



TOWN OF BEAUX ARTS VILLAGE
TOWN COUNCIL MINUTES

February 14, 2014
Stowe

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

PRESENT: Mayor Richard Leider, Councilmembers Peggie Bates, John Gillem, Mike Hillberg, Wade Morlock, and Tom Stowe.

EXCUSED: None.

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

GUESTS: WABA President Karen Deitrick, outgoing WABA President Paula Dix, former WABA Dockmaster Bernard vandeKamp, Department of Ecology representative David Pater.

MINUTES: Councilmember Gillem moved to approve January 14, 2014 minutes, as amended. Councilmember Hillberg seconded.

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

WARRANTS: Councilmember Hillberg moved to approve the February 11, 2014 warrants, numbers 9522 through 9542, in the amount of \$14,112.43. Councilmember Gillem seconded.

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

CLERK'S REPORT:

TREE ORDINANCE REVIEW: Clerk-Treasurer Spens reminded the Council that just about the time Tree Solutions began working as the Town Arborist, they contemplated revisiting the Tree Code and assessing whether it needed any adjusting but decided to hold off until Tree Solutions had some time to work with the ordinance and develop comments of their own. Because Deputy Clerk Kulp works with this ordinance closely, she has experience with the effectiveness of our ordinance and has been talking with other jurisdictions to learn if they have other rules in place that might work better for us. Clerk-Treasurer Spens asked if the Council is interested in beginning this dialog. After some discussion, it was the consensus of the Council to appoint a subcommittee consisting of Mayor Leider, Councilmember Hillberg, and Councilmember Gillem to review Deputy Clerk Kulp's findings and determine the best course of action.

2011-2012 AUDIT SUGGESTION: Clerk-Treasurer Spens reminded the Council that during the exit conference of our recent audit, the auditors asked us to treat reimbursements received from the Town of Hunts Point as revenue rather than the more accurate reduction in expenditures. She has spoken with Northwest Administrators who have agreed that Beaux Arts and Hunts Point can each submit separate checks in payment of the premium so that the financial statements for both entities accurately reflect revenues and expenditures.

MARSHAL'S REPORT: None.

WATER REPORT: None.

WABA REPORT: Former WABA President Paula Dix introduced new WABA President Karen Deitrick, who reported that WABA's last meeting was focused on planning, goal setting, and electing new officers: Vice President Steve McKean, Secretary Brian Moco, and At-Large Paul Driftmeyer. Elizabeth Westburg will continue as WABA Treasurer.

Ms. Deitrick noted that WABA's three main goals for 2014 are improving communication with membership, replacing the center barbecue, and completing Phase III shoreline restorations.

Councilmember Stowe asked that WABA also add to their radar the need to address stormwater conveyance along paved beach roads and unpaved beach-access paths and to revisit the discussion about the deed to the water-tower property.

APPEARANCES: None.

STATUS OF SHORELINE MASTER PROGRAM (SMP) UPDATE: Mayor Leider turned the discussion over to Town Planner Mona Green who quickly recapped the Council's recent discussions regarding recent correspondence between the Town and the Washington State Department of Ecology (DOE) outlining DOE's comments to the Town's draft SMP. She then introduced David Pater, the DOE Shoreline Planner who reviewed the Town's draft SMP and forwarded his comments in tabular form for the Council's preview, and noted that they walked the beach property recently to help Mr. Pater understand its unique characteristics.

Council discussion with Mr. Pater focused on the three unresolved items in the draft SMP.

Item 1: SMP Table 6.3 Requirements for New Overwater Structures – Location of moorage and in-water structures. DOE's original comment was to require that any new piers, floats, and fingers be set back 30 feet from the shoreline and in water depths of at least 10 feet. Temporary, summertime floats are exempt from this requirement.

Mr. Pater explained that the depth issue is related to protecting young-salmon habitat in the near shore. Based on the Town's indication that a 10-foot water depth is achieved at approximately 90 feet from the OHWM, DOE can accept a minimum depth of 5 to 6 feet for moorage facilities. He stated that there may be other ways to resolve this through credits for replacing wood planking with grating, regulating the use of the near-shore boat slips during periods when the lake level is low, or setting the setback on the north docks at 40 feet. (The south dock can keep the 30-foot setback since the measured depth appears to be at least 5 feet at that distance.) He added that this regulation only applies to redevelopment.

On discussion, the Council expressed the following concerns:

- WABA could potentially lose near-shore boat slips. Would they be able to extend the docks to retain their current capacity? Would other mitigation be required? Town Planner Green answered that the current D Dock is 130 feet long. The draft SMP would allow docks up to 200 feet long with no additional mitigation required.
- Extending the docks into deeper water would be an expensive solution.
- Could extensive repairs be deemed redevelopment? Town Planner Green answered that regular maintenance is NOT considered redevelopment.
- If the docks suffered catastrophic damage, would replacing them be considered redevelopment? Mr. Pater answered that the property owner retains the right to replace what they had prior to the loss.
- Is there any way that the Town and WABA can get credit for the fact that we have much more open beach and water along the length of our shoreline that one finds in areas where single-family residences have docks that are much closer together? Mr. Pater answered that DOE is looking for setbacks from OHWM that support a minimum depth of 5 feet throughout the Lake Washington jurisdiction.
- During periods when the lake level is low, the inside slips are usually too shallow for boat use, except very small watercraft. Could seasonal restrictions be taken into consideration? Mr. Pater answered perhaps.

At the conclusion of this discussion, Mr. Pater expressed willingness to take these concerns back to DOE for further discussion. It was the consensus of the Council that they need time to consider the ramifications of changing the minimum setback from 30 to 40 feet at the North Docks or using other mitigation strategies before committing to a course of action.

Item 2. Appendix E. Critical Areas 1.A – Reasonable Use. DOE's original comment was that the phrase "allowing for reasonable use of private property" must be stricken from the Critical Areas Report, claiming that reasonable-use exemptions are inconsistent with the Shoreline Management Act. Both RCW 90.57 and WAC 173-27 establish the variance permit process which functions similarly to reasonable use.

At the opening of this discussion, Mr. Pater stated unequivocally that "reasonable use" language is not allowed in any SMP. On discussion, the Council offered to replace this language with "consistent with private property rights" which Mr. Pater stated should be okay, provided everyone understands the strict interpretation of private property rights established by State statute. He offered to forward a copy of former Attorney General McKenna's decision outlining the protection of private property rights.

Item 3: Appendix E. Critical Areas 4.F.1 – Endangered, threatened and sensitive species. DOE'S original was to add the following language to paragraph (a): "Development which is consistent with the SMP may be allowed within habitats of aquatic species."

The Council believes the language is acceptable, except that "may" should be replaced with "is" since there are no situations under which a project that is consistent with the SMP could be denied a permit. Further, the Council wishes to ensure that DOE doesn't later have the option of causing the denial of a permit despite the fact that the project is consistent with the SMP. Mr. Pater averred that using the word "may" gives the Town more power when

reviewing permit applications and that DOE is only involved in approving the SMP, not permits issued by the Town under an approved SMP. He stated that he is willing to seek additional clarification on this issue from other DOE staff.

This concluded the discussion with Mr. Pater. Mayor Leider thanked him for his time and noted that the Council looks forward to hearing back on the outstanding items.

Town Planner Green had to leave for another meeting and was excused.

PROPOSED RESOLUTION NO. 287 ARCH 2014 WORK PROGRAM AND BUDGET: Clerk-Treasurer Spens explained that the Council's proposed contribution toward ARCH's operating expenses has remained stable over the last six years at \$1,569. Councilmember Stowe noted that we have consistently stated that our participation in ARCH allows the Town to satisfy its requirement for affordable housing and wondered whether the accessory dwelling units (ADUs) we have in Town accomplish the same thing.

MOTION: Councilmember Hillberg moved to adopt Resolution No. 287 approving the ARCH Work Program and Budget for 2014. Councilmember Stowe seconded.
Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

COUNCIL DUTIES: Mayor Leider directed the Council's attention to the draft Organizational Chart he has updated to reflect his understanding about Councilmembers' preferences for duties. After a short discussion, it was the consensus of the Council that duties would be distributed as follows:

- Councilmember Hillberg will retain his responsibilities for tree management, and ROW maintenance, including organizing Town Clean-ups.
- Councilmember Gillem will assume responsibility for financial reporting, including budget forecasting, cash management, and coordination of the biennial state audit.
- Councilmember Morlock will assume responsibility for land-use issues and will act as liaison to the Planning Commission.
- Councilmember Bates will assume responsibility for Emergency Preparedness and coordinating Blockwatch.
- Councilmember Stowe will assume responsibility for street maintenance, the annual TIP budget, stormwater and other utility systems, and retain his work on franchises.

Mayor Leider will prepare a final update of the organizational chart that incorporates these changes and forward it to Clerk-Treasurer Spens for printing and distribution.

STRATEGIC PLANNING:

Goal 1. Town Hall

Councilmember Stowe noted that the Council should approach WABA with a proposal for using the water-tower property for a Town Hall as part of its work with WABA to clarify the deed that governs use of the south half of the water-tower lot. He noted that the Town owns the north half of that lot outright.

Other Councilmember suggestions included:

- evaluating how much a Town Hall would cost and how it would be paid for,
- preparing preliminary concept sketches and a feasibility study,
- exploring other community uses for the facility.

Mayor Leider offered to open the dialog by preparing something for the newsletter letting residents know that the Council is exploring the idea of constructing a Town Hall that could also serve as a center for other community activities, e.g. WABA meetings and records storage. The paragraph would note that the logical place to site such a facility is the water-tower lot and would ask if residents believe this is a feasible site.

Paula Dix suggested that the entire community be included in the discussion. The Council agreed that Villagers are an important part of this discussion and that a future Council meeting could be devoted to the topic if it seems feasible to continue studying.

Goal 4 - Town Character / Master Plan for ROWs

Councilmember Hillberg reported that he has chosen two firms from among the six responses the Town received to its recent RFQ: Maker's and CREA. He will work with Mayor Leider and Councilmember Morlock to arrange interviews with these firms and will make a recommendation to the Council. He envisions that the ROW Master Plan will be very similar to the Town's Comprehensive Plan in that it will establish guidelines and policies for current and future use of the rights-of-way.

Goal 6 - Emergency Preparedness

Councilmember Gillem reported that he will turn over materials to Councilmember Bates noting that the next step is to take the high-level state-mandated Comprehensive Emergency Management Plan (CEMP) and use it to develop hands-on checklists that can be used to guide the response to an emergency or natural disaster.

Goal 9 - Public Utilities / Stormwater system

Councilmember Stowe reported that he has completed and submitted a grant application to King County Flood Control District for a grant of about \$17,000 to use toward developing a Stormwater Management Comprehensive Plan. Clerk-Treasurer Spens noted that Yarrow Point recently completed their plan; she will get a copy of that plan to Councilmember Stowe.

MAYOR AND COUNCILMEMBER REPORTS:

KING COUNTY REGIONAL EMERGENCY RESPONSE MEETING: Councilmember Gillem reported that he plans to attend an upcoming meeting for Regional Emergency Response hosted by King County.

PROPOSED SOUND TRANSIT CONSTRUCTION ON BELLEVUE WAY:

Councilmember Stowe reported that Sound Transit has announced that they expect to achieve the 60% design milestone later this year. He has contacted the Sound Transit Citizen Advisory Committee to learn who they are and who they represent and to request more information about the traffic plans during construction and how they plan to deal with the

increase in cut-through traffic along 108th Ave SE and 104th / 105th Ave SE during construction.

SOUND CITIES ASSOCIATION: Councilmember Stowe reported that he plans to speak with attendees at the next SCA meeting about State Auditors plan to include an exception statement in the audit reports of all cash-basis entities in the State. He added that he mentioned the concern recently and discovered that a large number of Washington cities use cash-basis for their financial reporting. He also reported that SCA has shared a lot of information about the County's plan for a Transportation Benefit District and that the plan boils down to an increase in the sales tax and in license tab fees. The funding measure for this plan will go to the public for a vote this Spring.

TREE INSPECTIONS: Councilmember Hillberg reported that Potelco's pole-replacement project is underway and that as part of that project he performed a walk-through with Haley Galbraith of Tree Solutions and Asplundh, Potelco's subcontractor for tree-trimming work. He noted that Potelco is handling providing notices to our residents and that the bulk of the work is reasonable in scope. One area that is proving more complicated is the north end of 106th Pl SE. There is a large fir at the end of this street that has power lines running on each side of it. The tree itself is not healthy though it poses no immediate danger, but it may make sense to allow Potelco to remove the tree as part of their project to save the Town bearing the expense.

TOPPED TREES: Councilmember Hillberg reported that during the walk-through he became very aware of the number of trees that have been topped throughout town. He explained that topping almost always negatively impacts the health of the tree. He continues to work with Tree Solutions to update the Town's Watch List for trees, including adding many of these topped trees.

PLANNING COMMISSION VACANCY: Mayor Leider is still working to find someone to fill the one remaining vacancy on the Planning Commission. He hopes to have an appointment for the Council's confirmation at the March Council meeting.

AT&T CELL ANTENNA: Mayor Leider reported that he submitted suggested changes to the terms and conditions under consideration as part of AT&T's feasibility study for installing a cell-phone antenna on the water tower. He reported that they have completed their preliminary environmental review and remain interested in exploring this potential site.

REPRESENTATIVE ADAM SMITH: Mayor Leider noted that he plans to meet with Representative Smith in the near future.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that the next Council meeting will be held at 7:00pm on Tuesday March 11, 2014 at Peggie Bates' house.

ADJOURN: Councilmember Stowe moved to adjourn the meeting at 9:40 pm.

Councilmember Hillberg seconded.

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

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer