

BROWNSVILLE CITY COUNCIL  
MEETING MINUTES

November 20, 2008

ROLL CALL: Mayor Ware called the meeting to order at 7:00 p.m. with Councilors Ginn, Shepherd, Hoffman, Brenner and Cole present. Councilor Pinnock was excused. Also present were City Administrator Scott McDowell, City Planner Bill Sattler and Public Works Director Karl Frink.

ADDITIONS AND DELETIONS: Mr. McDowell added an executive session at the end of the regular meeting.

MINUTES: The Council reviewed the minutes of the October 16, 2008, City Council meeting. Councilor Cole complimented the quality of the minutes and moved that they be approved. The motion was seconded by Councilor Hoffman and was approved unanimously.

PUBLIC HEARINGS / PRESENTATIONS: NONE

CITIZEN COMMENTS:

Mr. Jay Marsh of 382 Kirk addressed the Council, stating that since he had had to go through a home occupation Conditional Use process that he felt everyone with a business in town should have to go through the same process. Mr. Marsh said that since that hasn't occurred he wants the City to refund the \$250 application fee he paid or he would sue the City for discrimination. Mayor Ware said that the Council would be addressing his issue later in the agenda.

DEPARTMENTAL REPORTS:

1. Administrator Report. Mr. McDowell told the Council that the accounting work on the wastewater project had determined that there is additional money left which can be spent and that work which will replace the sewer line along Seven Mile Lane has been added to the project. Mr. McDowell noted that the money spent would be grant funds. Mr. McDowell said that a small issue had come up regarding a "Water Reclamation Report" which was supposed to be done for the sewer project. He said that he had thought Westech was doing the report but that it is not in their scope of work for the project so he had contacted Cascade Earth Science to see if they can complete the report. Mr. McDowell said that the City has made the first payment to the State of Oregon on the state wastewater loans. Mr. McDowell said that the last legislature had approved a provision under SB 1036 allowing school districts to charge an excise tax on new residential construction of up to \$1.00 per square foot. He said that he had spoken with Ed Curtis, Central Linn School Superintendent, and that Mr. Curtis had told him that due to the current economic situation the school district would not be proposing to adopt any excise tax at this time. Mr. McDowell told the Council that he had reported several months ago that Willamette Neighborhood Housing Services was seeking to form an LLC to protect their funding against any possible lawsuits and that work has been completed. Mr. McDowell said that all the member cities take turns being grant sponsors for the organization and this it is Brownsville's turn to do so. He said that he is not sure how much work will be involved with the application but should find out soon. Mr. McDowell welcomed the Councilors-elect, all of whom were in attendance at the meeting. He said that he wanted to set up an orientation session on a weeknight with the new Councilors and staff. He said that several had indicated they would like tours of the City facilities and he would like to set that up as well.
2. Public Works. Mr. Frink submitted a written report. Mr. Frink said that he had been working on calibrating the instrumentation at the water plant. The drainage project on Washington Avenue is complete. Mr. Frink said that the project wouldn't fix all the problems and that it was more limited than had been hoped due to a lack of fall in the pipes which limited how far west along

Washington the drains could be run. Mr. Frink said that the Pioneer Park leaves had been cleared and some loads of leaves had been delivered to the Community Gardens at their request. Mr. Frink said that the downtown parking lot will be striped, which should increase the capacity of the lot. Mr. Frink said that he had been working closely with regulatory agencies regarding disinfection byproduct testing of the City's water and that he had been able to get them to agree that the City did not need to conduct Phase 2 testing which would have cost around \$2,000 per month. Councilor Cole asked if there is a plan to replace dead and destroyed trees in Pioneer Park. Mr. McDowell said that the Park Board has discussed such a plan but has not yet begun the study/work. Mr. McDowell said he would be speaking with Bud Baumgartner about it as he has a lot of experience in forestry. Mr. McDowell said the Park Board would be discussing the subject in March and April and he will report back to the Council on their discussions.

3. Planning. Mr. Sattler provided a written report and updated the Council on current projects around town. Mr. Sattler said that he was on the Board of Directors of the Oregon City Planning Directors Association and had attended their monthly meeting last Friday. Mr. Sattler said the meetings were very useful as the League of City's lobbyist attends the meetings so there is an opportunity to learn what is going on in the legislature and to influence the League's lobbying. Mr. Sattler reminded everyone that the legislature would be starting up again in January. Mr. Sattler said that he had met with Tim Smith the previous week and that Mr. Smith had been attempting to sell the RV Park project. Mr. Sattler said that he was talking with representatives of a potential buyer for the project which could enable it to move forward if the transaction is completed.
4. Library Report. Mr. Smith submitted a written report.
5. Sheriff's Report. Sgt. Lawler was in attendance and answered some brief questions.
6. Council Reports. None.

#### LEGISLATIVE ACTION:

1. Resolution 620 – Cable Television Franchise Transfer. Mr. McDowell said that investigating the transfer of the cable franchise had been "disheartening" as Rapid Communications is selling 234 franchises in total, of which Brownsville is one. Mr. McDowell said the City really doesn't have any leverage in the matter and any legal action would cost more than it is worth to pursue. Councilor Brenner asked if Mr. McDowell had any concerns about the transfer. Mr. McDowell said that he didn't know if Almega is licensed to do business in Oregon and he is also concerned about whether their equipment is ready for the conversion to digital signals. Mr. McDowell said he will continue to follow up with Almega but that with only about ninety (90) customers left in Brownsville he doesn't have much negotiating leverage.
2. Resolution 621 - Certify Election Results. Mr. McDowell said that he hadn't received the official results from the Linn County Clerk but that they should be available at the next meeting.

#### ACTION ITEMS:

1. Calapooia Food Alliance (CFA) Lease Agreement. Councilor Brenner explained that the Farmers Market is looking for a new location as they are not sure how long the existing site will be available. They have looked at a number of locations and think that Kirk's Ferry Park would be the best site. Councilor Brenner said that the Park Board had reviewed the proposed lease and had approved the plan. Councilor Cole asked if there would be a conflict with other uses. Councilor Brenner explained that the use would be for half a day on Saturdays only and only in the area around the parking lot. Councilor Shepherd asked about parking stating that there is inadequate

parking in the area. Councilor Brenner said that customers can park in the gravel parking area already there. Councilor Hoffman said that it is legal to park on the street so long as traffic is not interfered with. Councilor Shepherd said that parking in the narrow portion of the street would be a traffic hazard. Councilor Ginn said she wanted to see a definite timeline for the CFA to apply for grants for improvements to the park. Councilor Brenner said applications depend on the availability of grant funds which is always uncertain. Councilor Hoffman asked what kind of improvements are envisioned for the site. Councilor Brenner said that a simple roofed structure for weather protection and some storage area for tables and equipment would be useful for the market. Councilor Cole said that if the lease would not be effective until 2010 why rush to sign it now. Councilor Shepherd suggested that a bathroom would be needed at the site. Mayor Ware suggested that the Council look into it and discuss the matter further at the next meeting. Ms. Nan Van Sandt asked if the Food Alliance had looked at other sites. Councilor Brenner said that they had but thought that Kirk Avenue was the best site.

2. Committee Appointments and Advertising. Mr. McDowell said that on the Planning Commission the terms of Gary Compton and Ruth Lawhon expire at the end of the year and both had requested to be reappointed. Councilor Cole moved that Mr. Compton and Ms. Lawhon be reappointed to the Planning Commission. The motion was seconded by Councilor Shepherd and was approved unanimously. Mr. McDowell said that on the Budget Committee the terms of Bob Schlosser and Tony Gorsline expire at the end of the year and both had requested to be reappointed. Mr. McDowell said that Robert Boyanovsky had applied for one of the open positions on the Budget Committee. Councilor Hoffman moved that Mr. Schlosser, Mr. Gorsline and Mr. Boyanovsky be appointed to the Budget Committee. The motion was seconded by Councilor Cole and was approved unanimously. Mr. McDowell said that on the Historic Review Board Ms. Joni Nelson's term was due to expire and she would like to be reappointed. Councilor Cole moved that she be reappointed. The motion was seconded by Councilor Hoffman and was approved unanimously. Mr. McDowell said that on the Park Board Mr. Boyanovsky had applied to take the position to be vacated by Ms. Gerber when she joins the Council in January. Councilor Cole moved that Mr. Boyanovsky be appointed to that position. The motion was seconded by Councilor Hoffman and was approved unanimously. Councilor Ginn moved that the remaining vacancies be advertised. The motion was seconded by Councilor Cole and was approved unanimously.
3. Public Works Emergency Agreement. Mr. McDowell said that the City had obtained a draft agreement from the Oregon Department of Transportation which is a public works mutual aid agreement. This agreement would allow other agencies to help Brownsville in an emergency and for Brownsville to help others, while setting out various responsibilities and costs. Other agencies are signing the same agreement so that there will be a network of agencies set up to help each other if needed. Councilor Brenner asked if Linn County would help. Mr. McDowell said that they would if they were able but an emergency might include both Brownsville and Linn County. Mayor Ware said that he knew that the City of Halsey had just approved the agreement. Councilor Ginn moved that the agreement be approved. The motion was seconded by Councilor Cole and was approved unanimously.

#### DISCUSSION ITEMS:

1. Marsh Complaint. Mr. McDowell said that Mr. Marsh had submitted a letter complaining that a business was being operated at 1119 Kirk Avenue without a home occupation Conditional Use. Mr. McDowell provided background of the situation, explaining that Mr. Marsh had been required to apply for a Conditional Use which had been denied and Mr. Rodolf had testified against him. Mr. McDowell said that he had spoken with Jerry Lidz, City Attorney, and discussed the matter with Bill Sattler, City Planner. The issue of exactly what constitutes a business requiring a Conditional Use hearing is not clear in the Municipal Code so he had looked at past history and practices. Mr. McDowell said that there are many small businesses operated out of homes in Brownsville and only a few have been required to go through the Conditional Use process. Mr. Lidz recommended that the Council get a statement from the

Planning Commission regarding what standard has been used in the past for requiring a Conditional Use. Mr. Rodolf of 1119 Kirk said that there is no business conducted at his house, that he has a home office there and receives mail there but that no work takes place at his residence and no customers come there. He said that he has a business location in Eugene where his business takes place. Councilor Ginn asked if he received mail and did billings from that address. Mr. Rodolf said that he did but no work took place there. Mr. Rodolf said that he drives a company van home but so do many others. Councilor Shepherd compared that to a deputy driving a county car home. Mr. Marsh said that he feels he was singled out for no reason and is willing to settle for having his \$250 application fee returned to him. Mayor Ware said that the reason Mr. Marsh was required to apply for a Conditional Use was because of complaints from his neighbors. Mr. Marsh said that he wasn't selling anything from his home so he didn't feel he was conducting a business there. Councilor Cole suggested getting feedback from the Planning Commission and reaching a decision on the matter after that. Mayor Ware said that the Planning Commission will meet the second Monday in December and the Council will request that they give their comments on when home occupation Conditional Uses should be required. Councilor Ginn asked Mr. Marsh to submit a letter to the City stating his request for a refund of his application fee.

2. City Hall Usage – Next Steps. Councilor Brenner said that the Council may want to set a deadline for letters of intent to use the space so that they know who is interested and ready to use the space. He said the Fire Department is planning to move out in March so he suggested the end of January as a deadline for proposals. The Council agreed by consensus. Mayor Ware said that Sharing Hands is interested in the space.
3. Calapooia Watershed Council & Canal Company. Mr. McDowell said that there had been an article in the Brownsville Times regarding the new pump station that everyone should read. He said that he had spoken with Denise Hofert-Hay and she is getting as-built drawings and an operations manual for the pump station. Tim Otis will meet with Mr. Frink to go over the operation of the pump station. Mr. McDowell said that Michael Mattick, the area Watermaster, will allow 2.5 cubic feet per second (c.f.s.) of flow in the Millrace and that could possibly be increased if needed to keep adequate flow. Mr. McDowell said that OWEB has pledged \$8,000 for electricity costs and the Watershed Council has pledged \$1,400 for power. Mr. McDowell said that there is an obstruction in the Millrace not far below the pump station and he needs to speak with the Canal Company about maintenance. Councilor Brenner asked if the Canal Company was going to stay in existence. Mr. McDowell said that they needed to as they are responsible for maintaining most of the Millrace. Council requested Mr. McDowell send a letter to the Canal Company to discuss issues.
4. Weed Abatement Language. Mr. McDowell said that he had looked at similar ordinances from many other cities and nearly all of them set their limit at 10" for both weeds and grass. He recommended using that figure in any new ordinance the Council considers. Mr. McDowell said that before it takes any enforcement actions the City needs to make sure that City property is in order and that with so many events going on in May there will be many years where Public Works is not able to get the City's property mowed until June. Nan Van Sandt asked about the need for the ordinance as she and her husband have several acres of land and see no need to keep most of it mowed in the summer. Councilor Ginn said that it was due to concerns about fire hazards. Ms. Van Sandt said many people moved to a Brownsville to have a more rural atmosphere and the Council should respect that. Mr. McDowell recommended that on large lots like the Van Sandt's that grass be kept mowed within 30' of buildings and 20' from streets. Mr. McDowell said that no ordinance is going to be perfect, that the City just needs a manageable ordinance that can be enforced fairly and evenly through the community. There was discussion regarding the parking strip or planting strip areas between the street and the edge of the right of way. Mr. McDowell said that many cities require the adjoining property owner to care for that area. Mr. Frink said that the Public Works Department spends a lot of time in the summer maintaining those areas. The Council discussed the matter further and agreed that the

next step is to get to a rough draft of the proposed ordinance and then to have public comment on it.

COUNCIL COMMENTS:

Mayor Ware had a question regarding the financial reports. He noted that in the last month the City has \$76,600 in income and around \$109,000 in expenses. Mr. McDowell said that revenue comes in unevenly during the year and it's not unusual to have months where the expenses are higher than the income. The result will change as November is when taxes are collected by Linn County; Council should see different results in November and December.

CITIZEN COMMENT: NONE

EXECUTIVE SESSION: Mayor Ware stated that the Council would be holding an executive session pursuant to ORS 192.660(a). The Council adjourned to Executive Session at 8:20 p.m.

ADJOURNMENT: The Council returned to regular session at 8:55 and was adjourned without further action being taken.



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City Administrator S. Scott McDowell

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Mayor Don Ware