

RESOLUTION NO.

~~59~~
#3.

Proposing an original charter for the City of Brookings, Curry County, State of Oregon and calling for a special election to vote upon the same.

WHEREAS, the Council of the City of Brookings has adopted and enacted an original charter for said City and deems it necessary to propose to the people of said City the adoption of said charter by the electors of said city,

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROOKINGS:

1. That there is herewith and hereby submitted to the electors of the City of Brookings, to be adopted or rejected by them, the following charter, which has been adopted and enacted by the Council of the City of Brookings:

CHAPTER I

NAME AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as the original Brookings Charter of 1954.

Section 2. NAME OF CITY. The City of Brookings, Curry County, Oregon, shall continue to be a municipal corporation with the name "City of Brookings".

Section 3. BOUNDARIES.

Beginning at the interior $1/4$ corner of Section 36, Township 40 South, Range 14 West, W.M., Curry County, Oregon;

Thence following the East - West center line of said Section 36, East, to the East line of Said Section 36;

Thence following said East line, South, to the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 31, Township 40 South, Range 13 West;

Thence following the North line of the South $1/2$ of the South $1/2$ of Section 31 and the North line of the South $1/2$ of the Southwest Quarter of Section 32, East, to the Northeast corner of the Southeast Quarter of the Southwest Quarter of said Section 32;

Thence following the East line of the Southeast Quarter of the Southwest Quarter of said Section 32 and the Northeast Quarter of the Northwest Quarter of Section 5, Township 41 South, Range 13 West, South, to the Northwest corner of Government Lot No. 2 in said Section 5;

Thence following the North line of said Lot No. 2, as extended, East, to the thread of the stream of the Chetco River;

Thence following said thread of stream of said river, Southerly, to its confluence with the ordinary low tide line of the Pacific Ocean;

Thence following said tide line, Westerly and Northerly, to a point which bears South $78^{\circ} 00$ min. West from the point of beginning;

Thence North $78^{\circ} 00$ min. East, following a Northerly line of Harris State Park, to the point of beginning.

CHAPTER II

POWERS

Section 4. POWERS OF THE CITY. The city shall have all powers which the constitutions, statutes, and common law of the United States and of this state

expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

Section 5. CONSTRUCTION OF CHARTER. In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

CHAPTER III

FORM OF GOVERNMENT

Section 6. WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the city shall be vested in the council.

Section 7. COUNCIL. The council shall be composed of a mayor and four councilmen elected from the city at large.

Section 8. COUNCILMEN. The councilmen in office at the time this charter is adopted shall continue in office, each until the end of his term. At each biennial general election after this charter takes effect, two councilmen shall be elected, each for a term of four years, and at each biennial general election the number of councilmen to be elected to fill vacancies pursuant to Section 33 of this charter shall be elected.

Section 9. MAYOR. At each biennial general election a mayor shall be elected for a term of two years.

Section 10. OTHER OFFICERS. Additional officers of the city shall be municipal judge, a recorder, and such other officers as the council deems necessary. Each of these officers shall be appointed and may be removed by the mayor with the consent of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive

officer except the municipal judge in the exercise of his judicial functions.

Section 11. SALARIES. The compensation for the services of each city officer and employee shall be the amount fixed by the council.

Section 12. QUALIFICATIONS OF OFFICERS: No person shall be eligible for an elective office of the city unless at the time of his election he is a qualified elector within the meaning of the state constitution and has resided continuously in the city during the twelve months immediately preceding the election. The council shall be final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction.

CHAPTER IV

COUNCIL

Section 13. MEETINGS. The council shall hold a regular meeting at least once each month at a time and at a place in the city which it designates. It shall adopt rules for the government of its members and proceedings. The mayor upon his own motion may, or at the request of two members of the council shall, by giving notice thereof to all members of the council then in the city, call a special meeting of the council for a time not earlier than three nor later than forty-eight hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of all the members of the council.

Section 14. QUORUM. A majority of members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 15. JOURNAL. The council shall cause a journal of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the journal.

Section 16. MEETINGS TO BE PUBLIC. All deliberations and proceedings of the council shall be public.

Section 17. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The mayor shall be chair-

man of the council and preside over its deliberations. He shall have a vote on all questions before it. He shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

Section 18. PRESIDENT OF THE COUNCIL. At its first meeting after this charter takes effect and thereafter at its first meeting of each odd-numbered year, the council by ballot shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of his office, the president shall act as mayor.

Section 19. VOTE REQUIRED. Except as this charter otherwise provides, the concurrence of a majority of the members of the council present at a council meeting shall be necessary to decide any question before the council.

CHAPTER V

POWERS AND DUTIES OF OFFICERS

Section 20. MAYOR. The mayor shall appoint the committees provided by the rules of the council. He shall sign all approved records of proceedings of the council and countersign all orders on the treasury. He shall have no veto power and shall sign all ordinances passed by the council within three days after their passing. Upon the approval of the council, he shall endorse all bonds of city officers and all bonds for licenses, contracts, and proposals.

Section 21. MUNICIPAL JUDGE. The municipal judge shall be the judicial officer of the city. He shall hold within the city a court known as the municipal court for the city of Brookings, Curry County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of

the city. He shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of the court. When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts. Trials in the municipal court of cases for violation of city ordinances shall be had without juries.

Section 22. RECORDER. The recorder shall serve as city clerk, city treasurer and ex officio as clerk of the council, keep an accurate record of its proceedings in a book provided for that purpose and sign all orders on the treasury. On all purchases in excess of \$500.00 the recorder shall publish a request for bids and purchases shall be made from the lowest responsible bidder. In the recorder's absence from a council meeting, the mayor shall appoint a clerk of the council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

CHAPTER VI

ELECTIONS

Section 23. REGULAR ELECTIONS. Regular city elections shall be held at the same times and places as biennial general state elections, in accordance with applicable state election laws.

Section 24. NOTICE OF REGULAR AND SPECIAL ELECTIONS. The recorder, pursuant to directions from the council, shall give at least ten days' notice of each regular or special election by posting a notice thereof in a conspicuous place in the city

hall and in three public places in each voting precinct of the city and by publishing the notice once each week, for two weeks immediately preceding the election in a newspaper of general circulation in the city.

Section 25. SPECIAL ELECTIONS. By resolution the council may call and provide for special elections.

Section 26. REGULATION OF ELECTIONS. Except as this charter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom, and contests thereof.

Section 27. QUALIFICATIONS OF ELECTORS. In all city elections the qualifications of electors shall be identical with the qualifications of voters as set up in Article II, Section 2, of the Constitution of the State of Oregon.

Section 28. CANVASS OF RETURNS. In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. In each special city election the returns therefrom shall be filed with the recorder on or before noon of the day following, and not later than five days after the election, the council shall meet and canvass the returns. The results of all elections shall be made a matter of record in the journal of the proceedings of the council. It shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. Immediately after the canvass is completed, the recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within one day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

Section 29. TIE VOTES. In the event of a tie vote for candidates for an

elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Section 30. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular city election shall commence the first day of the year immediately following the election.

Section 31. OATH OF OFFICE. Before entering upon the duties of his office, each officer shall take an oath or shall affirm that he will support the constitutions and laws of the United States and of Oregon and that he will faithfully perform the duties of his office.

Section 32. NOMINATIONS. A qualified elector who shall have resided in the city continuously during the 12 months immediately preceding the election may be nominated for an elective city position. Nomination shall be by petition specifying the position sought in a form prescribed by the council. Such petition shall be signed by not fewer than 20 electors. No elector shall sign more than one such petition for the same office. If he does so, his signature shall be valid only on the first petition filed. The signatures to a nomination petition need not all be appended to one paper, but to each separate paper of the petition shall be attached an affidavit of the circulator thereof, indicating the number of signers of the paper and stating that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the signer's place of residence, identified by its street and number or other sufficient description. All nomination papers comprising a petition shall be assembled and filed with the recorder as one instrument not earlier than 90 nor later than 30 days before the election. The recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified electors, the recorder shall notify the candidate

and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the recorder shall return it immediately to the person who filed it, certifying in writing wherein the petition is insufficient. Such deficient petition may be amended and filed again as a new petition, or a different petition for the same candidate may be filed, within the regular time for filing nomination petitions. The recorder shall notify an eligible person of his nomination, and such person shall file with the recorder his written acceptance of nomination, in such form as the council may require, within five days of notification of nomination. Upon receipt of such acceptance of nomination, the recorder shall cause the nominee's name to be printed on the ballots. The petition of nomination for a successful candidate at an election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires.

CHAPTER VII

VACANCIES IN OFFICE

Section 33. WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony, resignation, or recall from office; upon the incumbent's ceasing to possess the qualifications necessary for his office; or upon the failure of the person elected or appointed to an office to qualify therefor within three days after the time for his term of office to commence; and in the case of mayor or councilman, upon his absence from the city for 30 days or upon his absence from meetings of the council for 60 days without the consent of the council and upon a declaration by the council of the vacancy.

Section 34. FILLING OF VACANCIES. Vacancies in elective offices of the city shall be filled by appointment by a majority of the entire membership of the council. The appointee's term shall begin immediately upon his appointment and shall continue until the beginning of the year following the next general biennial election and until

his successor is qualified, and his successor for the unexpired term shall be chosen at the next general biennial election after said appointment. During the temporary disability of any officer or during his absence temporarily from the city for any cause his office may be filled pro tem in the manner provided for filling vacancies in office permanently.

CHAPTER VIII

ORDINANCES

Section 35. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, "The city of Brookings ordains as follows:"

Section 36. INTRODUCTION, READING, AND PASSAGE. Every ordinance of the council shall be fully and distinctly read in open council meeting on two different days previous to being put upon its final passage. Any ordinance, however, may be introduced, read twice, once in full and once by title, and put on its final passage at a single meeting by a unanimous vote of all members of the council present at the meeting. Upon the final vote on an ordinance, the ayes and nays of the members of the council shall be taken and recorded in the journal. If the ordinance passes, the recorder shall sign it with the date of its passage and his name and title of office, and within three days thereafter, the mayor shall sign it with the date, his name, and the title of his office.

Section 37. WHEN ORDINANCES TAKE EFFECT. An ordinance enacted by the council shall take effect on the thirtieth day after its enactment. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

CHAPTER IX

PUBLIC IMPROVEMENTS

Section 38. CONDEMNATION. Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the

council describing the property and stating the uses to which it shall be devoted.

Section 39. IMPROVEMENTS. The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. A remonstrance by the owners of two-thirds of the property to be specially assessed for a proposed public improvement shall suspend action regarding the improvement for six months. For the purpose of this section "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the "owner".

Section 40. SPECIAL ASSESSMENTS. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 41. BIDS. A contract in excess of \$500.00 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council. The council shall have the right to reject any or all said bids.

CHAPTER X

MISCELLANEOUS PROVISIONS

Section 42. DEBT LIMIT. Except by consent of the voters, the voluntary floating indebtedness of the city for general purposes shall not exceed \$5000.00 at any one time; provided, that the legally authorized debt of the city existing January 1, 1954, shall not be included in such indebtedness for purposes of calculating the limitations. City officials or employees who create or officially approve any indebtedness in excess of the limitations shall be jointly and severally liable for the amount of the excess.

Section 43. DAMAGE SUITS. In no event shall the city be liable in damages to any person for an injury to person or property caused by a defect or dangerous place in a sidewalk, crosswalk, street, alley, sewer, public ground, public building, drain, gutter, ditch, or way, unless the city has had actual notice prior to the injury that the defect or dangerous place existed and has had a reasonable time thereafter in which to repair or remove it. In no case shall more than \$500.00 be recovered as damages for an injury resulting from such a defect or dangerous place. No action shall be maintained against the city for damages growing out of such an injury unless the claimant first gives written notice to the council within 30 days after the injury is sustained, stating specifically the time when, the place where, and the circumstances under which it was sustained, and that he will claim damages therefor of the city in an amount which he specifies. But in no event shall the action be started until 30 days have elapsed after the presentation of this notice to the council.

Section 44. EXISTING ORDINANCES CONTINUED. All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 45 TIME OF EFFECT OF CHARTER. This charter shall take effect

August 12, 1954.

2. The ballot title under which said charter shall be submitted to the said electors and as the same shall appear on the ballot at the special election hereinafter called and provided for shall be as follows:

Original Charter Submitted to the Electors by
the Council of the City of Brookings, Oregon.

Shall a Charter be enacted for the City of
Brookings, Curry County, Oregon, to take effect
on August 12, 1954

51 YES I vote for the proposed charter.

52 No I vote against the proposed charter.

§. BE IT FURTHER RESOLVED that a special election be, and the same is, hereby called within, for and by the City of Brookings, Oregon, to be held on the 11th day of August, 1954, beginning at the hour of 8.00 o'clock A.M. of said day and continuing until 8.00 o'clock P.M. thereon; that the voting place for said election shall be in the City Hall in the City of Brookings, Oregon; that the following

three named persons be, and they are hereby appointed so to act, the

judges of said election, to-wit: Max Brainard and
Dorothy Dimmick and Edith Berger;

that the following two named persons be, and they are hereby appointed so

to act, Clerks of said election, to-wit: Dolly Brainard and
Alice Beem;

and, further, that said special election is hereby called for the purpose of submitting and referring to the qualified electors of the City of Brookings the adoption or rejection of the original charter of the City of Brookings hereinabove set forth in this Resolution.

4. The City Recorder is hereby ordered and directed to cause the ballot title for the adoption or rejection of said proposed charter, as fixed herein, to be printed upon the official ballot for said election; to have all ballots, necessary to be provided for the use of aforesaid electors at said special election, printed according to law and to make the said ballots available for use by said electors at said election; and to provide and furnish all necessary supplies for the carrying on of said special election.

5. The City Recorder is further directed to give notice of the aforesaid special election by publishing notice thereof in the Brookings Harbor Pilot, a newspaper of general circulation published in the City of Brookings, all not earlier than 20 days and not later than 10 days prior to the time of

the holding of the aforesaid special election upon which the aforesaid proposed charter is to be voted upon, in two consecutive issues of said newspaper, the form of the said notice of said election to be the form of notices as set forth in Ordinance 58 Section 22-II, Form, of the City of Brookings.

6. The City Recorder is further ordered and directed to ^Tdirectly following the aforesaid notice of special election, in each of the two said consecutive issues of the aforesaid newspaper, have printed and published a true, full, complete and correct copy of the Charter as set forth and contained in section 1, hereinabove, under the heading of " Original Charter of Brookings".

7. The City Recorder is further directed to post copies of the aforesaid notice of special election as the same are required to be posted in Ordinance 58, Section 25, of the City of Brookings.

Adopted by the Council of the City of Brookings this 8th. day of June, 1954, by the following vote:

Aye: Councilmen:

{ Pete J. Lesmeester
Chas. Mauley
Clarence Campbell

No: Councilmen:

none

Absent: Councilman and Mayor, Robert O. Dimmick.

Approved by the acting mayor this 8th. day of June, 1954.

Warren T. Smith, Acting Mayor.

Attest:

Gladys L. Lamic

Recorder.