

**CITY OF BROOKINGS  
COMMON COUNCIL MEETING MINUTES  
City Hall Council Chambers  
898 Elk Drive, Brookings, OR 97415  
October 25, 2004 7:00 p.m.**

**I. Call to Order**

Mayor Bob Hagbom called the meeting to order at 7 p.m.

**II. Pledge of Allegiance**

Led by Fire Chief Bill Sharp

**III. Roll Call**

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilors Frances Johns Kern, Craig Mickelson, and Larry Anderson, and Ex Officio Councilor Wes Enos. A quorum was present.

Council Absent: None

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, Community Development Director Leo Lightle, City Planner John Bischoff, Assistant Planner Dianne Snow, Fire Chief William Sharp, Administrative Secretary Linda Barker, and Interdepartmental Aide Jan Krick

Media Present: Curry Coastal Pilot Reporter Brian Bullock

Other:

Approximately twelve other citizens

Councilor Anderson moved, a second followed, to add an Agenda Item regarding Resolution 04-R-733 for the extension of fiber optics to the Water Treatment Plant. The motion carried.

**IV. Scheduled Public Appearances**

- A. *Kathy Hafterson was scheduled to report on the Summer Recreation Program. However, Kathy was not in attendance and no report was given.*

## V. Oral Requests and Communications from the Audience

### A. *Committee and Liaison Reports*

#### 1. Council Liaisons

Councilor Craig Mickelson reported that he attended the Back to School Breakfast, and the Community Agency Meeting at the Senior Center on Wednesday on September 1; he helped with registration at the Salmon Derby at the Port of Brookings Harbor on September 3; attended Brookings Planning Commission meeting on September 7, the Community Development meeting held September 9, and a community meeting at the Library for the retention and replacement of trees within the community on September 16; attended Chamber of Commerce After Hours of September 24; attended Curry County Commerce Workshop on September 29; attended Coos Curry Douglas Development Corporation's meeting in Gold Beach with City Manager Leroy Blodgett (the major issue of the meeting was the lack of loan requests over the past quarter) held on September 30; participated in League of Women Voters Forums in Gold Beach, Port Orford, and Brookings on October 5, 6, and 7; attended Chamber of Commerce Marketing and Promotions meeting held October 11; and attended Chamber of Commerce After Hours October 15.

Councilor Frances Johns Kern attended the Chamber of Commerce Monthly Forum and the Pelican Bay Prison Oversight Committee.

Rick Dentino attended Pelican Bay Telecommunications Corporation Board of Directors meeting; the Chambers of Commerce Monthly Forum and Mixer at the Sutter Coast Health Care Center; was present at the Memorial for Marine Corps League member Joe Ochsie at the Brookings Masonic Lodge Hall; participated in SMART reading program at Kalmiopsis Elementary School; attended a meeting of the District 17-C administration, city officials, and American Red Cross local chapter.

Councilor Larry Anderson attended the recent Watershed Committee Meeting, and two local School Board meetings.

Ex Officio Councilor Wes Enos reported that Homecoming Week was very successful with the traditional bonfire, parade, football game (which the Bruins won), and dance. All went well and many people said this was the best Homecoming event ever. In sports, the boys' soccer team took first place, the girls' soccer team finished in second place, and the Bruins' volleyball team had a great season. Bruins Day at the high school went very well.

Mayor Hagbom reported that he has been “playing hooky” (traveling) and therefore had no activities to report.

B.     Unscheduled - None

## VI.   Public Hearing

A.     *Continuation of Planning Commission File No. APP-2-04, an appeal of the Planning Commission’s approval of a Planned Unit Development to create 36 condominium units on a 9.09 acre parcel of land located at the northerly end of Timberline Drive; Assessor’s Map 40-13-31CA, Tax Lot 900 zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and Assessor’s Map 40-13-31CD, Tax Lot 4900 zoned R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size); Bruce Brothers, LLC, applicant, Debbie Hodges, appellant*

The public hearing reconvened at 7:08 p.m. City Attorney Trew reminded the Council that at the last meeting the record was left open to receive additional written testimony from the appellant. No further testimony was received from the appellant during that time; therefore no response from the applicant Bruce Brothers was necessary. The applicant waived its right to seven additional days in which to submit written evidence.

Councilor Anderson brought to the attention of Council Section 156.030 of the Land Development Code which describes the appeal procedures. Anderson noted that that section offers other alternatives, such as referral back to the Planning Commission.

Anderson read Section 156.030 to the Council, and explained that this is important because options other than to deny or to approve are available. Trew responded that even though Oregon state statutes on land use were passed after our ordinance was adopted, they supercede our code. Anderson’s interpretation is, however, essentially correct. Council discussion ensued.

Anderson questioned why construction activity started when the land use process had not been completed. He also mentioned Land Development Code Section 100, Hillside Development. Further discussion points centered on DEQ permits and stop work orders.

**Anderson moved, and a second followed, to refer APP-02-04 back to the Planning Commission per Section 156.030 of the Land Development Code, specifically: 1) to make a determination of the status of Section 116.100; and 2) to develop a report to send back to the council.**

The Council recessed at 7:26 p.m. to allow staff to review time requirements for land use applications. The meeting reconvened at

7:31 p.m. Trew advised the Council that, under Oregon state law, governments are required to act within 120 days of a land use application. Approving Anderson's motion could put the City past the time limit and subject the City to legal action by the developer. Anderson withdrew his motion; the second was also withdrawn.

**Anderson moved, a second followed, and the Council voted 4-0 with one abstention (Mayor Hagbom) to reverse the order of the Planning Commission, denying the application of a Planned Unit Development to create 36 condominium units on a 9.09 acre parcel of land located at the northerly end of Timberline Drive (PUD-2-04), and supporting the appeal (APP-02-04).**

Planning Director John Bischoff asked which conditions caused the denial so that he can write the Final ORDERS and Findings of Fact. Councilors cited safety concerns, community impact, hillside development regulations, and land use compatibility.

- B. *Planning Commission File No. APP-3-04, an appeal of the Planning Commission's approval of a variance to allow a 5 foot side yard setback for a building on a flag lot within the R-1-6 (Single Family Residential 6,000 sq. ft. minimum lot size) Zone; Brian Woosley, applicant, Patrick and Susan Dodgen, appellant*

City Attorney Trew read procedures for quasi-judicial hearings into the record. Mayor Hagbom opened the public hearing at 7:53 p.m. Councilors Anderson and Dentino declared ex parte contact as a result of a site visit. No councilor declared personal bias and no one in the audience objected to the jurisdiction of the Council to hear this matter.

Planning Director John Bischoff presented the staff report. Councilors asked about the circumstances that allowed a building to be constructed within the required setbacks, and any remedies the applicant attempted. Bischoff responded that the application for construction was signed off with incorrect setbacks listed. The roofline was redesigned to attempt to correct the setback infraction.

Testifying in support of the appeal was the appellant Patrick Dodgen, 905 Barbra Lane. Dodgen supplied two photos and an overhead drawing of the buildings affected and these were marked Exhibits A-1, A-2, and A-3. The appellant answered questions from the council.

No representatives of the Planning Commission addressed the council. No one spoke in support of or in opposition to the appeal.

The applicant, Brian Woosley, 912 Easy Street testified next. The applicant answered questions from the council. Further testimony was made by George B. Lamb III, 914 Easy Street.

The public hearing was closed at 8:40 p.m. The applicant waived his right to seven additional days to submit written testimony.

Council discussion ensued.

At 8:50 p.m. the council went into executive session pursuant to ORS192.660 (2)(h). The Council meeting reconvened at 8:56 p.m.

**Councilor Dentino moved to deny the application for a variance, overturning the Planning Commission's decision. A second followed. Voting for the motion were Councilors Dentino and Johns Kern; voting against were Mickelson, Anderson, and Hagbom. Motion failed.**

**Councilor Mickelson made a motion to accept the Planning Commission's recommendation to approve the variance, and it was seconded. Councilors Mickelson and Anderson, and Mayor Hagbom voted for the motion; Councilors Dentino and Johns Kern voted against. The motion carried.**

## VII. Staff Reports

### A. Fire Department

#### 1. Open Burning Regulations

Fire Chief Bill Sharp read from a staff report a proposal to permanently end commercial burning in Brookings, citing concerns about large land clearing and commercial burning of debris.

This fire season, the City did not allow commercial burning, and it is staff's recommendation to continue this policy on a permanent basis. Martin Apps with DEQ, 340 Front Street, Coos Bay spoke in favor of the commercial burn ban.

**Councilor Dentino moved, a second followed, and the council voted unanimously to abolish commercial open burns and construction burns within the city limits. The motion carried.**

### B. Community Development Department

1. Community Development Department Director Leo Lightle asked Council for authorization to award a contract for boring and placing conduit under Wharf Street and the parking lot at the Wastewater Treatment Plant. He offered background information

and responses from three bids that were solicited for the work, and recommended that Council authorize awarding the project to Sporthaven Excavating, Inc. for \$6,850.

Questions by Council members followed.

**A motion to award the project to Sporthaven Excavating, Inc. in the amount of \$6,850 was made by Frances Johns Kern and seconded. The motion carried.**

2. Community Development Department Director Leo Lightle requested authorization from Council to award a contract for a multi-stage centrifugal sewage aeration compressor for mixing the two-million-gallon biosolids tank. Bids from three contractors were solicited and sufficient funds are available in the budget for this project.

Questions from Council were addressed by Mr. Lightle.

A motion was made by Councilor Larry Anderson, and seconded, to accept staff's recommendation and authorize award of the contract for a multi-stage centrifugal sewage aeration compressor for mixing the two-million-gallon biosolids tank to Gardner Denver Blower Division for \$34,717. The motion carried.

C. City Manager

1. *November and December City Council meeting dates:* City Manager Leroy Blodgett reported that it will be difficult to adhere to the regular meeting dates for Council meetings in November due to the LOC Conference in Portland and the Thanksgiving holidays. Further, the second regular meeting in December will fall during the Christmas holidays. Staff recommendation was to 1) hold one City Council meeting in November on the fifteenth, to cancel the December 27 meeting, and hold one meeting in December on the thirteenth. If issues come up that require city council attention, a special meeting can be held as necessary.

**Councilor Rick Dentino moved, and it was seconded, to approve staff recommendation to hold regular City Council meetings on November 15, 2004, and on December 13, 2004. The motion carried.**

2. *Fiber Optic:* City Manager Leroy Blodgett presented his report to the Council regarding the need to connect the communication systems at the Wastewater Treatment Plant and the Public Works Department to the City Hall system. He asked the Council to

accept a proposal from Charter Communications to install a wireless connection between City Hall and the Wastewater Treatment Plant via fiber optics, for the cost and specifications in the service contract with Charter outlined in the report. He recommended that Council accept the Charter Communications proposal and authorize the City Manager to sign a contract for services as proposed. Since there is not another provider for this service, the proposal could not go out to bid.

**Following discussion by Council, Councilor Craig Mickelson moved to adopt Resolution 04-R-733 and it was seconded. The motion carried.**

3. *Other*

City Manager Leroy Blodgett reported that the sound system in Council Chambers that has been bid and approved will be installed this week.

**VIII. Consent Calendar**

A. Approval of Council Meeting Minutes

Councilor Larry Anderson moved, and it was seconded, to approve the Consent Calendar without objection.

1. Council Meeting Minutes of October 11, 2004 were accepted into the Minutes.

**End Consent Calendar**

**IX. Ordinances/Resolutions/Final Orders**

A. Final Orders

1. *Final ORDER and Findings of Fact—In the matter of Planning Commission File No. MPD-1-04, a request for a Master Plan of Development; U.S. Borax, applicant*

City Planner John Bischoff presented his recommendation to adopt the Borax Final Order with attached Findings of Fact and Conditions of Approval, and the adoption by Council of Ordinance 04-O-565 amending the City of Brookings' Comprehensive Plan to add the Borax Master Plan as a separately bound document.

**Councilor Larry Anderson made a motion, and it was seconded, to approve Findings of Fact with inclusions of modifications to Condition 23 and addition of Condition 30. The motion carried.**

B. Ordinances

1. *Ordinance No. 04-O-565—In the matter of an Ordinance amending the Comprehensive Plan of the City of Brookings to incorporate the Lone Ranch Master Plan into Goal 14 as a separately bound document of the Plan.*

City Attorney Trew reminded Council that approval of a second reading by title only of MPD-1-04 was appropriate.

**A motion was made, and seconded, for the Council to hear a second reading of MPD-1-04 by title only. The motion carried.**

**Councilor Dentino moved, and it was seconded, that Ordinance 04-O-565 be adopted to amend the City of Brookings' Comprehensive Plan to include the Borax Master Plan. The motion carried.**

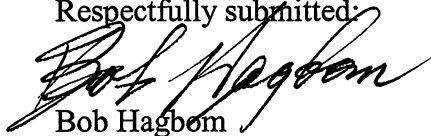
X. Remarks from Mayor and Councilors

- A. There were no additional remarks from the Mayor
- B. There were no additional remarks from the Council

XI. Adjournment

With no further business before it, the Council adjourned the meeting at 9:37 p.m.

Respectfully submitted:



Bob Hagbom  
Mayor

ATTEST by City Recorder this 17 day of November, 2004.

  
Paul Hughes  
Finance Director/City Recorder