

City of Brookings

City Council Meeting MINUTES

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, February 22, 2016

The City Council met in Executive Session at 6:30pm in the City Manager's office, under authority of ORS 192.660(2)(f), "to consider information or records that are exempt by law," and ORS 192.660 (2)(e), "to conduct deliberations with persons designated by the governing body to negotiate real property transactions."

Call to Order

Mayor Hedenskog called the meeting to order at 7:00 PM.

Roll Call

Council present: Mayor Ron Hedenskog, Councilors Jake Pieper, Brent Hodges, Bill Hamilton and Dennis Triglia; a quorum present. Also present was Ex Officio Natassia Carrasco.

Staff present: City Manager Gary Milliman, Public Works & Development Director LauraLee Snook, Parks & Technical Services Supervisor Tony Baron, Planning Manager Donna Colby-Hanks, City Attorney Martha Rice and City Recorder Joyce Heffington.

Others Present: Curry Coastal Pilot Report Jane Stebbins and approximately 8 others.

Ceremonies/Appointments/Announcements

Councilor Pieper moved, a second followed and Council voted unanimously to reappoint Carol Bayne to the Budget Committee and appoint Charles Costello to the Tourism Promotion Advisory Committee.

Public Hearings/Final Orders

Continuation of the January 11, 2016 hearing in the matter of LUBA's remand of ANX-1-14 (Mahar/Tribble annexation) to the City's approval to annex approximately 13.33 acres into the City of Brookings.

Mayor Hedenskog opened the continued hearing at 7:03 PM. Hedenskog asked Councilor Triglia if he was present at the meeting of January 11, 2016, or had reviewed the recordings, and pertinent staff report and attachments for that hearing and Council Triglia said he had attended the meeting, and had reviewed the recording and pertinent documents.

Hearing no ex parte, declarations of conflict or personal interest, or objections as to jurisdiction, Mayor Hedenskog stated that the public testimony portion of the hearing had been closed on January 11, 2016, and no new additional evidence, testimony or argument would be introduced into the record. He then reviewed the guidelines and Planning Manager Colby-Hanks provided the staff report.

Councilor Triglia read a prepared, detailed statement regarding this matter. His written comments are included as an attachment to these minutes.

Councilor Pieper moved, a second followed and Council voted, 4 – 1, with Mayor Hedenskog and Councilors Hodges, Pieper and Hamilton voting "Yes"

and Councilor Triglia voting "No," to approve the applicant's responses to the issues raised by the Oregon Land Use Board of Appeal's Remand; Statewide Planning Goal 16, impact assessment on the Chetco River estuary, for ANX-1-14 based on the findings and conclusions, staff report analysis, and oral and written evidence presented at the hearing, and approve the final order. An advisory "No" vote was cast by Ex Officio Carrasco.

Staff Reports

Acceptance of the Committee for Citizen Involvement (CCI) annual report.

Planning Manager Colby-Hanks provided the staff report.

Mayor Hedenskog moved, a second followed and Council voted unanimously, with an advisory "Yes" vote from Ex Officio Carrasco, to accept the CCI annual report for 2015 and direct staff to forward the report to the County Planning Coordinator and the State's Citizen Involvement Advisory Committee as required by Resolution 399.

Resolutions

Resolution 16-R-1070, authorizing submission of a Recreation Trails Program Grant application to the Oregon Parks and Recreation Department for trail improvements at Azalea Park.

Supervisor Baron gave the staff report. He said the first middle school cross country meet at Azalea Park had utilized the trail and adding the proposed loop would help encourage additional park use.

Councilor Triglia moved, a second followed and Council voted unanimously, with an advisory "Yes" vote from Ex Officio Carrasco, to adopt Resolution 16-R-1070, authorizing submission of a a Local Government Grant Application to the Oregon Parks and Recreation Department for park [trail] improvements at Azalea Park.

Resolution 16-R-1071, authorizing submission of a Local Government Grant application to the Oregon Parks and Recreation Department for park improvement projects at Azalea Park.

Supervisor Baron presented the staff report.

Councilor Pieper moved, a second followed and Council voted unanimously, with an advisory "Yes" vote from Ex Officio Carrasco, to adopt Resolution 16-R-1071, authorizing submission of a Local Government Grant Application to the Oregon Parks and Recreation Department for park [ball field] improvements at Azalea Park.

Consent Calendar

1. Approve City Council minutes for February 8, 2016.
2. Approve the revised minutes for January, 25, 2016, to include mention of the review of Exhibit E, containing four documents submitted to Council at the time of the meeting, and to correct the misspelling of Ed Trompke's, Burton Weast's and Steve Klein's names.

3. Authorize conversion of 71 hours of the City Manager's accrued paid vacation leave to its cash equivalency and deposit said cash equivalency into the City Manager's Health Savings Account.
4. Accept December 14, 2015 Public Art Committee Minutes.
5. Receive monthly financial report for January, 2016.

Mayor Hedenskog moved, a second followed and Council voted unanimously to approve the Consent Calendar as written.

Remarks from Mayor and Councilors

City Manager Milliman commented that 44 teams competed in the Slippery Banana Softball Tournament over the weekend, 32 of which were from out of town. He said the City's parks present a great economic opportunity for the City and Tony's goal was to improve park amenities to increase participation for a variety of tournaments.

Adjournment

Mayor Hedenskog moved, a second followed and Council voted unanimously by voice vote to adjourn at 7:40 PM.

Respectfully submitted:

ATTESTED:
this _____ day of _____ 2016:

Approved by Council 3/14/16

Ron Hedenskog, Mayor

Joyce Heffington, City Recorder

2-22-16 Comments
by COUNCILOR TRIGLIA
RE: ANX-1-14

Tonight's discussion and deliberations are solely limited to the current, more narrow range of issues following the 2nd remand from the Land Use Board of Appeals. Hence, I understand that I am not permitted to address concerns which I would have expressed earlier had I been a member of the Council.

As the newest Council member, for the benefit of the Applicant, my Fellow Councilors, City Staff and the general public, I was present in the audience at the January 11th City Council meeting and heard testimony in support of this development only from the Applicant's attorney. I also heard testimony in opposition from at least 5 members of the public, many of whom are associated with groups concerned with the protection of the Chetco Estuary situated in dangerously close proximity to the proposed development. I subsequently re-watched video of the Jan 11 meeting and read the minutes and Staff reports.

While I fully appreciate the enormous amount of time, energy and Staff resources utilized to address and consider the Applicant's responses and to establish 12 Conditions of Approval in an attempt to address the concerns expressed by the general public at and after the Jan 11th Council meeting, I must respectfully disagree with the proposed Final ORDER and Findings of Fact in respect to the following issues.

LUBA calls for "a clear" presentation of the impacts of the proposed alteration." I personally do **not** believe that the Applicant's Impact Assessment Report sufficiently delineates the entire range of potential "impacts" to the estuarine resources in a sufficiently clear manner as I shall address in my comments. This Impact Assessment Report maintains that pollution resulting from the residential development would consist of both chemicals and sediment. Additionally it states "No alterations to salmonid habitats are currently proposed for this property." If pesticide (*i.e.*, insecticides, herbicides, etc.) and nutrient runoff from fertilizers are allowed to enter the Chetco River, the assertion that there would be no alterations to salmonid habitats is inherently flawed. Although the Applicant is not currently proposing physical alterations directly to the salmonid habitats, the indirect or secondary impact of the development situated in such close proximity to these important coho-rearing habitats is not adequately discussed. The IAR also states that (1) "It is likely that Snug Harbor, immediately west of the property, provides a backwater refugia for juvenile salmonids" and (2) "Once in the waterway, pollutants can harm insects and other invertebrates—the primary food source for fish."

I was a full member of the Society of Toxicology and, as a former biological research scientist, have performed toxicological experiments with proper regulatory and Institutional Review Board approvals, using selected drugs and other compounds on experimental laboratory rodents and on human cells in tissue culture. Although I have not performed any toxicity studies on fish, I nonetheless feel sufficiently informed to discuss the detrimental effects of inadvertently-introduced pesticides and fertilizers into the Chetco Estuary.

Pesticides can reduce the availability of plants and insects that serve as habitat and food for fish and other aquatic animals. Fish and aquatic animals are exposed to pesticides in three primary ways (1) dermally, direct absorption through the skin by swimming in pesticide-contaminated waters, (2) breathing, by direct uptake of pesticides through the gills during respiration, and (3) orally, by drinking pesticide-contaminated water or feeding on pesticide-contaminated prey.

When a pesticide is present in small amounts in water, it can be absorbed by water plants which are, in turn, eaten by insects and other aquatic life which then become contaminated. At each step in the food chain the concentration of pesticide increases, with some fish concentrating certain pesticides in their body tissues and organs at levels very much greater than those in the water. When sport fish such as salmon or trout repeatedly consume contaminated animals, they bioconcentrate high levels in their body fat and can pass these poisons on to humans. Pesticides also (1) exert a deleterious effect on salmon behavior, (2) disrupt their immune systems which can result in the onset of disease and even death and (3) exert endocrine-disrupting effects during the early stages of salmon development. These pesticides may also interfere with other hormonal processes such as thyroid functioning and bone development.

The advertent or inadvertent introduction of pesticides and fertilizers into the Chetco River could have disastrous results on a major source of much-needed City revenue due to an impact on sport fishing. The proposed "remedy" to this, listed as Condition of Approval # 9, is to require a restrictive covenant to be recorded against the subject property implementing this restriction. This is ludicrous in that- in reality- it is virtually non-enforceable, as the City admits that it does not have staff with expertise in these matters and according to ODA would generally have NO authority to do so. In addition, the Applicant's attorney makes note that an email from Ted Busch of the ODA nowhere suggested that the proposed restrictive covenants would be ineffective to prevent residential application of harmful pesticides (Exhibit B-2). I argue that Mr. Busch also **nowhere** suggests that the proposed restrictions would be **EFFECTIVE** to prevent residential application of harmful pesticides.

Additionally, by his own admission, the Applicant asserts the following impacts of the development:

- a. Water quality degradation within the estuary from construction activities.
- b. Ongoing water quality degradation from residential development located within close proximity to the estuary
- c. Adverse impacts on wildlife utilizing estuarine resources as a result of water quality degradation during construction and post-construction
- d. Adverse impacts on wildlife utilizing the estuarine resource and adjacent lands during construction activities, and
- e. Adverse impacts on the aesthetic view from the estuarine resource.

This is immediately followed by the following statement which seems to contradict, in my opinion, the Applicant's above-stated assertions: "Since no physical development

will occur within the Estuary Boundary, there is no anticipated impact on the physical characteristics of the estuary, navigation, or existing and potential uses of the estuary.” How – on earth - can serious water quality degradation as a result of construction, development, and post-development activities NOT impact the physical characteristics of the neighboring estuary!?

This Application is also at odds with the previously-submitted, 1,841-page, 2014 NOAA Marine Fisheries Services’ “Final Recovery Plan for the SONCC Evolutionarily Significant Unit of Coho Salmon. Chapter 13 of this report -dealing exclusively with the Chetco River- lists the most severe threat of 13 identified threats as “urban/residential/industrial development.” This is the only threat with an overall threat designation of “Very High” based upon a high threat to both juvenile and smolt and a “High” threat to adult coho salmon in the Chetco. The report also states that “Altered sediment supply poses an overall “Medium” stress to coho salmon with excess fine sediment having a direct impact on coho salmon egg viability. This can also reduce food for fry, juveniles and smolts.

Finally, with respect to the riparian buffer zone, I am of the opinion that Curry County’s 75-foot riparian buffer should be maintained throughout the property, no matter where the Shoreland Boundary is located or relocated.

John Muir, American author, once said “When one tugs at a single thing in nature, he finds it attached to the rest of the world.” Creating a development dangerously close to estuarine resources will, in my opinion, have a profound impact on those resources ...anticipated and unanticipated...and it is for these reasons that I disagree with the submission of the Final ORDER of Findings and Fact.

Thank you for your time. I am happy to provide a written copy of these comments to the City for inclusion in the records of these deliberations if so desired.
