



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

October 11, 2011
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, Town Planner Mona Green, and Town Marshall Walter Scott.

GUESTS: Major Jerrell Wills, King County Sheriff's Office; Gordon Roberts, Jan Johnston, Dick Stratton, Wade Morlock, John Gillem, Forrest Kulp, Joann Bromberg, Susan Kennedy, Donna Stowe, Dan Bridges, Linda Mui; Shannon Kinsella, Engineer with Reid Middleton.

MINUTES: Councilmember Sharp moved to approve the September 13, 2011 minutes, as amended. Councilmember Leber seconded.

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

WARRANTS: Councilmember Eulau moved to approve the October 11, 2011 warrants, numbers 8802 through 8831 in the amount of \$31,919.95. Councilmember Hillberg seconded.

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

CLERK'S REPORT:

PLANNING COMMISSION PUBLIC HEARINGS ON SHORELINE MASTER PROGRAM

UPDATE: Clerk-Treasurer Spens explained that the Planning Commission will soon begin holding hearings to gather public comments on proposed updates to the Town's Shoreline Master Program. Councilmember may wish to attend as residents of the Town, but if a quorum of the Council is in attendance, the meeting is also viewed as a Council meeting, even if no Council business takes place, and must be noticed appropriately. She asked the Council if they prefer that she poll them before each Planning Commission hearing to learn if a quorum plans to attend or that she post each hearing as a Special Meeting of the Council. She noted that there is no problem with posting the meeting notice and then not holding the "meeting" if a quorum is NOT in attendance. It was the consensus of the Council that Clerk-Treasurer Spens arrange for each Planning Commission hearing to be posted as a Special Council meeting in case a quorum is in attendance. She will also make sure that Deputy Clerk Kulp knows what to do at the meeting in either instance.

SPEED BUMP FOR THE TOWN ENTRANCE AT SE 29TH AND 108TH: Clerk-Treasurer Spens reported that she received an email from Tim McGrath, a resident, asking the Council to consider accepting Bellevue's offer of the rubber speed bump so that it can be placed at the Town entrance from 108th Ave SE. He noted in his email that there is a consistent problem

with people speeding into the Village at that entrance. Clerk-Treasurer Spens reported that a second email from Susan Kennedy confirmed Mr. McGrath's concerns. Councilmember Sharp commented that he was told that the rubber speed bump is no longer available because Bellevue has decided to use it somewhere else. After some discussion, it was the consensus of the Council that they will review the speeding situation once the Town's work along the 108th Ave SE ROW is complete. If a speed bump is warranted, the Town will arrange to have something installed at this entrance to discourage speeding.

BEAUX ARTS VILLAGE MUNICIPAL CODE: Clerk-Treasurer Spens reported that Town Attorney Stewart has recommended that the draft code be divided up among Councilmembers for a final review for grammatical errors, typos, etc. Mayor Leider stated that he would prefer not to burden the Council with any additional work, since he is mindful that each member of the Council serves on a volunteer basis and already devotes much time to the work of the Town. Clerk-Treasurer Spens will read through the draft code one more time looking for errors, and if there are none, she will bring it back to the Council in November or December with an ordinance to adopt it.

Clerk-Treasurer Spens polled the Council for input on which Code Publishing options they prefer. After discussion, it was decided that the Town will ask for two published copies with customer binders (one for each Clerk's office) and will have Code Publishing set up online hosting for the Code.

HEARING EXAMINER RULES OF PROCEDURE: Clerk-Treasurer Spens reported that last month she stated the Council would need to approve the Hearing Examiner's Rule of Procedure by Town resolution. She has since clarified that this action is not needed, since the rules are merely a restatement of regulations that the Town has already adopted by ordinance.

RECORDS STORAGE: Clerk-Treasurer Spens reported that the storage shed is nearly ready for the Town's files. She will be moving the cabinets from their current location to the shed sometime this week.

MARSHAL'S REPORT: Town Marshall Scott introduced Major Jerrell Wills of the King County Sheriff's Office. Major Wills explained that he comes before the Council tonight to present KCSO's current estimate of the cost to provide police services to the Town in 2012 as \$18,728. He noted that in 2011, KCSO estimated that the service fee would be about \$17,000 but in fact the actual fee dropped to \$15,300. He commented that the 20% cost increase from 2011 actual to 2012 estimated cost is primarily the result of an increase in workload based on the number of dispatched calls for service.

Town Marshall Walter Scott mentioned that the Town is looking at the possibility of installing security cameras and asked Major Wills if KCSO has any concerns about them. Major Wills answered that his only concern about security cameras is that KCSO cannot give out private information, e.g. the names of vehicle owners based on license numbers, to non-police personnel.

Mayor Leider asked if Councilmember had any other questions or concerns to share with Major Wills. There were none.

WATER REPORT: Nothing to report.

WABA REPORT: Nothing to report.

108th PROJECT REPORT: Councilmember Stowe reported that project construction is now underway. Concrete panels in the 108th Ave SE Roadway will be replaced this week, and Bellevue estimates that their project will be finished by the end of the year. He added that utility work is happening in the Town ROW and that the entire project should be complete by October 31st.

PUBLIC HEARING: WABA SHORELINE SUBSTANTIAL DEVELOPMENT

PERMIT #11-01: Mayor Leider re-opened the public hearing (that was continued during the September 13, 2011 Council meeting) at 7:45pm and asked Joann Bromberg to address the questions posed by the Council during the September portion of this hearing.

Each question was addressed as follows:

- Question: 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.)

Answer: Ms. Bromberg explained that the design provides a net gain in useable area in the swimming area (Area #4) above the ordinary high-water (OHW) mark, while the other two areas involved in this permit experience small net losses, using the narrow definition of useable area posed by the Council. The overall effect is a slight loss in useable area, but WABA believes that the actual "usability" of the South Beach area is enhanced greatly by the addition of picnic and barbecue facilities. She noted that this formerly grassy area was seldom, if ever, used by residents, because it was not effectively connected to the rest of the beach. So in a broader sense, the net loss of actual area is balanced by the enhancements that will encourage more active use of a formerly neglected area. In addition, plantings that replace lawn are intended to enhance members' enjoyment of the beachfront not detract from it and are designed so that the water view is maintained.

- Question: 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?

Answer. Ms. Bromberg asked Shannon Kinsella, an engineer with Reid-Middleton who performed the coastal engineering portion of this project, to address this question. Ms. Kinsella explained that the coves are designed such that the combination of gentle slope, the sizes of the cobbles and larger gravel used, and the location of anchored logs will work together to minimize the loss of material due to wave and wake action and to promote slope stability. The typical replenishment period will be 5 to 10 years.

When asked if material placed at the WABA Beach will drift to other nearby properties

creating challenges elsewhere, Ms. Kinsella answered that the movement of materials placed at the WABA beach will be no more than what is currently experienced throughout this area as a result of the long-shore drift that is always at work in this part of Lake Washington. There may be a very small amount of material that moves slowly to the south, but it shouldn't have a negative effect on the neighbors, since there is a general drift pattern that already carries materials from other parts of the lakeshore in that direction. In addition, there is a natural "ebb and flow" in shoreline gravel levels depending on the season: in winter, levels may decline as gravel is pulled outward from the shore during storms, but those levels will rebuild during summer months.

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

Answer: Ms. Bromberg referred the Council to the written maintenance schedule provided in the Council packets. WABA President Dan Bridges commented that while this should be WABA's concern, not the Council's, the WABA Board is committed to funding ongoing maintenance at the levels described in this schedule.

WABA President Bridges commented that it sounds as if the Council is equating a change in use to a loss of use. He stated that WABA's plan should not be viewed this way. In some areas, there is a loss of grass but a gain in swimming area; in others, the loss of grass is balanced by enhanced usability. The plan aims to improve the overall usability of the entire beach, which was something that many residents requested during WABA's public comment meetings.

Other questions asked included:

- Have the comments in the Corp of Engineers permit regarding the use of large boulders been addressed?
Yes, the boulders will not be placed, because the Muckleshoot Tribe is concerned that the large boulders will create spaces for salmon predators to lurk.
- What is the expected volume to be replenished during the 5 to 10 year period?
Maybe 1 or 2 truckloads of material at a cost of \$500 to \$1000.
- What recourse is available to restore the bulkhead if erosion problems develop?
The cove recesses include rock bulkhead type structures to restrict erosion of beachfront property. While it would be difficult to obtain a permit to replace the original bulkhead once removed, there are other options available for adding erosion-control features on the water side of the coves, e.g. logs, rocks. There are also ways to engineer improved bulkhead resistance to erosion above the OHW mark. WABA President Bridges added that the WABA Board is just as committed to preserving and protecting the beach property as the Town and the residents.
- How many coastal engineering projects has Reid Middleton helped design? Ms. Kinsella answered that her firm has been involved in several Lake Washington projects over the last 10 years, including project in Renton and Leschi. Her estimate of a 5 to 10-year replenishment cycle is based on those and other projects in Lake Washington locations.
- Ordinance Nos. 89 and 100 restrict the use of the WABA Beach Property to water and park recreation. Does this plan conform to that restriction?
The plan increases residents' access to the beach and water; the small percentage loss

(approx. 2%) in useable land area (as narrowly defined above) is more than balanced by a gain in social use

Mayor Leider asked if there were any other questions or comments. As there were none, he closed the public hearing at 8:35pm.

MOTION: Councilmember Eulau moved to approve WABA's application for a Shoreline Substantial Development Permit to make improvements to the shoreline subject to the conditions set forth by Town Planner Green in her staff report dated September 13, 2011. Councilmember Sharp seconded.

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

PUBLIC HEARING: PRELIMINARY 2012 BUDGET: Mayor Leider opened the public hearing at 8:45pm and asked for comments from the public. As there were none, he closed the public hearing at 8:46pm.

Councilmember Leber gave a brief overview of the development of this preliminary budget. He then pointed out that the General Fund shows a surplus primarily because of the decreased cost of the fire-services contract for next year. He suggested that the Council pull together a list of all projects that have been deferred in recent years due to budget concerns so that the Council can decide which, if any, to include in next year's budget. He also pointed out that there are areas that need additional input, including the Water Department, which needs Water Supervisor Bob Durr's input for maintenance projects.

POSSIBLE CHANGES TO THE ANIMAL CONTROL ORDINANCE TO ALLOW CHICKENS: After some preliminary discussion, the Council decided that this topic needs additional active input from residents. Clerk-Treasurer Spens will put a notice in the upcoming newsletter asking residents to write with their suggestions, comments concerns, etc. including what other animals should be considered for inclusion, e.g. bees, pygmy goats, etc.

PROPOSED INTERLOCAL AGREEMENT WITH KING COUNTY FOR ROAD MAINTENANCE: Councilmember Stowe reminded the Council that the reason for considering this interlocal agreement is that part of the WSTIB grant process is finding economies of scale by partnering with other agencies to complete grant-funded projects. King County seems the likely partner for Beaux Arts.

He noted that he worked with Mary Coltrane at King County to address the Council's concerns about this potential partnership. They are extremely reluctant to deviate from the standard agreement they have developed with other city partners, so making changes to the termination provisions and indemnification language, as suggested by Town Attorney Stewart, may not be possible.

Regarding maintaining local control, however, Councilmember Stowe explained that the Town would do so by managing our requests for work. In addition, the agreement includes a provision that any work over an estimated \$500 must be approved by the Town before the County can proceed. And entering into the agreement does not obligate the Town to use County roads crews for all of our work; it just creates the opportunity to request work from the

County. He added that the two big advantages to participating in this interlocal agreement are:

1. We get points from WSTIB toward the possible award of future grants, and
2. There may be cost advantages due to economies of scale.

Councilmember Sharp noted that one disadvantage would be possibly losing the opportunity to give residents advance notice of upcoming work on their street.

After some additional discussion, it was the consensus of the Council that Mayor Leider will work with Town Attorney Stewart to amend the document so that it addresses his (Mr. Stewart's) concerns and then forward the amended document to the County for review.

PROPOSED COMMERCIAL ROW-USE ORDINANCE: Clerk-Treasurer Spens presented the latest version of the proposed Commercial ROW-Use Ordinance, explaining that she is still waiting to hear from Town Attorney Stewart about whether there are any conflicts between this proposed ordinance and the existing Ordinance No. 150, which deals with Street Opening Permits.

MOTION: Councilmember Sharp moved to pass this ordinance conditioned upon there being no conflicts with existing regulations. Councilmember Leber seconded.

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

Clerk-Treasurer Spens will work with Town Attorney Stewart to determine if there are any conflicts. If not, she will forward the enacted legislation to Code Publishing for inclusion in the draft BAV MC and will bring a new Fees Resolution forward for Council action in November to establish fees for the new ROW Permit. To support that discussion, the Council asked Ms. Spens to collect information about ROW permit fees from 4 or 5 local jurisdictions.

MAYOR AND COUNCILMEMBER REPORTS:

FALL CLEANUP: Councilmember Hillberg reported that the Town's Fall Cleanup is scheduled for November 5th.

TREE WORK: Councilmember Hillberg reported that Trees for Life completed some tree work on 106th Place SE on the ROW in front of Bruce Young's house.

WHATMORE ISSUE: Mayor Leider reported that he still has had no response to the letter he sent to the Whatmore estate in July so Town Attorney Stewart will contact the Whatmore's attorney again for resolution of the outstanding issues.

FIRE-SERVICES CONTRACT: Mayor Leider reported that the proposed contract with Bellevue Fire Department should be ready for the Council's review and approval in November. The Bellevue City Council will hold a study session to review it from their perspective on October 24th and, assuming there aren't any major issues, the contract will go forward in their regular session on November 7th for approval. Bellevue Assistant City Manager Diane Carlson will keep us apprised of the agreement's progress.

EMPTY HOUSE NEAR WATER TOWER: Councilmember Stowe mentioned that he noticed windows broken on the back side of this house and that the front door is sometimes

wide open. He wondered if we have a potential problem developing. Mayor Leider will work with Town Attorney Stewart to craft a letter to the owner to inform him that some remedial action is needed.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday November 8, 2011 at Matt Leber'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