

CITY OF BROOKINGS
BROOKINGS COMMON COUNCIL MEETING
August 14, 1989 - 7:00 p.m.
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon

MINUTES

The City Council of the City of Brookings, Curry County, Oregon, convened the Council Meeting of August 14, 1989, at 7:00 p.m., in the Council Chambers of Brookings City Hall.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Council Present: Mayor Fred Hummel, Councilors Ralph Mory, Nancy Brendlinger, Bill Henry, Fred Schutt

Council Absent: None

Staff Present: City Manager Roy Rainey, City Attorney John Babin, Executive Secretary Donna Van Nest, Engineering Technician Leo Lightle, Planning Director Richard Ullian, Recorder/Treasurer Beverly Shields, Municipal Court Judge Anita Stuart, Chief of Police Kent Owens, City Engineer Dick Nored

Planning Commission Present: Commissioner Mary Jane Brimm

Media Present: Roger Hayden, Curry Coastal Pilot; Marge Barrett, KURY

CEREMONIES/APPOINTMENTS

None.

MINUTES FOR APPROVAL

A. Approval of Council Meeting Minutes

1. July 10, 1989 Regular Council Meeting

Councilor Schutt moved to approve the minutes of the July 10, 1989 Council Meeting, with corrections, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

B. Acceptance of Planning Commission Meeting Minutes

1. June 6, 1989 Regular Planning Commission Meeting

2. July 11, 1989 Regular Planning Commission Meeting

Councilor Henry moved to accept the minutes of the June 6 and July 11, 1989 Planning Commission Meetings, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

REPORT OF COMMITTEE TO NEGOTIATE TERMINATION OF CITY MANAGER

Mayor Hummel called for the report of the subcommittee that was to deal with the issue of negotiating an early termination date of the manager's employment agreement.

Councilor Bill Henry reported to the Council and the audience that he and Councilor Mory, after investigating the matter, had determined that Mr. Rainey had been doing a good job for the money he was paid. In looking into the matter of monies available to pay Mr. Rainey to pay the contract out, they found the City was going to have to do a lot of shuffling around to do so. Councilor Henry also reported that the subcommittee had discussed with Mr. Rainey his termination plans and they remained the same as they were at the date he had given notice of his termination. Councilor Henry advised that the subcommittee was unsuccessful in making an arrangement with Mr. Rainey which they felt would be acceptable to the Council. Councilor Henry informed the citizens of the City of Brookings that they had a wonderful staff of people that Mr. Rainey had helped put together; that Council had met with staff in briefing sessions in the last few weeks and were amazed at what these few people had put together for the City of Brookings. Councilor Henry asked for cooperation and help from the citizens with all of the work that needs to be done and he informed the Council that in the future a few things could be done so that a situation with this type of employment agreement would not occur again. Councilor Henry suggested that the Council adopt an ordinance that spells out job descriptions, areas of responsibility and communications, and a very strict policy on conduct in the future.

Councilor Mory concurred with Councilor Henry's report and stated that he felt that personalities rather than the good of the City had played too big a part in the whole matter.

Mayor Hummel advised that he felt there was a strong interest expressed to see the change from a staff driven City to a council driven city. Mayor Hummel also reported that he had been in contact with the Local Government Personnel Institute and had been advised that what is common is when a high level staff person resigns it is customary that that employee be given 30 to 90 days severance pay, whereas if the employee is dismissed they recommend six months severance pay. Mayor Hummel asked Mr. Rainey if a termination date of 90 days from September 1, 1989 would be acceptable to him.

Mr. Rainey informed Mayor Hummel that he had not submitted a letter of intent to resign, but had submitted a letter in which he stated that he did not intend to renew his employment agreement when it came up for automatic renewal on July 1, 1990. He also noted that the subcommittee had recommended not changing the manager or the staff members at this time.

Mayor Hummel advised that Mr. Rainey's contract was unique and the only one of its kind in Oregon. He also indicated that there may be some questions about the contract according to the agencies that provide services for the City of Brookings. Mayor Hummel indicated that if the manager was not willing to come down from the terms of the contract the City was looking at approx. 3 years and 5 months salary from this point on. Mayor Hummel stated that it appears that Mr. Rainey intends to be with the City for some time and then he announced that there would be an executive session at the end of the meeting to deal with the disciplining of an employee.

Following a lengthy discussion, Councilor Brendlinger moved to check into the legality of the contract, it's time when it was drawn up, and the content of the contract and whether or not there was any questionable things in it that should be looked into further. The motion was duly seconded by Councilor Schutt.

Following a discussion concerning who would render the legal opinion on the contract, Councilor Brendlinger amended the motion to add that the matter would pass through the city attorney first to get his recommendation on outside attorneys so that the Council may proceed with those or others. Councilor Schutt seconded the amended motion. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

City Attorney Babin advised that he could have a list of the three attorneys by tomorrow.

SCHEDULED PUBLIC APPEARANCES

1. Request from Ralph Renn to speak to the Council

Mr. Renn suggested to the Council that two monthly meetings be held.

2. Request for water service - 17160 Old County Road - Joseph T. and Constance M. Wilson

No action taken

3. Request for water service - 98493 North Bank Chetco Road - Dale and Cheryl Hoie

No action taken

4. Request for water service - Map 40-13-33AD, Tax Lot 702 - Elliot

No action taken

5. Request for water service - Pioneer Lane - Sarah Pettinger

Councilor Brendlinger moved that Ms. Pettinger's clients property be allowed to use the laterals that are installed for the water and the sewer to provide their single family residence with those utilities; that they be required to sign a Deferred Improvement Agreement pertaining to their property; that in the event that either their property or the property behind them is divided that they will pay their share of the lines that run through their property; that they will also grant to the City an easement for running the water main and the large sewer line should it be required; that the City would not be responsible for landscaping or so forth that would be disturbed if and when that line was run and that they would not be able to build anything upon that easement; and that the easement should be 15 feet. Councilor Schutt seconded the motion. A vote was taken with the following results:

Ayes: Councilors Brendlinger, Schutt

Nays: Mayor Hummel, Councilors Mory, Henry

Mayor Hummel declared the motion denied.

Councilor Schutt moved to withdraw Subsection C of Section 5 (Section 2 of Ordinance No. 89-O-450) from Ordinance No. 89-O-450. The motion died for lack of a second.

Councilor Brendlinger requested that Exception Areas 48 and 49 be added to the exception areas listed in Ordinance No. 66-O-190 under Section 10 (Section 5 of Ordinance No. 89-O-450).

Following discussion, Councilor Brendlinger moved to direct staff to provide the Council with the number of lots that are capable of receiving water service in the two Exception Areas on North Bank Road to be used in amendments to Ordinance 450. Councilor Henry seconded the motion. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Following further discussion, Councilor Brendlinger moved to extract Sections 6 and 7 from Ordinance No. 89-O-450, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Mayor Hummel, hearing no objections, set aside the formal reading of Ordinance No. 89-O-450 until the revisions can be made.

6. Funding for Public Parking - Southern Curry Merchants Association

Ernie Turner, Vice President of the Southern Curry Merchants Association, requested an update on the feelings of the Council regarding public parking. Following discussion, the Council suggested a meeting between the City staff, the Council and the Southern Curry Merchants Association to discuss the issue.

7. Request for consideration of a kennel license ordinance - Tony Felipe

Tony Felipe, owner of property off of Collis Lane, complained about several dogs and cats being kept at a residence on Collis Lane. Mr. Felipe stated that there is a great deal of noise from the barking and a health hazard exists. Mr. Felipe suggested a kennel ordinance be adopted. Mr. Maxwell disagreed with the allegations of Mr. Felipe. Mayor Hummel suggested that the nuisance ordinance is in place for this purpose.

8. Request for consideration of a special RV park permit - Pat Cropper

Mayor Hummel noted that Ms. Cropper had been before the Council with this request in January and at that time staff was directed to propose an amendment to the city ordinances to make it possible for temporary permits for special events. Due to unforeseen complications the proposal was not done. The City Council directed staff to follow through with the proposed amendment.

9. Need for new library building - Chetco Community Public Library Board

Pauline Olson, representing the Chetco Community Public Library District, requested that the City allow a new library to be constructed on the Stout Park property. Mayor Hummel indicated that he did not feel it appropriate to make any decision on this matter until a Parks and Recreation Committee is formed. No action was taken.

PUBLIC HEARINGS

1. Ransom Avenue Local Improvement District

Mayor Hummel opened the public hearing to public comment.

Those speaking during the public hearing were:

Marvin Pope, 748 Fifth Street

Mr. Smith, Ransom and Cameo Court

Joseph Powers, developer of Crestwood Subdivision

Following public comment, Mayor Hummel closed the public hearing at 10:35 p.m. By consensus, the Council accepted the report of the city engineer and agreed to treat the ordinance setting up this local improvement district affirmatively. Mayor Hummel indicated that the ordinance concerning this issue will be addressed later in the agenda.

COMMUNICATIONS/ANNOUNCEMENTS/REPORTS/REQUESTS

A. Mayor

1. Solid waste collection rates

Mayor Hummel indicated that at the July joint meeting of the City Council and Curry County Board of Commissioners the rate increase which had been granted to Curry Transfer and Recycling was discussed, due to the fact that Mayor Hummel had been informed by Curry County Commissioner Dave Werschkul that the City had acted out of sequence according to the agreement signed between the Curry County Commission and Curry Transfer and Recycling. Following discussion, the Mayor asked for a motion to adopt a resolution to rescind the rate increase, which no motion was made. Councilor Henry suggested that this matter be tabled until more information is received. Councilor Mory stated that the Council voted on the increase and it should stay in effect until further information proves otherwise. No action was taken.

B. Payment Approval

Councilor Schutt moved to authorize the issuance of a check in the amount of \$174,054.64 to Marv's Utility Specialist for work done in connection with the City's new water well, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

RECESS

Mayor Hummel recessed the meeting at 11:18 p.m., to be reconvened on Tuesday, August 15, 1989 at 7:00 p.m.

RECONVENE

The City Council of the City of Brookings, Curry County, Oregon, reconvened the Council Meeting of August 14, 1989, at 7:02 p.m. on August 15, 1989, in the Council Chambers of Brookings City Hall.

ROLL CALL

Council Present: Mayor Fred Hummel, Councilors Ralph Mory, Nancy Brendlinger, Bill Henry, Fred Schutt

Council Absent: None

Staff Present: City Manager Roy Rainey, City Attorney John Babin, Executive Secretary Donna Van Nest, Engineering Technician Leo Lightle, Planning Director Richard Ullian, Recorder/Treasurer Beverly Shields, Municipal Court Judge Anita Stuart, Chief of Police Kent Owens

Planning Commission Present: Commissioner Mary Jane Brimm

Media Present: Roger Hayden, Curry Coastal Pilot; Marge Barrett, KURY

COMMUNICATIONS/ANNOUNCEMENTS/REPORTS/REQUESTS

A. Mayor

2. Capital Improvements Commission

Mayor Hummel indicated that he had not had time to follow up on this matter but hoped to have some names for nomination by the next Council meeting.

3. Parks and Recreation Round-Up Program

Following discussion, Councilor Brendlinger moved to try a donation system on the monthly water bill, with the donations collected to be used for Parks and Recreation; that the new forms containing the donation data begin to be used the next time forms are ordered; and that a trial period of 90 days with a review at the end of 90 days be used. Councilor Mory seconded the motion. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

4. Fire Department

Mayor Hummel discussed a recruitment program in the Fire Department.

5. Golf Course

Mayor Hummel recommended that the application for land division that was remanded by the State of Oregon be withdrawn; that the application for rezone be withdrawn; that the golf course issue be approached by the requirements of Ordinance 413; and that the Golf Course Committee be reappointed with Mr. Bob Hummel, Mr. Jim Cole, the Mayor and two other members appointed by the mayor as the Committee.

6. Council Packet Distribution

Mayor Hummel read a letter into the record from the Curry Coastal Pilot requesting a full council packet free of charge each month rather than the agenda only.

Following discussion, Councilor Schutt moved to continue the City policy of distributing the packets as it did in the past to the media with no cost to the media, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Following further discussion, Councilor Henry moved to direct staff to continue to distribute the packets free of charge to the Chetco Community Public Library, the League of Women Voters and the Department of Land Conservation and Development, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

B. Council

Councilor Schutt reported that he attended a meeting of the Oregon Coastal Zone Management Association which was held at Paradise Lodge on the Rogue River.

Councilor Brendlinger requested that the matter of the rates for Curry Transfer and Recycling be resolved. City Manager Roy Rainey advised the Council that the franchise ordinance states very specifically the criteria for setting rates, and that criteria does not include any consultation with Curry County. Following discussion, the Council decision was to maintain the rates which became effective March 1, 1989.

C. Planning Commission

1. Resignation of Planning Commissioner Doug Nidiffer

The Council was presented with a letter of resignation from Planning Commissioner Doug Nidiffer, effective July 24, 1989.

D. Chamber of Commerce

None.

E. City Manager

1. Request for authorization to enter into a contract with Gary Dyer, P.E., for street improvement projects:

a. Fifth Street and Chetco Avenue - Project #345

b. Easy Street - Project #346

Following discussion, Councilor Henry moved to authorize the execution of the contract with amendments as suggested by City staff, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

2. Request for project acceptance - Brookings Meadows Subdivision

Following discussion, Councilor Mory moved to approve the acceptance of the Brookings Meadows Subdivision waterline, sanitary sewerline and storm sewerline into the City system, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

3. Request for acceptance of Ron Bodman Subdivision street design

Following discussion, Councilor Brendlinger moved to approve the plans for street improvements in the Ron Bodman Subdivision at Ransom and Fifth, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

4. Jack Creek Golf Course Project Update

Following discussion, Councilor Mory moved that the full City Council appoint a Golf Committee including members Bob Hummel and Jim Cole and accept the proposed letter of intent from Crosby Enterprises, and to proceed in an expeditious manner, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Councilors Mory, Henry

Nays: Mayor Hummel, Councilors Brendlinger, Schutt

Mayor Hummel declared the motion denied.

Councilor Brendlinger moved to proceed with the items as per written recommendations of City Manager Roy Rainey and City Attorney John Babin.

1. Add the name or authority of South Coast Lumber Company to the rezoning application.
2. Proceed with the rezoning by Curry County.
3. Complete the title transfer as specified by LUBA:
 - A. Change the Curry County Zoning Ordinance. (done 2/89)
 - B. Rezone the property to Exclusive Farm Use, (currently on the table by Curry County.)
4. Apply for and obtain a Conditional Use Permit in the name of the City and in the Exclusive Farm Use District to be done by a private developer.

Councilor Schutt seconded the motion. A vote was taken with the following results:

Ayes: Councilors Mory, Brendlinger, Henry, Schutt

Nays: Mayor Hummel

Mayor Hummel declared the motion carried.

Councilor Henry moved to appoint Mr. Cole, Mr. Bob Hummel, and that the Mayor appoint three other members to be confirmed by the Council to the Golf Course Committee, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

5. Request to purchase or lease/purchase vehicle

Following discussion, Councilor Mory moved to approve the purchase of a 1989 Ford Astrovan, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Councilors Mory, Henry

Nays: Mayor Hummel, Councilors Brendlinger, Schutt

Mayor Hummel declared the motion denied.

6. **Consideration of an agreement for use of city property for the Jack Creek fish trap**

Following discussion, Councilor Schutt moved to direct staff to notify the Oregon Division of Fish and Wildlife that the City is in concurrence with the agreement and will sign it as soon as the land use issues are resolved, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

7. **Report on geo-technical investigation of Dawson Tract/Oregon Driftwood Shores**

City Manager Roy Rainey advised the Council that this report has not been received yet, but should be available for the September Council meeting.

8. **June 30, 1989 Portland State University Center for Population Research and Census supplement**

City Manager Roy Rainey presented the Council with the latest census figures for Brookings, which show a population of 4,324 after the annexation of the Dawson Tract area.

9. **City Manager Roy Rainey presented the Council with a list of complaints regarding the animals at the Maxwell residence on Collis Lane. No action was requested.**

F. Engineering Department

Engineering Technician Leo Lightle informed the Council that work will begin next week to underground telephone lines on Hemlock Street.

G. City Attorney

1. **Termination of Palm Stout Trust**

Following discussion, Councilor Schutt moved to direct the City Attorney to contact the Save the Redwoods League to see if they would agree to an early termination of the trust where the city would get the full amount, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Councilor Schutt then moved to dedicate the monies received to the Stout Park, which motion was seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

2. Attendance at city council meetings

City Attorney John Babin requested clarification as to which meetings of the City Council he is required to attend. Following discussion, Councilor Brendlinger moved to require the City Attorney to attend only the regular Council meetings and to be excused from workshop meetings unless invited, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

3. Dominy Lawsuit

City Attorney John Babin advised the Council that the lawsuit filed against the City by former Police Department employee George Dominy is about to be dismissed.

4. Attorney List

City Attorney John Babin informed the Council that he had a list of four attorneys for consideration by the Council concerning the request made at the August 14 Council meeting for a legal opinion on the legality of the manager's employment agreement.

Brandon Alexander, North Bend

Dwayne Schultz, Grants Pass

Mike Gillespie, Coquille

Paula Bechtold, Coos Bay

Following discussion, Councilor Mory moved to randomly choose Mike Gillespie as the attorney to contact, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Henry

Nays: Councilors Brendlinger, Schutt

Mayor Hummel declared the motion carried and stated that he would contact Mr. Gillespie.

5. Legal Expenses

Mayor Hummel reported that the subcommittee which was appointed to investigate the legal expenses of the City has no report. Mayor Hummel explained that there is no formal recommendation from the subcommittee but he, as Mayor, recommended that the City terminate its relationship with the firm of Babin and Keusink and seek legal representation by another firm or attorney from our local area.

Councilor Henry reported that he had finished his investigation and was satisfied with the legal expenses.

Following discussion, Councilor Schutt moved to replace Babin and Keusink as the City's attorneys and seek other legal advice on a bid basis. The motion died for lack of a second.

H. Contract Review Board

None.

CALL FOR BIDS

1. Approval of plans and authority to call for bids at such time as financing can be arranged - Wastewater Facilities Plan - Brown and Caldwell

This item deleted.

2. Request for authorization to call for bids for painting city hall

City Recorder/Treasurer Beverly Shields requested authority to call for bids to paint the outside walls of city hall. Following discussion, Councilor Henry moved to authorize staff to call for bids for painting city hall, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

REPORT ON BIDS

None.

PUBLIC HEARINGS

1. Ransom Avenue Local Improvement District (See Page 7)

FINAL ORDERS

None.

ORDINANCES

1. ORDINANCE NO. 89-O-455 - An ordinance setting the assessments for the city of Brookings Improvement District No. 3-89 for street improvements and low level water system improvements on Ransom Avenue between Third Street and Sixth Street, and numbering and declaring the assessment roll for said district, and declaring an emergency.

Executive Secretary Donna Van Nest read Ordinance No. 89-O-455 into the record in its entirety. Councilor Brendlinger moved to adopt Ordinance No. 89-O-455 by first reading, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Executive Secretary Donna Van Nest read Ordinance No. 89-O-455 into the record by title only. Councilor Mory moved to adopt Ordinance No. 89-O-455 by second reading, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

RESOLUTIONS

1. **Resolution No. 89-R-462** - A resolution to make expenditures from the General fund on behalf of the Wastewater Reconstruction Fund.

Executive Secretary Donna Van Nest read Resolution No. 89-R-462 into the record in its entirety. Councilor Brendlinger moved to adopt Resolution No. 89-R-462, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

UNSCHEDULED PUBLIC APPEARANCES

Lois Hursh, 97841 North Bank Chetco River Road, representing Mabel Miller, requested to know why a water meter was removed on North Bank Chetco River Road. Ms. Hursh was advised to contact Engineering Technician Leo Lightle for an appointment to answer her questions.

PAYMENT OF VOUCHERS

[Postponed until August 28]

RECESS AND EXECUTIVE SESSION ORS 192.660 (1) (b),

Mayor Hummel recessed the meeting at 11:40 p.m., to conduct an Executive Session under ORS 192.660 (1) (b) to discipline an employee and ORS 192.660 (1) (h) to discuss pending litigation. Mayor Hummel stated that it was likely that the Council would reconvene in public session to take further action but the remainder of the written agenda will be handled on August 28.

Brookings Common Council Meeting Minutes
August 14-15-28, 1989
Page 18

The City Council returned from the Executive Session at approximately 1:15 a.m., August 16, 1989, but did not reconvene public session.

RECONVENE

The City Council of the City of Brookings, Curry County, Oregon, reconvened the Council Meeting of August 14, 1989, at 7:00 p.m. on August 28, 1989, in the Council Chambers of Brookings City Hall.

ROLL CALL

Council Present: Mayor Fred Hummel, Councilors Ralph Mory, Nancy Brendlinger, Bill Henry, Fred Schutt

Council Absent: None

Staff Present: City Manager Roy Rainey, City Attorney John Babin, Engineering Technician Leo Lightle, Planning Director Richard Ullian, Recorder/Treasurer Beverly Shields, Municipal Court Judge Anita Stuart

Media Present: Roger Hayden, Curry Coastal Pilot; Marge Barrett, KURY

PUBLIC HEARING

1. **Public meeting regarding Wastewater Facilities Plan for Oregon Driftwood Shores, Dawson Tract and West Harris Heights**

Introduction: Mayor Hummel introduced this agenda item and asked the City Engineer, Richard Nored, to present his report of the draft Wastewater Facilities Plan. Mr. Nored indicated that the purpose of the public meeting was to receive public comments on the proposed plan and stated that the discussion would focus on the topics of the preferred alternatives for the collection system, the environmental impacts, impacts to the existing City of Brookings collection and treatment facilities and economics. A brief summary of information from the Facilities Plan was prepared in a question and answer format and copies were handed to the persons in attendance at the meeting.

A presentation was then made by Clay Baumgartner, staff engineer with the firm of H.G.E., Inc. which prepared the Facilities Plan and are the City's engineering consulting firm. Mr. Baumgartner explained what a Facilities Plan entails and why it is required for EPA grants. He then explained what the project involved and the alternatives

that were considered for the collection and conveyance system (no action, STEP and conventional gravity system, and explained each of those systems in detail. Then he presented the design of the alternative system which is being recommended (conventional gravity system), and identified the details of that system regarding pump stations locations and purpose, reasons for the selected, ownership and how they are to be acquired, and design qualities of the structures to house the pumps and switching gear. The total estimated cost of the project was established at \$1,778,160, with a portion of that cost to be paid with EPA grant assistance.

Mr. Nored then presented a summary of a draft study prepared by Geotechnical Resources, Inc., concerning the potential for mass movement and unstable areas in certain portions of the project area. It was indicated that specific areas, particularly in the vicinity of West Ocean Drive and around Shorewood Terrace which appear to be unstable. In areas which are identified to be too unstable for sewerline construction may require service by means of private systems pumped into the City system.

The environmental impacts of the project were then presented relative to beneficial impacts, short term adverse impacts, long term adverse impacts, (none were expected as a result of constructing the public collection system), and the indirect impacts.

A more detailed presentation was given of project financing. The project qualifies for up to \$648,000 of EPA grant assistance. The final grant determination will be made by EPA and DEQ. The local cost of the project will be paid by affected property owners through a localized improvement district. Assessments are based on an area basis. Financing for individual property owners will be through Bancroft Bonding. The maximum assessment will be \$11,017 per acre. The assessment with the maximum anticipated EPA grant will be \$8,065 per acre. The actual assessment will depend on the final grant determination.

Project timing was also discussed. It was indicated by Mr. Nored that DEQ needs to complete the review and accept the Facilities Plan before an accurate time schedule for project work tasks can be determined. H.G.E., Inc., anticipates that construction will be initiated no later than late spring, probably in April or May, 1990, and complete by next fall.

PUBLIC HEARING: The public hearing was then opened by Mayor Hummel at which the following persons presented testimony, expressed opinions and/or asked questions:

- 1.) Ray Jahnke, P.O. Box 1314, Brookings (Oregon Driftwood Shores Subdivision) asked where the ;main lines would be located in respect to right-of-way, in center or on either side. This has not been precisely determined at this point of the project design.
- 2.) Norwood Licklider, 12 Blackwood Drive, Medford, Oregon 97501 (Lot 3, Block 5, ODS), asked why pump stations are at different heights.
- 3.) Jim Collis, 17346 Holmes Drive, Brookings, questioned how it's decided which areas are funded by grant and which are not eligible. Also, whether the areas developed later would pay more for extension/connection to system.
- 4.) Licklider - questioned whether sewer lines would be installed along the Bluff Drive alignment.
- 5.) Evelyn Scott, 17379 Blueberry Drive, Brookings, questioned whether specific property owners within the assessment district will benefit from the grant who front on the orange lines and others who do not front on the grant eligible lines will not.
- 6.) Virginia Collis, 17346 Holmes Drive, Brookings, stated that certain property owners are without water right now because of dry wells. She asked why the project could not be expedited with water lines installed this fall and sewer lines be installed later. The engineer responded that the residents of the area had agreed to have both installed as one project due to the cost savings of such an approach.

There being no further public comments, the public hearing was closed.

The City Engineer closed by stating that public comments from this meeting will be incorporated in the final report. DEQ has to complete the review process. Revisions to the Study may be needed. The City Council will make the final approval. Another Public Meeting will be held for the City Council to adopt the Facilities Plan. Public input will be accepted until that time. H.G.E., Inc., can be contacted at any time during the project if there are questions. It is anticipated that the Facilities Plan will be finalized in October, 1989.

2. **Proposed minor amendments/adjustments to the Land Development Code**

Planning Director Richard Ullian presented the staff report. Mayor Hummel opened the public hearing for comments. There being none, Mayor Hummel closed the public hearing.

ORDINANCES

2. **ORDINANCE NO. 89-O-454 - An ordinance amending Sections 88, 108, 132, 172 and 176 of the Land Development Code.**

City Recorder Beverly Shields read Ordinance No. 89-O-454 into the record in its entirety. Councilor Henry moved to adopt Ordinance No. 89-O-454 by first reading, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

City Recorder Beverly Shields read Ordinance No. 89-O-454 into the record by title only. Councilor Mory moved to adopt Ordinance No. 89-O-455 by second reading, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

3. **ORDINANCE NO. 89-O-450 - An ordinance amending Ordinance No. 66-O-190. [relating to water service outside the city]**

City Recorder Beverly Shields read Ordinance No. 89-O-450 into the record in its entirety. Councilor Schutt moved to adopt Ordinance No. 89-O-450 by first reading, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger,
Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

City Recorder Beverly Shields read Ordinance No. 89-O-450 into the record by title only. Councilor Mory moved to adopt Ordinance No. 89-O-450 by second reading, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger,
Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

4. **ORDINANCE NO. 89-O-452** - An ordinance repealing Ordinance No. 52-O-26 and Ordinance No. 53-O-026, Section 14; and declaring an emergency. [relating to 1952 obsolete parking meter ordinances]

City Recorder Beverly Shields read Ordinance No. 89-O-452 into the record in its entirety. Councilor Henry moved to adopt Ordinance No. 89-O-452 by first reading, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger,
Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

City Recorder Beverly Shields read Ordinance No. 89-O-452 into the record by title only. Councilor Mory moved to adopt Ordinance No. 89-O-452 by second reading, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger,
Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

5. ORDINANCE NO. 89-O-453 - An ordinance repealing Ordinance No. 65-O-180 and Ordinance No. 69-O-205 of the city of Brookings, and declaring an emergency. [relating to ordinances replaced by the Land Development Code]

City Recorder Beverly Shields read Ordinance No. 89-O-453 into the record in its entirety. Councilor Schutt moved to adopt Ordinance No. 89-O-453 by first reading, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

City Recorder Beverly Shields read Ordinance No. 89-O-453 into the record by title only. Councilor Henry moved to adopt Ordinance No. 89-O-453 by second reading, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

RESOLUTIONS

2. RESOLUTION NO. 89-R-464 - A resolution authorizing the signing of an agreement between the city of Brookings, the county of Curry and the state of Oregon for the reconstruction of the traffic signal at the Oregon Coast Highway and Oak Street in the city of Brookings.

City Recorder Beverly Shields read Resolution No. 89-R-464 into the record. Councilor Henry moved to adopt Resolution No. 89-R-464, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

UNSCHEDULED BUSINESS

Coos-Curry Electric Cooperative, Inc. Easement

Engineering Technician Leo Lightle advised the Council that Coos-Curry Electric is requesting a Right-of-Way Easement at the corner of Fifth Street and Easy Street for the purpose of constructing an electric transformer.

Following discussion, Councilor Schutt moved to authorize the Mayor to sign the Right-of-Way Easement to Coos-Curry Electric, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

School District 17-C request for exemption

Ron Adkins, School District 17-C Board Member, presented the Council with a request from School District No. 17-C that the City release the District from the requirement of signing a Deferred Improvements Agreement in order to obtain City permits for this year's building needs and a request for a written guarantee from the City that the District will receive advanced notice of at least 18 calendar months before the District may be liable for the cost of improvements in streets, curbs, sewer, etc.

Following discussion, Councilor Brendlinger moved to direct staff to amend Section 4.070, Item D, to address other remodeling besides single family residential use and to submit the wording to the City Council before starting the process to have it changed in the Land Development Code, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Mr. James Stuckey, Superintendent of School District 17-C asked if the City had rejected both requests from the District, and if the District would have to sign the Deferred Improvement Agreement prior to obtaining a building permit. Mayor Hummel affirmed the position of the Council. City Attorney John Babin pointed out that the Council would begin the process of the changing the language in the Land Development Code and that the Council had expressed an interest in voiding any agreement when and if the new language is adopted.

MAYOR ANNOUNCEMENTS

Letter from Mayor to Harbor Sanitary District

Mayor Hummel requested authority to sign and mail a letter to the Harbor Sanitary District. Mayor Hummel withdrew his request and directed staff to give copies of the DEQ letter to the Mayor and the Council as soon as possible.

Review of City Manager's Employment Agreement

Mayor Hummel reported that Michael Gillespie of Coquille has agreed to review the City Manager's employment agreement and appropriate material has been forwarded to him. Mr. Gillespie indicated that he would have a response for the City by approximately mid-September.

Golf Course Committee

The City Council reaffirmed that the Mayor has been authorized to appoint the Golf Course Committee under Ordinance No. 87-0-413.

Evaluation of Chief Administrative Officer

Councilor Schutt moved to place adoption of the Manager Performance Evaluation system as used by the City of Kirksville, Missouri, for the purpose of evaluating the performance of the City's Chief Administrative Officer on the September Council agenda, which motion was duly seconded by Councilor Brendlinger. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Evaluation of Municipal Judgeship

Councilor Henry moved to award the pay increase to the Municipal Judge in the amount of \$1,743.20 per month, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Councilors Mory, Henry

Nays: Mayor Hummel, Councilors Brendlinger, Schutt

Mayor Hummel declared the motion denied.

Mayor Hummel recommended that the salary be increased by 7%.

Councilor Brendlinger moved to increase the salary by 50% of the original increase requested, or \$393.00 per month, which motion was duly seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Councilors Brendlinger, Henry, Schutt

Nays: Mayor Hummel, Councilor Mory

Mayor Hummel declared the motion carried.

City Attorney - Itemized Billing

Councilor Brendlinger moved to require that the City Attorney supply the City with a complete, detailed itemized billing each month, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

PAYMENT OF VOUCHERS

Councilor Schutt moved to approve payment of the vouchers in the amount of \$445,886.38, which motion was duly seconded by Councilor Henry. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

EXECUTIVE SESSION 192.660(1)(d) and (h)

Mayor Hummel recessed the meeting at 10:45 p.m. to convene an executive session.

Mayor Hummel reconvened the regular Council meeting at 12:28 a.m., August 29, 1989.

City Manager Duties

Councilor Brendlinger moved to adopt the duties proposed by the Mayor with an amendment to No. 4, as follows:

1. You will submit all letters written upon your signature to the Mayor or the full Council for review and approval prior to the posting of each letter.
2. You will submit a copy of all staff memos written upon your signature to the Mayor and all Councilors.
3. You will maintain a written log of all requests made of you, whether in writing or made verbally, by either the Mayor, individual Councilors, or by the full Council. You will provide a weekly status report of all requests to the Mayor and all Councilors.
4. You will not read any newspapers in your office during normal working hours unless requested to read a specific issue by the Mayor or any Councilor.
5. You will treat with courtesy and respect all with whom you meet while performing your duties as City Manager. You should acknowledge that by your example you are setting the standards for all City employees.
6. You will begin to develop a new and comprehensive personnel procedures manual for City employees. You may use as models the City of Florence Personnel Policy handbook of June, 1989, the City of Brookings Employee's Handbook of 1964, and the Employee's Handbook currently being utilized by you.
7. You will prepare for the Council a written explanation of the need for and purpose of any new or revised City ordinances. The written explanation shall accompany or precede the delivery of the new or revised ordinances. In the matter of revisions you will ensure that both new and old text are highlighted or made easily identifiable. "Emergency" clauses are to be included in proposed language only upon the express approval of the Mayor or any Councilor.

The motion was seconded by Councilor Schutt. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

Nays: None

Mayor Hummel declared the motion carried.

Mayor Hummel advised that the matter of pending litigation involving a City employee and the matter of a letter of discipline for a City employee will be continued.

ADJOURNMENT

Council Henry moved to adjourn the meeting, which motion was duly seconded by Councilor Mory. A vote was taken with the following results:

Ayes: Mayor Hummel, Councilors Mory, Brendlinger, Henry, Schutt

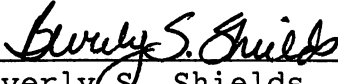
Nays: None

Mayor Hummel declared the motion carried and adjourned the meeting at 12:35 a.m.



Fred Hummel
Mayor

ATTEST:



Beverly S. Shields
City Recorder