



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

May 10, 2005  
Sharp

Mayor Lowry called the meeting to order at 7:30 pm.

**PRESENT:** Mayor Chuck Lowry, Councilmembers Betty Heckendorn, John Rose, Tom Robinson, Aaron Sharp, and Judee Wells.

**EXCUSED:** None.

**STAFF:** Clerk-Treasurer Sue Ann Spens.

**GUESTS:** Tom Stowe, John Sharp, Erik Christofferson, and Greg Heiser.

**MINUTES:** Councilmember Heckendorn moved to approve the April 5, 2005 minutes as written. Councilmember Sharp seconded.

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

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

**EAGLE-NEST NOTIFICATION:** Clerk-Treasurer Spens reminded the Council that Councilmember Rose had noted that Island County requires sellers of property on Whidbey Island to notify potential buyers of the noise originating from the airport and naval air station. She added that his suggestion was that the Town find out how Island County accomplishes this so that we can use a similar mechanism to ensure that potential property buyers know about the eagle nests located within Town boundaries. She then reported that Island County and Oak Harbor have ordinances in place that require seller's to inform buyers when the property they are selling is situated in a declared high-noise zone. She asked the Council if she should draft a similar ordinance for eagle-nest notification in Beaux Arts. It was the consensus of the Council that she proceed.

**FORESTRY GRANTS:** Clerk-Treasurer Spens asked Councilmember Wells if she had learned whether there were plans to apply for any forestry grants on behalf of the Town. Councilmember Wells answered no.

**LEBER TREE-REMOVAL REQUEST:** Clerk-Treasurer Spens reported that the Lebers' request to remove two trees from the ROW in front of their property had been reviewed by Rick Roberts with CHS Engineers and that Mr. Roberts agrees that the Lebers' request constitutes a reasonable application of an essential use on a small lot.

**TREASURER'S REPORT:** Councilmember Rose asked that approval of the 1<sup>st</sup> Quarter Treasurer's Reports be tabled until May, as he didn't have time to complete his review.

**WARRANTS:** Councilmember Rose moved to approve the April 12, 2005 warrant list,

including warrant numbers 6676 through 6701 in the amount of \$16,722.98. Councilmember Robinson seconded.

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

Councilmember Rose moved to approve the May 10, 2005 warrant list, including warrant numbers 6702 through 6725 in the amount of \$38,388.76. Councilmember Robinson seconded.

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

**MARSHAL'S REPORT:** Clerk-Treasurer Spens reported that Town Marshal Branum was unable to attend tonight's meeting due to work. She noted that he is working with Sylvia Hobbs, the new Block Watch Coordinator, to update the Block Watch captains list with email and telephone contacts. She added that he noted there was no activity to report but asked that the upcoming newsletter include a note reminding residents to report suspicious activity to the King County Sheriff.

**WATER REPORT:** Water Department Supervisor Bob Durr reported that the Town was on Bellevue water because the float-switch in the water tank has failed. He explained that a new switch is on order, and the S&B will complete the work as soon as parts arrive.

Clerk-Treasurer Spens reported that she had placed an announcement reminding customers of the need to test their backflow-prevention devices in the April newsletter. She also reported that the Consumer Confidence Report for 2005, which was mailed to customers with their May 1, 2005 water bills omitted column headings making it difficult to decipher. She stated that she is working with the consultant who prepares the report to correct the situation and will request an electronic copy to post on the website and forward to any customer who wishes to review the corrected report.

Clerk-Treasurer Spens asked Water Department Supervisor Durr and Mayor Lowry if they had reached a final decision on requests to provide adjusted water-usage figures to the Bellevue Sewer Utility when customers claim their usage figures were incorrect or included irrigation volumes. It was their consensus that such requests must be denied for lack of a means to verify the claim and the water volume in question. Mayor Lowry will discuss the decision with any customers who need further information.

**EMERGENCY PREPAREDNESS:** Councilmember Robinson reported that he had nothing to report other than a suggestion to all residents that they consider purchasing a \$30 water purifier for their home emergency kit. He noted that should an earthquake cause ruptures in the Town's water-distribution lines, residents could purify water from other impure sources, e.g. Lake Washington, for their personal use until service is restored.

**WABA REPORT:** John Sharp reported that WABA has space at the marina and that interested persons should contact Rob Carlson, who is replacing David Dempster on a temporary basis from June through August of this year. Mr. Sharp also reported that he will be moving out of the Village later this year and that Bernard vandeKamp has agreed to fill the position.

Mr. Sharp reported that discussions about tree trimming at the beach have been tabled again, that the beach roads were closed on May 4<sup>th</sup> for repairs, and that beach clean up is scheduled for May 21<sup>st</sup>.

Mr. Sharp concluded by reporting that WABA President Jim Airy met recently with the Solaros and feels optimistic that a settlement may still be possible.

**PRELIMINARY REVIEW OF SHORT PLAT #05-2 SUBMITTED BY HEISER**

**HOMES:** Mayor Lowry asked Mr. Heiser to introduce himself and described his proposal to the Council. Mr. Heiser explained that he has purchased Mardie Dougan's property at 10502 SE 28<sup>th</sup> Street and that he plans to subdivide the property into two roughly equal lots. He noted that the original lot contains more than 20,000 sq. ft. and that one of the two lots will be slightly larger than the other. He added that he and his staff have been working with Town Engineer Larry McAndrews and Town Planner Mona Green to ensure that the project complies with all applicable codes.

Councilmember Wells asked if the project meets the requirements of the Town Subdivision Ordinance. Clerk-Treasurer Spens responded that Larry McAndrews memo described the conditions under which he recommends approving the request, all of which appear to be typical for a project like this.

John Sharp asked if this request is likely to be approved at next month's Council meeting. It was the consensus of the Council that the project is likely to be approved with the conditions recommended by Town Engineer McAndrews.

**STORM DRAINAGE UTILITY:** Clerk-Treasurer Spens explained that the scope of work in our GMA grant from the State of Washington included the examination of the Town's stormwater policies; an item which has not been completed. She stated that in working to determine just what the Town needed to accomplish to complete this open item, Town Engineer McAndrews had developed a plan for a Storm Drainage Utility that would help the Town finance the improvements to its system that are likely to be required.

Clerk-Treasurer Spens then explained that she doesn't believe we need to develop such a utility until we know more about our existing system – information that we will get from the as-built drawings Bill Beck plans to work on this summer. She added that depending on what we find we have, we might discover that we don't need extensive upgrades and thus, don't need to form the Storm Drainage Utility.

Clerk-Treasurer Spens recommended that the Council:

- authorize the amending of Ordinance No. 248, the Town's Stormwater Management Ordinance to satisfy the scope of our GMA grant.
- table discussion of further work on the Stormwater Management System, the creation of a Storm Drainage Utility, etc. until after Bill Beck completes the as-built drawings of our existing system.

Erik Christofferson asked why new homes don't just install dry wells as older homes have. Water Department Supervisor Durr explained that the soils in this area contain large amounts of clay, which neither drain well nor allow water to be reabsorbed on the lot easily.

After some discussion, it was the consensus of the Council that Clerk-Treasurer Spens should proceed with amending Ordinance No. 248 and that further discussion of a Storm Drainage Utility be tabled until the as-built drawings of our existing stormwater management system are complete and available for study.

**BUILDING DEPARTMENT HOUSEKEEPING:** Mayor Lowry asked that the first issue for discussion be the status of the complaint about construction of a water feature on the Molbak property. He asked Erik Christofferson to summarize recent activity. Mr. Christofferson gave his views regarding the events leading to the issuance and subsequent lifting of a Stop Work Order on the Molbak project. He then stated that he is concerned that the chain of events leaves him harmed without any source of relief.

Mayor Lowry explained that the Molbak Stop Work Order was lifted only after the Town Attorney had a chance to review the complaint in its entirety and determine that, based on recent court cases, the time for registering complaints about the project has passed. He noted that the Molbaks have offered to pay for some mitigation, e.g. plantings to screen the Christoffersons' view of the water feature, and have provided drawings to the Christoffersons for their review and approval. Mr. Christofferson stated that he would like an alternative to be that the water feature not be used. Councilmember Wells asked how that would help Mr. Christofferson. Mr. Christofferson answered that it wouldn't, but it would make him feel better.

Councilmember Robinson interjected that he is concerned about disregard for the decision of the Board of Adjustment and asked what the Town can and should do when the Board's decisions are ignored. Clerk-Treasurer Spens answered that property owners must comply with the Board's decisions or they won't be issued a building permit. She noted that in this case, the Board's decision did not address the wall of the water feature in question either by reference or by inference. She added that Town Planner Green's recommendation was that the Board deny the variance and that the transcript of the hearing shows that Town Planner Green specifically stated that the wall was not part of the variance under discussion because the building official had determined that the wall met the definition of a fence. Clerk-Treasurer Spens further added that despite this exclusion by the building official, the Board could have placed conditions on the wall had it chosen to do so.

Councilmember Wells asked if it is Town Attorney Stewart's position that the Town would be likely to lose a lawsuit seeking to require modifications to the height of the wall. Mayor Lowry answered yes.

Moving on to other building-department items, Mayor Lowry reported that The McAndrews Group has merged with CHS Engineers and has provided the Town with a new contract to recognize the new firm name. He noted that this presents the Town with an opportunity to review the quality of the work we are receiving and our level of satisfaction with our contract

building-services group. He noted that Town Attorney Stewart has advised we can refrain from signing the new contract for a short time while we make this assessment.

Councilmember Sharp commented that his impression is that The McAndrews Group is heavy on planning where the Town may need more engineering and architectural expertise. Mayor Lowry noted that the new firm has more engineers on staff.

Mayor Lowry reported that he received a letter from Jan Johnston questioning the added engineering requirements placed on one of her projects. He explained that in her letter, she states that she feels the requirements are not only above and beyond the requirements of our codes, but also above those typically imposed on similar projects, which adds unnecessary costs to the project.

After some additional discussion, it was the consensus of the council to bring the CHS contract forward with a resolution authorizing the Mayor to execute it.

Councilmember Sharp also asked that the Council suggest to the Board of Adjustment that all staff planner reports be taken seriously in their deliberations about variances.

It was the consensus of the Council to table further discussion of the remaining list of items until the June Council meeting, in the interest of time. Mayor Lowry asked Clerk-Treasurer Spens to obtain a copy of a set of standard permit conditions to include for the Council's review.

#### **MAYOR AND COUNCILMEMBER REPORTS:**

**JAIL AND BOOKING FEES:** Mayor Lowry commented that due to the arrest of a resident, the Town may be charged for jail and booking fees.

**CONSTRUCTION WITHOUT A PERMIT:** Mayor Lowry reported that residents reported construction activity at the Morlock residence, which has been reported to the building department.

**COTTAGE HOUSING:** Councilmember Rose reported that the Cottage Housing committee hopes to have recommendations for the Council's review at the June Council meeting. Councilmember Wells asked if the group is considering public ownership of this project. Councilmember Rose answered that the topic of ownership was not discussed as the group was concerned with changing the Zoning Code to allow different types of housing.

**SPEED HUMP COMPLAINT:** Councilmember Sharp reported that he continues to work on the complaint heard by the Council in December regarding several speed humps in Town.

**STREET WORK FOR 2005:** Councilmember Sharp reported that temporary repairs to 102<sup>nd</sup> Ave SE will be soon but permanent repairs will be put on hold until the Molbaks finish their project.

**POLICY FOR REMOVAL OF TREES IN THE RIGHT-OF-WAY:** Councilmember Sharp asked the Council to consider developing a consistent policy for the removal of trees that sit in the Town right-of-way. He suggested wording provided by Tom Stowe: "Trees may be removed from the right of way provided either (1) the tree is diseased and must be removed, as recommended by a certified arborist, OR (2) the tree must be removed to accommodate the reasonable application of an essential use on the adjacent private property."

**TOWN CLEAN UP RECAP:** Councilmember Wells reported that the recent Town Cleanup organized by Robin Stefan had 80 volunteers hard at work throughout the day and that the dumpsters were filled to the brim. She asked that Mayor Lowry write a thank-you letter to Robin Stefan recognizing her key part in the success of the cleanup.

**TREE COMMITTEE MEETINGS:** Councilmember Wells reported that the tree committee would begin meeting in the next month or so to plan for fall plantings.

**STATE LEGISLATIVE ACTION:** Councilmember Heckendorn outlined final legislative action taken before the 2005 legislative session adjourned.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that their next meeting is scheduled for June 14th and is scheduled to be held at Judee Wells' house. Councilmember Wells noted that she has a construction project due to begin shortly and that she may try to trade meetings dates with another Councilmember.

**ADJOURN:** Councilmember Heckendorn moved to adjourn the meeting at 9:35 pm. Councilmember Sharp seconded.  
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer