther along before

having the street repaved.

TREASURY TRAINING: Councilmember Stowe noted that if he is to take over review of the Town's treasury functions, he needs some training. Mayor Leider will handle the training, since he has been handling this function recently.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday July 7, 2009 at Carol Clemett's house. She added that this will be a special meeting since it is scheduled for a week prior to the regular meeting date. This means that the warrant list may not be approved and action may be taken only on items listed on the agenda.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 10:10 pm. Councilmember Hillberg seconded.
Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer