



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

September 8, 2009

Eulau

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

PRESENT: Mayor Richard Leider, Councilmembers Carol Clemett, Steve Eulau, Mike Hillberg, Aaron Sharp, and Tom Stowe.

EXCUSED: None.

STAFF: Clerk-Treasurer Sue Ann Spens.

GUESTS: Fred McCorriston, Marilee McCorriston, Sheila Justus, Susan Kennedy, Sylvia Hobbs, Bob Carlson, Tim McGrath, Jim Cooch, Scott Harpster, Jeff Jochums, Peter Bowen, Anne Bowen, Mary Spens, and Susan Eulau.

MINUTES: Councilmember Sharp moved to approve the July 7, 2009 minutes as written. Councilmember Stowe seconded.

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

WARRANTS: Councilmember Sharp moved to approve the July 14, 2009 warrants, numbers 8086 through 8109 in the amount of \$26,183.34. Councilmember Hillberg seconded.

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

Councilmember Sharp moved to approve the August 11, 2009 warrants, numbers 8110 through 8144 in the amount of \$45,078.53. Councilmember Hillberg seconded.

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

Councilmember Clemett moved to approve the September 8, 2009 warrants, numbers 8145 through 8166 in the amount of \$14,536.70. Councilmember Sharp seconded.

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

CLERK'S REPORT:

CODE QUESTION: Clerk-Treasurer Spens described a request she received from Rachel and Trevor Eulau asking the Council to consider changing the Town's Animal Control Ordinance to allow families to keep miniature goats under certain circumstances. After a brief discussion, the Council agreed to give the question additional study at a future date.

2010 BUDGET: Clerk-Treasurer Spens reminded the Council that the State's budget calendar sets September as the month to ask department heads to forward their budget requests and funding needs to the Town's Budget Officer, now Councilmember Stowe, and the Clerk-Treasurer. This input will be used to prepare a preliminary budget for discussion during a public hearing in October. Mayor Leider reminded the Council that the current year was very challenging to budget and he does not expect that to materially change for 2010. He asked

everyone to keep that in mind when developing their budget requests, particularly in regard to controllable line items.

CONTINUATION OF PUBLIC HEARING FOR AMENDMENTS TO THE 2009 BUDGET:

Clerk-Treasurer Spens noted that she arranged for a public hearing for amendments to the 2009 Budget because of the recent emergency expenditures to repair the well pump. She explained that one of the auditor's comments during the preliminary review of our 2007 and 2008 financial records indicated that the RCW may require cities to make such amendments prior to making an expenditure whenever possible. She added that she is recommending that this hearing be continued to October for two reasons: (1) the auditor has not provided confirmation that this requirement exists, and (2) the Council's agenda for tonight is already very full. It was the consensus of the Council to continue the hearing to the October meeting.

STATUS OF THE 2007-2008 AUDIT: Clerk-Treasurer Spens reported that the auditors expect to complete their work on our audit shortly and that the exit conference should be in late September or early October. When the conference is scheduled, she will inform the Mayor and Council of the date, time, and place so that the Mayor and up to two Councilmembers may attend the conference.

MARSHAL'S REPORT: Mayor Leider asked Scott Harpster if he could offer a report in Town Marshal Scott's absence. Mr. Harpster answered that he knows of a break-in that occurred in the Village in the last two weeks, probably through an unlocked door. Mayor Leider commented that he had not heard of this and asked Clerk-Treasurer Spens to send Town Marshal Scott an email reminding him that the Council wants Blockwatch to be activated whenever there is significant activity so that Villagers will be aware that an incident has occurred and can be more observant about activity in the Village.

WATER REPORT: Water Supervisor Bob Durr reported that he is working on plans for the water budget and will have more information next month.

WABA REPORT: Nothing to report.

EMERGENCY PREPAREDNESS: Councilmember Eulau reported that the Town's CEMP has been distributed to the State and the County for review and that the County was very helpful and offered some minor revisions. He is still waiting for revisions from the State, but expects that their revisions will not be extensive based on the County's response.

STORMWATER SYSTEM UPDATE: No report.

PUBLIC HEARING: PROPOSED RIGHT-OF-WAY-USE ORDINANCE: Mayor Leider opened the public hearing at 7:16pm and noted that the Planning Commission and the Council have spent a considerable amount developing and refining this Right-Of-Way (ROW) Use ordinance. He then asked for comments from the public on the current draft.

Fred McCorriston commented that he has a large amount of ROW along the sides of his triangular lot and that he has willingly maintained it for the 40+ years that he and his wife have lived in Beaux Arts. He expressed concern that the ordinance runs counter to the community

spirit that has played such an important role in the Village for many years. He added that he feels the ordinance is oppressive and he does not see the need for it.

Marilee McCorriston expressed concern that the ordinance would cause more of the Town's ROW to be turned over to parking, which would negatively affect the character of the Village. She noted that neighbors have always worked together to accommodate each other's parking needs without having to make use of the ROW.

Sheila Justus remarked that the ordinance does not stipulate that existing ROW improvements are grandfathered and that requirement for plantings to be at least three-feet from the paved roadway does not allow property owners to create enough privacy. She also added that "visibility standards" are not explained clearly enough.

Sylvia Hobbs stated that she is particularly concerned with allowing parking in the ROW and that either this ordinance or the Town's Parking Ordinance should be revised to prohibit long-term parking on the ROW. She explained that parking in the right of way detracts from the Village feel.

Jeff Jochums commented that he has improvement on the ROW because of the size and configuration of his lot, so he sees both sides of the issue. He added that he hears many residents stating that they prefer to self-police these types of activities and yet the Council continues to pass rules. He suggested that in Beaux Arts the overwhelming feeling is to regulate less and yet the trend seems to be to regulate more.

Scott Harpster noted that he is a member of the Planning Commission and a co-author of the ordinance that the Planning Commission sent to the Council for enactment. He commented that there has been a lot of turnover in Beaux Arts recently: 40% of the families in the Village have lived here less than five years, meaning that the Village has seen a lot of change, some of which occurred because people didn't understand how the Village operated in an unofficial way. He added that some of the changes prompted residents to complain to the Council about how the ROW was being used, which prompted the Council to ask the Planning Commission to study the issue and develop a recommendation for the Council. The result of that study was a draft ordinance intended to clarify what the acceptable uses of the public right-of-way are. He noted that existing ROW improvements are grandfathered until a property owner chooses to improve their own property.

Jim Cooch asked if the ordinance includes a mechanism for adjudicating a disagreement about the interpretation of the ordinance. Mr. Harpster noted that because the property belongs to the Town, the Council is the body that ultimately decides how the property should be used.

Bob Durr commented that when the Town writes land-use ordinances, they must be written to accommodate a wide range of lot sizes and configurations, and a one-size-fits-all approach often creates bigger challenges for new residents since they won't be able to enjoy the same ROW improvements that others already have. He asked, in particular:

- what if an existing use of the ROW is non-conforming, must it be removed?
- what happens if an adjacent owner doesn't maintain the ROW?
- why is there an issue with above vs. below-ground irrigation systems? lighting systems?

- how does this ordinance address different tastes and preferences?

He agreed that we don't want to encourage people to install improvements that create safety hazards.

Councilmember Sharp noted that this ordinance came about because the Town was experiencing a big increase in the number of new owners who were "paving" large sections of the ROW. Fred McCorriston commented that the ordinance goes beyond addressing issues of excessive paving and extends into the area of landscaping and gardening, which improve the appearance of the Village.

Councilmember Hillberg commented that he doesn't see this ordinance as being restrictive, except for the three-foot height limit, which came about because of concerns about trees growing in to overhead power lines or their roots growing in to the roadway and causing damage to the paving, for example.

Sheila Justus commented that the three-foot limit creates a hardship for owners who want to create privacy by planting something larger in front of their homes. Councilmember Eulau asked why those owners couldn't plant something taller on their own property, since the ordinance doesn't regulate that. Ms. Justus stated that some owners may not have that opportunity but that she is most concerned about existing plantings and the lack of a grandfather clause.

Mayor Leider explained the background again as the choice to do nothing to protect the character of the Town or to limit the increasing encroachments in the Town right of way. Bob Durr asked if a property with an existing approved encroachment wants to construct an improvement on their property, can they leave the approved encroachment or must they remove it.

Councilmember Hillberg reasserted that he doesn't see this ordinance as being restrictive. He added that as things stand residents don't have the explicit authority to use the ROW in front of their property and this ordinance is intended to convey the authority to do certain things on the ROW in front of their property without obtaining explicit permission from the Town.

Mayor Leider noted that written comments were received from Sylvia Hobbs, Robin Stefan, Town Stowe, Brook van Wyk, Forrest Kulp, Lee DeChant and Scott Harpster and that those comments are incorporated by reference into this record. He then closed the public hearing at 8:00pm and asked for a motion from the Council.

MOTION: Councilmember Sharp move to pass Ordinance No. 368 adopting regulations for the uses and development of non-paved portions of the Town ROWs. Councilmember Clemett seconded.

On discussion, Mayor Leider listed the following as issues and concerns he heard from those who commented:

- Parking: either a lack of or too much, and temporary vs. permanent.
- Rocks: what distance must they be from the paved roadway.
- Grandfathering: perhaps it needs to be clarified.

- Visibility: what is the visibility standard and can it be quantified.
- Need: do we need this ordinance at all.

He then asked Councilmembers for their comments.

Councilmember Sharp stated that he feels continuing to remain silent on the use of the ROW is a mistake, because the Town will lose more of this green buffer space to hardscape. He added that the ordinance in its current form may have lost the original intent to protect the greenery, the Village character, and the ability of the unpaved roadway to handle stormwater. He noted that whatever is passed will probably need to be reviewed and revised after some time passes.

Councilmember Stowe stated that he thinks enforcing the ordinance will be a problem. He added that he agrees with the spirit of the ordinance but feels it is too detailed and he is concerned about insurance and liability issues. He would like to see it simplified and clarified.

Mayor Leider asked if the Council is ready to vote on the ordinance as written. Since the consensus of the Council was no, he offered three options: (1) rewrite the ordinance tonight, (2) assign two Councilmembers to edit it using the comments collected this evening, or (3) table the ordinance altogether.

Councilmember Eulau stated that he agrees with Councilmember Sharp that the ordinance is too important to abandon altogether.

Councilmember Sharp offered to help with a re-write.

Councilmember Clemett stated that she is concerned that the ordinance be written so as to limit the number of exceptions that come before the Council for review.

It was the consensus of the Council to defer action on this ordinance until October when the public will again have the opportunity to comment on the revised ordinance. It was the consensus of the Council that Councilmembers Clemett and Hillberg will work together to complete this rewrite.

CITY OF BELLEVUE'S PLANNED IMPROVEMENTS TO 108TH AVE SE: Mayor Leider opened the discussion by quickly summarizing the project and asking Councilmember Stowe to comment on the on-site meeting between COB staff and BAV officials.

Councilmember Stowe outlined COB's basic plans for the 108th corridor and then stated that he isn't convinced that COB staff heard the Town's concerns about the proposal or that they will revise their plans based on Beaux Arts' input. In essence, he feels the Town has gotten a non-answer from Bellevue.

Mayor Leider added that when Councilmember Stowe asked the Bellevue representatives if the need us to de-annex this property to accomplish the project, they answered that there are ways to complete the project and still allow Beaux Arts to retain ownership of the property. He noted that Bellevue seemed reluctant to allow Beaux Arts to have any influence over the current design or future changes and that there still isn't anything substantive to discuss with the Council because Bellevue has only a project scope at this time and no real design on paper.

Councilmember Hillberg suggested that Bellevue's current plans may be irrelevant as far as de-annexation is concerned and that the Council should really discuss these as two separate issues.

Councilmember Sharp stated that he thinks the Council needs to answer two simple questions:
(1) Is Beaux Arts willing to partner with Bellevue on the development of a pedestrian and bicycle improvement project along 108th Ave NE that passes through both jurisdictions?
(2) Is Beaux Arts interested in de-annexing any of the property that would be involved in this project?

Councilmember Stowe asked how we can answer a question about partnering with Bellevue on a project when we don't know enough about the project to understand what we agreeing to.

Councilmember Eulau suggested that the Council consider saying no to the de-annex proposal and yes to partnering with Bellevue and then stating our concerns about that partnership.

Councilmember Clemett asked if the Council will consider placing a hardscape on this ROW, which appears to be what Bellevue wants to do but would be contrary to the Town's Comprehensive Plan. She added that she agrees that the Council needs to lay out the ground rules for what a partnership with Bellevue would entail and what design parameters are acceptable, particularly since it is unlikely that Bellevue will study our comprehensive plan.

Susan Kennedy stated that she still feels Bellevue is not being totally up from with the Town and that they don't answer our questions. She asked if Bellevue has traffic counts to justify these improvements and noted that traffic speeds will likely increase once the improvements are complete. She added that the Town should already be budgeting for repairs to 108th Ave SE even without this project.

Rob Carlson commented that his bigger concern is that even if we don't partner with Bellevue on this project, the Town should be acting to steward this property in the same manner it stewards the rest of the area within its borders. He added that he would prefer to see simple improvements along this ROW but nothing elaborate.

MOTION: Councilmember Sharp moved to ask Mayor Leider to write a letter to Bellevue Mayor Degginger stating:

- The Town is not interested in de-annexing its 108th Ave SE ROW.
- The Town may be interested in partnering with Bellevue on this project provided certain concerns are addressed, particularly relating to light pollution, traffic calming, the proposed paving width, preservation of trees and other greenery, protection of the Town's aquifer, managing stormwater runoff, and long-term maintenance costs.

Councilmember Stowe seconded.

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

SHORELINE MANAGEMENT PLAN GRANT: Mayor Leider explained that Town Planner Mona Green has worked with the State Department of Ecology (DOE) to finalize the SMP Grant Agreement between the Town and the State Dept of Ecology and that she has

made a recommendation regarding the firm to hire for to perform the biological assessment of the Town's shoreline. To support this recommendation, Ms. Green provided copies of the letters of interest from the three consulting firms wishing to perform the work and detailed information about the project scope and proposed budget from one firm, The Watershed Company. He added that Ms. Green has asked the Council to authorize him to sign this contract tonight so work can proceed, since we have a couple of deadlines already on the horizon.

Councilmember Hillberg noted that there are a couple of citations in the agreement that need to be updated and pointed them out for Clerk-Treasurer Spens.

MOTION: Councilmember Sharp moved to adopt Resolution No. 253 authorizing the Mayor to execute a contract with The Watershed Company to perform services associated with updating the Town's Shoreline Master Program pending the Town Attorney's approval of the contract. Councilmember Hillberg seconded.

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

WATER RATE STUDY: Mayor Leider reminded the Council that this rate study is needed because the Water Department's operating costs are increasing and the last rate increase didn't generate the expected revenue, primarily because the summer of 2008 was relatively mild. He asked Councilmember Stowe to present the status of this study to date.

Councilmember Stowe explained the assumptions he made regarding water usage and the revenues and expenses of the water department and presented some proposed ideas for rate strategies. After additional discussion, it was the consensus of the Council that they would like to see a few other rate scenarios and that it might be useful to know more about how other water utilities price their water.

MAYOR AND COUNCILMEMBER REPORTS:

TREASURER'S REPORTS: Councilmember Stowe reported that he has almost finished reviewing the 2nd Quarter Treasurer's Reports and will report on his findings in October.

TREE WORK: Councilmember Hillberg reported that he worked with the Town arborist to examine several ROW trees this past month.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday October 13, 2009 at Mike Hillberg's house.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 10:15 pm. Councilmember Hillberg seconded.

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

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer