

# MINUTES

## CITY OF BROOKINGS BROOKINGS COMMON COUNCIL MEETING

Brookings City Hall Council Chambers

898 Elk Drive, Brookings, Oregon

November 9, 1992

7:00 p.m.

### I. CALL TO ORDER

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

### II. PLEDGE OF ALLEGIANCE

### III. ROLL CALL

Council Present: Mayor Fred Hummel, Councilors Nancy Brendlinger, Mary Jane Brimm, Larry Curry, Tom Davis

Staff Present: City Manager Dennis Cluff, City Attorney Martin Stone, Administrative Assistant Donna Van Nest, Planning Director John Bischoff, City Engineer Grant Cramond

Media Present: Bill Schlichting, Curry Coastal Pilot; Marge Barrett, KURY; Martin Kelly, KCRE

### IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

#### 1. Appointment - Parks and Recreation Commission

Mayor Hummel requested approval of the appointment of Olivia Abbott to the Parks and Recreation Commission to fill the vacancy created by the resignation of Carolyn Hubbard. Mayor Hummel noted that as president of the local garden club, Olivia is a natural for the position.

Councilor Curry moved to approve the appointment of Olivia Abbott to the Parks and Recreation Commission to fill the vacancy created by the resignation of Carolyn Hubbard, which motion was seconded by Councilor Brimm. The clerk called the roll with the following results:

**Ayes:** Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel

**Nays:** None

**Motion carried; appointment of Olivia Abbott to the Parks and Recreation Commission to fill the vacancy created by the resignation of Carolyn Hubbard approved. [Term expires 02/01/96]**

**V. PUBLIC HEARINGS**

1. **Annexation - 11.3 acres North of Brooke Lane between Third Street and Fifth Street - Larry Fallert**

**Mayor Hummel announced that the hearing is a request for annexation of 11.3 acres located North of Brooke Lane between Third Street and Fifth Street.**

**Mayor Hummel opened the public hearing at 7:12 p.m.**

**Planning Director John Bischoff read the list of applicable substantive criteria.**

**Mayor Hummel stated that, "testimony and evidence must be directed toward the criteria listed or other criteria in the comprehensive plan or land use regulation which the person believes applies to the decision"; and**

**stated that, "failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal on that issue."**

**Mayor Hummel asked if any member of the decision making body wished to disclose ex-parte contacts, with no response.**

**Mayor Hummel asked if any member of the decision making body wished to abstain from participation in the decision, with no response.**

**Mayor Hummel asked if there were any objections to jurisdiction of the Decision Making Body to hear the matter, with no response.**

**Planning Director John Bischoff presented the Staff Report, which contained the following information:**

### **BACKGROUND INFORMATION**

**The parcel subject to this annexation is an 11.3± acre parcel of land which is adjacent to the northerly city limits that extends west of Fifth St. for a distance of 605 feet along Brooke Lane. The parcel is bounded on the west by the existing city limits which were established earlier this year through Annexation File No. ANX-1-92 and on the north by Ransom Creek. The subject parcel is the southwesterly portion of a larger 56 acre "L" shaped parcel. The toe of the "L" adjoins the city limits in the area to be annexed. The leg of the "L" is separated from the city limits by a separate parcel which is in the same ownership and by the parcels owned by the Southern Curry Cemetery Maintenance District.**

**The topography of the subject parcel varies from very steep along the northerly edge which is in the Ransom Cr. canyon to virtually flat along the southerly boundary. The property rises from Ransom Cr. along the northerly boundary, flattens in the center portion and then rises again along the easterly boundary. Slopes along Ransom Creek range from 41 to 63 percent. The slope along Brooke Ln. averages 4% and the center of the property drops slightly from east to west with a average slope of 10%. The easterly side of the property rises with slopes of 46% to the top of a hill on the adjoining property.**

**The subject property is zoned Forest Grazing (FG) by the county and is vacant. The area to the north is in the county area and is also vacant and zoned FG. The area to the east is also in the county and zone RR-5 (Rural Residential, 5 acre minimum), R-1 (Residential 1) and FG. These lots contain at least two houses on the residential lots and the cemetery is on the lots to the east. The area to the west is within the city limits and is the site of the Claron Glen II Subdivision in the R-1-10 Zone. Directly across Brooke Ln. from the subject property are the sites of the Meadow View and Brookings Meadow Subdivisions within the city limits zoned R-1-10. Both of these subdivisions are substantially built out. The original Claron Glen Subdivision lies to the southwest and the Hillcrest Subdivision lies to the southeast. Both are in the R-1-6 Zone and are building out. The airport is located to the northwest of the subject property and is zoned Industrial by the county.**

Water and sewer mains are located in Brooke Ln. adjacent to the property to be annexed. Both Fifth St. and Brooke Ln. are fully improved 50 foot right-of-ways except that Brooke Ln. currently has a sidewalk only on the south side. The applicant has submitted a conceptual subdivision design to indicate how the property may be divided in the future. The design shows a looped road from Brooke Ln. with a 50 right-of-way and 22 lots which range in size from 10,000 to 15,000 sq. ft. The area adjacent to Ransom Cr. and an area in the southwest corner are indicated as open space. It is staff's understanding that there is a small pond in the southwest corner of the site.

Section 222 of the Oregon Revised Statutes (ORS) allows the city to annex land that is only a portion of an existing tax lot. Once the annexation has been approved the applicant can apply for a Minor Partition to break the annexed portion of the original tax lot into a separate lot. Staff has contacted the County Planning Director and he has stated that he has no opposition to the annexation and will submit a letter authorizing the city full jurisdiction over the minor partition process. If the annexation is granted the city can apply the appropriate zoning to the subject parcel. Staff has consulted with the county planning staff and with the regional DLCDC representative to determine if it was necessary for the applicant to create a forest management document on the remaining or non-annexed parcel since it is zoned Forest grazing which is a resource zone. Both the county staff and the DLCDC representative agreed that since the property was in the UGB and there was evidence that a zone change had been intended but not implemented, a forest management plan is not necessary.

## **ANALYSIS**

### **I. Comprehensive Plan/ Land Development Code**

Before making a recommendation to the City Council concerning this request for annexation the Planning Commission must evaluate the application and determine if the proposed annexation petition will represent a potential negative or adverse impact upon the citizens of Brookings, either financially or in terms of the livability of the community. This determination will be based on the following criteria and on the impact analysis submitted by the applicant.

**A. The proposed annexation is within the urban growth boundary and represents a logical, efficient and economical extension of the city boundaries and is found to be a necessary control for development form and standards of an area adjacent to the city.**

**B. The proposed annexation will facilitate the functional and economic provisions of services within the Urban Growth Boundary without seriously impairing city services to existing portions of the city (direct responsibility for extension costs shall be addressed).**

**C. The annexation represents a needed solution for existing problems resulting from inadequate or insufficient provisions for sanitation, water service or other related problems resulting from development with less than full urban services and facilities provided.**

**D. The proposed annexation will add property to the city which is needed to provide an adequate supply of zoned lands for the uses projected on the comprehensive plan or will add property which has existing development in need of urban services.**

**E. The lands within the boundaries of the proposed annexation are demonstrated to meet identified needs for urbanization and/or transportation networks.**

**The applicant has submitted a document with a written statement addressing each of the above criteria (attached). Staff will supplement or refute each of these statements as deemed appropriate or necessary.**

**Criterion A. As indicated in the applicants findings document the property is located within the UGB and is adjacent to existing city limits and is thus a logical annexation. Although portions of the property are very steep, more than half of the parcel will provide buildable land. As the city limits expand, to avoid creating islands of unincorporated land, it will be necessary to include topographically undevelopable areas.**

**Criterion B. Although it is mentioned in other areas of the applicants findings, the response to this criterion should contain a statement that it is understood that an approved annexation does not guarantee sewer connections to any development on the property. The parcel subject to this annexation is located within the Dawson Rural Fire Protection District which is served by the City Fire Department. Upon annexation the property would be removed from the Dawson District and place directly within the city's service area.**

**Criterion C. Staff agrees with the applicant's comment.**

**Criterion D. The initial statement in the applicant's statement is correct, the city is approaching the point when there will no longer be large tracts of developable land within the city limits. The Marina Heights area is constrained by rather steep hillsides and a lack of sewer mains but will support large lot development. The primary constraint affecting the Dawson Tract area is the lack of a street system that will support development at a level allowed by the underlaying zone. Although it is extremely steep in some areas, the subject property is one of the few larger parcels that is adjacent to the city limits which contains any amount of developable vacant land and can be provided all city services in an economic manner.**

**The city's most urgent residential need is for land suitable for the development of low and moderate income housing and the subject parcel does not fall into that category due to the construction cost necessary to develop the property. The city does, however, have an ongoing demand for higher income homes which this parcel will help meet.**

**Criterion E. Staff agrees with the applicant's statement.**

## **II. Impact Analysis**

**Section 148.040 requires the applicant to submit an analysis of all potential impacts that may result from the annexation, including the following items:**

**A. A statement of the municipal service needs, if any, of the territory proposed to be annexed, including police and fire protection; public sewer and water supply facilities; street improvement or construction, or both; and such other municipal services that may reasonably be required.**

**B. A statement of the projected methods and costs of supplying reasonably needed municipal services to the territory proposed to be annexed.**

**C. A statement of the additional revenues, if any, available to the city as a result of the annexation.**

**D. A statement of the foreseeable impact of the proposed annexation upon property within existing city limits, and upon property outside the city limits and contiguous to the property included within the proposed annexation.**

**E. A statement analyzing the impact of the annexation on the growth, development, and future of Brookings and its urban growth area, recognizing that even small-area annexations involve implicit policy decisions concerning long-range development and ultimate impacts.**

**The applicants response to these potential impacts is also in the attached document and the following discussion contains staff's comments on each of these items.**

**Impact A. The applicant should also be aware that, as stated above, the city is approaching the working capacity of the wastewater treatment plant and sewer connections are not guaranteed. Street improvements will be the responsibility of the applicant at the time development occurs on the property.**

**Impact B. Discussion with the applicant's representative indicates that the term "utilities" includes water, sewer and drainage facilities. Since they were not mentioned specifically, and at the time of development on the site the applicant would be responsible for the extension and construction of these facilities, staff wanted assurance that they were indeed included in the applicant's figures.**

**Impact C. Staff agrees with the applicant's statement.**

**Impact D. The subject property is bounded on the north by Ransom Creek which, with its steep canyon, effectively isolates the parcel from adjoining property on the north. Development on the property will be very similar to that on the Claron Glen, Meadow View, Hillcrest, and Brookings Meadow Subdivisions which are in the city to the south of the subject parcel. It is staff's opinion that this annexation would have no significant impact on adjoining property either in or outside of the city.**

**Impact E. Staff agrees with the applicant's statement.**

**It is staff's opinion that the proposed annexation is logical and practical. At this time the only place that the city limits can expand into is along the northerly boundary. As stated above, there are few remaining large areas within the city limits that are suitable for even large lot residential densities and the proposed annexation is the second of what may be many such requests. Actually much of the land in the UGB north of the city is currently developed at densities which even if annexed would not provide vacant land for the city to grow into. This is the reason that the city is currently pursuing the expansion of the Urban Growth Boundary.**

**The applicant is requesting that the subject parcel be zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) if the annexation is approved. Although a large portion of the property is fairly flat, the subdivision concept shown in Exhibit 2 indicates that 11 of the 22 lots will be on fairly steep slopes. The applicant has not indicated specifically why the R-1-6 Zone is desired, however, it is obvious that it would allow much greater flexibility in future subdivision design. Staff is hesitant to agree to the R-1-6 Zone and is of the opinion that the R-1-8 Zone (8,000 sq. ft. minimum lot size) would be more appropriate. The applicant's representative may wish to address this in more detail at the hearing.**



## **FINDINGS**

- 1. The applicant is requesting the annexation of a 11.3± acre parcel of land into the city limits.**
- 2. The parcel to be annexed is a portion of a larger 56± acre tax lot.**
- 3. The property to be annexed is located within the Urban Growth Boundary and is adjacent to the existing city limits.**
- 4. The subject property is zoned FG (Forest Grazing) by the county and is designated as Forest Grazing by the County Comprehensive Plan.**
- 5. The topography of the subject property contains slopes ranging from 4% along the southerly boundary of the property to greater than 60% along the Ransom Creek canyon.**
- 6. Ransom Creek forms the northerly boundary of the subject property.**
- 7. The property adjacent to the easterly boundary of the subject property is also in the county and is in related ownership.**
- 8. The subject property fronts on Brooke Lane for a distance of 675 feet along the southerly boundary.**
- 9. Water and sewer lines exist in Brooke Lane and in Fifth St. adjacent to the subject property. Electrical, telephone and cable TV lines are also located in Brooke Lane and Fifth St.**
- 10. The City Police and Fire Departments have indicated that the proposed annexation will not significantly impair the ability to provide these services to the site or other areas of the city.**
- 11. Vacant single family residential property, of greater than 10 acres in size, within the city limits exist in only two areas. One of these areas has average slopes of greater than 25% and the other consists of many lots in different ownership and lacks adequate streets and roads to facilitate development.**

**The applicant's findings document is attached to this report.**

## **CONCLUSIONS**

- 1. The subject property is located within the Urban Growth Boundary, is adjacent to the existing city limits. The location of the property makes it a logical candidate for annexation.**
- 2. Since the subject property is located within the UGB and there is evidence that the property should have been rezoned and redesignated when the UGB was originally established, both the county staff and the DLCDC representative agree that it is not necessary to create a Forest Management Agreement for the remainder portion of the tax lot.**
- 3. Section 222 of the ORS allows the city to annex only a portion of a tax lot.**
- 4. Although the topography of the site contains very steep slopes, the area along the southerly boundary and the center of the site are can be developed with large lot urban densities.**
- 5. Although the city's primary residential need is for land that can be developed with low and moderate income housing, the city does have an ongoing demand for high end residential development and areas for this market are also being depleted at a rapid rate.**
- 6. Due to the fact that the Ransom Creek Canyon effectively isolates the northerly boundary of the subject property, the proposed annexation will not significantly impact adjoining properties on that side. The property on the east side of the subject property is in the same ownership and could possibly be annexed at any time. Future development on the subject parcel should consider and relate to potential development to the east.**
- 7. The water and sewer lines and other utility services which are located in Brooke Lane will be extended into the subject property at the owners expense when the property develops. These services can therefore be provided to the site in an efficient manner at no cost to the city.**

8. The subject property is adjacent to existing city limits and will support approximately 22 houses and therefore will not have a significant impact on the city's ability to provide fire and police protection to the site nor will this annexation impair the city's ability to provide this protection to the other areas of the city.
9. The proposed annexation represents a logical action in terms of location and the provision of services and utilities.

### **RECOMMENDATION**

At the October 8, 1992 Planning Commission meeting the Commission moved to make a recommendation of **APPROVAL** of File No. ANX-2-92 to the City Council.

Lisa Hanf of David Evans and Associates, representing the applicant, presented the applicant's case.

Mayor Hummel requested testimony from opponents of the annexation, with no response.

Mayor Hummel requested testimony from any public agency or interested parties, with no response.

Mayor Hummel closed the public hearing at 7:50 p.m. to conduct deliberation.

Councilor Brendlinger moved to approve File No. ANX-2-92 (annexation of 11.3 acres, applicant Larry Fallert), which motion was seconded by Councilor Davis. The clerk called the roll with the following results:

**Ayes:** Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel

**Nays:** None

**Motion carried; File No. ANX-2-92 (annexation of 11.3 acres, Applicant Larry Fallert) approved.**

**VI. SCHEDULED PUBLIC APPEARANCES**

**1. Request for private road paving project - Marine Drive Residents**

**Councilor Brendlinger declared that there was a potential conflict of interest in the past due to property she previously owned, and she chose to step down from the bench during the deliberation and decision making process.**

**Sharon Mariott, representing a portion of the property owners on Marine Drive, presented the council with a request from residents of Marine Drive to pave Marine Drive at no expense to the city. Also presented was a bid for the paving from Tidewater Contractors.**

**City Manager Dennis Cluff advised that the city does not maintain Marine Drive and does not plan on accepting the paved or non-paved road for maintenance. Mr. Cluff suggested that it might be a good idea to have the residents paying for the paving to sign a road maintenance agreement with the city.**

**Mrs. Mariott indicated that the residents on Marine Drive did not wish to enter into any kind of contract with the city concerning the maintenance of Marine Drive.**

**Councilor Brimm expressed concern that a precedence would be set by the city allowing a substandard street to be improved.**

**Councilor Davis moved to allow the paving of Marine Drive by the residents of Marine Drive at no expense to the city, with the clear understanding that the city has no responsibility for the maintenance of Marine Drive, and no precedence is being set because the roadway is sub-standard due to the unique situation on Marine Drive, which motion was seconded by Councilor Curry. The clerk called the roll with the following results:**

**Ayes: Councilors Curry, Davis, Mayor Hummel**

**Nays: Councilor Brimm**

**Motion carried; paving of Marine Drive by the residents of Marine Drive at no expense to the city approved, with the clear understanding that the city has no responsibility for the maintenance of Marine Drive, and no precedence is being set because the roadway is sub-standard, due to the unique situation on Marine Drive.**

Councilor Brendlinger returned to the bench.

**VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE**

None

**VIII. CONSENT CALENDAR**

**A. Approval of Council Meeting Minutes**

1. October 26, 1992 Regular Council Meeting

**B. Miscellaneous**

1. Liquor license application - Fredde's - Caffe Fredde

According to the application to the Oregon Liquor Control Commission, Caffe Fredde has a current restaurant license and they are now applying for an additional "package store" request.

The Brookings Police Department has reviewed this liquor license application and has no objection to the granting of the license.

**C. Approval of vouchers \$194,592.79**

(end Consent Calendar)

**Councilor Davis moved to approve the Consent Calendar as presented, which motion was seconded by Councilor Curry. The clerk called the roll with the following results:**

**Ayes: Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel**

**Nays: None**

**Motion carried; Consent Calendar consisting of:**

**A. Approval of Council Meeting Minutes**

**1. October 26, 1992 Regular Council Meeting**

**B. Miscellaneous**

**1. Liquor license application - Fredde's - Caffe Fredde**

**C. Approval of vouchers \$194,592.79**

**approved.**

**IX. ORDINANCES/RESOLUTIONS/FINAL ORDERS**

**A. Ordinances None**

**B. Resolutions None**

**X. COMMITTEE REPORTS**

**A. Planning Commission**

**Planning Director John Bischoff apprised the council on upcoming meetings of the Planning Commission and Committee for Citizen Involvement.**

**B. Parks and Recreation Commission**

**Steve O'Brien, Chair, advised the council that:**

**The Stout Park General Plan will be presented to the city this week.**

**That there has been a controversy concerning the mulching of the azaleas in Stout Park. At this time it has been decided that the mulch is to be removed from around the plants. Mr. O'Brien was also advised that any work to be done in Stout Park must be authorized by the city manager prior to the work being done.**

**That a local committee is being formed to talk about a "super playground" in the area.**

**That Mr. O'Brien had attended a BACA meeting.**

**That the Parks and Recreation Commission will be pursuing goals.**

**C. Golf Board**

**Mayor Hummel announced that the golf board will hold a meeting on November 19.**

**D. Chamber of Commerce**

**Bob Hagbom, representing the Chamber of Commerce, informed the council on the results of the televised chamber auction.**

**XI. STAFF REPORTS**

**A. Community Development Director None**

**B. Police Department None**

**C. City Manager**

**1. Review and award - RFP for Chetco Senior Center Construction Project**

**Requests for Proposals for the inspection of the construction project at the Chetco Senior Center were opened on November 9, 1992 at 4:00 p.m. Only one RFP was received, that being from Edward W. Riley, Architect - Engineer, North Bend, Oregon, in the amount of \$3,215.**

**Councilor Davis moved to accept the RFP from Edward W. Riley, Architect - Engineer, North Bend, Oregon, in the amount of \$3,215, which motion was seconded by Councilor Curry. The clerk called the roll with the following results:**

**Ayes: Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel**

**Nays: None**

**Motion carried; the RFP from Edward W. Riley, Architect - Engineer, North Bend, Oregon, in the amount of \$3,215, for inspection services during the construction work to expand the Chetco Senior Center (which is partially funded by a Community Development Block Grant), approved.**

**2. Request for an RFP for Urban Reserve Consultant**

**City Manager Dennis Cluff requested that the city council authorize the Request for Proposals to hire, on either a contract basis or on a temporary city employee basis, a planner or independent consultant to assist with the task of expanding the UGB and establishing an Urban Reserve Boundary. This position will be funded with a \$15,000 DLCD grant.**



**Councilor Davis moved to authorize the Request for Proposals to hire, on either a contract basis or on a temporary city employee basis, a planner or independent consultant to assist with the task of expanding the UGB and establishing an Urban Reserve Boundary, which motion was seconded by Councilor Brendlinger. The clerk called the roll with the following results:**

**Ayes: Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel**

**Nays: None**

**Motion carried; Request for Proposals to hire, on either a contract basis or on a temporary city employee basis, a planner or independent consultant to assist with the task of expanding the UGB and establishing an Urban Reserve Boundary, authorized.**

## **XII. REMARKS FROM MAYOR AND COUNCILORS**

### **A. Mayor**

**Mayor Hummel brought up the point that at the time of Tom Davis taking the oath of office of mayor, he will technically still be a city councilor. Mayor Hummel suggested that at the same time as the oath of mayor is given, Councilor Davis should resign as a councilor. The city attorney and the council agreed.**

**Mayor Hummel brought up the question of the Ransom Avenue Street Improvement Project and requested that a formal action be taken since this was an agenda item at the time of publication of the agenda.**

**Councilor Davis moved to refer the matter of the Ransom Avenue Street Improvement Project to the new city engineer, which motion was seconded by Councilor Brimm. The clerk called the roll with the following results:**

**Ayes:** Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel

**Nays:** None

**Motion carried; the matter of the Ransom Avenue Street Improvement Project to be turned over to the new city engineer for review.**

Mayor Hummel brought up the question of the Coos-Curry Housing Authority Agreement and requested that formal action be taken since this was an agenda item at the time of publication of the agenda.

Councilor Brendlinger moved to table the matter of the Coos-Curry Housing Authority Cooperative Agreement until the first business meeting in March, 1993, preceded by discussion at one or more work sessions, which motion was seconded by Councilor Davis. The clerk called the roll with the following results:

**Ayes:** Councilors Brendlinger, Brimm, Curry, Davis, Mayor Hummel

**Nays:** None

**Motion carried; the matter of the Coos-Curry Housing Authority Cooperative Agreement tabled until the first business meeting in March, 1993, preceded by discussion at one or more work sessions.**

**B. Council**

Councilor Brendlinger suggested that the city host a sit-down or catered dinner for the employee Christmas party rather than a potluck, which has been done in the past years. **No action taken.**

**EXECUTIVE SESSION - ORS 192.660 (1)( )**

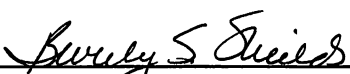
**II. ADJOURNMENT**

**Councilor Davis moved to adjourn the meeting, which motion was seconded by Councilor Brimm; motion carried unanimously.**

**Mayor Hummel adjourned the meeting at 9:23 p.m.**

  
\_\_\_\_\_  
**Fred Hummel**  
**Mayor**

**ATTEST:**

  
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**Beverly S. Shields**  
**City Recorder**