

CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
July 25, 2005 7:00 p.m.

I. Call to Order

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

II. Pledge of Allegiance

The pledge of allegiance was led by the League of Women Voters.

III. Roll Call

Council Present: Mayor Pat Sherman, Council President Larry Anderson, Councilors Craig Mickelson, Jan Willms, and Dave Gordon; a quorum was present.

Council absent: none

Staff Present:

Interim City Manager Burke Raymond
City Attorney John Trew
Director of Community Development Ed Wait
Planning Director John Bischoff
Senior Planner Dianne Snow
Chief Treatment Plant Operator Joe Ingwerson
Administrative Assistant Donna Colby-Hanks

Mayor Sherman stated there was an additional item to be added to the agenda.

Councilor Willms moved, a second followed, and the council voted unanimously by voice vote to add an item to the agenda under number 4 C, Appointments.

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. *Presentation of Certificate of Appreciation to Barbara Palicki, 10-Year Work Anniversary*
2. *Presentation of Certificate of Appreciation to Keith Chavez, 10-Year Work Anniversary*

Both Barbara Palicki and Keith Chavez were unable to attend; arrangements will be made for Mayor Sherman will present the awards at their workplace.

B. Announcements

None

C. Appointments

Councilor Mickelson moved, a second followed, and the council voted unanimously to appoint Councilor Gordon as liaison to the Del Norte County Airport Commission.

V. Public Hearing

A. *The appeal (APP-1-05) of Planning Commission approval of File No. CUP-2-05, a request for a conditional use permit to allow the Fred Meyer Store to use a portion of a 10.98 parcel of land, zoned R-3 (multi-family residential) owned by South Coast Lumber Co. for the temporary storage of materials used for the remodel of the store. The parcel is located on the east side of Mill Beach Rd. south of Railroad St.; identified as Assessor's Map 41-13-6DA, Tax lot 320. Steve Bismarck, appellant.*

Mayor Sherman explained the general guidelines for public hearings and opened the hearing at 7:09 p.m. She reviewed the appeal and asked the Councilors for any ex parte' contact. Councilor Gordon stated he had been at the site. Mayor Sherman and Councilors Mickelson and Willms stated they had conducted site visits. Councilor Anderson stated he had driven by the site. There were no questions from the audience. The Councilors stated there was no bias and there were no objections from the audience.

Planning Director John Bischoff reviewed the description of the application and the staff report. He explained the criteria for the approval of Conditional Use Permits (CUP) listed in Section 140. The additional conditions of approval placed on the permit by the Planning Commission at the time of their decision were in response to the concerns of citizens. The Council discussed the length of the use, the timeline for implementation of the conditions of approval, storage of material on residential construction sites, at what point street improvements are required, and the CUP requirements for the Nazarene Church. Mayor Sherman requested a clarification of the definition of temporary use.

Appellant Steve Bismarck of 270 Allen Lane, Brookings, submitted his outline of argument, relevant sections of the development code, and citations from case law as Exhibit "F". Bismarck felt the rights of his neighbors have been infringed upon and wished to challenge staff's interpretation of the code. He reviewed Exhibit "F" as his testimony and explained an ordinance describing temporary uses as a CUP had been repealed 35 years ago in 1989. Bismarck elaborated on his concerns of forklifts creating traffic hazards, late night noise disturbances, and the lack of dust abatement. He submitted transparencies of flow charts and photos, Exhibits "G", "H", "I", "J", "K", "L", and "M" into the record and finished by stating abatement of the storage appeared to be the only legal solution. The Council discussed the jurisdiction of possible wetlands located on the property and a previous application from South Coast Lumber that resulted in mitigation of wetlands. Bismarck reiterated trucks not belonging in residential zones, noise being a problem, and non-compliance with the permit's conditions of approval.

Mayor Sherman asked for supporters of the appeal and John and Debra Chegus of 397 Mill Beach Road, Brookings approached the podium. Ms. Chegus stated the No Parking signs along Mill Beach Road have been removed allowing moving vans to park

along the road. Other concerns were dust and the amount of noise during night hours. Mr. Chegus felt the fog didn't help the dust problem and submitted 17 pictures, Exhibit "N", taken from his property showing RVs parked on the street. He submitted a list of additional concerns, Exhibit "O".

Barbara Nysted of 427 Buena Vista Loop, Brookings, stated the Fred Meyer project was illegal and the interpretation of the code should to remain consistent for all citizens.

Opposition

Don Forrest of 3800 SE 22nd Ave, Portland, OR 97202 stated it would be impossible to store all the needed supplies on site. Permission was obtained from the owner to use the site and with the exception of a few conditions; all other had been complied with. Fred Meyer intended to comply with the paving requirements, but that project was put on hold waiting for the appeal to be heard. The site has been watered daily, and with an approval, the paving will be completed. Forrest explained this request is for temporary storage and there is no wish to upset citizens who are potential customers. When he received information that heavy equipment might be operating from 7:00 p.m. to 7:00 a.m. he contacted the store and the contractor. They were unable to confirm one way or the other if this was occurring and he instructed them to follow up on this.

Jim Coombes, 3800 SE 22nd Ave, Portland, OR 97202 stated it was their intent to obey the law. Once they became aware a conditional use permit was required, they submitted an application. Coombes discussed, with the Council, closing the store as an alternative to storage on the lot. Mayor Sherman questioned the use of this lot for parking and using the current parking area for storage. Forrest felt customers would not be willing to park that distance to the door and sited safety issues as a concern. The contractor had advised Coombes the project was on schedule. Most of the storage material needed was on site and would be used by the middle of October. Forrest explained the goal was to remove the storage containers as they were no longer needed. Coombes introduced Erik Ulbricht of 4612 NE Minnehaha, Vancouver, WA 98661 who stated he was on the storage site 12 hours per day, someone for local residents to report problems to.

No other interested parties wished to testify.

Rebuttal

Steve Bismarck reiterated the need for the code to be consistent for all citizens. He described other Fred Meyers located in larger cities that didn't require large storage areas for their remodel projects. He concluded by stating this decision would set a precedent for other cases and requested the Council clarify a no and a yes vote.

Bischoff clarified the process the application has taken, advised the council of the August 18th court date for the cease operation order, reiterated the definition of "temporary use" in the Land Development Code, the limit of one additional extension, and discussed the possible wetland issue.

Mayor Sherman closed the public hearing of CUP-2-05 at 8:50 p.m.

The appellant, Steve Bismarck, and the applicant's representative, Jim Coombes, declined to have the record left open for seven (7) days.

The Councilors addressed many concerns during their deliberations.

- Storage not listed as CUP in R3 zone
- Comprehensive Plan being implemented with LDC
- Temporary use defined in code, but no rules
- Problems with LDC being unclear
- Hardship created by discontinuing the storage
- Possible wetlands on site
- Current enforcement code being too lenient
- Decrease in existing parking at the Fred Meyer store
- Parking lot a listed CUP in the R3 zone
- Safety concerns with the parking and storing areas switched
- Compliance with the code
- Effects on the community

Councilor Willms moved, a second followed, and the Council voted unanimously to uphold the appeal filed by Steve Bismarck and deny Fred Meyer's application for a conditional use permit and direct staff to prepare a Final Order with Findings.

The Council discussed the procedure for abatement and removal of the storage material.

Meeting was recessed at 9:17 p.m and reconvened at 9:26 p.m.

VI. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. Council Liaisons

Councilor Gordon attended a Vietnam Veterans meeting, a Curry County Commission on Children and Families meeting, a Port Commission meeting, a Port Fisheries meeting, a Del Norte Airport Commission meeting, ODOT interviews, and the Urban Renewal Agency meeting.

Mayor Sherman led the Mayor's Walk through the Stout Park neighborhood.

Councilor Anderson attended a school board meeting.

Councilor Willms attended the Urban Renewal Agency meeting.

B. Unscheduled

Yvonne Maitland, 15676 Oceanview Drive, Brookings voiced concerns for the annexation of the Harbor Hills area to the City of Brookings. She stated a portion of this area was intended to be a utility/access corridor in the adoption of the Urban Growth Area as it contained areas of mass movement and was involved in the regeneration of the Harbor Bench aqua fir. Brookings City Attorney, John Trew,

advised testimony on this application could not be taken now as it would be heard by the Planning Commission and then a decision would be made by the Council.

Catherine Wiley, 96370 Duley Creek Road, Brookings, requested clarification of the financial responsibility of the different sections of water/sewer line installations. Director of Community Development Ed Wait explained the installation of lines from Carpenterville Road to the Borax project was the responsibility of the developer. The lines between the City and Carpenterville Road have been enlarged by the City to accommodate future growth in the area. The Council discussed the sources of funding for this improvement project.

VII. Staff Reports

A. *Community Development Department*

1. *Quitclaim Deed for 5' strip of land adjacent to Moore Street*

Councilor Anderson moved, a second followed, and the Council voted unanimously to accept a deed for an additional 5' strip of land adjacent to Moore Street from Mahar/Kessler Properties.

2. *Quitclaim Deed for Curry County owned portion of Collis Lane*

Councilor Anderson moved, a second followed, and the Council voted unanimously to accept a deed from Curry County for their portion of Collis Lane.

3. *Highway 101 sewer project*

Director of Community Development Ed Wait reviewed the staff report for the Highway 101 sewer project and advised the 10" pipe in the staff report should be 12". Councilor Anderson asked if the same firm as was previously used was to be used for this project. Wait advised their contract had been extended. City Manager Raymond answered questions regarding the procedure for moving funds from one project to another. He felt the original project might be delayed slightly.

Councilor Gordon moved, a second followed, and the Council voted unanimously to reprogram funds to the Highway 101 sewer project.

4. *Chetco Point Park Improvements matching funds*

Councilor Gordon moved, a second followed, and the Council voted unanimously to reprogram funds from the general fund to the Urban Renewal budget for the Chetco Point Park Improvements.

5. *Goals and Objectives for Public Works and Community Development Departments*

Director of Community Development Ed Wait reviewed the staff report and explained this agenda item was for information purposes.

6. *Grants Pass Wastewater biosolids dewatering and composting*

Director of Community Development Ed Wait reviewed the staff report and commended Joe Ingwerson for his work on this project. Wait explained the bio-solid product would be transported to Grants Pass prior to dewatering and a more exact figure

for the rate increase would be provided as soon as possible. Three additional sites have been approved and the search is continuing for more. He advised the Council, Ingwerson had traveled to a dewatering operation to observe and other options would be explored more completely prior to bringing a proposal to the Council. The Council discussed the termination clause and a Plan B, hauling the product to Roseburg or Medford, with Wait and Ingwerson.

Councilor Anderson moved, a second followed, and the Council voted unanimously to approve the agreement with the City of Grants Pass.

7. *Biosolid contract*

Director of Community Development Ed Wait reviewed the staff report and contract with Roto Rooter to haul the bio-solid product to the City of Grants Pass.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to approve the agreement with Roto Rooter.

VIII. Consent Calendar

- A. Approval of Council Meeting Minutes
 - 1. Meeting of July 11, 2005
- B. Acceptance of Planning Commission Minutes
 - 1. Meeting of June 7, 2005
- C. Liquor License Application-O'Holleran's Restaurant and Lounge
- D. Approval of vouchers for month of June, 2005 (\$ 422,008.56)

End Consent Calendar

Councilor Mickelson moved, a second followed, and the Council voted unanimously to approve the consent calendar with one correction to the Council Meeting Minutes of July 11, 2005.

IX. Remarks from Mayor and Councilors

There were no remarks from the Mayor or Councilors.

X. Adjournment

Councilor Gordon moved, a second followed, and the Council voted unanimously by voice vote to adjourn at 10:10 p.m.

Respectfully submitted:



Pat Sherman
Mayor

ATTESTED by City Recorder this 9th day of August, 2005.



Paul Hughes
Finance Director/City Recorder