

MINUTES
City of Brookings
Common Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon 97415
Wednesday, November 29, 2006

Call to Order

Mayor Sherman called the meeting to order at 7:00 p.m.

Roll Call

Council: Mayor Pat Sherman, Council President Larry Anderson, Councilors Dave Gordon, Craig Mickelson and Jan Willms; a quorum present. *Absent:* Ex Officio Ashley Gemmell.

Staff: City Manager Dale Shaddox, Planning Director Dianne Snow, Public Works Director John Cowan, City Attorney John Trew, Administrative Assistant Joyce Heffington

Media: Curry Coastal Pilot Reporter Tom Hubka

Other: Approximately 19 citizens

Ceremonies

Mayor Sherman proclaimed November 30th to be National Meth Awareness Day. Myrna Barber accepted the proclamation on behalf of the Curry County Commission on Children and Families.

Public Comments

Mayor Sherman moved the Public Comment item ahead of the Public Hearing.

Catherine Wiley, 96370 Duley Creek Road, addressed Council regarding the Oregon Shores Conservation Coalition and its position on protecting cultural, estuary and coastal resources in the area of the proposed Lone Ranch development. Wiley offered a 4 page letter, addressed to the Mayor and Councilors, a letter from James D. Brown, Staff Attorney for the Cascade Resources Advocacy Group, addressed to City Attorney John Trew and Ex-Planning Director John Bishcoff, dated August 16th, 2005, and a copy of a document titled "Conditions of Approval Lone Ranch Master Plan MPD-1-04 (as amended by the City Council)," to be entered into the record.

Bill Yokum, 934 7th Street, addressed Council regarding issues surrounding the Cease and Desist Order issued by the Army Corps of Engineers to Freeman Rock. Yokum advised that Freeman Rock has appealed the decision but it could be several years before that decision was made.

Yvonne Maitland, 15676 Oceanview Drive, addressed Council stating that the owners of the Borax property are not paying their fair share of taxes and offered 4 pages of related property data to be entered into the record.

Public Hearing

Mayor Sherman opened at 7:20 p.m. the Quasi Judicial Public Hearing to hear the appeal in the matter of File No. APP-4-06, of the Planning Commission's approval (File No. CUP-1-04/MC-1-06) for a minor change to a conditional use permit formerly approved (January 2004) for a sheriff's substation, now requesting use as general Curry County offices; located at 517 Railroad Street; Assessor's Map 41-13-5CC, Tax Lot 1800; zoned R-3 (Multiple-family Residential), David Pratt, Curry County Planning Director, appellant. Criteria used to decide this case can be found in the City of Brookings Land Development Code, Chapters 17. 28.040(O) Multi-family

Residential District, Conditional Uses-Professional business and service offices; 17.136 Conditional Use Permit; and 17.152 Appeal to the City Council.

Council declared no ex parte contacts or biases in the matter. No questions being asked nor objections voiced by the audience, Mayor Sherman reviewed the hearing procedures and guidelines and then asked staff to present its evidence.

Planning Director Snow presented her staff report, citing that the basis for the appeal is a request from the applicant to alter the language in Condition #4 of the Conditions of Approval requiring the Applicant to sign and record a Deferred Improvement Agreement (DIA) for street improvements including curb, gutter, sidewalk, match existing pavement, and any underground storm drainage that may be required.

Mayor Sherman asked Snow for clarification regarding the original DIA back in 2004, noting that the language appears to be verbatim to the DIA now in question. Snow advised that the language was the same and Mayor Sherman asked whether that DIA requirement was appealed or even recorded in 2004. Snow responded that it had been neither appealed nor recorded.

Mayor Sherman invited the applicant to present its evidence in the matter.

David Pratt, Public Services Planning Director, 94235 Moore Street, Gold Beach County Offices, presented the basis for the County's appeal, generally arguing that the City's requirements are not appropriate to the site, the use impact at the site has not changed, and the County, according to the Oregon State Constitution, cannot enter into a DIA with the City for a debt that would exceed \$5,000.

Council questioned Pratt as to the lack of completion of the 2004 conditions of approval, and whether the appeal was based upon the requirement of the DIA.

Pratt stated he could not speak to the 2004 DIA and affirmed that the required DIA was the basis for the appeal.

Bill Dundom, Planning Commissioner, asked if the City was looking for funding to do the work needed to bring Railroad up to City standards. Dundom also questioned the City's decision to require the County to make improvements on Railroad when it may have to be done again in the future. City Manager Shaddox advised that the improvements were required by ordinance and it could be years before City funding was available to do any improvements to Railroad.

The following individuals addressed Council in support of the appeal:

Curry County Commissioner, Marlyn Shafer, P.O. Box 246, Gold Beach; Curry County Commissioner, Lucie LaBonte, P.O. Box 746, Gold Beach; Curry County Commissioner, Ralph Brown, 97923 W. Benham Lane, Harbor; Kenneth W. Dukek, P.O. Box 309, Port Orford; Catherine Wiley, 96370 Duley Creek Rd, Brookings; and Yvonne Maitland, 15676 Oceanview Drive, Brookings. Kenneth Dukek offered into evidence the Curry County Juvenile Department Demographic Supervision/Service Chart 11/27/06, entered into the record as Exhibit 1.

Council questioned the Commissioners regarding the County's ability to pay for the required improvements in lieu of entering into a DIA. The Commissioners stated the County did not have the available funds to complete the necessary work and reiterated that they could not enter into a DIA with the City.

Hearing no request from Planning staff or any participant to present additional evidence, arguments or testimony regarding the application, Mayor Sherman closed the Public Hearing at 8:50 p.m.

The applicant having indicated the willingness to waive written argument and proceed with a decision, Council moved to deliberation and decision.

Discussion and additional questioning of staff and County representatives ensued around the various issues as well as the exploration of possible solutions. At one point, City Manager Shaddox advised Council that as public entities, the City could offer to pay for part of the improvements if the City had the funds to do this, which it does not.

In general, Council made it clear they were in full support of the County providing juvenile services in the City, but they had no authority to waive the requirements for half street improvements for the subject property and no choice but to uphold the City's laws and follow staff's recommendation.

Councilor Anderson moved, a second followed, and Council voted unanimously to follow staff recommendation to deny the appeal and uphold the Ordinance requirement to improve the subject Railroad Street frontage property to City standards or sign a Deferred Improvement Agreement for future street improvements, or to choose the alternative that staff has given as a third choice ["The applicant shall submit engineered street improvement plans showing 5 foot sidewalk, curb and gutter, and paved road surface to the centerline along the Railroad St. frontage on the subject property. Improvements shall also include any underground storm drainage, if required. The applicant shall also submit an engineer's estimate of cost for the above described improvements. The City must review and approve the plans and the cost estimate. Prior to the issuance of a building permit a Deferred Improvement Agreement must be executed and recorded, secured by a security bond in the amount of the agreed upon estimate of costs, agreeing that the public improvements will be completed prior to June 30, 2007. A one year warranty bond in the amount equal to 10% of the value of the improvements must be provided to the City prior to the City accepting the installed public improvements."], giving the County three choices.

Final Order

Mayor Sherman moved the Final Order up on the Agenda at the suggestion of City Manager Shaddox.

Councilor Gordon moved, a second followed and Council voted unanimously to approve the Final Order and Finding of Facts upholding the Planning Commission approval of a Minor Change to a Conditional Use Permit to allow existing 3,000 sq. ft. building to be utilized as general County offices on a 0.54 acre parcel of land located at 517 Railroad St.; Assessors Map 41-13-5CC, Tax Lot 1800; zoned R-3 (Multiple Family Residential), including as an alternative the option on page 7 [of the staff report] in bold and in quotes also the option that they improve the street as per the recommendation on page 9 [of the staff report].

Council Liaisons

Councilor Willms attended a Health Care Committee Meeting and advised the correct date for the fair is January 27th. Willms also advised that the Parks and Recreation Commission would be meeting on the 14th to hear public comments on bike/skateboard issues.

Councilor Anderson attended three meetings including the Harbor Sanitary Board and Coos Curry Electric Board.

Councilor Mickelson attended meetings of the Planning Commission and Chamber and participated in the Azalea Park Light Festival decorating weekend.

Councilor Gordon attended a Southwestern Oregon Community College meeting, an American Music Festival meeting and two Del Norte Airport Marketing meetings. Gordon also advised he was asked to sit on the Port Commission and attended that meeting as well.

Consent Calendar

A. Approval of Council Meeting minutes for November 13, 2006.

B. Approval to accept Ron Hedenskog's resignation, effective December 31, 2006, and advertise his vacated position on the Planning Commission.

Councilor Mickelson moved, a second followed and council voted unanimously to accept the consent calendar as written.

Remarks

Councilor Willms remarked that she attended a Curry County Recycling Committee meeting and advised that the County has a small planning grant to be used to set up household toxic waste disposal sites at various locations over the next 2 years.

Counselor Anderson asked City Manager Shaddox about the status of the City trees. Shaddox advised that the one that had thus far been planted did not require cutting a hole in the sidewalk. The planting of the remaining City trees would occur when the necessary cutting equipment was received.

Mayor Sherman remarked that some of the walkways around some of the poles are inadequate for wheelchair access and asked Shaddox to inquire of ODOT, if the access areas are to code, if the City can extend these areas. Shaddox advised there is a long punch list and a meeting had been scheduled to meet with ODOT and go over the list. Shaddox also advised that the Street light poles are scheduled to be delivered and installed in late January.

Adjournment

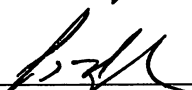
Councilor Mickelson moved and Council voted unanimously by voice vote to adjourn at 10:05 p.m.

Respectfully submitted:

ATTEST by City Recorder
this 11 day of January, 2006:



Pat Sherman
Mayor



Paul Hughes
Administrative Services Director/City Recorder