



## Council Minutes

November 27<sup>th</sup>, 2012

**ROLL CALL:** Mayor Ware called the meeting to order at 7:00 p.m. with Councilors Shepherd, Chambers, Gerber, Van Sandt and Boyanovsky present. City Administrator Scott McDowell and Public Works Director Karl Frink were also present. Councilor Cole and City Planner Bill Sattler were excused.

**PUBLIC:** Kaye Fox, Sergeant Brad Kelley, J.D. Cochran, Scott Johnson, Don Grubbs, Colleen Garrison, Alice Tetamore & Dr. Lori Garcy.

**ADDITIONS AND DELETIONS:** None.

**MINUTES:** The Council reviewed the minutes of the October 23<sup>rd</sup>, 2012 meeting making two corrections, one regarding the date and the other clarifying Councilor Van Sandt comments regarding the flagpole proposal. *Councilor Gerber moved to approve the minutes with the corrections as noted. The motion was seconded by Councilor Shepherd and was approved unanimously.*

### **PUBLIC HEARINGS OR PRESENTATIONS:**

1. **Sweet Home Sanitation – Mr. Scott Johnson.** Mr. McDowell gave a brief overview of this process indicating that in October 2011 Council had directed Staff to work with Sweet Home Sanitation in reviewing the franchise agreement. The purpose of this evening's meeting is to discuss and negotiate on any of the changes being proposed. Mayor Ware turned the floor over to Mr. Johnson who addressed some of the highlights. He started by discussing rates and how they would be adjusted in the event of landfill tipping fee increases, fuel surcharges and other variables that are subject to change at any time. The agreement is basing normal rate changes on the area consumer price index (CPI) so that large rate fluctuations could be minimized. Johnson said that any rate changes will be forwarded to Council and passed by resolution. The new language also clarifies the enforcement process. Some of the waste such as metal and recycling materials are reclaimed by Sweet Home Sanitation and used to offset the cost of services to every citizen/customer. A three-year review has also been added in order to review the franchise agreement regularly. The last time the franchise was reviewed was 1998. Mayor Ware indicated that he really like the three-year review because it allows for the Council to do their job in terms of contract review & administration. Mayor Ware suggested a rewording in Section 8 to clarify the terms of service. Councilor Van Sandt suggested a typographical change to Section 4.5. Mayor Ware also noted the date change at the end of the agreement. Councilor Chambers discussed some timing concerns regarding the yard waste cart. Mayor Ware felt like the agreement was ready to proceed to the next step. McDowell indicated that he will make the necessary corrections to the agreement have in ordinance form for the December meeting. Mr. McDowell asked Mr. Johnson to share some information regarding the possible rate increase. Mr. Johnson indicated that they are proposing 2.2% increase which equates to \$.50 per service tier. McDowell was asked to proceed.
2. **Brownsville Art Association – Alice Tetamore.** Mrs. Tetamore gave an overview report of how the Art Center was being utilized. She was very pleased to report that the flooring project has been completed. Mrs. Tetamore acknowledged Don



## Council Minutes

Gonzalez, Roger Tetamore, Tom Janssen, Steve Brenner & Phil Fox for all the time and effort they donated toward the completion of this floor. Mrs. Tetamore said the Art Center could not be more grateful for their efforts. Mrs. Tetamore also thanked the City for the continued assistance, namely Public Works Superintendent Karl Frink. Tetamore continued by sharing that the group is working on a business plan, furthering education classes and workshops and sustaining their financial position for the future. Mrs. Tetamore indicated that two major changes were being included in this iteration of the agreement. First, subletting has been added as part of the agreement in the event that an opportunity presents itself in the future and secondly, due to the occupancy change of the building the Association is being asked to cover general liability and personal property for the space. The agreement includes Council paying for the insurance premium using a step down scale over the course of this agreement. Council is being asked to pay toward the premium only, the Association is responsible for the deductible in the event of an occurrence. Mrs. Tetamore drew Council's attention to the fees and indicated that the Association has been paying \$50 per month and hopes to have that number to \$100 per month as soon as they can afford to do so. Mayor Ware thanked everyone for doing such an exceptional job at the Art Center. Councilor Gerber felt that the agreement was very reasonable and liked the solution of the step down approach for the insurance premium. The intent is to assist the Association toward self-sufficiency. Dr. Lori Garcy indicated that there will be a reception Friday night and invited all to attend. She also shared her excitement regarding the clientele that is using the space & the amount of local artists that are utilizing the Art Center. *The motion was made by Councilor Gerber, seconded by Councilor Van Sandt to approve the Memorandum of Understanding with the Brownsville Art Association as presented. The motion carried unanimously.*

3. Colleen Garrison – 382 Kirk Avenue. Mrs. Garrison discussed the history of the metal situation at her residence. Mr. Marsh started doing scrapping as a way to make ends meet. They were trying to save their home. Mrs. Garrison shared some personal information regarding extenuating circumstances that have led to the property being in the condition that it is currently in. Mrs. Garrison stated that she wants the property to look great. She is also bothered by the current exterior condition. Mrs. Garrison did indicate that progress has been made over the course of last two months. Some of the personal items that were in the driveway have been removed however there still some trash remaining. Mrs. Garrison also indicated that there is a container filled with metal in the driveway. Mrs. Garrison indicated that she would like to build an accessory building to take care of her daughter's horse and provide a place to store chicken feed. She also said she would like to construct a privacy fence. Mrs. Garrison is requesting an extension to December 15<sup>th</sup>, 2012 in order to bring the property into compliance with the ordinances. Mayor Ware asked Mr. McDowell to give a brief overview for Council's benefit. McDowell explained that there were two ordinance violations occurring on the property. The first ordinance issue is regarding a violation of the Chapter 8, the nuisance portion, of the Brownsville Municipal Code and the second ordinance issue is regarding Chapter 15, the zoning code. McDowell indicated that progress has been made regarding the Chapter 8 violation. McDowell then explained that the Chapter 15 violation is still existing. In a Medium Density Zone, people are allowed to build primary residences with up to four units per structure. People can apply for a conditional use which would allow



## Council Minutes

a home occupation for the purpose, in this case, of collecting and working on metal. Mrs. Garrison indicated that she may apply for a Conditional Use permit in the future. McDowell indicated that he did receive a call from Mr. Jay Marsh asking for an extension due to some very serious personal issues that he is dealing with. *A motion was made by Councilor Van Sandt, seconded by Councilor Gerber to extend the deadline to December 15<sup>th</sup>, 2012.* Council did clarify that Mr. McDowell would be working in conjunction with Sweet Home Sanitation to bring the property into compliance on December 17<sup>th</sup>, 2012. Mr. Don Grubbs introduced himself. Mr. Grubbs is Mrs. Garrison's ex-husband. He reported that he has recently moved to Brownsville and really enjoys the community. He apologized for the situation and indicated that they would do their best to make sure that the property was brought into compliance with the ordinance.

### DEPARTMENT REPORTS:

1. Sheriff's Report. Sgt. Kelley reported that there has been graffiti activity popping up in certain areas of town. He was also sorry to report that the new business on Spaulding Avenue had been broken into. He indicated that it is very early in the investigation however they do have a lead that he hopes will lead to a conviction. Sgt. Kelly was asked by Mrs. Kaye Fox about the graffiti and its relation to gang activity. Sgt. Kelley indicated that it appears to be kids playing with spray paint.
2. Planning. No oral report. Mr. Sattler provided a report that was part of the agenda packet.
3. Public Works. Mr. Frink reported that the crew had two water leaks on Templeton Street and Kisling Street. Staff is still working on the punch list items for Oak Street and will be meeting with Erwin Consulting to review the work recently performed by Houck Construction in an attempt to correct those issues. Public Works will closed and winterized the Park on October 31<sup>st</sup> as per ordinance. Frink indicated that leaves will be collected from the Park in the very near future. The crew also cleaned up the cemetery for Veterans Day. Mr. Frink then gave an overview regarding the National Pollutant Discharge Elimination System (NPDES) permit the City is currently in the process of having renewed. Frink explained that the State of Oregon has been involved in environmental law since 1889 when the State Legislature passed a water use law regarding animal feces and the impact on rivers and streams. In 1969, the Department of Environmental Quality (DEQ) as we know it was established. The United States Congress passed the Clean Water Act in 1977, the Environmental Crimes Act in 1993, reauthorized Clean Water Act in 1996, passed Source Water Protection 1999 and the State of Oregon defined the Total Maximum Daily Load (TMDL) requirements in 2006. Frink stated that the NPDES permit gives all cities and districts the authority to discharge clean wastewater into State owned bodies of water such as the Calapooia River. When this process started, the NPDES permit had a ten year review, which was removed to a five year review and now is a three year review. Frink reviewed several of the responsibilities of the City and what parameters and measurements the State is using to enforce those requirements. The new NPDES permit requires the City to go from 0.1 mg/L to 0.05 mg/L for chlorine residual. Right now it is unclear what this change will cost the City in terms of equipment purchase and process modification. Frink reported that the



## Council Minutes

telemetry industry cannot measure that level accurately. Westech Engineering is reviewing the implications. Frink continued by saying that in 2000 the limit for the City was 1.0 mg/L for chlorine residual. So the government has implemented a 95% reduction in 12 years. McDowell briefly reviewed the information at the end of the agenda packet regarding new requirements that could be proposed nationwide. The financial implications for the City are tremendous.

4. Administrator's Report. McDowell indicated that Anne Hankins of the Willamette Country Music Festival (WCMF) has been pleased with the interaction with Linn County Sheriff's Office and the debriefing process that has been continuing. The WCMF has been met with additional challenges, but Mrs. Hankins feels that they can reach agreement with Linn County. McDowell said that Boldt, Carlisle & Smith is continuing to work on the Audit for 2011. City Auditor Joshua Morrow hopes to have the report just after the first year. Mr. Morrow will also be working on reconciling the books for the first part of this fiscal year due to major personnel shifts. McDowell also indicated that he and Jannea Deaver continue to work on the payroll transition for the City. McDowell indicated that his responsibility with the Visit Linn Coalition and the Oregon Parks and Recreation Department's (OPRD) Grant Advisory Committee are in full swing right now.
5. Library Report. Ms. Lemhouse provided a written report. Councilor Van Sandt indicated that the Book Sale is this Saturday and invited those who wanted to help set up on Friday to come on down to the Library.
6. Court Report. The Municipal Court provided a written report.
7. Council Comments. Councilor Boyanovsky said that he attended the Rec Board meeting last night. The Board is looking for a Football and Baseball Director. The Board accepted Shawn Garrett's resignation.
8. Citizen Comment. Mrs. Kaye Fox reported that she had conveyed to the Senior Center that the City was no longer going to be providing the courtesy of sidewalk care. Fox reported that nobody was upset about the issue. Last meeting the practice was discontinued due to the amount of complaining the City continues to receive for doing this community courtesy. She also thanked Mayor Ware for running the Foster grandparent article. Mrs. Fox is part of the Foster grandparent program to Central Linn Elementary School. She's helping others be involved in this way.

### LEGISLATIVE:

1. Resolution 693 – Certifying Election Results. *A motion was made by Councilor Boyanovsky, seconded by Councilor Shepherd to certify the election results as provided by the Linn County Clerk's Office for the November 6<sup>th</sup>, 2012 Election. The motion passed unanimously.*
2. Resolution 694 – Pro Tem Judge Appointment. McDowell reported that Judge Lemhouse recently learned that Judge Witzig would no longer be able to perform in this capacity due to starting a new job with the State of Oregon. Council is



## Council Minutes

being asked to pass this so the Court has adequate backup judges available. McDowell indicated that Council will be asked to pass another resolution in January 2013 which is the normal, annual resolution for this purpose. *A motion was made by Councilor Gerber, seconded by Councilor chambers to approve this resolution is written. The motion passed unanimously.*

3. Resolution 695 – Copy Machine Purchase. McDowell indicated that the current machine is at the end of its useful life and that Council has budgeted funds for this replacement. *A motion was made by Councilor Gerber, seconded by Councilor Boyanovsky to enter into an agreement with Pacific Office Automation in the amount of \$7,042.30 for the purpose of procuring a digital copy machine. The motion passed unanimously.*

### ACTION ITEMS:

1. Appointed Officials and Possible Advertisements. *A motion was made by Councilor Van Sandt, seconded by Councilor Chambers to appoint Jamie McConnell to the Library Advisory Board. The motion passed unanimously.*
2. Council Work Session. McDowell said that it was time once again to hold two sessions, one for an organizational review and the other for goal planning. Discussion ensued. The group agreed that Thursday, February 7<sup>th</sup>, 2013 at 7:00 p.m. would be for goal review and goal planning and that Saturday, February 9<sup>th</sup>, 2013 at 10:00 a.m. would be for organizational review and would include a tour & lunch.
3. 1022 Oak Street – Fence Issue. Mr. McDowell shared pictures of the fence at this location. McDowell indicated that Chapter 8 of the Brownsville Municipal Code allows Council to identify and correct nuisance situations. McDowell stated that there is graffiti on the fence and the fence is in an unsafe condition. *A motion was made by Councilor Gerber, seconded by Councilor Van Sandt to abate the portion of this fence due to the graffiti and the unsafe condition of the fence. The motion carried unanimously.*

### DISCUSSION ITEMS:

1. MOU Updates. Mr. McDowell reported indicated that the City and Rec Board have agreed to exercise the option that allows the current agreement to stay in place for one additional year. The agreement will be reviewed in 2013. McDowell provided a copy of the clause for Council's review at the time of the meeting.
2. Nuisance Abatement Updates. Mr. McDowell indicated that the City is still working on the properties mentioned at the last Council meeting including 903 Ash Street.
3. Possible Nuisance Legislation. McDowell discussed problems the City has had with RV's being allowed in certain zones in our community. McDowell asked Council if they were interested in reviewing language that would modify the current ordinance. Council concurred. McDowell then shared a model garage sale ordinance indicating that the nuisance abatement process was being circumvented by citizens putting up garage sales. McDowell shared several



## *Council Minutes*

examples that happened just in the last two years. Councilor Chambers did not care for the model and did not feel that it was in the City's best interest. Council asked Mr. McDowell to proceed with language for Council consideration at a future meeting. McDowell discussed the possibility of instituting an internal building permit process. He shared a form and explained how this process would ensure that property owners are complying with the zoning ordinance in terms of setbacks and building requirements as articulated in the Brownsville Municipal Code. Council asked McDowell to proceed.

4. October Financials. McDowell reported that once Bolt, Carlisle and Smith had finished a reconciliation work for the current fiscal year, this report would return to Mayor Ware's liking.

CITIZEN COMMENT: None.

COUNCIL COMMENTS: Councilor Chambers asked about the status of the American Legion flag pole project. McDowell indicated that Administrative Assistant Elizabeth Coleman & Rick Dominguez have met with the County. Linn County will allow this type of installation with the proper permitting. Dominguez has been provided with all the requirements necessary for such a project and has been asked to return to Council prior to executing a right-of-way permit with Linn County.

EXECUTIVE SESSION: The Council adjourned to Executive Session at 9:14 p.m. pursuant to ORS 192.660 Section (e) and (i).

Mayor Ware & Council returned to Regular Session at 10:25 p.m.

McDowell discussed the Library hours. The motion was made by Councilor Shepherd, seconded by Councilor Boyanovsky to modify the Library hours as needed. The motion passed unanimously.

ADJOURNMENT: Councilor Shepherd moved to adjourn. The meeting was adjourned at 10:30 p.m.

  
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City Administrator S. Scott McDowell

  
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Mayor Don Ware