



**TOWN OF BEAUX ARTS VILLAGE**  
**TOWN COUNCIL MINUTES**

September 13, 2011  
Eulau

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, Water Supervisor Bob Durr, Town Planner Mona Green, and Town Marshall Walter Scott.

**GUESTS:** Jan Johnston, John Gillem, Susan Kennedy, and Donna Stowe,

**MINUTES:** Councilmember Sharp moved to approve the July 19, 2011 minutes, as amended. Councilmember Leber seconded.

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

**WARRANTS:** Councilmember Sharp moved to approve the August 9, 2011 warrants, numbers 8746 through 8773 in the amount of \$25,289.78. Councilmember Hillberg seconded.

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

Councilmember Stowe moved to approve the September 12, 2011 warrants, numbers 8774 through 8801 in the amount of \$21,214.69. Councilmember Sharp seconded.

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

**CLERK'S REPORT:**

**AWC ANNUAL LOSS-CONTROL VISIT:** Clerk-Treasurer Spens reported that she met with Roger Neal, the AWC RMSA Loss-Control Specialist for the Town's annual loss-control survey. The survey was conducted primarily as an interview, and the Town has received a copy of the resulting report, in which the only recommendation noted is that the Town develop an Employee Manual. Work on this manual has already begun, and Ms. Spens estimates that it will be complete by the end of 2011.

**HEARING EXAMINER RULES OF PROCEDURE:** Clerk-Treasurer Spens reported that Sound Law Center, the firm recently contracted to provide the Town's Hearing Examiner services, has prepared the Rules of Procedure for Hearing Examiner Hearings as required by our Ordinance No. 382. Town Attorney Stewart is conducting a brief review of the rules, and if there are no changes needed, the Council will adopt them by resolution in October.

**BEAUX ARTS VILLAGE MUNICIPAL CODE:** Clerk-Treasurer Spens reported she and Town Attorney Stewart continue the work of reviewing the draft BAV MC and expect to complete their work later this month.

**RECORDS STORAGE:** Clerk-Treasurer Spens reported that the house as which the Town's files are stored has sold and the records will need to be moved by mid-October. She will work with Bill Beck to move the file cabinets, binders, etc. either into the new space, if it is completed, or temporarily into the area used for storing maintenance supplies, if the new space is not ready.

**MARSHAL'S REPORT:** Town Marshall Scott reported that the Sheriff's Office noted there were no incidents in August other than two false alarms. The King County Marine Patrol reported 24 vessel boardings with 5 violation warnings. The marine patrol also reports that the buoy realignment is working well with only one speed violation.

Mr. Scott reminded the Council that he was asked to obtain cost estimates for installing surveillance cameras at the entrances to Beaux Arts and to collect comments from camera users in other area cities. He presented his notes on both to the Council for consideration during their budget discussions, noting that the success of camera surveillance depends on the level of police involvement, since they must review the tapes after an incident.

Mayor Leider commented that at least one local city has noted that their cameras do not save recordings for more than eight seconds and that the mayor of that city doesn't believe their crime statistics have changed significantly since the installation of cameras in that city.

**WATER REPORT:** Water Dept Supervisor Durr reported that a pressure sensor switch has been installed on the water tank replacing the mechanical float. Work to calibrate the switch is underway, and once completed will make it simpler to determine the volume of water in the storage tank. The sensor switch will also be much more reliable than the float switch. He commented that the wiring from the pump to the tank still needs to be replaced, but this work cannot proceed until the trees around the wiring are pruned. Mr. Durr will work with Councilmember Hillberg to determine which trees need to be pruned so the work can be scheduled.

Mr. Durr also reported that a leak in the water-distribution lines was discovered on SE 28<sup>th</sup> Street near the Welsh home. That leak has been repaired.

Mr. Durr noted that he has heard concerns from several customers about the effect of our hard water on dishwasher performance, because the elimination of phosphates from dishwashing-machine detergents allows a mineral build-up in the machines. He asked if anyone has heard of a remedy to this problem, e.g. rock salt or a specific detergent that works better than others in removing or eliminating the build-up.

**WABA REPORT:** No report.

**108<sup>th</sup> PROJECT REPORT:** Councilmember Stowe reported that he:

- Received 100% Plans for the project in late July and reviewed them with Mayor Leider and Councilmember Sharp. As a result of this meeting, Councilmember Sharp prepared a punchlist of corrections for Gray & Osborne. The corrections were made, and WSTIB gave the okay to bid the project.

- Reviewed a bid from West Coast Construction to install the stormwater drain line connecting to Bellevue's system but decided not to award them the contract.
- Advertised for bids in the Seattle Times and the Daily Journal of Commerce. In response to those ads, the Town received 3 bids. The lowest bidder is Trinity Contractors at a bid price of \$118,500. (Mayor Leider asked that the record reflect there is no connection between his company, Trinity Real Estate, and this contractor.) The other two bids received totaled \$121,000 and \$157,000. He noted that the bid totals were higher than anticipated, though he doesn't know why. He added that in addition to the contractor's bid, there is an additional amount of \$10,700 that will be paid to Gray & Osborne to manage the construction project.
- Submitted the bid to WSTIB for review and approval of an increase to the amount of our grant, since the bid is higher than budgeted in the original grant. WSTIB has approved the increase, including replacement of the three broken concrete panels on the 108<sup>th</sup> Ave SE road surface.
- Conducted a pre-construction meeting with the City of Bellevue and the affected utilities.
- Expects mobilization for the project to begin in late September. The contractor plans to work 10-hour days and expects to complete the project by the third week of October.

Councilmember Stowe then explained the following:

- The rules of the WSTIB grant require the Town to contribute 5% of the total project cost in matching funds.
- The Town's 2011 budget includes \$5,205 as our 5% share, but the higher project cost increases our 5% share to 8,598. In addition, we should include \$500 to purchase a project sign to post on 108<sup>th</sup> Ave SE and \$650 for advertising.
- Because the needed funding exceeds the appropriation approved in our 2011 budget, the Council must authorize an increase in the appropriation for this project of approximately \$4,600 to cover the additional cost of the Town's 5% share of project costs (versus the original budget).
- Most of the cost increase is due to an increase in scope from the project as originally designed, e.g. the addition of the stormdrain line connecting to Bellevue.

**MOTION:** Councilmember Stowe moved to authorize that the appropriation for the Town's 5% share be increased by \$4,600 to cover the added cost of the project based on bids as well as advertising and a project sign. Councilmember Sharp seconded.

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

#### **PUBLIC HEARING: WABA SHORELINE SUBSTANTIAL DEVELOPMENT**

**PERMIT #11-01:** Mayor Leider opened the public hearing at 7:55pm and asked John Gillem, a member of WABA's Shoreline Committee to outline the project proposal.

Mr. Gillem recapped 1-1/2 years of work by WABA's Shoreline Committee to redesign the shoreline and make it more friendly as fish habitat while preserving use of the beach for WABA members. As part of this design process, the committee held public meetings on various design proposals and used the feedback from those meetings to achieve a single vision for the project. Mr. Gillem noted that, using this feedback, WABA prioritized the various areas for which work is proposed. The #1 area noted for improvement was the swim beach.

He noted that WABA is seeking project funding from various sources and that having an approved substantial development permit (SDP) will assist in that effort, and that WABA currently has a grant of \$50,000 from the King Conservation District.

Mayor Leider asked for public comments.

Jan Johnston expressed concerns about the project being at odds with work underway to update the Town's Shoreline Master Program (SMP). She explained that she is a member of the Planning Commission, which has been working on updating the Town's SMP, as required by state statute, for some time. She noted that the top three comments that came out of WABA's focus groups were desires for simplicity, openness, and grassy lawn and that the project as proposed does not adequately address those comments. She is also concerned that doing this work now will eliminate the opportunity to perform similar work in the future as a means of mitigating other projects.

Donna Stowe asked if mitigation associated with future work on the beach property has to also be accomplished on the beach property. Town Planner Green answered that the mitigation should first be considered for the affected property, but there may be opportunities for mitigation elsewhere along Lake Washington in the WRIA8 area. She added that mitigation in another part of Town would not be considered.

Mayor Lieder reminded the Council that the issue before the Council tonight is strictly whether the application is consistent with the Town's current Shoreline Master Program and that if they find it to be consistent, then they must approve the application. He then asked for a motion before continuing the discussion.

**MOTION:** Councilmember Hillberg moved to approve WABA's application for Shoreline SDP #11-01. Councilmember Sharp seconded.

On discussion, the Council asked how this application fits with rules of both the current and the proposed SMP. Town Planner Green answered that while the goals of the Town's original SMP will remain substantially the same in the updated SMP, this application must be reviewed and acted on solely on the basis of its conformance with Ordinance Nos. 89 and 100, which set forth the Town's Shoreline Master Program. She added that WABA has included human elements and slope stabilization in their proposal and that the project conforms with current regional goals for shoreline work.

The Council asked whether approving this project will establish a benchmark for future beach development that is very high. Town Planner Green commented that the benchmark for the SMP Updates that are underway was established with the Town took its biological inventory at the beginning of the update project, thus this project does not alter that benchmark.

Town Planner Green added that if the project is approved, WABA will also need to obtain a grading permit for the earthwork, which involves review by a professional engineer. She noted that a substantial development permit is often more conceptual, and that more detailed and/or engineered plans may be needed for construction. These detailed plans would be reviewed as part of the building permit process. The Corps of Engineers has already approved

the project. WABA is still waiting for approval from the Department of Fish and Wildlife.

The Council asked is there is a net loss of useable area, which is narrowly defined as space where a person can be, and is so, how much and it that a material loss. John Gillem answered that the project embraces a substitution of useable area from beach zone to another and includes the substitution of plantings for area that is not truly "open space" though it may be identified as such.

The Council noted that "open area" isn't the sole use of the beach, which can and should include trees and shrubs as softscape, and asked if the changes proposed in this project conflict with the beach's recreational use.

During a discussion of the application, Councilmembers raised the following points:

- The plan appears to include more planted areas than the beach currently has. Is there a net loss in useable area? What is the percentage of useable area in the current configuration versus this plan relative to the total beach property? (Where useable area is narrowly defined as area that can be occupied by a person; plantings do not constitute useable area under that definition.)

The Council would like WABA's response to these questions to should include actual calculations addressing any grassy or other open areas that will be converted to another purpose, including plantings. It should also outline WABA's explanation about how the plan conforms to the Open Space requirements of the Ord. Nos. 89 and 100.

- How does WABA plan to prevent erosion of those areas where the bulkhead is removed? What is the science behind those preventative measures? What mitigation plans has WABA made if erosion is greater than anticipated?

The Council understands that a coastal engineer has assisted WABA in developing these plans. They wish to review the engineering reports for shoreline preservation and specific plans for mitigating unforeseen consequences of the removal of the bulkhead.

- How does WABA intend to address and pay for ongoing maintenance of the entire beachfront?

John Gillem did note that WABA's intent in the plan is to enhance the usability and utilization of the beach property, noting that the plan may be removing grassy areas but replaces them with more flexible usability and that plantings were used to enhance the usefulness of the space rather than restrict its usefulness.

It was the consensus of the Council to continue this public hearing at the October Council meeting to give WABA time to address and respond to the Council's concerns. Mayor Leider closed the public hearing at 9:20pm and will re-open it at the October Council meeting.

**PROPOSED INTERLOCAL AGREEMENT WITH KING COUNTY FOR ROAD MAINTENANCE:** Councilmember Stowe explained that during the process of preparing a WSTIB grant application for street-repair projects listing on the Town's 2012 – 2017

Transportation Improvement Plan, he learned that WSTIB prefers that its recipients of grant for road repairs enter into agreements with their resident County for road-maintenance services, because of the potential for cost savings. In addition to these potential savings, Councilmember Stowe pointed out that our participation in such an Interlocal Agreement could gain us points toward gaining funding from WSTIB for road repair projects. He added that he has already made contact with someone in King County and directed the Council's attention to an agreement the county has in place with Algona.

After a brief discussion, it was the consensus of the Council that Councilmember Stowe work with his contact to develop the proposed Interlocal Agreement between King County and Beaux Arts for further Council review.

**PROPOSED RESOLUTION NO. 271 REGIONAL AFFORDABLE HOUSING**

**PROGRAM:** Clerk-Treasurer Spens explained that this program is similar to the Community Development Block Grant (CDBG) Program and that similar to that program, our participation in this program increases the funding available to King County for affordable housing projects. Town Attorney Stewart has advised that he has no legal concerns about the agreement.

**MOTION:** Councilmember Sharp moved to adopt Resolution No. 271 authorizing the Mayor to execute an Interlocal Cooperation Agreement with King County for the Regional Affordable Housing Program. Councilmember Hillberg seconded.

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

**PROPOSED RESOLUTION NO. 272 MEMORANDUM OF UNDERSTANDING FOR COORDINATION DURING AN EMERGENCY RESPONSE:**

Clerk-Treasurer Spens explained that the Town has been asked to execute a Memorandum of Understanding along with the other cities, towns, and Indian tribes in King County to provide a framework for two or more parties to coordinate policy and decision making in the event they are affected by an emergency. The agreement is non-binding. Town Attorney Stewart has advised that he has no legal concerns about the agreement.

**MOTION:** Councilmember Sharp moved to adopt Resolution No. 272 authorizing the Mayor to execute Memorandum of Understanding for Coordinated Policy and Decision Making During an Emergency with King County. Councilmember Hillberg seconded.

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

**FIRST CALL FOR 2012 BUDGET INPUT:** Clerk-Treasurer Spens noted that state statutes require the Town to formally request input from "department heads" for projects to be included in the coming year's budget. She added that Councilmember Leber and she will use that input to develop a Preliminary 2012 Budget for the Council's discussion at the first Budget 2012 public hearing to be held during the October 11, 2011 Council meeting.

**PROPOSED COMMERCIAL ROW-USE ORDINANCE:** Clerk-Treasurer Spens presented the latest version of the proposed Commercial ROW-Use Ordinance, explaining that this one has been streamlined and simplified by Town Attorney Stewart to improve clarity and reduce the cumbersome size of the prior draft. Due to the late hour and the Council's desire to fully review this document, it was the consensus of the Council to table further review and

discussion of this ordinance until the October meeting. Clerk-Treasurer Spens will send Councilmember Stowe an electronic version of the ordinance to assist in his detailed review of the proposed ordinance.

**MAYOR AND COUNCILMEMBER REPORTS:**

**STREET DEPARTMENT ITEMS:** Councilmember Sharp reported that the Burlingame house on SE 29<sup>th</sup> Street needs additional berming at the street to eliminate stormwater runoff into their garage. He also reported that the stormline from the middle of the 104<sup>th</sup> ROW path south of SE 28<sup>th</sup> Street to SE 29<sup>th</sup> Street has been cleaned.

**106<sup>th</sup> AVE OVERLAY:** Councilmember Sharp asked that the 106<sup>th</sup> Ave Overlay be postponed until 2012 to release the appropriated funding associated with that project to the 108<sup>th</sup> Ave Project. The Council concurred with this request.

**TREE WORK AND FALL CLEANUP:** Councilmember Hillberg reported that he had some tree work done at 5 Corners recently and that he is working on plans for the Town's Fall Cleanup to be held sometime in November.

**EMERGENCY MANAGEMENT:** Councilmember Eulau reported that the Statewide Earthquake Drill will take place sometime in September during National Preparedness Month.

**WHATMORE ISSUE:** Mayor Leider reported that he has had no response to the letter he sent to the Whatmore estate in July. He will follow up with Town Attorney Stewart about next steps.

**RECORDS STORAGE:** Mayor Leider reported that Bill Beck has made significant progress on the project to upgrade a portion of the Maintenance Shed making it suitable for records storage. He suggested that Clerk-Treasurer Spens work with Mr. Beck to begin moving records as soon as enough work is complete to make the move feasible.

**FIRE-SERVICES CONTRACT:** Mayor Leider reported that the cost-allocation model for the proposed contract with Bellevue Fire Department has been basically decided and that we should see a cost reduction of about \$20,000 in the first contract year with similar savings in the remaining six years of the contract duration.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday October 11, 2011 at Mike Hillberg's house.

**ADJOURN:** Councilmember Sharp moved to adjourn the meeting at 10:00 pm. Councilmember Hillberg seconded.

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

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer