

**CITY OF BROOKINGS  
COMMON COUNCIL MEETING MINUTES  
City Hall Council Chambers  
898 Elk Drive, Brookings, OR 97415  
October 13, 2003 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 Rex Atwell.

**III. Roll Call**

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilors Larry Curry, Frances Johns Kern, and Craig Mickelson, a quorum present.

Council Absent: None

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, City Planner John Bischoff, Community Development Director Leo Lightle and Administrative Secretary Linda Barker

Media Present: Curry Coastal Pilot Reporter David Courtland

Other:

Curry County Sheriff Kent Owens, Port of Brookings Harbor Director Russ Crabtree, Curry County Commissioner Ralph Brown and approximately 25 other citizens

**IV. Public Hearing**

Mayor Hagbom opened the public hearing portion of the agenda by reading the hearing procedures into the record.

- A. *An appeal of the Planning Commission's denial for a variance, File No. VAR-1A-03, to encroach 5 feet into the required 10 foot side yard setback; located at 251 Marine Drive; Assessor's Map 40-13-32 CD, Tax Lot 1702; SR-20 (Suburban Residential) zone; Peter Castellini, appellant; File No. APP-3-03. The criteria used to decide this case is found in Section 136 of the Land Development Code.*

The first hearing began at 7:05 p.m. Councilor Mickelson declared a site visit. No Councilor declared personal bias or conflict of interest. No one objected to the jurisdiction of the Council to hear this matter.

After Planner Bischoff gave his staff report the following testified in the hearing:

Appellant: Peter Castellini      822 D Pioneer Road      Brookings

Castellini presented the Council a petition from property owners within 250 feet of his property supporting his proposed 5-foot setback.

There were no others testifying. The applicant waived his right to seven (7) additional days for written argument. The hearing was closed to the public at 7:30 p.m.

**Councilor Dentino moved, a second followed, and the Council voted unanimously to uphold the appeal of the Planning Commission's denial of File No. VAR-1A-03, a variance to encroach five (5) feet into the required 10 foot side yard setback; located at 251 Marine Drive; Assessor's Map 40-13-32 CD, Tax Lot 1702; SR-20 (Suburban Residential) zone; Peter Castellini, appellant.**

*B. An appeal of the Planning Commission's denial of a request for a minor change in the Conditions of Approval, File No. SUB-6-02/MC-1-03, for Chetco Point Terrace Subdivision, to allow a minor change to the configuration of an existing berm; located on Wharf Street and the Wastewater Treatment Plant; Assessor's Map 41-13-07 A, Tax Lot 409; R-2 (Two-family Residential) zone; Noah Bruce, appellant; File No. APP-4-03. The criteria used to decide this case is found in Section 176 of the Land Development Code.*

The second hearing of the evening opened at 7:34 p.m. Site visits were declared by Councilors Mickelson, Dentino and Johns Kern, and Mayor Hagbom. Johns Kern declared a conflict of interest and recused herself from the hearing. John Babin, attorney for the appellant, had no objection to Johns Kern remaining on bench but not participating. There was no objection to the jurisdiction of the City Council to hearing this case.

Planner Bischoff gave his staff report with a staff recommendation of not granting the minor change sought by appellant Noah Bruce. Questions from the Council were answered by Bischoff.

Testifying for the appellant were:

John Babin	PO Box 1600	Brookings
Cynthia Beaman	PO Box 6055	Brookings
Noah Bruce	PO Box 61	Brookings

Speaking in support of the appellant were:

Daryn and Alice Farmer	PO Box 969	Brookings
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Speaking in opposition of the proposal were Gary Georgeff, representing The Cove Homeowners Association, PO Box 847, Brookings and Jim Rich, 107 Schooner Bay Drive, Brookings, President of The Cove Homeowners Association.

Babin entered into the record appellant's exhibit Y—The Cove, Phases I-IV, conceptual plat; appellant's exhibit Z—letter from Daryn Farmer; appellant's exhibit AA—Letter from Cynthia Beaman; appellant's exhibit CC—letter from Dave and Joanna Coito; and appellant's exhibit DD—Stuntzner Engineering Topographic Map of Current Berm, Chetco Point Terrace, August 2003.

Georgeff entered into the record three (3) exhibits: a copy of a fax from Yvonne Dunn regarding the landscaping on the berm (Cove Exhibit M); a copy of a fax from Yvonne Dunn of Real Estate Transfer Disclosure Statements signed by original buyers at The Cove (Cove Exhibit N); and four (4) pictures of the berm, pictures marked on back October 7, 2003 (Cove Exhibit O).

There was no testimony from interested parties or public agencies.

Rebuttal was given by Babin who introduced a topographical map from Stuntzner Engineering showing the current height of the berm. Georgeff rose to a point of order that this was not rebuttal but new testimony. City Attorney Trew accepted the map as evidence.

Bischoff and Community Development Director Leo Lightle made additional staff comments. Babin requested additional time for T. J. Bossard, engineer of the original berm design to appear before the Council. Georgeff said although he had concerns about continuing the hearing he would defer to Trew's opinion.

The Council recessed from 9:40 to 10:00 p.m. After the meeting reconvened Trew read ORS 197.763, Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. Trew advised the City to allow Babin's request for additional time to present Bossard in person, stating that other persons and the City can respond to Bossard. The additional time will be only for hearing testimony from Bossard and response to Bossard. The date of October 22, 2003, at 7:00 p.m. was suggested for a special meeting of the Council.

**Councilor Mickelson moved, a second followed, and the Council voted 4-0 (Johns Kern not participating in the hearing) to continue the public hearing for APP-4-03 to October 22, 2003, at 7:00 p.m. in the Council Chambers of City Hall. (See continuation of hearing at end of these minutes.)**

- C. *In the matter of an ordinance amending Section 92, Off-Street Parking and Loading Regulations of the Land Development Code to update ADA parking space requirements, Ordinance No. 03-O-446.QQ.*

Mayor Hagbom opened the final hearing of the evening at 10:10 p.m. No Councilor declared bias or conflict of interest and there was no objection of the jurisdiction of the Council to hear the matter.

There were no questions for staff after Bischoff presented his staff report recommending adopting the Ordinance. No one testified on the matter and the hearing was closed to the public at 10:12 p.m.

City Manager Blodgett read Ordinance No. 03-O-446.QQ in its entirety into the record.

**Councilor Dentino moved, a second followed, and the Council voted unanimously to have the second reading of Ordinance No. 03-O-446.QQ by title only.**

Blodgett read the ordinance by title only.

**Councilor Dentino moved, a second followed, and the Council voted unanimously to adopt Ordinance No. 03-O-446.QQ amending Section 92, Off-Street Parking and Loading Regulations of the Land Development Code to update ADA parking space requirements.**

**V. Oral Requests and Communications from the Audience**

- A. *Committee and Liaison reports*
1. *Chamber of Commerce-none*
  2. *Council Liaisons*

Councilor Curry presented an article from the Curry Coastal Pilot regarding state gravel extraction rules. Copies of the article will be made and given to the other Councilors.

- B. *Unscheduled-none*

**VI. Staff Reports**

- A. *Community Development Department*
1. *Acceptance of Right-of-Way Deed on Meadow Lane*

**Councilor Mickelson moved, a second followed and the Council voted unanimously to accept a deed for additional right-of-way resulting from a minor partition on Meadow Lane.**

The new right-of-way consists of a five (5) foot wide strip of land along the frontage of property owned by Larry Kammer, George B. and Rebecca S. Watwood.

*B. City Manager*

*1. Voting delegate for LOC Conference*

**Councilor Johns Kern moved, a second followed, and the Council voted unanimously to appoint Mayor Hagbom as voting delegate and Council President Dentino as alternate voting delegate to represent the City at the League of Oregon Cities annual conference in November.**

*2. Port of Brookings Harbor police levy*

Blodgett said the City has not taken a position on the upcoming election for additional moneys to fund a police levy in the Port District. Staff and Councilors have been asked by the Curry Coastal Pilot and other individuals what position the City has taken.

**Commissioner Mickelson moved, a second followed and the Council voted unanimously to decline to take a position on the levy and let the voters decide without Council input.**

*3. Other*

None

**VII. Consent Calendar**

*A. Approval of Council Meeting Minutes*

*1. Minutes of September 22, 2003, regular Council meeting*

*2. Minutes of September 29, 2003, special Council meeting*

*B. Acceptance of Planning Commission Minutes*

*1. Minutes of September 2, 2003, regular Commission meeting*

*C. Approval of Vouchers for month of September, 2003 (\$126,569.87)*

*D. Liquor License request from Patrick and Teresita Wong, Northwest Technical Internet Café*

*[End Consent Calendar]*

**Councilor Dentino moved, a second followed, and the Council voted unanimously to accept the Consent Calendar as written.**

**VIII. Ordinances/Resolutions/Final Orders**

*A. Ordinances*

*1. Ordinance No. 03-O-446.QQ—In the matter of an Ordinance amending Section 92, Off-Street Parking and Loading Requirements of the Land Development Code updating ADA parking space requirements*

Blodgett explained the proposed ordinance updates the Land Development Code by changing both the ratio of ADA parking spaces to regular spaces and the required access aisle beside ADA spaces. He then read the Ordinance in its entirety.

**Councilor Mickelson moved, a second followed, and the Council voted unanimously to have the second reading of Ordinance No. 03-O-446.QQ by title only.**

Blodgett read the ordinance by title only.

**Councilor Johns Kern moved, a second followed, and the Council voted unanimously to adopt Ordinance No. 03-O-446.QQ, an ordinance amending Ordinance 89-O-446, an ordinance creating the Land Development Code to amend Section 92, Off-Street Parking and Loading Regulations, updating ADA parking space requirements.**

2. *Ordinance No. 03-O-349.E—In the matter of an Ordinance amending Ordinance No. 81-O-349 titled, An Ordinance adopting the 1996 Oregon Structural Specialty Code, including the appendices and Chapter 33, provided, however that ORS 455.320 shall not be applicable; the 1996 Oregon Mechanical Specialty Code; the 1996 Oregon Plumbing Specialty Code; the 1996 Oregon 1 and 2 Family Dwelling Specialty Code; the 1996 Uniform Fire Code; the 1996 Uniform Code for the Abatement of Dangerous Buildings; the 1996 Manufactured Dwelling Standards; and the 1996 Parks and Camps Rules, to adopt the code in effect on the effective date of the ordinance and any subsequent modifications to it*

Blodgett explained the ordinance change was proposed by Building Official LauraLee Gray. The current ordinance must be changed with each edition of various building codes. The proposed ordinance does not specify a code year.

Blodgett read Ordinance No. 03-O-349.E in its entirety.

**Councilor Mickelson moved, a second followed, and the Council voted unanimously to have the second reading of Ordinance No. 03-O-349.E by title only.**

Blodgett read the ordinance by title only.

**Councilor Johns Kern moved, a second followed, and the Council voted unanimously to adopt Ordinance No. 03-O-349.E**

**B. Resolutions**

1. *Resolution No. 03-R-722.A—In the matter of a Resolution establishing traffic controls (parking limitations) along Spruce Street at Assessor's Map No. 41-13-6 DA TL 6200 and 6201, also known as 635 and 625 Spruce Street*

Blodgett said the request for parking limits at 635 and 625 Spruce Street was received from Rick Bishop, property owner. Bishop requested the limit be in effect 24 hours per day seven days a week. However, in being constant with other parking regulations in the downtown area the resolution was written for seven days a week, 8:00 a.m. to 5:00 p.m. Blodgett said the Downtown Development Committee had reviewed the Resolution and recommended tabling the request until after the Committee considered other parking in the area.

**Councilor Dentino moved, a second followed, and the Council unanimously voted to approve Resolution No. 03-R-722.A setting 4 hours parking limits between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday at 635 and 625 Spruce Street.**

**IX. Remarks from Mayor and Councilors**

- A. *Council-none*
- B. *Mayor-none*

**X. Adjournment**

With no further business before it the meeting adjourned at 10:30 p.m. The Public Hearing on File No. APP-4-03 was continued until October 22, 2003, at 7:00 p.m.

Mayor Hagbom reconvened the public hearing for Planning Commission File No. APP-4-03, October 22, 2003, at 7:00 p.m. The Pledge of Allegiance was led by Linda Barker.

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilors Larry Curry, Frances Johns Kern, and Craig Mickelson, a quorum present.

Council Absent: None

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, City Engineer Richard Nored, City Planner John Bischoff, Community Development Director Leo Lightle and Administrative Secretary Linda Barker

Media Present: Curry Coastal Pilot Reporter Bill Lundquist

Other:

Approximately 13 other citizens

**Councilor Johns Kern, who was present, did not participate as she declared conflict of interest at the previous session of the public hearing.**

The appellant's attorney, John Babin introduced Tim Bossard, T. J. Bossard and Associates Civil Engineers, whose firm is located at 133 NW "D" Street, Grants Pass, Oregon. Bossard related his involvement with The Cove project and the berm beginning in 1989. Using drawings he showed the berm as he designed it in 1991 and its present state. He said the berm was designed to block views and mitigate odors from the sewer treatment plant and he believes a configuration equivalent to the original berm can be worked out based on amount of odors produced and the direction they travel. Bossard answered questions from the Council and staff.

Babin introduced into evidence a photocopy of part of a construction drawing labeled *Plan, Profile Berm/Retaining Wall The Cove* dated September 16, 1991. The photocopy was labeled Appellant's Exhibit EE.

Community Development Director Lightle and City Engineer Nored testified for staff. Mayor Hagbom asked if anyone in the audience wanted to speak at which time Babin rose to a point of order saying he understood the purpose of the hearing was to hear comments of the engineer only. He asked if the appellants would have a chance to rebut any participant's comments. City Attorney Trew said that if the hearing were reopened to comments, yes they would need to allow rebuttal from the appellant. Trew advised closing the public hearing.

**Councilor Dentino moved, a second followed, and the Council voted 4 -0 (Councilor Johns Kern not participating) to close the public portion of the hearing.** The public hearing was closed at 8:15 p.m.

City Manager Blodgett recommended one of three options: outright denial, outright approval, or denial of the appeal as proposed with a condition that application be made by the appellant showing exactly what is being proposed including engineering specifications showing no increase in odors from any proposed change. This new proposal would go through staff and the Planning Commission.

Babin said the City Attorney should be consulted as to what effect a denial with a condition to reapply would be as opposed to outright approval. Trew said there were two choices: approve or deny. Discussion ensued about granting an appeal with conditions.



Trew said he was making no comment on whether to deny or grant the appeal, just to procedure.

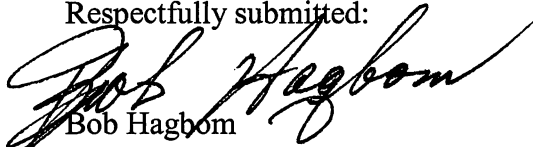
**Councilor Dentino moved, a second followed, and the Council voted 4-0 to deny APP-4-03 as proposed.**

**Councilor Mickelson moved, a second followed, and the Council voted 4-0 to direct staff to prepare findings and a Final Order for consideration at the Common Council meeting of November 10, 2003.**

Babin asked that the record be left open to mark exhibits that had been presented at the hearing. Drawings used by Bossard in his presentation were labeled Appellant's Exhibit FF.

The reconvened meeting adjourned at 8:30 p.m.

Respectfully submitted:

  
Bob Haghom  
Mayor

ATTEST by City Recorder this 28 day of October, 2003.

  
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Paul Hughes  
Finance Director/City Recorder