



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

September 14, 2010  
Hillberg

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

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

**EXCUSED:** Councilmember Steve Eulau.

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

**GUESTS:** Major Jerrell Wills, King County Sheriff's Office liaison, Dan Bridges, WABA President, Bernard Van de Kamp, WABA Dock Master.

**VISIT WITH MAJOR WILLS OF THE SHERIFF'S OFFICE:** Mayor Leider asked the Council if there were any objections to moving the visit with Major Jerrell Wills, Beaux Arts' liaison in the King County Sheriff's Office (KCSO), to this earlier time in the meeting so that Major Wills can leave at the conclusion of this discussion. There were no objections.

Mayor Leider summarized the Town's positive experience with KCSO, particularly KCSO's use of random regular patrols and asked Major Wills if he has any issues or concerns for the Council's attention. Major Wills responded that most of the concerns he's heard since taking over these duties have been related to the beach: who can and cannot use it, how to identify legitimate users, how to help WABA intrusions on their private property, etc. The Council discussed how to support the Sheriff's office in this issue and concluded that the challenge for the deputies is recognizing who is a legitimate user and who is not.

Major Wills commented that the deputies would appreciate having a brief list of the beach rules, particularly if the list could be portable but easy to read. He added that the deputies would also like to know who to contact on the Council with their questions and concerns.

Major Wills stated that he is still in the process of getting up to speed regarding his new area and duties. He added that if the Council is interested in meeting the deputies assigned to patrol Beaux Arts, he would be happy to arrange such a meeting. He also offered, in response to a Council question, that KCSO has access to traffic enforcement tools through the King County Dept of Transportation (KCDOT), but added that to access those tools, he must be made aware of a specific problem so that the KCDOT can work out an approach to solving the problem.

**MINUTES:** Councilmember Sharp moved to approve the July 13, 2010 minutes. Councilmember Leber seconded.

On discussion, Councilmember Stowe recommended several changes. It was the consensus of the Council to incorporate most of them and vote on approving the minutes as amended.

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

Mayor Leider commented that in May the Council had discussed whether to continue taping meetings or switch to just taping public hearings as required by law and had decided to continue taping for the time being. He asked if any Councilmembers wish to revisit the issue. It was the consensus of the Council to discuss this again in October when Councilmember Eulau is present.

**WARRANTS:** Councilmember Stowe moved to approve the August 10, 2010 warrants, numbers 8430 through 8457 in the amount of \$16,918.71. Councilmember Sharp seconded. Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Councilmember Stowe moved to approve the September 14, 2010 warrants, numbers 8458 through 8479 in the amount of \$14,618.03. Councilmember Sharp seconded. Vote: 4 For, 0 Against, 0 Abstain. Motion carried

**CLERK'S REPORT:**

**NEW ALUMINUM BUOYS IN NO-WAKE ZONE:** Clerk-Treasurer Spens reported that Town Marshal Scott has informed her that King County Marine Patrol has replaced two of our old plastic buoys with new aluminum ones, per our contract.

**PARKING ISSUE ONE SE 28<sup>th</sup> ST:**

Councilmember Sharp asked that the Council's discussion of this item be delayed until his report later in the meeting.

**MUNICIPAL CODE:** Clerk-Treasurer Spens reported that she provided both Word and pdf copies of the Town ordinances to Code Publishing, and they estimate the cost to complete the Town's municipal code project to be \$2,140. She noted that this project was first started in 1998 and not completed, and she urged the Council to give serious consideration to finishing the code, because it will be of benefit to the residents, the Council and staff.

**HEARING EXAMINER:** Clerk-Treasurer Spens noted that her work on the proposed ordinance to create a Hearing Examiner is still underway but is nearly ready to pass to the Planning Commission. She has heard some rumblings from Town Planner Green that the Planning Commission is somewhat resistant to having to hold a public hearing on the matter, because some of them feel it will make obtaining a variance more difficult and more expensive. She asked the Council if she should proceed. It was the consensus of the Council to do so.

**COMPREHENSIVE EMERGENCY MANAGEMENT PLAN (CEMP):** Clerk-Treasurer Spens reported on Councilmember Eulau's behalf that the state has completed its review of our draft CEMP and has provided feedback for some minor revisions.

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

**WATER REPORT:** Water Supervisor Bob Durr reported that the new well meter is in place as of July and has been calibrated. He expects this improvement will result in much more

accurate data on the volume of water we are pumping each year. He added that this work cost about \$2200 and was invoiced in July and August. He also reported that the tank is due for a cleaning in 2011 at a cost of about \$500. He noted that the tank is cleaned about every five years unless there is an unusual occurrence that creates the need for a more frequent cleaning.

**WABA REPORT:** WABA President Dan Bridges reported that complaints about non-residents using the beach have been much more frequent this past summer. He added that the non-resident users have been very hostile toward anyone challenging their presence on the beach, which is of concern to many families. The Board will be aggressively enforcing the beach's private status at the beginning of next summer to see if the situation will improve.

Mr. Bridges also reported that a resident has constructed retaining walls that encroach into the WABA strip and that the Board is handling the issue.

Mr. Bridges then stated that WABA's Woodland Manager, Sheila Justus, has submitted a permit application for the removal of several trees on the beach property. Ms. Justus has been frustrated by the Town arborist's inability to be flexible in the enforcement of the tree ordinance, particularly with regard to hazardous trees. A brief discussion ensued about the difficulty of enforcing the ordinance as written and a request that Ms. Justus share her concerns and frustrations with Carol Clemett, who has offered to review the ordinance and present her findings to the Council in October.

Mr. Bridges announced that the Shoreline Committee's work is complete and that there is a presentation of the results of their work on WABA's website. He noted that the plan is not approved yet, and that WABA has applied for a \$25,000 grant to complete the permitting process. WABA will seek public comments when the grant results are known.

Mr. Bridges asked WABA Dockmaster Bernard Van de Kamp to discuss the dock repair project. Mr. Van de Kamp began by briefly describing the proposed project to repair dock pilings and install boat lifts, the permits already obtained, and the unanticipated shortening of the in-water work window by the Department of Fish & Wildlife (WDFW). He explained that WDFW's decision to require that in-water work be complete by September 30<sup>th</sup> instead of December 31<sup>st</sup> has made it impossible for WABA to complete all the work listed in their original application to the Town for a Substantial Development Permit. WABA is asking WDFW for an extension of the work window to October 15<sup>th</sup>.

Mayor Leider asked what, if anything, the Town can do to help this process. Mr. Van de Kamp answered that he and WABA's permitting specialist need to confer on the best course of action. Clerk-Treasurer Spens noted that the Council must hold a public hearing on any application for a Substantial Development Permit or Letter of Exemption and that such hearings require notices be posted two weeks in advance of the hearing. Mr. Van de Kamp will let Clerk-Treasurer Spens know if a public hearing should be scheduled for the end of September.

**108<sup>th</sup> COMMITTEE REPORT:** Councilmember Stowe reported that grant applications have been submitted to the Washington State Transportation Improvement Board so residents may see engineers from the State reviewing the proposed work site over the next two to four weeks.

He added that we may hear the outcome of the grant applications by November.

**PROPOSED ORDINANCE NO. 376 ALTERING RULES FOR THE WATER DEPARTMENT:**

MOTION: Councilmember Sharp moved to pass Ordinance No. 376 establishing rules for the Beaux Arts Water Department. Councilmember Leber seconded.

On discussion, Clerk-Treasurer Spens reminded the Council that in July meeting she asked them to consider a change in the rules of the Beaux Arts Water Department (BAWD) relating to vacant properties and the practice of not charging for disconnected service. Briefly stated, the current rule is that, if the water service line to a property is disconnected, the property owner pays nothing during the period of disconnection. This isn't usually a problem, because owners only disconnect from water service for a few months during major remodels and reconstruction. There are now two properties in Beaux Arts with water-service lines that have been disconnected for several months; one for more than a year. When Clerk-Treasurer Spens and Water Supervisor Durr discussed the situation, they decided to ask the Council to consider charging disconnected properties a base fee, because most of the Water Department's expenses are fixed. At that meeting, the Council agreed that all properties should pay the minimum \$60 charge every two months, whether they use water or not, declaring that this charge ensures that water will be available at the meter when the property owner is ready to begin using it again.

Clerk-Treasurer Spens stated that Ordinance No. 376 makes this rule change.

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

**PROPOSED ORDINANCE NOS. 377 AND 378 REPLACING THE EXISTING BUILDING CODE ORDINANCES:** Building Official Crystal Kolke explained that her goal in preparing Ordinance No. 377 was to bring the ordinance up to date and make is concurrent with the international codes adopted by the State of Washington this past summer. She noted that the state adopts the International Codes on a mandatory basis and also requires local jurisdictions to adopt them as well.

MOTION: Councilmember Sharp moved to pass Ordinance No. 377 establishing the Building Code for the Town of Beaux Arts Village. Councilmember Stowe seconded.

On discussion, Ms. Kolke walked the Council through Ordinance No. 377 explaining the use of language from the International Building Code and International Residential Code and the amendments specific to Beaux Arts. She also pointed out a proposed new permit for grading, which would only be required if someone wishes to grade their property not in conjunction with a building permit.

There was discussion about whether the Town should require property owners to post a bond guaranteeing that exterior work will be finished within a certain time frame. The consensus was that such a requirement places too high a burden on responsible property owners.

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

Ms. Kolke then introduced Ordinance No. 378 regulating the installation of ornamental pools. She explained that this ordinance is intended to replace those portions of repealed Ordinance No. 187 that are not covered by the International codes. She added that the International codes regulate swimming pools, spas, hot tubs, etc. but do not address ornamental pools. After some discussion, it was the consensus of the Council that this ordinance is not needed.

**PROPOSED RESOLUTION NO. 263 PROCLAIMING THE 2<sup>ND</sup> WEEK IN SEPTEMBER AS KING COUNTY QUITS WEEK:** Mayor Leider explained that this resolution was prepared at the request of a consortium of cities in King County who wish to support Governor Gregoire's proclamation of April 20, 2010.

Motion: Councilmember Sharp moved to adopt Resolution No. 263 proclaiming the 2<sup>nd</sup> week in September as King County Quits Week. Councilmember Hillberg seconded.  
Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

**FIRST CALL FOR BUDGET INPUT:** Clerk-Treasurer Spens reminded the Council of the budget calendar. She asked department heads to submit their preliminary budget proposals for inclusion in a preliminary 2011 budget to be presented for discussion during a public hearing at the October Council meeting. Councilmembers asked Ms. Spens to send an email reminder.

**MAYOR AND COUNCILMEMBER REPORTS:**

**STREET-OPENING PERMITS:** Councilmember Sharp reported that is still working on information regarding inspections of construction work that requires a Street-Opening Permit.

**KING CONSERVATION DISTRICT (KCD) GRANT APPLICATION:** Councilmember Sharp reported that he has submitted a grant application to KCD for partial funding of the repairs to the stormwater outfall on 102<sup>nd</sup> Ave SE.

**105<sup>th</sup> PAVING PROJECT:** Councilmember Sharp reported that the bid for the 105<sup>th</sup> Overlay came in 5% overbudget at \$22,388 (for a project budgeted at \$21,000).

**PARKING PROBLEMS ON SE 28<sup>th</sup> ST:** Councilmember Sharp reported that he recently had two no-parking signs installed at the request of a resident. Immediately after the signs were installed, other residents living in the vicinity of the new signs expressed concern and/or dislike for them. Councilmember Sharp asked Clerk-Treasurer Spens to poll these residents for their comments. In response to that poll:

- 4 respondents strongly disapprove of the signs, either because they are unsightly or because parking in the area is so limited, or both;
- 2 approve of the signs, though one suggests relocating them, shortening the mounting poles, etc.
- 2 would prefer not to have the signs, but feel that if the signs must stay they should be moved closer together and shortened.

Councilmember Sharp asked the Council to take a look at the signs as placed and give him their feedback. He added that, based on that feedback, he would like to develop a "the Council says" response to the problem.

**BATES HEDGE:** Councilmember Sharp noted that he asked Ms. Bates to trim this hedge according to the parameters established several years ago. He added that the hedge has been trimmed, though not as much as he expected. He asked Clerk-Treasurer Spens to touch base with the resident who most recently complained about the hedge to see if they feel the amount of trimming is sufficient to restore visibility to this intersection.

**2010 BUDGET REVIEW:** Councilmember Leber reported briefly that revenues are ahead of budget while expenses appear to be on target.

**TREES DAMAGED ON ROW:** Councilmember Hill berg reported that he noticed several small trees planted on the 28<sup>th</sup> Ave ROW between 107<sup>th</sup> and 108<sup>th</sup> several months ago and that he recently saw the tops had been snipped off. He asked the Council for advice. The consensus is to run a notice periodically reminding residents that cutting trees on the ROW is prohibited, no matter how large or small the trees may be.

**FALL CLEANUP DATE:** Councilmember Hillberg is working on a date for the Fall Cleanup and hopes to announce it at the next Council meeting.

**FRANCHISE REVIEW:** Councilmember Stowe reported that he continues to make progress in reviewing the status of our franchises with various service providers. He has learned that only one agreement is unexpired (PSE) and that one service provider has never had a franchise agreement (Qwest). He is looking into the Qwest question with a contact at the City of Bellevue. He is also working with someone at City of Bellevue to negotiate a new sewer franchise agreement.

He also reported that he has contacted several possible representatives who could handle the franchise negotiations on the Town's behalf, noting that he cannot negotiate the agreements and then subsequently vote on them as a Councilmember.

His primary goals for this review are to:

- Identify all existing agreements,
- Renegotiate agreements, as needed, to protect the Town from liability, and
- Determine if the Town should impose franchise fees.

He added that franchise agreements give the Town the power to cause utilities to move improvements placed on Town property at their cost if the Town needs these utilities moved. This has an obvious impact on the 108<sup>th</sup> project.

**PROPOSED CELL TOWER INSTALLATION ON 108<sup>TH</sup> AVE SE IN BELLEVUE:**

Councilmember Stowe asked if the Town had received a report from the City of Bellevue describing the proposed cell tower installation in detail. Clerk-Treasurer Spens has received that report and is passing it to Water Supervisor Durr for his review and comment.

**INSURANCE FOR COUNCIL MEETING VENUES:** Councilmember Stowe asked the Council to consider purchasing additional insurance, perhaps as a rider to their homeowner's policy, to cover the use of their homes as venues for Town meetings. As an example, he explained that last Spring, he fell while leaving a Council meeting and broke his elbow. At the instruction of the Town Attorney, he submitted a Tort Claim to the Town's insurance provider.

The claim was denied, because it was determined that the Town was not negligent and had no liability. Mayor Leider offered to research options and discuss his findings with the Council. One option should include talking with our carrier, the Association of Washington Cities, about our unique situation to see if they have a solution.

**TREASURER'S REPORTS:** Councilmember Leber reported that he has not completed his review of the 2Q2010 Treasurer's Reports but plans to do so and report on his findings at the October meeting.

**CONFIRMATION OF WADE MORLOCK'S APPOINTMENT TO THE PLANNING COMMISSION:** Mayor Leider asked the Council to confirm his appointment of Wade Morlock to vacant Position No. 3 for a term that expires on December 31, 2015.

**MOTION:** Councilmember Sharp moved to confirm Wade Morlock's appointment to Planning Commission Position No. 3. Councilmember Stowe seconded.  
Vote: 4 For, 0 Against, 0 Abstain. Motion carried. Clerk-Treasurer Spens will inform Mr. Morlock and Deputy Clerk Kulp.

**MAYORS' MEETING:** Mayor Leider reported that the last Mayors' Meeting was hosted by Mercer Island at the Mercer Island Community Center. I-90 was on topic of discussion; Mercer Island does NOT support imposing tolls on I-90 (concurrent with SR-520 tolling), because their studies show that the incremental increase in traffic flow when tolls begin on SR-520 is incidental.

**FEEDBACK ON BUILDING OFFICIAL KOLKE:** The Council noted that tonight is the first time Councilmembers have had a chance to work with Building Official Kolke in her official capacity and feedback on her work tonight was overwhelmingly positive.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday October 12, 2010 at Matt Leber's house.

**ADJOURN:** Councilmember Sharp moved to adjourn the meeting at 10:45 pm. Councilmember Stowe seconded.  
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer