

**MINUTES**  
**City of Brookings**  
**Common Council Meeting**  
898 Elk Drive, Brookings, Oregon 97415  
Monday, June 22, 2009

**Call to Order**

Mayor Anderson called the meeting to order at 7:00pm.

**Roll Call**

Council Present: Mayor Larry Anderson, Councilors Hedenskog, Gordon, Kitchen and Pieper; a quorum present.

Staff Present: City Manager Gary Milliman, Administrative Services Director Janell Howard, Planning Director Dianne Morris, Public Works Director John Cowan, Fire Chief Bill Sharp, Senior Planner Donna Colby-Hanks, and City Recorder Joyce Heffington.

Other Present: Curry Coastal Pilot Reporter Arwyn Rice and approximately 18 public.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to move Regular Agenda Item B to A.**

**Ceremonies/Appointments/Announcements**

Mayor Anderson proclaimed Drug Awareness Week and South Coast Hunger Awareness Week.

**Public Hearings/Ordinances**

Mayor Anderson opened the legislative public hearing on File CP-2-09, proposing adoption of the Economic Opportunity Analysis and amending Goal 9 of the City's Comprehensive Plan at 7:18pm. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Director Morris reviewed the staff report and the hearing was closed at 7:24pm.

Mayor Anderson generally stated that he hoped the "study will not be put on a shelf and forgotten," as future development, and the jobs it creates, are important to our community.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt the [April 2009] Economic Opportunity Analysis and amend [Goal 9] of the City's Comprehensive Plan.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-639 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-639 by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-639, an ordinance revising Goal 9 of the City's Comprehensive Plan, and adopting the April, 2009, Economic Opportunity Analysis.**

Mayor Anderson opened the legislative public hearing on File LDC-6-09, proposing amendments to Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code at 7:30pm. Hearing

no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Senior Planner Colby-Hanks gave the staff report and the hearing was closed at 7:34pm.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to amend Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously do a first reading of Ordinance 09-O-637 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-637 by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-637, amending Chapter 17.120, Nonconforming Uses, of the Brookings Municipal Code.**

Mayor Anderson opened the legislative public hearing on File LDC-7-09 at 7:38pm, proposing amendments to Chapter 17.116, Planned Unit Developments, of the Brookings Municipal Code. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Director Morris provided the staff report and hearing was closed at 7:41pm.

**Councilor Pieper moved, a second followed and Council voted unanimously to approve revisions to Chapter 17.116, Planned Community, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-636, by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-636, by title only.

Mayor Anderson read the title.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-636, amending Chapter 17.116, Planned Community, of the Brookings Municipal Code.**

Mayor Anderson opened the legislative public hearing on File LDC-8-09, amending Chapter 17.08, Definitions, of the Brookings Municipal Code at 7:43pm. Hearing no declarations of ex parte, personal bias or interest, and no objections as to jurisdiction, the Mayor reviewed the guidelines and asked staff for its report.

Senior Planner Colby-Hanks gave the staff report and the hearing was closed at 7:47pm.

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve revisions to Section 17.08.120 and Section 17.08.160, of Chapter 17.08, Definitions, of the Brookings Municipal Code.**

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a first reading of Ordinance 09-O-638 by title only.

Mayor Anderson read the title.

Councilor Hedenskog moved, a second followed and Council voted unanimously to do a second reading of Ordinance 09-O-638 by title only.

Mayor Anderson read the title.

**Councilor moved, a second followed and Council voted unanimously to adopt Ordinance 09-O-638, amending Sections 17.120, L Terms, and Section 17.08.160, P Terms, of Chapter 17.08, Definitions, Title 17, Land Development Code of the Brookings Municipal Code.**

### **Resolutions**

Director Howard generally stated that Resolution 09-R-917, adopting new CIS Membership Agreement, is a requirement for the City in order to receive insurance at a lower rate than that provided the private sector.

**Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Resolution 09-R-917, approving the new CIS Membership Participation Agreement for the City of Brookings.**

### **Regular Agenda**

Director Cowan provided the staff report regarding the request to install a tennis backboard at Bud Cross Park. Cowan generally stated that the Parks and Recreation Commission had recommended the installation and had forwarded the proposal to the City for approval. Cowan also stated that the City would draw up an agreement for maintenance to be provided by the tennis group.

**Rich Hayashi, 95244 Cape Ferrelo Road, proposer of the backboard installation, generally spoke in support of the project and stated that there is no tennis group, just him and other individuals who would like to see the backboard installed.**

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve the installation of a tennis backboard at Bud Cross Park.**

Chief Sharp reviewed the change order request for fire apparatus from KME.

During the following discussion, Councilor Gordon expressed disappointment that KME was asking for more money and Mayor Anderson stated that he was troubled that this issue had not come before Council during the course of three Budget meetings, or any other time since it was received by staff in March.

Chief Sharp generally stated that it had taken some time to review the list and he had placed the matter on a "back burner" awaiting Milliman's return. Sharp also generally stated that the need for the change order was largely due to his lack of technical expertise, resulting in the failure to order items that were needed in order to effectively operate the equipment, and ordering items that were either not needed or not adequate to the City's needs.

Generally, Council agreed that they would like to see the additional \$10,889 come out of the \$46,000 approved for this purpose during the budget process.

**Councilor Piper moved, a second followed and Council voted to approve the additional cost of \$10,889 to the Pumper/Tender being constructed by KME, Inc, with Councilor Kitchen voting "Nay."**

Director Howard generally stated that, while acting as City Manager, she had reviewed the matter of the appeal, and supported Planning's interpretation of Brookings Municipal Code Section 8-15-087, as it pertains to the use of a recreational vehicle or travel trailer on vacant property zoned R-3 (Multi-Family Residential). As Planning interprets the Code, Howard stated, developed property is property which includes a residence, an interpretation which the appellants dispute.

Director Howard further stated that Attorney John Trew had reviewed the file and while he concurred with Planning's interpretation, he had stated that it was ultimately up to Council to interpret the Code.

Council Kitchen generally stated that it is, or it is not a development, and an empty lot is not a development.

Lloyd Bendickson, 49 Jack Nicklaus Road, Medford, appellant, generally stated that while the property in question does not have a structure, it is developed in that it has water, sewer and electric lines, as well as a paved drive. The appellant's, he stated, are asking for a firm definition of the term "development." Bendickson also generally stated that the two families have used the recreational vehicle on the site for the past ten years and would like to continue to use it as they have done, while abiding by the restrictions pertaining to recreational vehicles as provided in the Code.

City Manager Milliman generally advised Council against making a decision on this matter during the meeting, cautioning that if they decided to overturn the decision, they could be "opening a door" to recreational vehicles being parked on every vacant lot, no matter its size, throughout the City. City Manager Milliman offered an extension of the abatement as an alternative.

Councilor Pieper generally stated that while he wants to uphold the Code, it lacks a definition for "development," and his definition is that water, sewer, curb, gutter, etc, constitutes development.

Councilor Gordon generally stated that he agreed with the City Manager, and said that, in absence of a firm definition, he chooses to see the property as not developed.

Councilor Hedenskog generally agreed with Councilor Gordon but stated that he would like to make an exception in this instance, due to its particular circumstance as a large parcel in the City's suburbs. Hedenskog further stated that any definition of "development" should define specific exceptions based on factors such as oversized lots with unique settings.

Mayor Anderson generally stated that he did not want to make accommodations for anyone, and asked what other cities are doing.

After much discussion, Council generally agreed to extend the abatement to allow staff an opportunity to research the subject and look at what other cities are doing, how they are handling this issue, and how they define "development."

Councilor Kitchen moved to deny the appeal and not allow this type of occupancy. Failing a second, the motion died.

**Councilor Hedenskog moved, a second followed and Council voted to extend the abatement, request staff to review the wording and see if it's possible to make an exception, and continue the decision on the appeal to the July 27, 2009 City Council meeting, with a "Nay" vote from Councilor Kitchen.**

Director Howard provided a staff report on the settlement agreement offered by Verizon, generally stating that the agreement was the result of an audit that Council approved in 2002. The audit is finally complete and upon signing the agreement, the City would receive a \$10,598 settlement.

**Councilor Kitchen moved, a second followed and Council voted unanimously to approve the settlement agreement with Verizon and authorize the City Manager to sign the agreement.**

City Manager Milliman gave the staff report regarding the proposed adoption of the Economic Development Strategy (EDS), generally stating that the document would be used to guide staff's actions in terms of the City's economic development.

Tim Patterson, 621 Chetco Avenue, generally stated that he is supportive of the EDS and would like to see the private sector involved in its implementation.

**Councilor Gordon moved, a second followed and Council voted unanimously to adopt the City of Brookings Economic Development Strategy dated June, 2009.**

City Manager provided the staff report regarding construction and building materials burning, stating that the issue had been brought forward by Councilor Kitchen.

Chief Sharp generally stated that in the past he had been given the authority to make decisions regarding all burning within the City, with final approval coming from DEQ, and would be comfortable resuming that responsibility again. Sharp also generally stated that major development in 2004 had contributed heavily to the decision informing the current policy and now that development has slowed, those conditions no longer apply. Chief Sharp reviewed a letter from DEQ, describing DEQ's regulation and process as they pertain to open burns.

Councilor Hedenskog generally stated that he was against the idea of allowing large burns again, but if approved, would need to see some very specific restrictions.

Councilor Pieper and Kitchen agreed that the Fire Chief should be allowed to make decisions pertaining to open burns.

Mayor Anderson generally stated that ample opportunity for public input needed to be provided, as there was considerable input when the issue was previously considered. Staff was directed to draft language and inform the public that changes were being considered.

**Consent Calendar**

- Approval of Council Minutes for June 8, 2009.
- Approval of liquor license application for off-premise sales at Pine Cone Tavern.
- Approval to send annual letter to Department of Land Conservation and Development requesting \$6,000 in grant funding for the Planning Department.

**Councilor moved, a second followed and Council voted unanimously to approve the Consent Calendar as written with Councilor Kitchen voting, "Nay."**

**Adjournment**

**Councilor moved, a second followed and Council voted to adjourn by voice vote with Councilor Kitchen voting "Nay."**

Respectfully submitted:

  
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Larry Anderson, Mayor

ATTESTED:  
this 14<sup>th</sup> day of July 2009:

  
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Joyce Heffington, City Recorder