

MINUTES
BROOKINGS COMMON COUNCIL
CITY OF BROOKINGS
January 13, 1981

I. CALL TO ORDER

The meeting was called to order at 8:00 p.m. by Mayor Robert Kerr.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Those present were: Mayor Kerr; Councilmen Gil Batty, John Geraghty, Walt Lovejoy, and Ray Nidiffer.

Staff present were: City Manager Lynn Stuart, City Recorder Steve Herman, Secretary Praecilla Pruitt and City Attorney John Coutrakon.

IV. CEREMONIES/APPOINTMENTS

A. Elect Council President

MOTION by Councilman Nidiffer, seconded by Councilman Lovejoy to elect Councilman Batty as Council President (Mayor Pro-tem). Motion carried unanimously.

B. Council Commission assignments

It was Council concurrence that the following Councilmen would serve as Commissioners to the various City Departments: Gilbert Batty - Finance Commissioner; John Geraghty - Parks & Recreation Commissioner; Walt Lovejoy - Public Works Commissioner; Ray Nidiffer - Fire Commissioner; and Mayor Kerr - Police Commissioner.

C. Board, Commission and Committee appointments

The City Manager stated that the Parks & Recreation Commission had made a recommendation to reappoint Virginia Manley & Bonnie Litty. A recommendation for a third Commissioner was to be made at the next Parks & Recreation meeting.

MOTION by Councilman Geraghty, seconded by Councilman Nidiffer that we reappoint Virginia Manley and Bonnie Litty to the Parks & Recreation Commission. Motion carried unanimously.

A Planning Commissioner had informed the Mayor that he had moved out of the City and the question was raised if he should remain as Planning Commissioner. The City Manager was instructed by the Council to refer the matter to the Planning Commission.

D. O.C.Z.M.A. representative

Mayor Kerr announced that Councilman Lovejoy would be the designated alternate and Mayor Kerr the designated representative for the O.C.Z.M.A.

V. MINUTES FOR APPROVAL/ACCEPTANCE

MOTION by Councilman Lovejoy, seconded by Councilman Batty that we approve the minutes of the December 22, 1980 and January 2, 1981 Council meetings. Motion carried unanimously.

VI. COMMUNICATION AND ANNOUNCEMENTS

A. Mayor Announcements - 1981 programs

Mayor Kerr announced that the goals for the new Council would include roadway improvements; stormwater projects; develop planning policies for standard construction; traffic control; select charter committee to review and update the Charter; capital improvement programs; and obtain passage of the tax base. Each Council member made a few brief statements concerning their appointment to the Council and their particular Council assignment.

A while back I received a letter from the State Department of Real Estate stating that I possibly was in violation of the State Subdivision Control Act. As I stated at a meeting of the former City Council, we all are familiar with the old regulation that allows lot splits into three parcels in any one year. Now the rules say that, if one has lot splits contiguous to other lot splits, those partitions must be reviewed by the State Department of Real Estate.

I called Mr. Roe at the Department of Real Estate in Salem and he told me that, after filling out a long questionnaire and paying a fee, all I needed was a letter from a City official stating that the City approved of my minor partitions. I told Mr. Roe that practically everyone in the City had been fired and I asked him if it would be all right if I got a letter signed by the Building Inspector. He said that that would be satisfactory.

The Building Inspector, Marshall Ferg, told me that he couldn't sign a letter until he had verified that I had, indeed, received approval for each minor partition. I went day after day to the office to see if he had looked up and verified the partitions. Finally one day he reported that everything was in order and that he had sent a letter to Mr. Roe. I told him that I didn't mind that but that what I wanted was a letter in my hands so that I could deliver it as requested. He said "O.K. I'll have one for you tomorrow morning." I went in the next day and Mr. Ferg reported that he couldn't sign until he had contacted the City Attorney. The next time I saw him he said that the matter had to go to the Planning Commission.

At the Planning Commission meeting the opinions were divided. One member spoke out strongly in my favor and Mr. Brewer, the chairman, stated, and I use his words, "I want to get you off the hook." On the other hand Mary Jane Brimm asked if I would agree to repave the streets and install curbs and sidewalks. I refused on the grounds that that same Commission had months before already granted my minor partition and that also it would be discriminating against me since many others have had approval of contiguous minor partitions just like mine. Mr. Brewer then directed Mr. Ferg to get an opinion from the City Attorney and report back at the next meeting.

It went to the Planning Commission the next time while I was in Southern California taking care of my wife, who had just suffered a heart attack, and I wasn't there to defend myself. When I got back I heard that the Planning Commission had rescinded my last partition, the one of last July 15.

At that meeting of the Planning Commission Mr. Ferg stated, and I quote, "Marvin Pope is in violation of Chapter 92 of the ORS." (That's the Oregon Subdivision Control Act.) Subsequently the Planning Commission was led to believe that the State was asking the City to enforce some State regulations when, in fact, the State was not asking anything of the City. Mr. Ferg may have read Chapter 92 of the ORS, but I don't think he understood it. I read it and I didn't understand it either. I found out, however, that all the State wants is that I file my parcels with their office and pay a fee, which I have already done.

I knew we were getting away off base, so I wrote to Mr. Roe at the Real Estate Department in Salem asking him to clarify the position of the State in this matter. This is what I got back:

So what the State wants is that I file with them and show them that I have had City approval. I never would have had to do anything except for the word "contiguous" which has been added to their regulations.

As you know, the last City Council did not rule on the suggested rescinding of my last minor partition. Instead it turned the matter over to the City Attorney. At that meeting I said that I didn't know of the new regulation and that, furthermore, the Planning Commission didn't know of it, and that the Building Inspector hadn't known of it until I had informed him of my letter from the Department of Real Estate.

At that meeting Mr. Ferg claimed that he had known about the regulation prior to the time I had approached him with the information. He didn't testify that he had known about it before the time of my last minor partition that was approved by the Planning Commission last July 15. Nevertheless, he claimed he did know about it before I presented him with the facts and he further claimed that he had discussed the regulation privately with one member of the Planning Commission.

My response is that, if he did know about the rule, he had certainly kept it a well-guarded secret. If he did know about it, why didn't he inform the Planning Commission at the time it approved my minor partition of last July 15? Why didn't he inform me? I don't know which is worse, for a public official not to know the law pertinent to his department or, knowing it, to withhold information and entrap an unsuspecting citizen.

I have the minutes of the Planning Commission meeting I had missed in which my approval of my last partition was rescinded. I'll read from the minutes.

Not the attorney but Mr. Ferg alone brought forth the idea of rescinding approval of my partition of last July 15. The attorney was not present at the meeting, so the Planning members merely went along with the recommendation thinking that it had come from the City Attorney. Mr. Ferg may have misunderstood what Mr. Coutrakon had said.

After all these months and years I feel sure the City does not want to entrap me by abrogating the agreement it made with me when it approved my minor partitions. I ask that this Council deny the suggested rescinding of the approval made last July 15.

B. City Manager Announcements

1. Donald A. Cameron correspondence

The City Manager informed the Council that this matter concerned completion of sidewalks, street widths, and water meter locations on Sea View Heights Subdivision, Unit 2 located on Lilac Lane. The Subdivision had been previously approved by the City but did not comply with the Subdivision Ordinance. Mayor Kerr requested that the City Manager further reasearch the problem and bring it back to the Council at its next meeting.

2. Library Mini-grant

The City Manager was requesting authorization to sign an application for a mini-grant for \$900 to buy large print books for the Library.

MOTION by Councilman Batty, seconded by Councilman Nidiffer that the Mayor or City Manager be given authorization to sign the grant application. Motion carried unanimously.

C. Attorney Announcements

1. Marvin H. Pope minor partition appeal

Mayor Kerr gave Mr. Pope an opportunity to make his presentation to the Council. He made a few comments and then passed out copies of handdrawn maps of all his minor partitions and also a typewritten statement which he read to the Council, a copy of which is attached hereto, marked Exhibit "A" and by reference made a part of these minutes. The City Attorney then quoted Section 7.060, Subsection (1) and (3) of the Brookings Subdivision Ordinance No. 325. It was the City Attorney's opinion that the last minor partition approved by the Planning Commission should be rescinded and then after rescinding the partition, Mr. Pope could immediately apply to the Planning Commission to split his parcel however he desires, and it would then be addressed under the Subdivision Ordinance. He also felt that this problem should be resolved, and that he was not concerned with the previous partitions, only the partition of July 15, 1980. Mayor Kerr stated that he felt that Staff was trying to resolve the problem, and he was concerned that this problem would not occur again in the future. He also felt that the Council would have to take the City Attorney's recommendation. Mayor Kerr requested that Staff should refer the matter to the Planning Commission to see what their intent was. He informed Mr. Pope that this was not being done for the purpose of delay but to resolve the matter, as the City Manager and the entire Council were not acquainted with the situation.

MOTION by Councilman Batty that the Pope partition appeal be tabled until the January 27, 1981 Council meeting.

The City Manager informed the Council that the matter would be placed on the Planning Commission Agenda for the January 20, 1981 meeting for the purpose of review and establishing the Planning Commission reasoning in recommending rescinding of their October 9, 1980 action. Mayor Kerr requested that Staff work out the legalities and bring it back to the Council on January 27, 1981.

The motion was seconded by Councilman Geraghty and passed unanimously.

VII. EXECUTIVE SESSION

Mayor Kerr recessed the meeting into an executive session at 9:08 p.m. under ORS 192.660 (1) (h) for the purpose of pending litigation.

Mayor Kerr reconvened the meeting at 9:40 p.m.

2. City Attorney Announcements

The City Attorney stated that there was a need to meet with Marshall Ferg and draft an ordinance to adopt the Uniform Building & Plumbing Code and the removal of dangerous buildings. The City Manager stated that Staff had discussed this matter at Staff meeting early this morning and that Staff would complete their work first and then the City Engineer, City Attorney and the City Manager would review it. Mayor Kerr directed the City Manager to pursue this matter as he had indicated.

VIII. PUBLIC PARTICIPATION

Andrew Billings, Vice Chairman of the Merchant's Association made a request that the Council give their input and attend their breakfast meetings held the first Thursday of each month at 8:30 a.m. at Shirley's Red Barn.

IX. PAYMENT OF VOUCHERS

Mayor Kerr requested the Finance Director to check on those bills that have discounts so that the City will receive their discounts if the City Council approval falls beyond the 10th of the month. Mayor Kerr also requested that Item No. 13 in the amount of \$655.31 to Brookings Office Supply be deleted until further clarification.

MOTION by Councilman Lovejoy, seconded by Councilman Batty that the vouchers be paid in the sum of \$29,772.15. Motion carried unanimously.

X. ADJOURNMENT

MOTION by Councilman Lovejoy, seconded by Councilman Geraghty that the meeting be adjourned.

The meeting was adjourned at 10:00 p.m.

This meeting is recorded on tape and is on file in the City Recorder's office.



Mayor Robert L. Kerr

Attest:



S. E. Herman, City Recorder

VOUCHERS PAYABLE
December 22, 1980

<u>Voucher #</u>	<u>Check #</u>	<u>Vendor</u>	<u>Amount</u>
1		A & W Drive-In	\$ 67.20
2		Akin Motor Co., Inc.	25.35
3		American Library Assoc.	10.00
4		Baker & Taylor	28.81
5		Breeze Bookstore	26.78
6		Brookings Electronic Service Co.	57.60
7		Brookings Glass	93.75
8		Brookings Office Supply	10.40
9		Brookings Supply, Inc.	37.89
10		C & L Office Supplies	4.47
11		Central Pacific Freight Lines	39.98
12		Children's Press	12.06
13		Columbia Equipment Inc.	1,851.25
14		Coos-Curry Electric Cooperative, Inc.	2,504.46
15		Coutrakon, Hoselton & Babin	1,649.50
16		Current History	24.70
17		Curry Coastal Pilot	7.05
18		Duane's Radio & TV	9.50
19		Frank's Office Equipment	12.00
20		Gaylord Bros., Inc.	306.46
21		General Telephone	964.90
22		Greyhound	8.10
23		HGE, Inc.	1,675.50
24		Hinds Supply Company	1,331.63
25		Lanson/Tremaine	202.76
26		League of Oregon Cities	319.50
27		Lerner Publication Co.	25.15
28		Loring's Sales & Service	65.06
29		Walt Lovejoy	131.60
30		Marion Executive Inns	39.90
31		Marquess & Associates, Inc.	4,381.07
32		Mill Beach Garden Shop	9.50
33		Mory's Arts	11.25
34		National Geographic Society	23.90
35		O'Neale Supply, Inc.	40.25
36		Pacific Water Works Supply Co., Inc.	420.84
37		Paramount Flag Company	156.48
38		Pennwalt Corporation	600.00
39		Pool & Patio Place	134.00
40		Portland Marriott Hotel	248.23

SUBTOTAL

\$ 17,568.83

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 VOUCHERS PAYABLE
 December 22, 1980

<u>Voucher #</u>	<u>Check #</u>	<u>Vendor</u>	<u>Amount</u>
41		Portland Motor Hotel	\$ 230.44
42		Rankin, McMurry, Osburn, Vav Rosky & Doherty	1,100.00
43		Ray's Sentry Market #1	167.54
44		RCA Music Service	8.87
45		Recreation Specialties Inc.	26.00
46		Ritz's Repair, Inc.	1,092.76
47		Gerald Ross Agency, Inc.	4,592.26
48		Shell Oil Company	1,063.20
49		Cecil A. Smith, Sr.	17.80
50		Marion C. Smith	30.00
51		Spicer & Downer	5,735.10
52		Square Deal Builders Supply	401.16
53		M.J. Stone Company	6.25
54		Time/Life Books	11.58
55		University Book Service	138.01
56		VWR Scientific Inc.	36.30
TOTAL			\$ 32,226.10