



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

March 8, 2011

Leber

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.

**GUESTS:** WABA Dockmaster Bernard vandeKamp, Greg Ashley (Ashley Shoreline Design & Permitting), Ann Mari Simonsen, Donna Stowe, Susan Kennedy, Jim Ellison.

Before proceeding, Mayor Leider announced that he will adjourn the regular meeting for a brief Executive Session to discuss a legal matter at the end of the regular Council meeting.

**MINUTES:** Councilmember Sharp moved to approve the February 8, 2011 minutes, as amended. Councilmember Hillberg seconded.

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

**WARRANTS:** Councilmember Sharp moved to approve the March 8, 2011 warrants, numbers 8622 through 8644 in the amount of \$13,341.35. Councilmember Hillberg seconded.

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

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

**ROOSTER COMPLAINT:** Clerk-Treasurer Spens reported that she recently received an anonymous complaint about a rooster at the Davis-Crerand residence. She added that she has since learned that the rooster is no longer on the property, but there are still chickens present, so she will write a letter informing the Davis-Crerands that Beaux Arts ordinances do not allow the keeping of chickens.

**JANE HAGUE VISIT:** Clerk-Treasurer Spens reminded the Council that King County Councilwoman Jane Hague is scheduled to meet with the Council in May and will report on recent activity at the County level.

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

**WATER REPORT:** No report.

**WABA REPORT:** Mayor Leider reported on behalf of WABA that they are beginning the planning process for the shoreline improvements project for their breach property, including working to secure funding and then hiring a designer.

**108<sup>th</sup> COMMITTEE REPORT:** Councilmember Stowe reported that Gray & Osborne will be submitting paperwork, including a contract, to act as the Town's project administrator for the improvements to the Town's ROW along 108<sup>th</sup> Ave NE. Councilmember Stowe will oversee the project Scope of Work for the Town and Councilmember Sharp will assist in that oversight. Once Gray & Osborne's contract is fully executed, they will begin coordinating aspects of the design and construction of this project. Plans will be available for public review sometime in May or June prior to the start of construction.

Councilmember Stowe noted that he will monitor the project so that if any potential challenges arise, particularly those that could cause the project's costs to exceed available funding, he can alert the Council as soon as possible. He noted that environmental impacts and stormwater problems in the vicinity are two potential sources of cost overruns. He added that the Town may be able to obtain additional funding from Washington State Transportation Improvement Board (WSTIB), the state agency that has provided the vast majority of the funding for this project through their Small Cities Program, depending on the projected costs and their causes. Gray & Osborne has a lot of experience with projects such as this one and will be a valuable source of assistance.

**PUBLIC HEARING: PROPOSED SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT FOR WABA:** Mayor Leider asked for a motion on the proposed SDP.

Motion: Councilmember Sharp moved to approve WABA's request for a Shoreline Substantial Development Permit #10-01 to install eight boatlifts with the following conditions:

1. All mitigations associated with the Mitigated Determination of Non-Significance issued on June 25, 2010 are incorporated into this approval.
2. A building permit from the Town of Beaux Arts Village is required.

Councilmember Hillberg seconded.

Mayor Leider opened the public hearing at 7:20pm. Councilmember Stowe asked if he should recuse himself from the discussion since one of the boatlifts under discussion will be installed in a slip he currently rents from WABA. It was the consensus of the Council that no conflict of interest exists.

Mayor Leider asked WABA Dockmaster Bernard vandeKamp to describe the project. Mr. vandeKamp explained that the project will add eight boatlifts to the Beaux Arts marina. He noted that WABA has not received any complaints from residents and that the mitigation required by federal and state agencies has already been installed.

The Council then asked the following questions:

1. Question: With this permit, will all needed dock repairs be complete?  
Answer: No, but WABA will obtain additional permits when needed to complete the remaining repairs and should be done this summer during the July through September work window for the Lake Washington shoreline in Beaux Arts' vicinity.
2. Question: What is the outside limit on the number of boatlifts for WABA's facility? What are the repercussions for not installing these boatlifts?  
Answer: The Corps of Engineers (COE) does not limit the total number of boatlifts, but

each additional boatlift requested triggers the need for added mitigation. Possible mitigations include adding grating and removing bulkheads.

3. Question: Can WABA “bank boatlift allowances”, i.e. if WABA obtains this substantial development permit and then decides to install only seven of the eight permitted boatlifts, can the approval to install the eighth boatlift be banked?

Answer: Not really, because the project requires a building permit for the number of boatlifts that will be installed, and building permits expire after 18 months. The COE Hydraulic Permit is valid for three years.

Mayor Leider asked if there were any public comments. As there were none, he closed the public hearing at 7:35pm and called for a vote.

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

Clerk-Treasurer Spens will prepare the necessary documents and notify the Department of Ecology.

**PUBLIC HEARING: PROPOSED ORDINANCES CREATING THE OFFICE OF HEARING EXAMINER AND AMENDING THE ZONING, TREE AND REGULATORY REFORM CODES:**

Mayor Leider suggested that the Council address each ordinance separately and asked for a motion on Proposed Ordinance No. 382 establishing the office of Hearing Examiner.

MOTION: Councilmember Stowe moved to pass Ordinance No. 382 establishing the office of Hearing Examiner. Councilmember Sharp seconded.

Mayor Leider opened the public hearing at 7:36pm. The following questions were asked.

1. Question: Why are we making this change? Does the Town have a real problem to address?

Answer: The Town has experienced much difficulty in recruiting residents to serve on the Board of Adjustment. Those who do agree to serve often resign soon after either because they find it hard to make decisions about their neighbors’ requests for variances or because they fear repercussions as a consequence of those decisions.

2. Question: Are there legal issues influencing this change?

Answer: Not directly, but it is reasonable to expect that a Hearing Examiner will render more consistent decisions on variance requests and will not be influenced by applicants.

3. Question: What will this do to the cost of a variance?

Answer: Applicants requesting variances will pay more to have their request heard depending on how much time the Hearing Examiner must spend reviewing and acting on the request.

Mayor Leider asked if there were any public comments. As there were none, he closed the public hearing at 7:43pm and called for a vote.

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

Mayor Leider explained that the next three ordinances are housekeeping items that update the language of the Zoning, Tree and Regulatory Reform Codes by replacing references to the Board of Adjustment with Hearing Examiner.

MOTION: Councilmember Sharp moved to pass Ordinance No. 383 amending the Town's Zoning Code to replace references to the Board of Adjustment with a Hearing Examiner. Councilmember Hillberg seconded.

Mayor Leider opened the public hearing at 7:43pm. As there were no questions, he closed the public hearing at 7:44pm and called for a vote.

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

MOTION: Councilmember Hillberg moved to pass Ordinance No. 384 amending the Town's Tree Code to replace references to the Board of Adjustment with a Hearing Examiner. Councilmember Sharp seconded.

Mayor Leider opened the public hearing at 7:44pm. As there were no questions, he closed the public hearing at 7:45pm and called for a vote.

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

MOTION: Councilmember Sharp moved to pass Ordinance No. 385 amending the Town's Regulatory Reform Ordinance No. 267 to replace references to the Board of Adjustment with a Hearing Examiner. Councilmember Hillberg seconded.

Mayor Leider opened the public hearing at 7:45pm. As there were no questions, he closed the public hearing at 7:46pm and called for a vote.

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

Clerk-Treasurer Spend will ask Town Attorney Stewart to assist in identifying candidates for the position of Hearing Examiner.

**REQUEST FOR PERMISSION TO ENCROACH ON ROW:** Mayor Leider invited Jim Ellison, the owner of property at 10308 SE 27<sup>th</sup> Street, to describe his proposed project. Mr. Ellison explained that he plans to make minor improvements to this property, one of which is replacing a gravel walkway that passes along the east side of the garage with one made of concrete. Mr. Ellison stated that in laying out the project, he discovered that the existing house was originally constructed so close to the property line, that the existing gravel walkway encroaches slightly on the 104<sup>th</sup> Ave SE ROW, which borders on his eastern property line. He would like to replace the gravel walkway with one constructed of concrete that encroaches no more than three feet into and places no more than 10 sq. ft. of walkway on that ROW.

On discussion, it was the consensus of the Council that Mr. Ellison's encroachment provides safe passage between his front and back yards and does not negatively impact either the neighbors or the 104<sup>th</sup> Ave SE ROW.

MOTION: Councilmember Leber moved to permit Mr. Ellison to install a concrete walkway that encroaches no more than three feet into and places no more than 10 sq. ft. of walkway on that ROW. Councilmember Hillberg seconded.

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

**PROPOSED RESOLUTION NO. 268 APPROVING THE 2011 BUDGET AND WORK PLAN FOR A REGIONAL COALITION FOR HOUSING (ARCH):** Clerk-Treasurer Spens reminded the Council that this is ARCH's annual request to all of its member cities.

MOTION: Councilmember Sharp moved to adopt Resolution No. 268 approving the 2011 ARCH Budget and Work Plan. Councilmember Hillberg seconded.

On discussion, Councilmember Leber asked the Council when the Town can start addressing the issue of affordable housing with our own boundaries rather than just by contributing to ARCH, which develops affordable housing in the region but not within Beaux Arts. The comment was made that the Town's current Zoning Code allows attached accessory dwelling units (ADUs). It was the consensus of the Council that Clerk-Treasurer Spens should ask Arthur Sullivan, ARCH Director, for ideas.

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

**PROPOSED COMMERCIAL ROW-USE ORDINANCE:** Clerk-Treasurer Spens explained the work she has completed to date to put Councilmember Stowe's proposed ordinance language into ordinance format, including reviewing the proposed regulations with Building Official Kolke to find areas of overlap with the Building Code and other existing Town ordinances. As a result of that discussion, Clerk-Treasurer Spens reported that Ms. Kolke's primary recommendation regarding proposed legislation is that the Council focus on determining just what they want the legislation to control or accomplish rather than spend a lot of time actually writing the legislation. Ms. Kolke also recommended that the Council consider combining these regulations with the existing ROW Code that regulates the use of Town ROWs by adjacent private-property owners. Doing so would mean that all regulations controlling activities on the Town ROWs would be contained in a single document.

Clerk-Treasurer Spens also commented that the ordinance before the Council tonight is in very draft form and is not ready for passage. She directed the Council's attention to a bullet-point list of the things that the Council seems to want the ordinance(s) to address:

- Regulate the use of paved and unpaved portions of the ROW by oversize and overweight vehicles.
- Protect the paved and unpaved portions of the ROW from damage by commercial vehicles and their loads (sand, gravel, burning materials, etc.).
- Prohibit obstruction of the paved ROW by vehicles, construction materials, etc.
- Regulate the movement of buildings on paved and unpaved ROWs.
- Regulate improvements on the paved and unpaved portions of the ROW (excluding street maintenance).

On further discussion, it was the consensus of the Council that Clerk-Treasurer Spens should work with Town Attorney Stewart to complete the development of this ordinance in time for the April Council meeting if possible.

**EXECUTIVE SESSION:** Mayor Leider adjourned the regular session of the Council at 8:35pm to discuss a legal matter and announced that the regular session should reconvene in about 15 minutes.

At the completion of the executive session, the regular session of the Council meeting was reconvened at 9:05pm

**MAYOR AND COUNCILMEMBER REPORTS:**

**TREE PRUNING ON ROW:** Councilmember Hillberg reported that, after obtaining the necessary permission from the Department of Fish and Wildlife, a tree on the ROW in the vicinity of an eagle nest in Town has been pruned and the resulting chips have been spread at the end of 107<sup>th</sup> Ave SE near the entrance to Pitt Park.

**FRANCHISE ISSUES:** Councilmember Stowe reported that he has spoken with both Medina and Yarrow Point about their sewer agreements with the City of Bellevue and discovered that their agreements are also expired. He is waiting to hear from Clyde Hill and may then suggest that the group work together to negotiate a new agreement.

**TOWN ARBORIST:** Mayor Leider reported that he and Councilmember Hillberg have met with three candidates for the position of Town Arborist and plan to make a final decision in the next week. He noted that in his capacity as the Town's administrator, he will review and execute a contract with the successful candidate as quickly as possible.

**PLANNING COMMISSION VACANCY:** Mayor Leider reported that he has two well-qualified candidates for filling this vacancy and hopes to have someone for the Council to confirm in April.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday April 12, 2011 at Mike Hillberg's house.

**ADJOURN:** Councilmember Sharp moved to adjourn the meeting at 9:20 pm.  
Councilmember Hillberg seconded.  
Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer