

MINUTES  
BROOKINGS COMMON COUNCIL  
CITY OF BROOKINGS  
July 22, 1980

The meeting was called to order by Mayor Elmer Hitchcock at 8:02 p.m.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

Members present were: Councilmen Roy Brimm, Robert Earle and Mayor Hitchcock.

Staff present were: City Recorder Lucile Peterson and Praecilla Pruitt Secretary. Also present was City Attorney John Coutrakon and City Engineer Dick Nored.

III. APPROVAL OF MINUTES

MOTION by Councilman Earle, seconded by Councilman Brimm that we approve the minutes of July 3, 8, and 9th meetings with the reservation that there be a discussion session.

Councilman Earle stated in essence that at the July 9, 1980 recessed meeting, an ordinance was passed not in accordance with the City Charter. Chapter 8, Section 36 states, " that any ordinance may be introduced, read twice, once in full and once by title and put on its final passage at its single meeting by unanimous vote of all members of the Council present at the meeting". Ordinance No. 342 (Hotel-motel tax) was read in its entirety on July 8, 1980 and did not receive unanimous approval. The July 8th meeting recessed until the following morning and at the same meeting on July 9, 1980 was passed unanimously. Councilman Earle and the Attorney had differing opinions. Councilman Earle further stated that on page 8 of the same paragraph that upon final vote of the ordinance the ayes and naves of the members of the Council shall be taken and recorded in the journal. In Ordinance No. 2, Robert's Rules of Order prevailed and states, "that as many as are in favor of the adoption of the resolution will when their names are called answer "yes" and those opposed will answer "no". The Secretary will call the roll. The roll is called in alphabetical order except that the presiding officer's name is called last and only when this vote will affect the results. If he does not wish to vote he answers "present" or "abstain". Councilman Earle felt that each name should be called and each Councilman indicate how they will vote. He further stated that Chapter 5, Section 22 of the Charter under the Recorder, states that an accurate record be kept of its proceedings. In the Council meeting of July 9, 1980, the resignation of Dick House did not include certain comments made by Councilman Cheney in the record. Councilman Earle requested through the chair that Councilman Cheney be requested to withdraw his remarks that were entered into the record on the 9th of July. If he would not do this then a full public disclosure would be requested and he be asked to step down from the Council. The City Attorney stated that the ayes and naves could be used and would probably be a good way to operate and record the ayes and naves of any vote by Councilman's name. He felt that from a legal standpoint of Section 36, Councilman Earle had read the second sentence, but the first sentence states that every ordinance of the Council shall be fully and distinctly read in open Council meeting on "two different days" previous to being passed. The Attorney stated that the Charter language was unclear and he would suggest that in the future if there is not a unanimous vote after a full reading that a special meeting be called for several days hence. He felt that Councilman Earle's request to have a special meeting called to have the hotel-motel ordinance read again would not be the attorney's decision. Mayor Hitchcock read a memorandum

from Councilman Earle stating that he would no longer attend any special meetings unless they are justified by extreme emergency situation effecting the conduct of business of the City. Councilman Earle stated that if they wanted to call a special meeting he would attend. Mayor Hitchcock and Councilman Brimm felt that they would take the advice of the attorney that night. Mayor Hitchcock stated that in reference to Councilman Cheney that when he returns the request would be the decision of Councilman Cheney. Councilman Earle requested that the Mayor ask Councilman Cheney for a retraction, and that the tape of that meeting be placed in the hands of the City Attorney. The motion was voted upon and Mayor Hitchcock and Councilman Brimm voted "yes" and Councilman Earle voted "no". Motion carried.

IV. COMMUNICATIONS

1. A letter was read from the Director of Fire Standards and Accreditation Board praising the Brookings Fire Awareness Committee and also making mention of the Explorer's Scout program. They desired to get this program in writing so it could be used throughout the State of Oregon. Mayor Hitchcock stated that at the Mayor's workshop there were a number of Mayors interested in the Explorer program.
2. Letter from Neal R. Fisher of State Executive Department on Cost Accounting Guidelines for Public Agencies.  
The letter was read and the City Recorder stated that at some future date if they desired to adopt these guidelines that it should be done by motion and a resolution drawn up to adopt them.

MOTION by Councilman Earle, seconded by Councilman Brimm to table this matter for further consideration. Motion carried unanimously.

V. CITY ENGINEER'S REPORTS

There were none.

VI. CITY ATTORNEY'S REPORTS

1. The City Attorney stated a practice at City Hall that needed to be corrected was that all ordinances and resolutions are retyped on legal size paper. The Attorney did not feel that everything he had typed should be retyped again. Councilman Earle stated this would be an administrative procedure to be taken care of by Lucile Peterson. Mrs. Peterson stated that she desired the procedure to remain until the City begins codification and then they will no longer need to be typed in this manner.
2. The City Attorney stated that there had been a request from Mrs. Stanhurst's attorney on the Van Duzee matter that she be allowed to have her own separate sewer and water installation to be withdrawn from the proposed special assessment district, and if not allowed by August 10th that legal proceedings would be instituted. The City Engineer stated that the problem should be solved in the best interest of all involved and not for one property owner. The City Attorney stated that the City would be involved since the parties cannot agree and the City would be asked to condemn what land is necessary to obtain the necessary easements. He felt it would be necessary to find out if Mrs. Stanhurst had been damaged which would give her a right to pull out of this special assessment district. The Attorney asked for Council authority, if he deemed it necessary, to write to Mr. Lesan informing them that the special assessment

district will go forward. It was the consensus of the Council to grant this permission.

3. The City Attorney handed out copies of a water policy statement that he had written. He read the guidelines for allowance of water services outside the City Limits.
4. The City Attorney submitted an organizational chart of the proposed City Government. He stated the presentation was from a legal standpoint because of the ordinances being in conflict, and that insufficient employees would cause liability. He desired a motion so that the City Attorney could go through the City ordinances pertinent to the City Government and the Charter and draft a proposed ordinance which would incorporate this system. Also a motion that there be sent out a search for key positions on the chart to fill the positions immediately. He explained that the City Administrator and Finance Director, being the City Recorder, were directly under the City Council. The administrator runs and co-ordinates administrative affairs of the City. The Finance Director is in charge of the budgetary process, books, records, and receipt of income. They would both speak at the Council meetings about their respective jobs. The policy is made by the Council. The Planner would be a key person who is the administrator for the Public Works, streets, sewers, water and Building Inspector or he could be called a Public Works Inspection Co-ordinator. The City Attorney handed a written job description for a City Administrator and a City Planner to the Council. He mentioned that the Planner should have an Engineer related field. The Planner's function would be working with zoning, a knowledge of engineering to some extent, and working with the City Engineer and helping out in the Public Works Department. The City Administrator and Financial Director would be the only ones that the Attorney would consult with.

MOTION by Councilman Earle, seconded by Councilman Brimm that the City Attorney be given authority to set up our ordinances to establish this type of organizational structure in the City. Motion carried unanimously.

MOTION by Councilman Brimm, seconded by Councilman Earle to advertise for a City Administrator and a City Planner. Motion carried unanimously.

#### VIII. FINANCE DIRECTOR ITEMS

1. Resolution No. 259 setting election date to submit a one-year property tax levy outside the Constitutional limitation for the 1980-81 FY.

The Council discussed alternate levy election amounts outside the 6% limitation of \$150,594 and \$161,794. The Finance Director recommended Alternate No. 2 in the sum of \$161,794 with the provision that an additional \$10,000 be placed in the General Fund contingency for emergency purposes. The Council decided on the higher amount and Resolution No. 258 (formerly known as Resolution No. 259) with the Alternate amount of \$161,794 was read in its entirety. This amount was to be submitted to the voters on September 16, 1980.

MOTION by Councilman Earle, seconded by Councilman Brimm to accept Resolution No. 258. Motion carried unanimously.

#### IX. LEGISLATIVE ACTION

1. Request from William C. Gillaspay on Riviera Heights Subdivision for construction plan approval.

Bill Gillaspy, Surveyor, reviewed what had previously transpired and was desirous of getting construction plans approved before the rains come. The City Attorney asked who the applicant was on the subdivision. Marshall Ferg, Building Official stated that there were three items submitted; the first one signed by Orval Harris and Partner; the second one by Harris Miller, Inc.; and H.M.K. Developers. The City Attorney stated that the major portion was owned by a one-half interest each in Harris Miller, Inc. and Dick Krieger Construction Co., Inc. Bill Miller stated that he owned Phase II, and Phase I is owned by Harris Miller and Krieger and both corporations are undivided one-half owners of Phase I. The City Attorney stated that the records would have to show the true and correct owners. Councilman Earle stated that a letter from Attorney Nelson dated April 24, 1980 stated that his office represented Harris Miller, Inc. owner and developer of Riviera Heights Subdivision. After discussion the City Attorney stated that the plans would have to either be stricken or amended with the true owners and the Council would have to make the decision. The City Engineer questioned how much Engineering had been done on this development of the set of plans by the Engineer, and what was the relationship between the Surveyor and the Engineer. Mr. Gillaspy stated the Engineer was doing the design and he was doing the drafting of his Engineering work. He was concerned about the underground drainage as it was not on the Engineering plans that were to be approved. He would require underground drainage on both Riviera Heights Drive and Marina Heights Drive and on Marine Drive. There was no plans for drainage on Old County Road which was requested in his letter of March 21st, and the 6" and 8" pipe lines would not carry the water coming off the subdivision. He would recommend to require streets that comply with the City street standards. The City Engineer stated that he disagreed with the cut and fill slopes that are being recommended. His recommendation would be to allow not less than one to one on a cut slope or less than a  $1\frac{1}{2}$  to one on a fill slope and expanded on medium size cuts and fill slopes. Mr. Blanton, soils Engineer stated that he based his cut and fill slopes on the mechanics of the soil and gave further discussion on the matter. The City Attorney asked Mr. Blanton if he would be doing the construction inspection and testing. Mr. Blanton replied that a person would not be on site full time, but as the project progresses at certain stages, and certainly in the preparation of sub-grades. He would be on call to come back and certify that they are properly constructed. The City Engineer stated that he would like to see a full set of construction documents and specifications. There was minor difficulty with water and sewer, and alignment of the sewer plans being approved by DEQ. Also the water and meter box in the street should be moved back behind the curb. That Marine Drive should be deeded to the City before approval. The City Attorney stated that after looking at the site today the subdivider is continuing to do construction without the approval of the City Council. The City would have to enforce this by injunction or denial of further construction plans, as he had been informed by the City Engineer and other knowledgeable people that there would be damage to adjacent properties as well as eroding, flooding and the drainage system is not sufficient to carry the water. Mr. Miller stated that the tractor was cutting a ditch to insure erosion control. The roadways were trails to clear the brush off the property. The City Attorney stated that the developer was trying to go forward faster than the ordinances would allow. He also stated that the City Engineer should consult with the geologist and the developer's Engineer to work out the proper construction methods then the plans could be approved at the next Council meeting.

MOTION by Councilman Earle, seconded by Councilman Brimm that the matter be tabled. Motion carried unanimously.

2. Request from Ross Jones for final approval of Highlands Subdivision Phase II. Marshall stated that the developer had put in the storm drain and filled Lots 32 and 33. The City Engineer stated that the drainage appears during the summer to take care of the problem and suggested that Mr. Jones be held responsible during the one-year guarantee period, and that he be required to take care of the drainage problem if other drainage concerns should develop. The plat should be modified to show easements in the location over where those drainage lines are installed. Mr. Ross stated there could be a problem as he extended the culvert almost to the last lot. He had installed around 1,500 feet of french drain in the area concerned. The Engineer requested that Mr. Ross have his attorney attach a prescriptive easement across the lot providing for the french drains that have been installed throughout the property so the City will not become involved in any neighborhood disputes.

MOTION by Councilman Earle, seconded by Councilman Brimm that we give acceptance with the condition that he be held responsible for a one year period, and that Mr. Ross attach a prescriptive easement across the lot providing for the french drains that have been installed throughout the property. Motion carried unanimously.

3. Request from Mike Steevens for 2" water meter outside City Limits. It was again established by the City Attorney that Mr. Steevens could not obtain another meter. He could have further hookups off the same meter or replace the meter with a larger meter and the charges would be different. Mr. Steevens contended that the City Council had approved his water meter and would have to check the tapes to find out. A transcript of the August 21, 1979 meeting was reviewed by the City Attorney and he stated that there was no decision. It was agreed that the Steevens' were to go to City Hall and listen to the tape and find the part where it is approved. This was agreeable with the Steevens' and they would be back at the next Council meeting.
4. Request from Bob Ashenberner for a City water hookup on Parkview Drive. Mr. Ashenberner stated that his property was the first lot outside of the City Limits. The Mayor stated that he could not obtain water but if he so desired to annex to the City he could obtain water. The City Recorder stated that the annexation procedures could be sent through the mail to study at home, and if they decided to annex they were instructed to contact Marshall Ferg.
5. Resolution No. 258 setting time and place for public hearing on Subdivision Ordinance amendments. The City Attorney stated that if we amended the Subdivision Ordinance the City would be admitting that the ordinance we have is not applicable to what is going on at Riviera Heights Subdivision.

MOTION by Councilman Brimm, seconded by Councilman Earle that we table passage of the Resolution. Motion carried unanimously.

6. Discussion on administrative office procedures. The Mayor stated that this was to be discussed at the August 12, 1980 meeting.

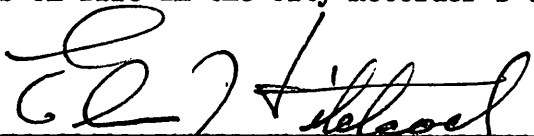
X. OTHER BUSINESS

1. Mayor Hithhcock stated that a lady had fallen in the vicinity of the Little Red Shoe House and the holes in the sidewalk needed to be repaired.
2. The Mayor mentioned that Councilman Cheney had received correspondence from Ken MacLeod asking that he be removed from the Citizens Advisory Committee, and that all the information which he had was turned over to Don Croucher. The Mayor was to contact Councilman Cheney when he returned.
3. The Mayor brought up personnel vacation and annual leave, and he felt that vacation time should not be received after 6 months but after one year. This matter was to be taken care of at a later date.
4. Councilman Brimm stated that Mrs. Stout wanted the City to water and take care of her property while she is gone. He had contacted the Garden Club and they might be interested in taking care of the flowers. The interest from the Stout Trust Fund could be used for the cost of water.
5. Lucile Peterson, City Recorder stated that the organizational planning had taken place which she was not aware of and she had prepared a budget from a different aspect. She did not know what her role was with the City. She handed the Mayor a letter of resignation declining employment in any capacity beyond July 30, 1980 when her temporary appointment as the City Recorder expires. The Council expressed regret at her leaving and praised her for the good work she had done.

MOTION by Councilman Earle, seconded by Councilman Brimm to adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 11:09 p.m.

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

  
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MAYOR

ATTEST:

  
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CITY RECORDER