



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

February 9, 2010
Hillberg

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

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

EXCUSED: None.

STAFF: Clerk-Treasurer Sue Ann Spens.

GUESTS: Bob Carlson, Susan Kennedy, Tim McGrath, Dennis Casey, Warren Klink, Linda Mui, Ann Mari Simonsen, and Donna Stowe.

MINUTES: Councilmember Sharp moved to approve the January 12, 2010 minutes as amended. Councilmember Hillberg seconded.

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

Councilmember Leber asked when the Council last heard a Marshal's Report. Mayor Leider answered that Town Marshal Scott usually attends the meetings only if there is something to report.

WARRANTS: Councilmember Sharp moved to approve the February 9, 2010 warrants, numbers 8282 through 8302 in the amount of \$12,050.13. Councilmember Hillberg seconded.

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

CLERK'S REPORT:

CELL PHONE AND WIRELESS SERVICE TOWERS: Clerk-Treasurer Spens reported that she received an email via Linda Mui that had been circulating through the Enatai neighborhood regarding the possible installation of a Clearwire antenna. She explained that upon receipt of the email, she asked Town Planner Green to comment on the contents and the Town's options for either encouraging or prohibiting such an installation. She added that Town Planner Green's comments can be summed up as follows:

- Our zoning code is silent on siting of such towers, though they would not be allowed on private property because they do not constitute either a primary or appurtenant use of said property.
- These facilities are usually sited on public rights of way, though permitting requirements vary from jurisdiction to jurisdiction. Beaux Arts does not have any special permitting requirements for such facilities.
- Federal regulations do not allow a jurisdiction to prohibit cellular facilities from its domain. She noted that Town Planner Green recommended that the Council should work with Town Attorney Stewart if they decided to consider entering an agreement with a provider.

The Council discussed at length the advantages and disadvantages of entering an agreement

with a wireless provide and whether the potential revenue resulting from such an installation (approximately \$2,000 per month) would offset the possible concerns that some residents might express. One consideration was whether the Town could leverage wifi access for Town residents as part of an agreement with Clearwire. At the end of this discussion, the Council determined that they would need more information about contract terms and revenue streams before deciding to proceed further.

CONDITIONS FOR STREET-OPENING PERMITS: Clerk-Treasurer Spens reported that one consequence of Bellevue's recent request to obtain boring samples on the Town ROW was a review of the Town's street-opening permits (SOPs) and the permit conditions that are part of the permit process. In the course of determining whether to allow the survey, Councilmember Hillberg met with Town Arborist Tina Cohen to discuss the potential impact such boring and sampling would have on the roots of trees growing on or near the ROW. As an outcome of that discussion, Councilmember Hillberg recommended prohibiting boring and sampling work within the drip line of any Town or private tree without a site review. And Councilmember Sharp recommended that we consider making this requirement a more generic requirement for any utility, contractor or other entity that wishes to engage in destructive or non-destructive activities in the Beaux Arts ROW.

Clerk-Treasurer Spens reminded the Council that the Building Department currently issues SOPs over the counter for a nominal fee with no review of the planned work. One step of that process is for Deputy Clerk Kulp to forward a copy of the approved permit to Councilmember Sharp so that he can inspect the site after the work is complete to ensure that the area has been restored properly. She noted that adding a condition such as the one that Councilmembers Hillberg and Sharp want would require that a qualified professional, such as a Town Engineer, review the SOP plans PRIOR to allowing the permit to issue and that we have no such qualified professional on staff at this time. She added that the Town does not employ a Town Engineer. She stated that the condition may be an appropriate one to add but before doing so she would like the Council to review the entire process for issuing street-opening permits.

REVIEW OF CURRENT TREE ORDINANCE AND PERMITTING PROCESS: Clerk-Treasurer Spens reported that former Councilmember Clemett has completed plans for reviewing the current Tree Ordinance and will include contacting recent permit applicants for feedback as part of her review. She added that Ms. Clemett expects to have a report for the Council in approximately two months.

WHATMORE PROPERTY AND ACCESS ISSUES: Clerk-Treasurer Spens reported that Town Planner Green has started work on this issue and plans to forward her findings to the Council in report form before the March Council meeting.

PLANNING COMMISSION AND BOARD OF ADJUSTMENT VACANCIES: Clerk-Treasurer Spens reminded the Council that vacancies still exist on each of these bodies.

YARROW POINT PATH PHOTOS: Clerk-Treasurer Spens distributed photos of the walking path that Yarrow Point installed about 5 years ago showing how it meanders through the right of way and buffers the walking surface from the paved driving surface with shrubs and trees. She stated that when Yarrow Point constructed this path, they sought to improve the

appearance of the right of way along 92nd Ave NE and to enhance pedestrian safety along that busy corridor, and that some of their ideas might be useful to the 108th Ave Committee in deciding on a vision for the 108th right of way.

TREASURER'S REPORT: Councilmember Stowe reported that he has completed his review of the 4th Quarter Treasurer's Reports with supporting documentation and found them accurate and complete. He has signed them to indicate his approval.

MARSHAL'S REPORT: No report.

WATER REPORT: No report.

WABA REPORT: No report.

EMERGENCY PREPAREDNESS: Councilmember Eulau stated that he has nothing to report other than that he has not received a response yet from the State about the Town's draft Comprehensive Emergency Management Plan, which was submitted several months ago. He suggested that this item be removed as an ongoing topic from the agenda.

108th COMMITTEE REPORT: Councilmember Sharp reported that the 108th Committee has made significant progress in their work to develop a 25-year plan for the 108th ROW and that the committee hopes to have a version for the Council's review and comments in the next two or three months. He also distributed Bellevue's draft Concept Development Flowchart showing the opportunities for public input and milestones for arriving at a Final Design Concept in May 2010. He then noted that if Bellevue's plans for financing this project do not materialize, the project may be put on hold, at least for the short term.

Councilmember Sharp also reported that Bellevue plans to survey Enatai residents via a written questionnaire and stated that he thinks Beaux Arts residents should respond to our own questionnaire rather than one from Bellevue. Mayor Leider asked if a public meeting about the project would be more helpful. Councilmember Sharp responded that the committee believes Beaux Arts is a small enough and close enough community that committee members feels confident about being able to gauge residents' thoughts about the project.

Councilmember Sharp then distributed a draft of the Committee's recommendations for the 108th ROW dated Version 2-6-10 and briefly summarized the key points in that document. Mayor Leider asked what, if anything, the Council should do with this draft document. Councilmember Stowe suggested that the Council should review the plan set forth in the document. Committee member Susan Kennedy suggested that the Council should take ownership of the document and its recommendations. Councilmember Sharp pointed out that the six recommendations on page 1 are the primary focus at this time.

Mayor Leider asked what is next for the committee in the short and longer term. Councilmember Stowe answered that the plan needs to be further refined and then made into something more plan-like. He introduced Warren Klink, a resident who is also a landscape architect, and noted that Mr. Klink has offered to assist in transforming the plan from ideas into sketches.

Mr. Klink commented that he has walked the area of the proposed path and listened to a summary of the committee's suggestions and concerns. He remarked that his first impressions are that wide pavement encourages faster speeds, so any design should seek to reduce the visual width of the driving surface. He then passed around a quick sketch and noted that it depicts a simple sinuous path through the ROW flanked by native plantings and a strip drain at the edge of the paved driving surface.

Councilmember Sharp commented that the committee is determined to expand the no-parking zone on the 108th ROW along the entire ROW. Councilmember Stowe remarked that perhaps some limited parking could be provided and that all access points currently enjoyed by residents abutting this ROW must be maintained. Councilmember Leber asked how many access points there are. Councilmember Stowe answered that there are no more than seven. He added that there are practical reasons for maintaining at least some of them, e.g. if there is snow or heavy frost on 107th Ave SE, some of the residents at the north end have trouble driving up the slippery slope and are able to use one of the access points as a temporary means of egress.

Mayor Leider summarized the next steps as clarifying and cleaning up the plan and soliciting comments from residents. He asked again if it makes sense to offer a Town meeting to obtain that input. Councilmember Sharp suggested that just encouraging interested residents to attend an upcoming committee meeting may be sufficient or that perhaps the committee can hold an open-house at an upcoming committee meeting.

Susan Kennedy asked the Mayor Leider to clarify why Beaux Arts would want to let Bellevue build anything on our ROW just because they will pay for it. Mayor Leider answer that his position is not that we should let Bellevue build what they want to build on our ROW, whether they will pay for it or not. His position is that we should develop OUR plans for what to build on our ROW with the hope that we can piggyback our plans onto Bellevue's project and benefit from some of Bellevue's funding to construct our vision. He added that it has been his position all along that Beaux Arts does not have to allow Bellevue to build anything on our ROW. Councilmember Sharp pointed out that Beaux Arts has already benefited from some of Bellevue's funding when we obtained survey information about the ROW without having to pay for it and that we may get soil boring information as well.

Tim McGrath asked how we will ensure that existing plantings along the ROW survive until they are self-sustaining and suggested that part of the plan for this ROW include a specific maintenance plan that doesn't depend solely on adjacent property owners. He stated that our current ordinances required that property owners maintain the ROW, which may not result in the appropriate level of care for this project. Councilmember Sharp answered that our current ordinances make a distinction between the ROW between an owner's home and the street versus other ROWs and that in this instance, because the Town is directing the improvements, the Town would be responsible for developing a plan to maintain the ROW.

Mayor Leider asked the committee what the Council should do to support them over the next two to three months. Councilmember Sharp answered that the Council needs to be ready to review and comment on the committee's recommendations. Councilmember Hillberg asked if

the Town should notify Bellevue on where we are in the process. Councilmember Sharp answered that he believes the committee should finish its work on the recommendations first, the Council should review and approve them, and then the Mayor can transmit them to Bellevue.

Councilmember Sharp noted that the next 108th Committee meeting is on February 23rd at Susan Kennedy's house and asked that Councilmembers provide any feedback they may have on the draft recommendations to a member of the committee before that meeting.

Councilmember Hillberg commented that he hasn't heard any compelling reasons for allowing Bellevue to take boring samples on the Beaux Arts ROW and asked what part of the current draft recommendations would be served by allowing Bellevue to proceed. Mayor Leider answered that the borings would provide information about the subsurface conditions along the ROW that could be useful for planning any structural improvements. Councilmember Sharp added that the information could also be useful in assessing the need for stormwater facilities in the vicinity and in improving our existing stormwater system.

Councilmember Sharp then offered to contact Steve Costa, Bellevue's project manager, to ask that the borings planned for the Beaux Arts ROW be put on hold or relocated to Bellevue sites. It was the consensus of the Council that Councilmember Sharp proceed with this course of action.

COUNCILMEMBER AREAS OF RESPONSIBILITY: Mayor Leider distributed organizational charts depicted both the current and proposed areas of responsibility for each councilmember and explained that the proposed charts depict what he sees as the logical assignments for each councilmember based on their skill sets and their interests. He explained that he wants feedback so he can be sure that the areas of responsibility, as assigned, are mutually agreeable.

Councilmember Sharp suggested that the task of Water Liaison (Operations and Maintenance) be added to his list, since our current Water Supervisor, Bob Durr, is not on the Council.

Councilmember Eulau suggested that perhaps he should receive the monthly police statistics report from the King County Sheriff instead of Mayor Leider as the Liaison with the Town Marshal and the Fire and Police Departments. Mayor Leider asked Clerk-Treasurer Spens to arrange for that change.

PARKING ORDINANCE NO. 274: Clerk-Treasurer Spens reminded the Council why they are reviewing this ordinance and that this is not a land-use ordinance so no public hearing is needed prior to Council action.

Mayor Leider asked for comments from the Council. Councilmember Stowe responded that he has a number of structural changes to suggest. Councilmember Leber commented that the ordinance needs to be simplified and condensed. Councilmember Eulau agreed and added that he questions whether there is any benefit in allowing parking on pavement in the Town.

Councilmember Sharp commented that he feels we should further limit parking on the ROW

and agrees that the ordinance needs to be simplified. Councilmember Hillberg wondered if we are taking away something that people are doing today and may be relying on without sufficient input. He added that he is much more concerned with permanent parking rather than temporary parking on the ROW. Councilmember Stowe wondered if we should consider allowing a permit use or very temporary parking on the ROW for loading and unloading.

The Council reviewed the ordinance line-by-line and suggested revisions. Clerk-Treasurer Spens will incorporate these suggestions into a draft ordinance, will post the proposed draft on the Town website for public review, and will distribute an electronic copy to the Council for their review and comment prior to the March meeting.

TREE CITY DESIGNATION: Clerk-Treasurer Spens reported that she received a couple of letters describing the Tree City designation and asked if the Council is interested in pursuing it. Councilmember Hillberg reported that he consulted with the Town Arborist and discovered that we are not eligible, because our Tree Ordinance does not protect all tree species.

MAYOR AND COUNCILMEMBER REPORTS:

WABA MEETING: Mayor Leider asked Councilmember Hillberg, as the new WABA Liaison, will attend the March WABA meeting, and he agreed.

STRATEGIC PLANNING RETREAT: Mayor Leider asked for input on potential dates for the retreat to begin work on Council goals. After some discussion, it was the consensus of the Council to see if Saturday morning (8am until noon) on March 20 will work. Mayor Leider will find a location (possibly the conference center at Bellefield Office Park, the library, or similar) arrange for light refreshments, and work on the agenda.

FRANCHISE REVIEW: Councilmember Stowe reported that he wants to start reviewing the Town's franchises. Clerk-Treasurer Spens will make him copies of what she has in the files.

AT&T SALES-TAX REVENUE: Councilmember Leber reported that he is reviewing the Town's sales-tax revenue reports to determine whether AT&T is paying the sales tax they collect from Town residents to the Town and will continue his investigation. Mayor Leider asked Councilmember Leber to determine just how the Council can help him collect the information that he needs to correct this change.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday March 9, 2010 at Matt Leber's house.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 9:55 pm. Councilmember Eulau seconded.

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

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer