

City of Brookings

City Council Meeting MINUTES

Monday, July 9, 2012

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

Call to Order

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

Roll Call

Council Present: Mayor Ron Hedenskog, Councilors Dave Gordon, Jake Pieper, Brent Hodges and Kelly McClain; a quorum present.

Staff Present: City Manager Gary Milliman, Public Works & Development Director Loree Pryce, City Attorney Martha Rice, Finance & Human Resources Director Janell Howard, and City Recorder Joyce Heffington.

Councilor Pieper moved, a second followed and Council voted unanimously to add [as item D-3 under Ceremonies, Appointments & Announcements] the appointment of a Council subcommittee to select the Volunteer of the Year and to remove Item F-2 [requesting financial assistance with SDC charges for clinic] from the agenda.

Ceremonies/Appointments/Announcements

Mayor Hedenskog proclaimed the week of July 15th as Kite Festival Week.

Mayor Hedenskog moved, a second followed and Council voted unanimously to appoint Jake Pieper as Council President.

Councilor Pieper moved, a second followed and Council voted unanimously to appoint Councilor Hodges and Councilor McClain to a Council subcommittee to choose Volunteer of the Year.

Staff Reports

Authorize staff to notify Hassett Street property owners holding a Deferred Improvement Agreement (DIA) that the City is proceeding with street improvements and that they will be required to contribute their proportionate share.

Director Pryce gave the staff report and City Manager Milliman pointed out that Councilor Gordon has asked for information about the contribution amounts at the time the DIAs were recorded and Director Pryce reviewed that information.

Councilor McClain asked what funds would be used to cover the difference between today's cost and the cost at the time of recordation and Pryce said it would mostly be paid with System Replacement Funds. McClain then said that if all existing DIAs were rolled back to the time of recordation, the difference could be as much as \$600,000.

Diane Moffit, 622 Hassett Street, commented that all costs should be paid up front and not left for owners to pay later, that the drainage system seemed to be working fine and that improvements were not needed.

Tami Konkell, 269 Marine Drive, owner of 520 Hassett, commented that she agreed with Moffit, and added that many of the owners are "upside down" with their mortgages, making it difficult for them to get a loan.

Jan Sirchuk, PO Box 2711, commented that drainage issues do exist and need attention.

During deliberations, Councilor McClain said it didn't seem fair that one property owner would have to pay more with the reconfiguration while the other property owners would be paying less and asked about a possible payment program.

City Manager Milliman said the City did not have a payment program, but if Council wanted to do something like that, staff could look into it. However, Milliman said that some form of security would still be needed.

Councilor Gordon said he would like to get rid of the DIA program, describing it as "ill-conceived." As far as rolling back the cost of improvements, he said he wasn't sure what that would really mean, but didn't feel the City was ready to do that until the final impact was known.

Mayor Hedenskog said that drainage needed to be improved and that a lien was a fair way to pay for improvements.

Councilor Pieper said while there is a downside to DIAs they help prevent having improved and unimproved properties on the same street. He said he wasn't sure about rolling back costs and had a hard time placing blame on the City for a lack of disclosure, but he thought the payment time frame seemed short and asked it if could be adjusted.

Councilor Hodges said he was for changing the DIA policy to have developers pay up front and that it might be a good idea to set up a low interest loan program.

Councilor McClain said he didn't like DIAs and developers should be required to pay up front and have the funds put in an earmarked account. McClain said both the seller and title company had an obligation to disclose and he suggested that the owners seek legal recourse if that had not happened. Due to the impact it could have on the City, he said he was concerned about trying to go back to the time the DIA was issued and come up with a cost. He also expressed concern for the one owner who would now have to pay more while the other owners would paid less.

Councilor Gordon said that even if paid for up front, the City would still have to pay the difference when the work was done sometime in the future. He said he was interested in seeing some kind of solution for that problem.

Mayor Hedenskog said the issue of DIAs had been kicked around a lot and this policy, with its pros and cons, was what was available.

Councilor Pieper said he feared "acting one way tonight and another later." He said collecting the money up front did not seem to be a good idea due to the public's concern that it might be spent on something else and also because it would be tricky to handle administratively. He said if the three Councilors were firm in wanting to rethink the DIA policy then the Hassett project should be held off until that happened.

Councilor Hodges said that care was needed in setting a precedent and that something needed to be done about the increased cost to Mr. Davis. He also said the street is in "horrible shape and does need to be improved."

Councilor McClain said he didn't want to change the policy retroactively, but going forward he felt costs should be collected up front. He also said he didn't think keeping track of the funds would be that difficult, administratively.

Councilor Gordon said he was not proposing that the policy be changed retroactively, but the City did not have to use this same policy moving forward and should figure something else out.

Councilor Pieper moved, a second followed, and Council voted unanimously to notify all property owners affected by the Hassett Street improvement project, as identified in the July 9, 2012 Council Agenda report, that the City is proceeding with the improvement project and that they will be required to contribute their proportionate share for Hassett Street Improvements. This improvement to include 28 feet street widening and paving, underground of storm drain facilities and a sidewalk on the south side of Hassett with the provision that the properties at 600 and 622 Hassett Street be relieved of the requirement for paying a share of the drainage costs as those properties have installed drainage improvements as approved by the City and further with the provision that the proportionate share for 523 would not exceed \$35,593.37.

City Manager Milliman said the payment due date could be changed but the concern is that the property could change hands in the interim, creating a new set of owners with similar issues. Rather than coming up with a loan program at this meeting, Milliman said staff could come back with a proposal at the next meeting, as payments would not be due for 4-6 months.

City Attorney Rice cautioned the Council on extending the payment timeline. Recordation of any liens, she said, should be made as soon as possible to protect the City. Owners could pay off the lien over time until it was paid off and removed.

Councilor Gordon asked about the recording process for DIAs.

Rice said that DIAs are recorded in the chain of title; the developer or builder would be responsible for recording.

Councilor Gordon asked if staff knew that all the DIAs issued by the City had been recorded.

Pryce said that the DIAs currently under discussion had been recorded.

Councilor Pieper said there is nothing wrong with having a lien placed on your property and it could be a real mess if the payment timeline was postponed.

Councilor McClain said he didn't feel the City could wait to begin the project and Council could work out a reasonable payment plan later.

Councilor Hodges said he had no problem with the City placing a lien.

Mayor Hedenskog said this is the City's opportunity to make sure these DIAs don't "fall through the cracks."

Councilor Pieper moved, a second followed, and Council voted unanimously to authorize placement of liens on affected properties of the Hassett Street improvements where the proportionate share is not paid within 60 days of invoice from the City.

Settlement Agreement Application S-41805 between the City of Brookings, WaterWatch of Oregon and Oregon Water Resources Department.

City Manager Milliman gave the staff report, pointing out that the settlement would give the City a final certificate of water right for 1.57 cubic feet per second (cfs) in exchange

for cancelling an undeveloped 8.43 cfs water right, bringing the City's total certificated water right to 11.57 cfs, in perpetuity.

Councilor Hodges moved, a second followed and Council voted unanimously to authorize the Mayor to execute the Settlement Agreement Application S-41805 between the City of Brookings, WaterWatch of Oregon and the Oregon Water Resources Department.

Consent Calendar

1. Approve Council minutes for June 25, 2012.
2. Accept June 2012 Vouchers in the amount of \$264,623.60.

Councilor Pieper moved, a second followed and Council voted unanimously to approve the Consent Calendar as written.

Remarks

Mayor Hedenskog congratulated City Manager Milliman on receiving the ICMA Award for Career Excellence.

Councilor Pieper remarked that this year's fireworks display was the best he'd seen and hoped the City would continue to support it.

Councilor Gordon remarked that he would like to see the DIA policy matter on a workshop and would also like staff to check to see if all of the other DIAs were recorded.

Adjournment

Councilor Pieper moved, a second followed and Council voted unanimously to adjourn by voice vote at 8:27pm.

Respectfully submitted:



 Ron Hedenskog, Mayor

ATTESTED
this 24th day of July 2012:



 Joyce Heffington, City Recorder