



TOWN OF BEAUX ARTS VILLAGE
TOWN COUNCIL MINUTES

September 11, 2012
Stowe

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

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

EXCUSED: None.

STAFF: Clerk-Treasurer Sue Ann Spens, Town Planner Mona Green.

GUESTS: Hiro Kurozumi (Cutler-Anderson Architects), Bruce Anderson (Cutler-Anderson Architects), Geri Armbruster, Dick Stratton, Susan Kennedy, Sheila Justus, Wade Morlock, Jeff Kendall, Erin Jacobsen, Charles Patton (Architects NW), Jan Johnston, Joann Bromberg, Steve Miller, Bob Durr, Andy Stefan, Robin Stefan, Donna Stowe, Forrest Kulp, Henry Heckendorn, Scott Harpster, and Walter Scott.

MINUTES: Councilmember Stowe moved to approve the July 10, 2012 minutes, as amended. Councilmember Hillberg seconded.

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

WARRANTS: Councilmember Sharp moved to approve the revised July 10, 2012 warrants, numbers 9052 through 9074 in the amount of \$22,225.64. Councilmember Hillberg seconded.

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

Councilmember Stowe moved to approve the August 14, 2012 warrants, numbers 9075 through 9098 in the amount of \$14,089.98. Councilmember Sharp seconded.

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

Councilmember Hillberg moved to approve the September 11, 2012 warrants, numbers 9099 through 9118 in the amount of \$32,434.83. Councilmember Sharp seconded.

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

CLERK'S REPORT:

MITIGATION FOR STACK'S UNPERMITTED REMOVAL OF TREES: Clerk-Treasurer Spens reported that WABA has completed their investigation of the removal of several trees from their property adjacent to SE 30th without a permit. She directed their attention to WABA's Mitigation Report and asked if the Council wished to impose further penalties. Mayor Leider suggested that this be handled as an administrative issue, and the Council concurred. He will review the material and discuss the situation further with Clerk-Treasurer Spens before determining what action is appropriate.

BONDING QUESTION: Clerk-Treasurer Spens reported that she and Mayor Leider received an email from the AWC Risk Management Service Agency, our insurance carrier, passing on information about state statutes that require bonding for certain employees of the Town, including the Clerk, Treasurer, and Town Marshal. Because the meaning and intent of the email were unclear, Mayor Leider asked Clerk-Treasurer Spens to determine whether the Town needed to obtain bonds for these employees. After reviewing Town files, discussing the question with Town Attorney Stewart, and clarifying with the AWC RMSA, Ms. Spens concluded that the Town does NOT need to obtain bonds for these employees. State bonding requirements for the Town are met by AWC RMSA insurance as long as there are no local rules setting additional requirements for employee bonding. The Town ordinance that set local bonding requirements was repealed in 1997 by Ordinance No. 261.

FIRST CALL FOR 2013 BUDGET INPUT: Clerk-Treasurer Spens reminded Councilmembers that budget season begins in earnest with the first of two public hearings related to the 2013 Budget to be held during the October Council meeting. She asked Councilmembers to determine their funding needs for next year and forward them to her no later than October 1, 2012.

MECHANICAL PERMIT FEES: Clerk-Treasurer Spens reported that she completed a study of the Town's mechanical-permit fees comparing them both to our permit-related costs and to the fees charged by other local jurisdictions. She reported that overall the fees we collect for these permits cover the costs to administer them, including inspection costs, overall even though some permits may cost more on an individual basis than was collected. She also reported that our permit fees are much simpler than the other jurisdictions reviewed, so the cost to administer these permits is kept to a minimum. She recommended that the Council leave the fee schedule as is for smaller project permits and consider having Deputy Clerk Kulp accrue the inspection costs for larger projects (new construction and major remodels) so that cost overages can be billed to the permit holder. It was the consensus of the Council to leave our fee structure as is since overall costs are being covered.

MARSHAL'S REPORT: Mayor Leider reported that he met with the chief of the King County Sheriff's Office and to give feedback on their services.

WATER REPORT: No report.

WABA REPORT: No report.

Mayor Leider noted that the public hearing for the Proposed Shoreline Master Program may be somewhat lengthy and suggested that tonight's agenda be adjusted slightly to allow Ms. Jacobsen and the Brookharts to handle their requests before the public hearing gets underway. The Council agreed with this suggestion.

ACCESS ISSUES FOR PROPERTY AT 10604 SE 27TH PLACE: Mayor Leider noted that the current plan before the Council was developed with input from Councilmembers Stowe and Gillem, both of whom believe it meets the four criteria set by the Council in May.

MOTION: Councilmember Stowe moved to accept the current drawing depicting ROW improvements to provide access to 10604 SE 27th Place and approve the improvements. Councilmember Gillem seconded.

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

BROOKHARTS REQUEST TO REMOVE TREE ON ROW ADJACENT TO 2737 - 107TH AVE SE: Mayor Leider asked Hiro Kurozumi, one of the Brookharts' architects, to present the proposal. Mr. Kurozumi explained that the Brookharts purchased 2737 - 107th Ave SE last year and plan to replace the small cottage on the property with a new residence. One rule for the redevelopment of this property is the relocation of the access driveway from the path ROW (immediately south of the property) to 107th Ave SE. The Brookharts propose to provide this new access from the northeast corner of the lot.

Currently, there is a multi-trunk big-leaf maple that sits in the ROW within the area proposed for the new driveway access. In addition, there is a speed hump on the street immediately in front of the proposed location. The Brookharts are asking the Council's permission to: (1) remove the maple and mitigate its removal with the placement of a new maple in a location of the Town's choosing, and (2) relocate the speed hump several feet south of its current position.

Councilmember Stowe commented that he lives north of the subject property and uses this speed hump daily. He noted that he does not feel that the hump necessarily needs to be replaced and knows that there are other residents in the vicinity who agree. He suggested that the Council consider approving the removal of the speed hump without requiring that it be replaced immediately. A condition of this approval would be that if residents ask for the hump to be replaced in the near future, it will be restored in a new location at the Brookharts expense. It was the consensus of the Council that the removal of the hump does not require Council approval since Councilmember Sharp has the authority to make such decisions.

Councilmember Hillberg noted that he has reviewed the tree-removal request and has no concerns. He added that this removal would be permitted on private property and that the removal will be mitigated with an appropriate tree replacement.

MOTION: Councilmember Stowe moved to approve the removal of the multi-trunk maple with the condition that the Brookharts work with Councilmember Hillberg to determine the type of and location for a replacement tree. Councilmember Sharp seconded.

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

PUBLIC HEARING: PROPOSED SHORELINE MASTER PROGRAM: Mayor Leider started the discussion by establishing the following ground rules:

- Limit comments to five minutes.
- If you agree with a comment that has already been made, just state your agreement rather than restating the entire comment.
- Allow everyone the opportunity to comment.
- Please identify yourself for the record before beginning your comments.

He then asked Town Planner Green to recap the work of the Planning Commission and the Council to date.

Town Planner Green summarized the work to date noting that:

- In 2009, the State awarded grant money to the Town to offset the cost of updating our Shoreline Master Program (SMP) to bring it in line with new regulations promulgated by the State Department of Ecology (DOE).
- Also in 2009, the Planning Commission began this work by reviewing the existing Town ordinances and state requirements and then holding numerous meetings to solicit input from residents.
- In January 2012, the Planning Commission forwarded their draft SMP to the Council, and the Council conducted an in-depth review of the proposed regulations beginning in February 2012. At that time, the Council decided to take advantage of an offer from DOE to conduct an informal review of our proposed SMP that would highlight any areas of concern before the Council took action to adopt the regulations.
- From February 2012 until now, the Council has continued to review the document in depth while waiting for a response from DOE. During those months of review, Clerk-Treasurer compiled a list of the Council's questions, suggestions and concerns for Ms. Green to address.
- In July 2012, the Town received DOE's informal comments, which included a requirement that the language of the WAC be stated verbatim in the SMP and a difference of opinion about how to approach and/or address certain issues that are specific to our town.
- The draft under consideration tonight includes revisions suggested by the Council, by the DOE, and by WABA (at previous Council meetings). It does not include revisions to accommodate DOE's differences of opinion, since these issues remain up for discussion.
- The deadline for completing this review and adopting regulations is December 31, 2012.

Ms. Green then explained that the purpose of the SMP is to establish rules for Shoreline Development permits and exemptions. It regulates activity from the Ordinary High Water mark (OHW) to 200 feet landward, which in Beaux Arts includes the WABA beach property and portions of some of the lots that border on that property.

Ms. Green noted that the Planning Commission felt strongly that the recreational value and use of the beach property should be protected, which resulted in their use of the phrase "no net loss of property" and which differs from DOE's preferred phrase "no net ecological function". They also included mitigation measures similar to those required by the Corps of Engineers and the Department of Fish and Wildlife.

Mayor Leider opened the public hearing at 7:40pm and asked for comment from the public.

Steve Miller, resident and representative of the WABA Board, presented the Council with a three-page list of comments and concerns. He noted that the Council has already addressed many of WABA's concerns, but use of the language "no net loss of property" remains the most serious issue in WABA's opinion. WABA sees no purpose for imposing such rigid language since it may actually work to bar creative solutions for the best use of the beach property. "No net loss of property" would prevent the construction of a swim dock, neither

adds to the sense of community nor serves the community, and ignores WABA's history of good stewardship of this property. WABA always seeks the most input from its members on how best to use the beach property and has no desire to misuse it in any way.

Mr. Miller continued by expressing concerns about a number of other provisions in this draft, including:

- Section 5.6.2 regulates view corridors. The proposed rules are at odds with the WABA Woodlands Committee's long-standing plan for addressing competing interests for use of the beach property and achieving balance among those interests. In addition, there are several undefined or unclear terms, including "woodlands", "key", "upland" and the definition of "hedge" is vague.
- Section 6.4.2 regulates clearing and grading activities. The proposed rules would seem to prohibit the annual WABA Beach Clean-Up unless WABA sought a clearing and grading permit for that work.
- Section 6.3.2.8 prohibits treating structures that are in contact with the water. This creates the potential for safety issues on the swim and boat docks if WABA cannot control the growth of moss on these structures.
- Section 6.12.1 regulates signs at the beach. WABA places signs on the beach for safety reasons and to remind visitors that the property is private, not to interfere with views and vistas. The regulation is perplexing.

Mr. Miller asked that the Council reconsider these specific issues before finalizing this plan.

Andy Stefan, resident, commented that he participated in the Shoreline Restoration Project meetings. He stated that he supports Mr. Miller's concerns and the SMP should focus on and encourage greater use of the beach rather than just property preservation.

Sheila Justus, resident and WABA Woodlands Manager, supported Mr. Miller's concerns about section 6.4.2 and noted that WABA's plan for maintaining the woodlands includes selective removal of trees to encourage growth of the entire tree canopy. The regulations seem to hamper WABA's ability to implement this plan.

Forrest Kulp, resident and WABA Beachmaster, asked about "public access to views" in light of the beach being private property. He asked if this pertains to water-based or land-based views. Ms. Green clarified that land-based views are the focus.

Joann Bromberg, resident and manager of WABA's Shoreline Restoration Project, commented that the reduction in property (area) resulting from all proposed shoreline-restoration projects is less than ¼ of 1%, yet these projects increase the opportunities for use of the property by a much greater percentage. This would seem to more than offset the small loss of property.

Donna Stowe, resident, commented that she supports the "no net loss of property" concept. She is concerned that many of the state's regulations of the shoreline are politically motivated and that the property, once lost, cannot be recovered. She is also concerned that much WABA's restoration project is driven by the availability of grant money rather than the desires of the residents who use the beach property.

Wade Morlock, resident and Planning Commission Chair, explained that "no net loss of property" does not and was not intended to prevent modification of the property but instead to protect the property from more DOE intrusion. The Planning Commission remains concerned that over time the DOE may push for more modifications to and regulations of the beach property that purport to benefit fish and wildlife at the expense of the owners/users. This is the primary reason that the language "no net loss of property" must remain.

Dick Stratton, resident and Planning Commissioner, stated that he concurs with Mr. Morlock adding that the key was not to tie WABA's hands in developing the beach property but to protect the property from the erosion once bulkhead is removed. The intent was to give WABA the ability to restore the bulkhead as it was if erosion becomes a problem so that the community would not lose shoreline.

Robin Stefan, resident, agrees with WABA's position, that "no net loss" would preclude WABA's ability to accomplish these projects. (Joann Bromberg interjected that it would eliminate the possibility for obtaining grant money to fund the restoration plan.) Ms. Stefan noted that the bulkhead was originally placed to stop bank erosion but the new projects are designed to eliminate the problem of erosion using other means.

Bob Durr, resident, asked how "no net loss" would prevent WABA from obtaining grants for shoreline restoration. Ms. Bromberg answered that no grant money is available for projects that expand into the lake. He asked if the granting of a variance to any project that did not meet the "no net loss" requirement would address that issue, but Ms. Bromberg stated that she could not answer that question.

Mayor Leider asked if obtaining such a variance would require DOE approval. Town Planner Mona Green answered yes and added that since DOE won't approve a plan that doesn't support "no net loss of ecological function", it would be better to pass regulations that support what the community wants to accomplish without the need for variances.

Jan Johnston, resident and Planning Commissioner, noted that the Planning Commission focused on preserving our green space not prohibiting coves and other specific design details. She suggested that there are sources for funding good projects other than King County. She also noted that variances offer the opportunity for more public input, which is always a good thing. She also added that with regard to hedges, the Planning Commission was concerned about hedges placed on the shoreline obstructing views and creating safety issues for children playing at the beach.

Mayor Leider noted that WABA previously asked that the "no net loss of property" language be revised to "aggregate area of land loss shall be no greater than one-quarter percent". He asked if this new comment document from WABA replaces that request. Steve Miller answered yes.

Walter Scott, resident, stated that if we can protect our shoreline property with this language, we should take that step.

Gerri Armbruster, resident, concurred with the idea of allowing some small loss of property to enhance use.

Mayor Leider asked if there were any other comments or questions from the public. As there were none, he closed the public hearing at 8:25pm. Clerk-Treasurer Spens reminded the Council that the only action required tonight is for them to adopt Resolution No. 280.

MOTION: Councilmember Hillberg moved to adopt Resolution No. 280 announcing the Council's Intent to Adopt an Updated Shoreline Master Program. Councilmember Sharp seconded. (The vote on this motion follows discussion.)

Mayor Leider then asked Councilmembers to list their comments and questions. Those comments and questions included:

- WABA's memo raises other issues beyond the "no net loss of property" concern that should be addressed. When asked if the Planning Commission objected to any of the other requests, Planning Commission Chair Morlock answered that he would prefer to review the entire memo before commenting.
- How comments from the Muckleshoot Tribe will be addressed. Town Planner Mona Green answered that she has already prepared a response but has not sent it yet. She noted that some of what the Muckleshoot Tribe requested cannot be changed due to state regulations and the rest should be considered.
- Regarding the points raised by WABA's memo.
 - Signs: State statutes require the Town's SMP to address signs. The regulations as written are not intended to restrict signage but to guide their placement in order to best preserve views.
 - Views: State statutes require the SMP to address "public access for views", but since the entire beach property is private, the Town cannot allow physical access to accommodate this requirement. It was the consensus of the Council to relax this requirement, if possible.
 - Clearing/Grubbing: It was the consensus of the Council to clarify this language, including the definitions, so that the removal of invasive species, dead trees, and similar landscape maintenance work is clearly allowed.
 - Hedges: The intent of this section is to protect the beach property from a state mandate forcing the placement of plants at the water's edge. Steve Miller commented that trying to restrict the state's requirements with our own regulations isn't going to stop them from changing their rules and enforcing those changes; the Town should trust WABA to manage their property appropriately. It was the consensus of the Council that they will consider relaxing the restrictions on hedges.
- If there are ways to give WABA flexibility to use the beach property while protecting their ability to restore the property to a previous condition if the changes don't work as anticipated. Planning Commission Chair Morlock commented that the Commission

reviewed other means of protecting against the loss of property at the beach, including engineered solutions. He added that it is his understanding that beach erosion is not considered a problem unless the loss of an improvement, e.g. a structure, is threatened.

Section 6.11.5 B(3) addresses stabilization but does it protect the beachfront? If not, can language be crafted to accommodate all concerns while passing muster with DOE? Is there a way to use the Ordinary High Water (OHW) mark for this?

It was the consensus of the Council that Town Planner Green should accomplish the following for the Council's review and discussion in October:

1. Craft language to ensure the recapture of any property loss.
2. Address the comments raised by the Muckleshoot Tribe.
3. Work with Steve Miller to develop answers to WABA's concerns.

Vote: On the question of whether to adopt Resolution No. 280, the vote was 5 For, 0 Against, and 0 Abstain. Motion carried.

SECURITY ENHANCEMENTS: Town Marshal Walter Scott began his presentation by stating that he, Deputy Marshal Scott Harpster and Jim Finnell worked on this preliminary proposal for enhancing security in Beaux Arts, primarily through the use of cameras placed in strategic locations.

He then explained that the reason these enhancements are needed is crime statistics themselves:

- King County burglaries were up 5% last year.
- 70% of those burglaries were committed by 5% of the known professional criminals.
- Only 10% of those burglaries were solved; however in Beaux Arts, no recent burglaries or car prowls have been solved.
- In Beaux Arts, most recent burglaries have occurred because a door was left unlocked.

Mr. Scott noted that his main concern is that a crime will occur when a resident is home and someone will be harmed or killed. In an informal telephone survey, he learned that between half and two-thirds of the Town's residents support security enhancements that include cameras provided their concerns about privacy, cost and effectiveness are addressed adequately.

Mr. Scott then explained that the goal of the system is to catch criminals once a crime has occurred rather than deter crime, though deterrence is often a result of camera installations. We have established that Criminal Justice funds can be used for this system, and the Town has about \$150,000 currently in that fund. He noted that the system his group is investigating is scalable, i.e. it can be expanded, will focus on capturing license-plate information to assist in apprehending criminals, and includes the potential for new streetlights. He also noted that the captured information will only be available to the King County Sheriff's Office (KCSO).

The group has gotten three proposals, the lowest of which totals about \$100,000 for equipment and installation, and would cost about \$3,000 per year for maintenance and

monitoring. The added cost of having KCSO review captured camera information cannot be determined since no one knows just how much time will be needed to accomplish the task. There is also the possibility of adding a Town-wide wifi system and of offering low-cost house alarm systems to Town residents.

Among the Council, the primary concern was the cost to install, maintain, and monitor the system. There were also concerns about privacy, the affect on neighbors, and a possible increase in the number of false alarms.

Mayor Leider asked Town Marshal Scott what he needs from the Council at this time. Mr. Scott answered that he would first review and refine the bids received so that the Council can review everything and determine how best to measure interest among residents. It was the consensus of the Council that they are willing to revisit this issue when more information is available.

ALLIED WASTE FRACHISE: It was the consensus of the Council to table this discussion until the October meeting.

MAYOR AND COUNCILMEMBER REPORTS:

STREET DEED: Councilmember Stowe reported that he and WABA President Paula Dix have determined that the deed used to convey street from WABA to the Town did not include adequate detail so they are working on completing a legal description for this purpose.

DRIP IRRIGATION FOR 108TH: Councilmember Hillberg reported that he is working with Bill Beck to design a drip-irrigation system for the plantings along 108th Ave SE.

STREET PROJECTS: Councilmember Sharp reported that he received one bid in response to his scope of work for paving repairs along 106th Ave SE. He asked Clerk-Treasurer Spens to provide a list of the companies from the Small Works Roster that were invited to bid on this project so he can follow up and possibly obtain another bid.

TREASURER'S REPORTS: Councilmember Leber reported that he has completed his review of the 2Q2012 Treasurer's Reports and found them to be accurate and adequately documented.

WHATMORE: Mayor Leider reported he has mailed a response requesting that the Whatmore Estate resolve the encroachment and water-supply issues.

MAYORS' MEETING: Mayor Leider reported that our representatives in the State Legislature attended the September Mayors' Meeting. Of note is that all believe tolls will be implemented on I-90 in the next two years, because revenues from the SR-520 tolls are well below projections.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday October 9, 2012 at John Gillem's house.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 10:15 pm.
Councilmember Stowe seconded.
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer