

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
November 22, 2004 7:00 p.m.**

I. Call to Order

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

II. Pledge of Allegiance

Led by County Commissioner Ralph Brown

III. Roll Call

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilor Larry Anderson; a quorum was present

Council Absent: Councilor Frances Johns Kern and Councilor Craig Mickelson

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, City Planner John Bischoff, and Interim Administrative Secretary Jan Krick

Media Present: *Curry Coastal Pilot* Reporter Brian Bullock

Other: Approximately 8 other citizens

IV. Oral Requests and Communications from the Audience

A. Committee and Liaison Reports

1. Council Liaisons: No reports given

B. Unscheduled

1. Don Drivon, 942 Timberline Drive, Brookings addressed Council regarding the Ransom Creek development project. Mr. Drivon asked that Council seriously consider the Brookings Development Code in their negotiations this evening concerning Bruce Brothers LLC.

2. Phyllis Cottingham, 1307 English Court, Brookings, addressed Council regarding the need for legislation that can protect the City against claims presented as a result of the passage of Measure 37. Mayor Bob Hagbom responded that Measure 37 is a topic on the agenda this evening; the City must have a procedure in place to respond to claims by December 2, 2004.

Mayor Hagbom read from ORS 192.660(2)(h) outlining the justification and procedure for the convening of an Executive Session. He asked that the chambers be cleared for that purpose at this time.

V. Executive Session

In accordance with ORS 192.660(2)(h), an Executive Session of the City Council convened at 7:13 p.m., and was closed by Mayor Hagbom at 7:30 p.m. at which time the Regular City Council meeting was reconvened.

Counsel Trew iterated the purpose of an executive session -- to allow a municipality the same privacy that an individual citizen is allowed, to private access to Counsel for the purpose of discussing procedural options and ramifications of any litigation before it.

VI. Staff Reports

A. City Manager

1. *Writ of Mandamus*

City Manager Leroy Blodgett advised that Staff, as directed by the City Council, has begun negotiations to resolve the Bruce Bros., LLC, Ransom Creek project issues (PUD-2-04) currently before Council.

2. *Measure 37*

City Manager Blodgett said that Staff and Councilors have been doing a lot of reading, and City Attorney John Trew has been reviewing the law concerning Measure 37. Because the measure goes into effect on December 2, 2004, cities and counties are obliged to have a process for filing a claim in place by that date. Trew advises that the City initiate a simple procedure; it is working on a sample ordinance to guide the process. The City Manager pointed out that City Council is not being asked to write an ordinance tonight, but to offer Staff policy direction. Council will meet on November 30, 2004, to address an ordinance; there are compelling reasons to go into detail, and equally good reasons to keep the ordinance very basic. Questions that need to be addressed in the ordinance will include whether or not the City will charge a filing fee; suits by neighboring property owners; who is responsible for hiring an appraiser.

John Trew added his advice that Council needs to be involved in the decisions and not to let decisions be made for which Council must answer. Council decided against drafting a basic ordinance during an executive session and instead to draft its ordinance before the public; Trew considers this a wise decision.

Looking at neighboring cities' direction, there are a wide range of approaches; some are being more aggressive, i.e., on the cutting edge of what one would want in an ordinance of this type. However, City Attorney Trew would rather Brookings try an approach of risk management, and thereby reduce the risk of further suits due to the language we put in our law. Further, he advised that, since the measure doesn't provide for fees, we don't charge fee. The measure does allow for a procedure to file a claim, and he advises the City to have a filing procedure in place by December 2, 2004. The process should address the minimum requirements that need to be met to file a claim: claimant's name, including a copy of the property deed, a title report, proof of ownership, any land use regulations restricting the use of the property, etc. Language should also be included that addresses the issue of annexation. City Attorney Trew added that we can learn how to proceed by watching how the state, county, and other cities address the issue of a filing procedure. Trew added that it is appropriate that, if someone asks if the land use measure can be waived, we need to allow that individual to present a case in some forum. In response to an inquiry from City Manager Blodgett, Trew advised against setting up appeal procedures at this time.

Councilor Rick Dentino noted that we may not have the upheaval here we feared with Measure 37, but that every single claim should be given a public hearing.

City Manager Blodgett added that the county will be subject to more claims than the City. County Commission Ralph Brown, 17711 Wimmer Road, Brookings, came to the podium to say that the county is dealing with the same issues and will need to have a similar decision in place; that was the topic of discussion at the recent Association of Oregon Counties conference. The county is going to move slowly, and make available the necessary provisions for accepting claims applications.

City Manager Blodgett responded that issues for the City of Brookings are: an appropriate filing fee; how to facilitate a public hearing; obtaining an appraiser within the 180 days required; the City's legal risk; and the implications regarding annexation.

Councilor Rick Dentino addressed the fee structure – is it refundable if the claimant loses, to which City Manager Blodgett questioned the City's right to charge a fee at all.

Councilor Anderson responded that this is the process we are attempting to define.

Councilor Dentino addressed the issue of questions from developers and how they will be answered. City Manager Blodgett responded that the LOC's position is to refer them to their own lawyers. Councilor Trew reiterated that an ordinance and a procedure will be in place to guide the City.

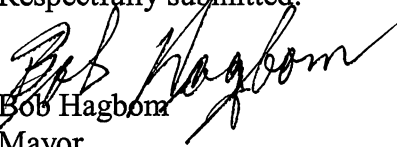
VII. Remarks from Mayor and Councilors

1. *Council:*
Council Anderson complimented the Century 21 project for its nice building and plant selection for landscaping, that are an attribute to the City.
2. *Mayor:*
There are no further issues are before the Council.

VIII. Adjournment

The meeting was adjourned at 8:12 p.m.

Respectfully submitted:


Bob Hagborn
Mayor

ATTEST by City Recorder this ____ day of _____, 2004.

Paul Hughes
Finance Director/City Recorder