



## MINUTES

**CITY OF BROOKINGS  
COMMON COUNCIL MEETING  
Brookings City Hall Council Chambers  
898 Elk Drive, Brookings, Oregon  
January 27, 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, Holly Perin**

**Media Present: Bill Schlichting, Curry Coastal Pilot;  
Larry Goodman, KCRE**

**RECESS**

Mayor Hummel recessed the meeting at 7:02 p.m. to convene an Executive Session to meet with legal counsel concerning current litigation. [EXECUTIVE SESSION - ORS 192.660 (1)(h)]

**RECONVENE**

Mayor Hummel reconvened the council meeting at 7:30 p.m.

Councilor Davis moved to approve a tentative change order for the Dawson Tract Sewer and Water Improvements, Schedule "D", on the following terms and conditions:

1. The City authorize a contract price increase in the amount of \$56,800 in settlement of this matter as its contribution toward the costs of power/telephone line installation to the pump station sites;

2. **The City authorize a contract amendment providing for an extension of time to complete pump stations two, three, four and five to and including March 9, 1992 (there is no proposal for an extension of time as to pump station one);**
3. **The contractor acknowledge that it will provide, at its own expense, trenching and conduit to the specifications of Coos-Curry Electric Cooperative and General Telephone for purposes of installation of underground power service and underground telephone service to the five pump station sites. -**

**and that certain conditions be provided prior to final approval of the change order, as follows:**

1. **James W. Fowler Co. has deposited with Coos-Curry Electric Cooperative its payment of \$95,144.19;**
2. **James W. Fowler Co. or a sub-contractor have commenced the trenching work necessary for installation of conduit for both power and telephone service to the pump station sites;**
3. **Electrical work in the pump station sites commences;**
4. **James W. Fowler Co.'s withdrawal of all exceptions to the arbitrator's award and the allowance of the entry of judgment on the arbitrator's award in the Curry County Circuit Court;**
5. **James W. Fowler Co. has signed an acceptable form of agreement wherein it provides that James W. Fowler Co. agrees to defend and hold harmless the City of Brookings for any claims made by Day-Ford Electric, which would include a provision for reservation of rights by James W. Fowler Co. to make a claim against Day-Ford Electric relating to any issue that Day-Ford Electric may be obligated to pay for power company fees and costs pursuant to any contract between James W. Fowler Co. and Day-Ford Electric.**

**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; a tentative change order for the Dawson Tract Sewer and Water Improvements, Schedule "D" approved, with the following terms and conditions:**

- 1. The City authorize a contract price increase in the amount of \$56,800 in settlement of this matter as its contribution toward the costs of power/telephone line installation to the pump station sites;**
- 2. The City authorize a contract amendment providing for an extension of time to complete pump stations two, three, four and five to and including March 9, 1992 (there is no proposal for an extension of time as to pump station one);**
- 3. The contractor acknowledge that it will provide, at its own expense, trenching and conduit to the specifications of Coos-Curry Electric Cooperative and General Telephone for purposes of installation of underground power service and underground telephone service to the five pump station sites.**

**and that certain conditions be provided prior to final approval of the change order, as follows:**

- 1. James W. Fowler Co. has deposited with Coos-Curry Electric Cooperative its payment of \$95,144.19;**
- 2. James W. Fowler Co. or a sub-contractor have commenced the trenching work necessary for installation of conduit for both power and telephone service to the pump station sites;**
- 3. Electrical work in the pump station sites commences;**
- 4. James W. Fowler Co.'s withdrawal of all exceptions to the arbitrator's award and the allowance of the entry of judgment on the arbitrator's award in the Curry County Circuit Court;**

5. **James W. Fowler Co. has signed an acceptable form of agreement wherein it provides that James W. Fowler Co. agrees to defend and hold harmless the City of Brookings for any claims made by Day-Ford Electric, which would include a provision for reservation of rights by James W. Fowler Co. to make a claim against Day-Ford Electric relating to any issue that Day-Ford Electric may be obligated to pay for power company fees and costs pursuant to any contract between James W. Fowler Co. and Day-Ford Electric.**

**Councilor Davis moved to approve an interim payment on the Schedule "D" contract in the amount of \$56,800 on February 10, 1992, on the following terms and conditions:**

1. **The City's ability to confirm from Coos-Curry Electric Cooperative that James W. Fowler Co. has taken all steps necessary, including deposit of funds, so that Coos-Curry Electric Cooperative is in process of work necessary to provide electric power service to the five pump station sites;**
2. **The City's ability to confirm from General Telephone indicating that they are in process of or prepared to immediately commence the process of installation of telephone service to the pump station sites upon completion of the conduit installation;**
3. **Work on the completion of Schedule D involving the trenching and installation of conduit has been performed on a regular basis prior to February 10, 1992, in support of the process of the installation of power and telephone lines to the pump station sites; and**
4. **Work is being performed on a regular basis on the completion of electrical work within the pump stations.**

**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; interim payment on the Schedule "D" contract approved in the amount of \$56,800 to be paid on February 10, 1992, on the following terms and conditions:**

- 1. The City's ability to confirm from Coos-Curry Electric Cooperative that James W. Fowler Co. has taken all steps necessary, including deposit of funds, so that Coos-Curry Electric Cooperative is in process of work necessary to provide electric power service to the five pump station sites;**
- 2. The City's ability to confirm from General Telephone indicating that they are in process of or prepared to immediately commence the process of installation of telephone service to the pump station sites upon completion of the conduit installation;**
- 3. Work on the completion of Schedule D involving the trenching and installation of conduit has been performed on a regular basis prior to February 10, 1992, in support of the process of the installation of power and telephone lines to the pump station sites; and**
- 4. Work is being performed on a regular basis on the completion of electrical work within the pump stations.**

**Councilor Davis moved to acknowledge that:**

**Imported backfill material will be required at any location where a road crossing is made and in all other areas which would have required imported backfill under the terms of the original contract specifications;**

**and to agree:**

**That the dates for completion specified in the change order are without prejudice to and do not constitute a waiver of either party's right to request or deny a request for extension of time based upon the terms and provisions of the Schedule D Contract.**

**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; city council acknowledged that:**

**Imported backfill material will be required at any location where a road crossing is made and in all other areas which would have required imported backfill under the terms of the original contract specifications;**

**and agreed:**

**That the dates for completion specified in the change order are without prejudice to and do not constitute a waiver of either party's right to request or deny a request for extension of time based upon the terms and provisions of the Schedule D Contract.**

**IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS**

There was a discussion of Parks and Recreation Commission member resignations and current vacancies on the Commission. It was agreed that that applications would be accepted through February 4, and Larry Goodman of KCRE volunteered to publicize the opening through public service announcements on the radio.

**V. PUBLIC HEARINGS**

**1. Use of Community Development Block Grant monies**

City Manager Dennis Cluff advised that City of Brookings is seeking public input for a proposed Community Development Block Grant (CDBG) application. Citizen views are requested pertaining to community development and housing needs, including the needs of low and moderate income persons, as well as other needs in the community that might be addressed through the CDBG program. An additional public hearing will be held on February 10, 1992 at 7:00 p.m., city hall council chambers, to address the specific grant proposal.

**CDBG funds (HUD money funneled through the Oregon Economic Development Department) are intended principally for low and moderate income persons to provide decent housing, a suitable living environment and expanding economic opportunities for the target group. Potential project areas include public works, community facilities, new and rehabilitated housing, economic development and technical assistance. Oregon has about \$12 million for 1992 CDBG projects. Grant approval is on a competitive basis. Cities can only apply for one project per year.**

**Generally, the City of Brookings doesn't meet the HUD low/moderate income standards (51% is minimum required, Brookings is rated at 38%), so it may not be eligible for most projects. However, some special groups or targeted areas may be eligible. Groups like abused children, battered spouses, elderly persons, handicapped persons, and migrant farm workers are presumed principally low/moderate income persons by HUD.**

**Mayor Hummel opened the public hearing at 7:53 p.m**

**Phyllis Cottingham presented a suggestion of low income housing for single parents as a use of CDBG monies. Further was the concept of child day care and other social services in conjunction with a subsidized rental facility.**

**Jim Burfield, President of the Chetco Senior Center, presented a request from the Chetco Senior Center for facilities expansion as an application for CDBG monies. This would revamp some of the existing facilities and add new facilities in the basement, including an elevator.**

**Eldon Gossett spoke in favor of Senior Center expansion proposal.**

**George Humphreys spoke in favor of Senior Center expansion proposal.**

**No other public comments on local community needs were made.**

**Mayor Hummel closed the Public Hearing at 8:29 p.m.**

**No formal action taken at this time; another public hearing will be held on February 10, 1992 concerning the Community Development Block Grant application.**

**2. Ordinance No. 92-O-446.H - Land Development Code Amendment - Sections 124.010 and 52.040**

By way of a staff report from Planning Director John Bischoff, Council was advised that Section 124.010, A Day care, nursery schools, and kindergartens, of the Land Development Code (LDC) contains conflicting statements concerning when the establishment of a day care center come under the provisions of the LDC. Subsection A currently reads as follows:

- A. **Facilities for thirteen (13) or less children are exempt from these provisions and the provisions of section 140, conditional use permits. Facilities for six (6) or more children shall be subject to these provisions in addition to being approved by the planning commission pursuant to section 140, and all regulations and requirements of the Child Services Division. All pre-school children residing in the dwelling which also serves as a day care or nursery facility shall be counted in the total number of children in such facility for purposes of calculating the category of such facility.**

The first two sentences of this subsection provide conflicting statements as to when the provisions of the LDC come into effect. Staff and the Planning Commission recommended that the second sentence be deleted and the first sentence be amended to read as follows:

**"Facilities for thirteen (13) or more children are subject to these provisions, the provisions of Section 140 CONDITIONAL USE PERMITS, and all regulations and requirements of the Child Services Division".**



The State Child Services Division requires that all child care facilities handling more than 6 children must obtain state certification. A child care facility of 13 or more children cannot be operated out of a residence. It is staff's opinion that when a facility reaches the size where it can not be operated out of a residence, this is the time that a conditional use permit should be required. This would be consistent with the state laws and allow the city to review the facility to ensure that it has the proper indoor and outdoor area, screening, parking and loading space.

Staff also advised that child care facilities are not allowed in any of the city's commercial zones. Since child care facilities of 13 or more children are certainly a commercial use, it is staff's opinion that such facilities should be allowed in the C-3 (Central Commercial) Zone as well as the residential zones. Recently the Headstart Program was interested in leasing a building in the city's C-3 Zone on Hemlock St., however, since these facilities are not allowed in commercial zones, Headstart was moved to the Harbor area. While the Harbor area probably needs day care centers as badly as the city, it would certainly be more convenient to city residents if such facilities were allowed in the C-3 Zone.

Staff and the Planning Commission recommended that Section 52 CENTRAL COMMERCIAL (C-3) DISTRICT, Subsection 52.040 Conditional uses, be amended to read:

I. Day care, nursery schools, and kindergartens, subject to the provisions of Section 124.010.

Mayor Hummel opened the public hearing at 8:32 p.m

Mayor Hummel asked for public testimony; there being none, Mayor Hummel closed the public hearing at 8:33 p.m.

**No formal action taken; Ordinance No. 92-O-446.H will be read in its entirety at the February 10, 1992 council meeting, for tentative adoption.**

**VI. SCHEDULED PUBLIC APPEARANCES**

None

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

None

**VIII. CONSENT CALENDAR**

**A. Requests for Payment**

1. Request for payment - Signalization at Chetco and Fifth Streets - Marca Electric
2. Request for final payment - Ransom Avenue Improvements - P & S Construction

**B. Miscellaneous**

1. Change Order No. 3 - 1991 I/I Reduction Program - Zorich Trucking and Excavation
2. ~~Request for authorization to call for bids - Water Treatment Plant and Water Intake Upgrade~~

(end Consent Calendar)

Councilor Davis requested that Item No. B.2 be removed from the Consent Calendar.

Councilor Davis moved to approve the Consent Calendar, 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; Consent Calendar consisting of:**

**A. Requests for Payment**

- 1. Request for payment - Signalization at Chetco and Fifth Streets - Marca Electric**
- 2. Request for final payment - Ransom Avenue Improvements - P & S Construction**

**B. Miscellaneous**

- 1. Change Order No. 3 - 1991 I/I Reduction Program - Zorich Trucking and Excavation**

**approved.**

**IX. RESOLUTIONS/FINAL ORDERS**

**A. Resolutions**

- 1. Resolution No. 92-R-524 - A resolution accepting a donation to the City of Brookings Police Department, providing for the receipt of funds, and appropriating expenditure of such funds.**

**City Manager Dennis Cluff advised that the Brookings Police Department has received \$10,106.43 from an estate. Resolution No. 92-R-524 accepts the donation and appropriates the expenditure of the monies.**

**Councilor Davis moved to adopt Resolution No. 92-R-524, 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; Resolution No. 92-R-524 - A resolution accepting a donation to the City of Brookings Police Department, providing for the receipt of funds, and appropriating expenditure of such funds - adopted.**

**X. COMMITTEE REPORTS**

**A. Planning Commission**

Ted Freeman, Jr., 1991 Planning Commission Chairman, presented the end-of-the-year report to the council. Following discussion, the council agreed to address the Planning Commission suggestions at the February 3, 1992 work session.

**B. Parks and Recreation Commission**

None

**C. Golf Board**

None

**D. Systems Development Charge Review Board**

None

**E. Chamber of Commerce**

None

**XI. STAFF REPORTS**

**A. Community Development Director**

None

**B. City Manager**

**1. Acceptance of 1990-91 Audit report**

**Councilor Davis moved to accept the 1990-91 audit, as prepared by Gerald W. Burns, CPA, 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; 1990-91 audit report accepted.**

**XII. REMARKS FROM MAYOR AND COUNCILORS**

**A. Mayor**

**None**

**B. Council**

**1. Comparison of City and County CTR Agreements**

**City Manager Dennis Cluff indicated that discussion from the January 20th work study session identified at least three potential negative items in the county version of the CTR contract:**

- 1. Potential future rate increases if long haul costs escalates, due to 90.5% modifier in rate formula;**
- 2. Potential acknowledgement of Wridge Creek closure/post closure costs; and**
- 3. Potential one-day notice only provision for cancelling current rate methodology on April 1, 1994.**

**On the positive side, the county's version of the CTR contract will (at least initially) cost less, provide better definitions, and an annual audit.**

**Councilor Davis moved to wait until the 1991 "numbers" are available from CTR before taking action, 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; comparison of CTR county and city rates postponed until the 1991 "numbers" are available from CTR.**

**2. Azalea Park - Definition of "Master Plan"**

**Discussion at the January 20th work study session focused on the idea of asking that a "general conceptual" plan be prepared for Azalea Park.**

**Councilor Curry moved to amend the conditions of acceptance for Azalea Park as follows:**

**Azalea Park to be accepted from the state of Oregon in the fiscal year 1992-93, and the development of a general plan is to be administered by the Parks & Recreation Commission and they are directed to proceed as follows:**

- 1) The plan must call for a maintenance plan that will assure the existing park could be maintained at or beyond the existing level as maintained by the State.**
- 2) The plan should include preliminary concepts of any addition uses that may be included in that general plan.**

- 3) **The plan should be presented to the council by the Parks & Recreation Commission at least on a quarterly basis so that the Council can chart the progress of the general plan."**

**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; conditions of acceptance for Azalea Park modified as follows:**

**Azalea Park to be accepted from the state of Oregon in the fiscal year 1992-93, and the development of a general plan is to be administered by the Parks & Recreation Commission and they are directed to proceed as follows:**

- 1) **The plan must call for a maintenance plan that will assure the existing park could be maintained at or beyond the existing level as maintained by the State.**
- 2) **The plan should include preliminary concepts of any addition uses that may be included in that general plan.**
- 3) **The plan should be presented to the council by the Parks & Recreation Commission at least on a quarterly basis so that the Council can chart the progress of the general plan."**

**3. Request for authorization to call for bids - Water Treatment Plant and Water Intake Upgrade**

**Councilor Davis moved to postpone the agenda item requesting authorization to call for bids for the Water Treatment Plant and Water Intake Upgrade until the February 10, 1992 council meeting, for a Final Report from H.G.E., 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; request for authorization to call for bids for the Water Treatment Plant and Water Intake Upgrade postponed until the February 10, 1992 council meeting, for a Final Report from H.G.E.**

**C. Council Liaison Reports**

**None**

**XIII. RECESS**

**Mayor Hummel recessed the meeting at 10:19 p.m. to convene an Executive Session for the purpose of evaluating the city manager.**

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

**XIV. RECONVENE**

**Mayor Hummel reconvened the council meeting at 11:51 p.m.**

**Councilor Davis moved to continue with the present level of benefits for the city manager through fiscal year 1991-92, which motion was seconded by Councilor Brendlinger. The clerk called the roll with the following results:**



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

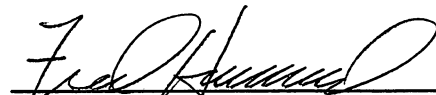
**Nays:** None

**Motion carried; present level of benefits continued for the city manager through fiscal year 1991-92.**


**XV. ADJOURNMENT**

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

**Mayor Hummel adjourned the meeting at 11:55 p.m.**

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

**ATTEST:**

  
\_\_\_\_\_  
**Beverly S. Shields**  
**City Recorder**