



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

April 15, 2008

Rose

(This meeting has been continued from the regular date of April 8, 2008 so that a quorum of the Council can attend.)

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

PRESENT: Mayor John Rose, Councilmembers Steve Eulau, Richard Leider, Aaron Sharp, and Bruce Young. Councilmember Clemett arrived at 7:55pm.

EXCUSED: None.

STAFF: Clerk-Treasurer Sue Ann Spens.

GUESTS: Planning Commissioners Gordon Roberts and Dennis Casey, Tom Stowe, Robin Stefan (arrived at 8:00pm), and Hank Heckendorn.

MINUTES: Councilmember Leider moved to approve the March 11, 2008 minutes as amended. Councilmember Eulau seconded.

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

WARRANTS: Councilmember Eulau moved to approve the April 8, 2008 warrant list, including warrant numbers 7627 through 7658, in the amount of \$14,161.02.

Councilmember Young seconded.

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

Clerk-Treasurer Spens pointed out that Warrant No. 7652 in the amount of \$51.17 is for solar-powered lights along the new stairs, is included in the approved dollar amount, and is being held until we can be certain that the solar cells on the lights will operate in the shaded area where they are placed. She explained that if the warrant is not sent out, she will bring an amended warrant list forward for Council action next month.

CLERK'S REPORT:

MEMORANDUM OF UNDERSTANDING: Clerk-Treasurer Spens reported that Town Attorney Stewart has approved the Memorandum of Understanding between the Town and WABA for the creation of an inactive recreational area on property used by the Beaux Arts Water Department. She stated that she has forwarded it to WABA for their review and approval.

WATER REPORT: No report.

MARSHAL'S REPORT: No report.

WABA REPORT: No report.

EMERGENCY PREPAREDNESS: Councilmember Eulau reported that he is continuing to put together a “Map Your Neighborhood” project for Beaux Arts. He stated that he has contacted several residents to see if they are interested in participating in the project and has had very positive responses. He added that he has prepared a brief notice for the May newsletter describing the project and the various ways to participate in it.

Councilmember Leider asked Councilmember Eulau where he would like to be in a year with regard to this project. Councilmember Eulau answered that he would like to have found two “block captains” for each area, to have trained all of these block captains, and to have held block meetings to establish what needs to be done and how best to do it.

STORMWATER SYSTEM: Councilmember Sharp reported that he is completing work to edit the proposed Scope of Work submitted last month by Thalweg so that it best meets our needs, noting that the original proposal is very workable and just needs some fine-tuning. He added that he expects to have a final Scope of Work ready for Council review in May and this final version should outline our expectations for:

- an assessment of our current stormwater system,
- an outline of what needs to be upgraded and at what cost, and
- an outline of additional upgrades that may be appropriate.

He noted that he expects this work to cost about \$2,500 and reminded everyone that this only buys the assessment and guidelines for upgrading – the cost to install the upgrades will be in addition to this fee.

Mayor Rose commented that Yarrow Point spend about \$40,000 to complete a study of their existing stormwater system, which included maps of the existing system that can be used to design the upgrades. He added that the Council will need to decide how to pay for this study.

Councilmember Leider stated that our budget could be amended to accommodate a proposed expenditure of \$5,000 to \$10,000 to develop a plan for both basic compliance and state-of-the-art compliance.

Councilmember Sharp offered to defer this year’s TIP Project until next year to free up budgetary funds for this project, if needed.

JOINT WORKING SESSION WITH THE PLANNING COMMISSION AND TREE COMMITTEE ON A PROPOSED TREE MANAGEMENT PLAN: Before opening the discussion, Mayor Rose laid out guidelines for this agenda item as follows:

- First, a representative of the Tree Committee will outline the reasons for the proposed ordinance they drafted.
- Next, the representatives from the Planning Commission will discuss why they did not support the ordinance as written and recommended instead that the Town complete a Tree Inventory.
- Last, the Council will discuss the proposed ordinance in light of this input and decide

how they wish to proceed, i.e. to complete work on the Tree Ordinance or to end discussions about this proposed legislation.

For the Tree Committee: Mayor Rose noted that he had expected Robin Stefan to present remarks on behalf of the Tree Committee and asked Councilmember Young to handle this task in her absence. Councilmember Young opened his remarks by stating that members of the Tree Committee devoted long hours to discussions about whether any regulations were needed and what those regulations, if any, should be. He explained that the members of the Tree Committee comprised the full range of opinions on the topic from those who wanted full and extensive protection for all trees in Beaux Arts to those who preferred minimal to no regulation of trees on private property. He commented that after much discussion the committee decided to develop an ordinance that protects the largest “landmark” trees without placing undue burdens on the homeowner. He added that the proposed ordinance only protects certain tree species (conifers, evergreens, madrone, oaks, and big leaf maples) and allows homeowners to cut most protected trees after a waiting period. He concluded his remarks by stating that the ordinance will reduce the number of tree removals, provide for mitigation of allowed tree removals, and improve the protection of trees during construction projects. He added that these limitations protect the wooded character of Beaux Arts, promote water retention by our soils, reduce air pollution and promote wildlife habitat.

Mayor Rose asked if there were questions for Councilmember Young. There were none.

For the Planning Commission: Mayor Rose commented that the Council has reviewed minutes from the last two Planning Commission meetings as well as the Planning Commission recommendation that the Council not enact the ordinance as written. He then asked Planning Commissioners Dennis Casey and Gordon Roberts for insight into their discussions.

Commissioner Casey began by stating that he was the lone vote in favor of the ordinance. He then explained that the Planning Commission was concerned that the proposed ordinance focuses on private property when public, private, and WABA property are all a part of the equation. He said that the Planning Commission supports tree preservation but did not feel that Beaux Arts is ready to regulate trees on private property when we do not have a clear policy for tree preservation on public property.

Commissioner Casey commented that several residents at their public hearing were strongly opposed to regulating trees on private property and that some expressed concern about having to pay for a permit in addition to the cost of the tree removal.

Commissioner Casey stated that the Planning Commission was concerned with the length of the ordinance and its complexity and felt that an inventory of the large trees throughout Beaux Arts would help us understand where what trees we have before we decide how to legislate to protect them. He noted that Commissioner Donoghue spoke of wanting the inventory because it may show us that most of our larger trees are on Town or WABA property, which protects those trees to an extent already, and that if most of the Towns trees are so protected, there may be no need for this legislation.

Mayor Rose asked if there were questions for Commissioner Casey. There were none.

Robin Stefan and Councilmember Clemett arrived at 8pm, and Mayor Rose invited Ms. Stefan to make a short presentation. Ms. Stefan began by pointing out that the Town's Comprehensive Plan emphasizes the need to preserve our trees as they are our second-most-important feature, surpassed only by the beach. She stated that we need ordinances that reinforce our stated desire to protect trees. She also stated that the Town regulates the use of private property in many other ways, that tree removals affect neighbors as well as the property owner with the tree, and that the proposed ordinance only asks that property owners consider the full scope of their actions *before* cutting a protected tree.

Ms. Stefan then described some of the process the Tree Committee used to develop the proposed ordinance. She explained that they analyzed the reasons for recent tree removals and found that most were done:

- to obtain more light, though pruning may have accomplished the same end result,
- out of fear of a tree hazard, and
- out of failure to consider the effect on neighbors, which stems from lack of communication.

She added that these reasons led the committee to conclude that a process for educating residents of the value of trees to everyone could reduce the number of tree removals significantly.

Mayor Rose asked if there were questions for Ms. Stefan. There were none.

Mayor Rose then asked Councilmember Sharp to present his idea about a method to share the burden of preserving trees on private property. Councilmember Sharp first stated that his concerns with the ordinance as written are that the rules place an unfair burden of tree preservation on those properties that already have landmark trees without requiring other properties to share in that burden. He outlined an idea for creating Tree Protection Zones on each lot in Beaux Arts that would involve every property in the process of preserving trees, thus making the regulations fair for everyone. He also noted that a number of questions need to be answered in order to develop this idea, including:

- how much space does each tree need ideally,
- how many trees each lot should protect,
- if a lot doesn't have that many trees now, what triggers the requirement to plant the additional trees, and
- what special considerations, if any, would be given to smaller lots.

After some discussion about the proposal and the challenges associated with administering its complexity, the Council decided to focus on revising the current proposed ordinance for the time being.

Mayor Rose polled Councilmembers for their comments on the proposed ordinance.

Councilmember Young stated that he supports the Tree Ordinance as written.

Councilmember Clemett stated that she thinks the proposed ordinance is a good start, but she wants to see if there is a modified ordinance that protects the character of the Village while addressing the issue of fairness. She commented that one idea might be shared mitigation, i.e. letting property owners place mitigation trees either on Town property or on other private property where an owner has indicated in interest in taking mitigation trees.

Councilmember Leider stated that he supports the education and communication aspects of the proposed ordinance, but he doesn't like the 20% limit and he is concerned with the form of mitigation. He added that he might feel differently about what is appropriate if we knew whether 90% of our existing trees are on private property versus 90% on Town and/or WABA property. He commented that the context of this ordinance is new for Beaux Arts and potentially sets policy for the next 50 years. He then suggested that to do this responsibly, we need to have a full understanding of what we have for tree canopy before we can decide where we need to go.

Councilmember Leider also distributed a copy of the original WABA rules in which Rule No. 1 states "No person shall be allowed to cut or injure any tree, shrub, or other natural growth of any description unless it be on property he has contracted to purchase." He also distributed copies of photos of early Beaux Arts homes showing how they looked in the early days of Beaux Arts and how they look now and pointed out that in all of them trees, shrubs, etc. have grown up sufficiently to shield and/or obscure the homes from view. He explained that this shows that on balance Villagers have valued trees over the years even without rules and regulations controlling cutting on private property and that the treed character of the Village has developed over time rather than being a significant characteristic when the Village was first founded.

Councilmember Clemett pointed out that the Town will be building its database of tree sizes and locations based on the permits submitted since each permit application must include drawings showing what trees exist on the lot, which are proposed for removal, and which will remain.

Councilmember Eulau commented that he is concerned there is no clear path for a homeowner to remove a landmark tree other than for construction or because the tree is hazardous and this could lead to "shopping" for an arborist opinion. He added that a limit of 20% over five years seems onerous and overly restrictive. He stated that he likes the idea of mitigation because it provides for future trees and wants to find a way to bring non-wooded lots into the tree picture. He also suggested that the Council look at the rules for City of Redmond, as they fit onto a single page and seem easy to understand and administer.

Councilmember Clemett offered to work on a revised draft that addresses the triggers for mitigation and to look at ways to allow the removal of landmark trees, including reviewing Redmond's method for accomplishing this. She asked Planner Green and Clerk-Treasurer Spens to assist her in this effort so that a revised ordinance can come to the Council for further discussion at another work session with limited public input in May.

PUBLIC HEARING: PROPOSED ORDINANCE NO. 356 ESTABLISHING A SHORT-TERM MORATORIUM ON TREE CUTTING: Mayor Rose opened the public hearing at 9:55pm and asked for 3-minute comments from the public.

Robin Stefan stated that she supports the moratorium to protect trees until the Tree Ordinance can be enacted.

Tom Stowe expressed support for the moratorium.

Clerk-Treasurer Spens reported that Sylvia Hobbs expressed support for the moratorium via email.

Councilmember Young reported that Del and Helen Lewis called him to express their support for the moratorium.

As there were no additional comments, Mayor Rose closed the public hearing at 10:05pm.

Councilmember Clemett commented that the moratorium is appropriate because several large trees have come down since the last moratorium lapsed, and while this moratorium is for a very limited time, it will prevent further loss of trees until work on the Tree Ordinance can be completed. She suggested that the length of the moratorium be reduced to three months. It was the consensus of the Council that the shortest possible moratorium is most appropriate.

Councilmember Sharp asked why WABA property is exempted from the moratorium with the phrase “private residential property”. Councilmember Clemett answered that WABA has plans in place that may include the limited removal of trees. After some discussion, it was the consensus of the Council to remove “residential” from Section 1 of the ordinance so that all private property is subject to the moratorium.

MOTION: Councilmember Clemett moved to pass Ordinance No. 356 establishing a three-month moratorium on the cutting of certain protected trees on private property. Councilmember Young seconded.
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

PROPOSED ORDINANCE NO. 357 ESTABLISHING RULES FOR THE BEAUX ARTS WATER DEPARTMENT: Clerk-Treasurer Spens explained that the proposed ordinance replaces Ordinance No. 322 and differs from the previous ordinance only by adding another method for delivering a Notice of Pending Disconnection to customers whose accounts are more than three months in arrears.

MOTION: Councilmember Eulau moved to pass Ordinance No. 357 establishing rules for the Beaux Arts Water Department. Councilmember Leider seconded.
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

PROPOSED RESOLUTION NO. 242 SETTING FEES FOR VARIOUS SERVICES AND PERMITS IN THE TOWN OF BEAUX ARTS VILLAGE: Clerk-Treasurer Spens

explained that the proposed resolution includes the new late fees for the Water Department: \$5.00 for the second notice, \$20.00 for a third notice, and \$40.00 for a fourth notice.

MOTION: Councilmember Sharp moved to adopt Resolution No. 242 setting fees for various services and permits in the Town of Beaux Arts Village. Councilmember Leider seconded.

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

MAYOR AND COUNCILMEMBER REPORTS:

BOARD OF ADJUSTMENT: Mayor Rose reported that Gail D'Alessio has resigned from the Board of Adjustment creating a vacancy on that board. He has already asked Deputy Clerk Kulp to place a notice in the newsletter about the vacancy and asking residents to contact him if they are interested in serving on the Board.

KUDOS TO DEPUTY CLERK KULP: Mayor Rose reported that Ms. D'Alessio also shared very positive feedback on Deputy Clerk Kulp's work and professional demeanor. He noted that he has passed on the compliments to Deputy Clerk Kulp.

SPEED-CONTROL BUOYS: Mayor Rose reported that he and Clerk-Treasurer Spens met with Major Dave Germani, our liaison to the King County Sheriff's Office (KCSO), and Jim Knauss, the KCSO Marine Unit Supervisor, to discuss the speed-control buoys along the Beaux Arts waterfront. He explained that there are several concerns about our buoys:

- Most are in very poor condition after numerous collisions with boats.
- Many have shifted from their original locations.
- Some are confusing to boaters, because the area they aim to protect is larger than most boaters expect and the speed limit they require is lower than on the rest of Lake Washington.

Mayor Rose explained that the KCSO Marine Unit would like the Council to give some thought to the locations we have chosen for the buoys and the speed limit we have set as the Marine Patrol feels they could enforce more vigorously and effectively if our locations and speed limit were more in line with those of other Lake Washington jurisdictions. He then offered two possible courses of action:

- Approach Mercer Island and see if they are now interested in adopting rules similar to ours so that enforcement would be consistent across the entire channel between BAV and Mercer Island.
- Change our rules to be consistent with those of other jurisdictions on Lake Washington.

He asked for comments from the Council.

Councilmember Young noted that if our current rules are not working, we should probably change them.

Councilmember Leider offered that our current rules could work, if they were enforced more consistently.

Councilmember Sharp stated that he feels the lake should be kept open for all boaters

traveling safe speeds. He added that making our rules consistent with those of other jurisdictions would improve enforcement greatly by eliminating confusion. He also commented that he does not want Beaux Arts to ask Mercer Island to adopt rules that are parallel to ours, because that will eliminate the option of waterskiing in the area. He added that he thinks one big reason the speed regulations were first imposed was to reduce wave action on the boats at our docks. He suggested that WABA be asked for input, since they own the beachfront and the docks.

Councilmember Eulau added that whatever the Council decides to do needs to make sense both for Villagers and for boaters passing through our waters.

Mayor Rose offered to put together a proposal for Council review in May.

CENTENNIAL CELEBRATION: Councilmember Leider reported that he has spoken with Brooke VanWyk about the Centennial Parade and the proposed street closure and that all necessary details have been arranged. Councilmember Young added that musicians are still needed for the parade.

SPRING CLEAN-UP: Councilmember Clemett reported that the Spring Cleanup was a success, especially the special project to fix the steps leading from 103rd Ave SE to SE 28th St. She added that Cleanup Coordinator Paula Dix will be seeking suggestions for the next special project in coming months.

FIRE HYDRANTS: Councilmember Clemett noted that a number of fire hydrants throughout Town need to be repainted and asked if that can be done before the parade. Clerk-Treasurer Spens will ask Water Dept. Supervisor Durr to look into the project.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next regular Council meeting is scheduled for May 13th at Aaron Sharp's house.

ADJOURN: Councilmember Sharp moved to adjourn the meeting at 10:30 pm. Councilmember Eulau seconded.
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer