

CITY OF BROOKINGS
SPECIAL BROOKINGS COMMON COUNCIL MEETING
May 15, 1989 12:00 Noon
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon

MINUTES

The City Council of the City of Brookings, Curry County, Oregon, convened the Special Council Meeting of May 15, 1989, at 12:00 Noon, in the Council Chambers of Brookings City Hall.

I. CALL TO ORDER

Mayor Hummel called the meeting to order at 12:00 noon.

II. ROLL CALL

Council Present: Mayor Fred Hummel, Councilor Ralph Mory

Council Absent:

Staff Present: City Manager Roy Rainey, City Attorney John Babin, Planning Director Richard Ullian, Recorder/Treasurer Beverly Shields

Media Present: Marge Barrett, KURY

III. RESOLUTIONS

1. RESOLUTION NO. 89-R-457 - A resolution accepting the abstract of votes for the special election held May 9, 1989.

Recorder/Treasurer Beverly Shields read Resolution No. 89-R-457 into the record.

Councilor Mory moved to adopt Resolution No. 89-R-457, which motion was duly seconded by Mayor Hummel. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilor Mory

Nays: None

Mayor Hummel declared Resolution No. 89-R-457 adopted.

Mayor Hummel read a prepared statement into the record regarding the special election to fill vacancies on the City Council.

IV. ADJOURNMENT

Councilor Mory moved for adjournment, which motion was duly seconded by Mayor Hummel. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilor Mory

Nays: None

Mayor Hummel adjourned the May 15, 1989 Council Meeting at 12:16 p.m.



Fred Hummel
Mayor

ATTEST:



Beverly S. Shields
City Recorder



MEMORANDUM



TO: Brookings Common Council

FROM: Fred Hummel, Mayor

SUBJECT: COUNCIL VACANCIES

DATE: May 15, 1989

With the recall of Councilors Batty and Nidiffer along with the resignation of Councilor Hoselton - all effective today - the Common Council of the City of Brookings is reduced to just two members - Mayor Fred Hummel and Councilor Ralph Mory - from its normal full complement of five members. At issue is how the three vacancies should be filled.

There appears to be, barring a definitive opinion from the Attorney General, no simple answer as to whether replacements should be selected by the remaining councilors or be elected by the public at large. The mayor, at both the April and May regular council meetings, has expressed his intention to call for a special election, as provided under ORS 221.160, to allow the public to choose the new councilors. The mayor caused to be published in the May 10, 1989 Curry Coastal Pilot an announcement of a June 27, 1989 special election for that purpose along with a cutoff date for the filing of petitions. Radio station KURY also broadcast announcements of the anticipated election.

Questions have been raised, however, about whether the City's charter would permit such an election. ORS 221.160 authorizes the mayor to call for a special election "Whenever the number of members of the governing body of any city is insufficient to constitute a quorum for the transaction of business therefor." While the language of Section 14 of the city charter apparently provides for a quorum to transact the city business should council membership drop to two, or even one, the language used in Section 34, Filling of Vacancies, differs. Where Section 14 speaks of "A majority of the members of the council," Section 34 calls for "a majority of the entire membership of the council."

To help resolve the issue the mayor has sought the advice of City Attorney John Babin, City Manager Roy Rainey, League of Oregon Cities Senior Staff Associate Sandra Arp, Oregon Secretary of State Elections Specialist Mike Cox, practicing attorney George Hoselton and Curry County Clerk Elaine Joy. There appear to be no easy answers. Other than ORS 221.160 no statutory material is helpful in resolving the issue. Oregon case law, however, in Simmons v. Holm and in State ex rel Roberts v. Gruber sheds some light on the issue. While both rulings are open to interpretation, Gruber appears to argue against appointment considering the current makeup of the council.

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In Gruber, the Oregon Supreme Court examines the difference between Section 34 language "majority of the entire membership of the council" and Section 19 language "majority of the members of the council present at a council meeting." At this point it would be useful to note that the 1988 Model Charter for Oregon Cities published by the University of Oregon Bureau of Governmental Research and Service has changed the Section 34 Filling of Vacancies (now Section 20 Vacancies: Filling) language from "majority of the entire membership of the council" to "majority of the council." Footnote 44 states that this language "allow(s) the council's membership to be completed by appointment in a situation of simultaneous multiple vacancies so long as a single member of the council remains."

Apparently, the drafters of the revised Model Charter believe that elections "could involve the drawbacks of lengthy time delays and election costs." They do not appear to have considered the issue of minority rule and public reaction to such actions.

The situation in Brookings today is one of rampant public distrust of local government. Two veteran well-respected city councilors have been recalled. The mayor has been told by an ex-mayor that he will be recalled next. The city recorder has received new inquiries about recall procedures. To have a majority of the council chosen by a minority of the council at this point in time would be folly. I worry not for my own political hide; I shall serve to the best of my ability as long as I am in office. But the City of Brookings now needs a stable council dedicated to addressing the problems resulting from years of deferred maintenance and crisis management compounded by accelerated population growth. The new councilors must be chosen by the people or chaos will be the result.

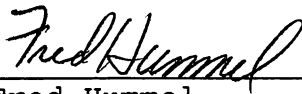
Further, with an election date of June 27, the election procedure would take only a few days longer than the council selection procedure. And we must consider the possibility of a deadlock in the selection process due to an even number of council members (2) remaining. This is exactly what happened to the Brookings Port District Board of Commissioners a few years ago.

Finally, the expense of the June 27 election will be small thanks to other issues sharing the ballot. Clearly, with a June 27 election there will be no lengthy time delays and prohibitive election costs.

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Based on the foregoing review of relevant information and finding no help from the city's ordinances, it becomes apparent to me that the only sure way to provide continuity and stability in city government, considering present circumstances, is to allow the people of this city to elect three new councilors by calling for a special election for that purpose as provided under ORS 221.160.

Accordingly, this statement will confirm my previously announced decision to call for a special election on June 27, 1989.



Fred Hummel
Mayor

FH/dmvm