



## Council Minutes

January 27<sup>th</sup>, 2015

**ROLL CALL:** Mayor Don Ware called the meeting to order at 7:00 p.m. with Councilors Shepherd, Boyanovsky, Van Sandt, Cole, Chambers, and Council-elect Neddeau present. Councilor Gerber was excused. Public Works Superintendent Karl Frink, City Attorney Lauren Sommers, Administrative Assistant Tammi Morrow and City Administrator Scott McDowell were also present.

**PUBLIC:** Allen Buzzard, JoAnn Neddeau, Patty Linn, Christine Harrison, Lori Garcy, Elizabeth Coleman, John Morrison, Glenn Reinemer, Thane Ashcraft, Rick Dominguez, Kaye Fox, Linn County Deputy Brad Kelley, Alex Paul (Albany-Democrat Herald), Ed Terrell, Josh & Tina Kittle, Dale Middlestadt, Michael Landi and Randy and Gayle Simpson.

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** Mr. McDowell informed Council that they will find the goals set out in a different format as requested at the recent goal setting session held on January 24<sup>th</sup>, 2015. McDowell also provided Resolutions 2015.03 (Transfers) & R 2015.05 (Brownsville Art Association) for consideration. McDowell would also like to add agenda item 10) G. under Action Items (Canal Company request from Councilor Shepherd) to the agenda tonight.

**MINUTES:** Councilor Cole made a motion to approve the December 16<sup>th</sup>, 2014 meeting minutes as presented. Councilor Chambers seconded the motion, and it passed unanimously.

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

**Oaths and Affirmation of Office** – Justice of the Peace Jad Lemhouse administered the oaths/affirmation of office to Mayor Don Ware, Councilors Shepherd, Cole, and newly elected Councilor Mike Neddeau.

**Resolution 2015.04**– Mr. McDowell read R 2015.04, thanking Councilor Boyanovsky for his service to Brownsville. Mayor Ware declared the resolution approved. Councilor Boyanovsky left his seat on the dais and Councilor Neddeau was installed.

**R 2015.05 – Brownsville Art Association (BAA)**– Dr. Lori Garcy thanked Council for all the support over the last several years. They currently are still operating under the City, but are working on getting their own non-profit status. The BAA is once again applying for grant funding from the Linn County Cultural Coalition, and the City will serve as necessary officials for the possible award, including fiduciary and reporting responsibilities. Mr. McDowell thanked Councilor Cole for putting together the resolution on behalf of the BAA. Councilor Shepherd moved to approve R 2015.05 to apply for grant funding in conjunction with the Brownsville Community Foundation, Councilor Cole seconded the motion, and it passed unanimously.

**Medical and Recreational Marijuana Discussion** – To recap the situation, the moratorium for the medical marijuana dispensary will expire on 4/30/2015. A business registration process has been implemented requiring all businesses to comply with federal, state, and local laws. (The business registration currently prohibits dispensaries from opening as marijuana is against federal law as a Schedule I Controlled Substance.) A committee was convened by Council to discuss implications of the newly passed



## Council Minutes

Measure 91 which legalizes recreational use marijuana. The outcome of the committee was to recommend to Council that a land use ordinance should be established. The City could limit dispensaries to certain zones, namely volume commercial and light industrial zones. City Attorney Lauren Sommers was present to answer any questions and informed Council that Staff is basically waiting on direction from them as how to proceed. Council discussion followed. Mayor Ware stated that he would like to prevent the dispensary from opening downtown, but would like to lift the federal part of the business registration so they could open elsewhere in town. Councilor Shepherd stated that he is opposed to the shop opening in Brownsville, and that the Federal language needs to stay in the Business Registration application process. Councilor Van Sandt asked Ms. Sommers how the State is weighing in. Ms. Sommers stated that it is unknown at this time. On July 1<sup>st</sup>, home grown marijuana for recreational use becomes legal. On January 1<sup>st</sup>, 2016, the Oregon Liquor Control Commission (OLCC) will begin accepting applications for recreational operations as allowed under Measure 91. She is aware of many bills coming up at the State level, but it is too early to know how it will all come out. Councilor Chambers stated that she is totally against changing the Business Registration language. She also reminded all the Councilors of the oath of office that they all just heard, and many took the oath tonight. It specifically stated that you swear to uphold all federal, state, and local laws. Council Neddeau agreed with Councilor Chambers. *Councilor Cole made a motion to continue with the Business Registration, retaining the federal language, and concurrently moving forward with the land use ordinance. Councilor Shepherd seconded the motion. The motion passed, 4-2, with Mayor Don Ware and Councilor Van Sandt voting against.*

### DEPARTMENT REPORTS:

1. Sheriff's Report. Sergeant Kelley was present. He has nothing to report and asked for any questions from Council. Mayor Ware stated that he had heard there has been an increase in crime locally, Sergeant Kelley that he had not heard that. Recently, the museum alarm was activated and Sergeant Kelley was on scene within five (5) minutes.
2. Public Works. Mr. Frink reported that they have installed 3 new water services at Bishop Royale. Street grading will happen in the near future, as soon the leaf project in the park is completed. Councilor Shepherd inquired about the manhole project. Mr. Frink stated that the City is still awaiting bids. Mr. Frink also discussed violations that occur about once a year from discharge from the North Lagoon. Basically, the City does not know about the violations until testing has been done, which takes the lab about 5 days to complete the testing, and about two weeks before the City receives notification. Therefore, this process does not allow for the City to make timely corrections. It is a cumbersome system, but with no real way of correction at this time. Frink also explained that technically it is still within the parameters of the permit granted by DEQ if you take into consideration the rainfall.
3. Administrator's Report. Mr. McDowell informed Council about the successful cleanup of a nuisance at 108 E. Blakely. After the property was posted, and official notices sent, Sweet Home Sanitation came in and cleaned the property, removing 6 tons of material from the location. The City will issue an invoice for the charges to the property owner. At 382 Kirk Avenue, the nuisance was finally removed from the front porch. Mr. McDowell and Ms. Morrow met with Ms. Garrison and offered assistance to move the nuisance inside the residence. The American Legion, Rick Dominguez & Norman Simms, were instrumental in helping with the move. At 1118 Oak Street, Administrative Assistant Elizabeth



## Council Minutes

Coleman and McDowell have been successful in getting the offenders started in the proper process and ultimately hopefully closer to compliance. The Ash Street nuisance owners are also working toward compliance as well. Mr. McDowell and Ms. Morrow are also keeping an eye on the feral cat situation in the Moody Court area. The situation has resolved for the moment. Staff will continue to monitor. Mr. Frink, John Erwin, and Ryan Quigley (Erwin Engineering) continue to work on the GR12 water source redevelopment. Pacific Power has been contacted to determine electricity needs. Staff is proceeding full speed ahead. The Central Linn School District office will move from its current location on Blakely out to the high school campus by April 1<sup>st</sup>, 2015. The School Board may be inviting Council to a discussion for land/building use soon. Mr. McDowell reminded Council that there will be a town hall meeting dealing with the Leash Law petition at the beginning of the February 24<sup>th</sup>, 2015 Council Meeting. McDowell also informed Council that he and Ms. Coleman, Mr. Frink, John Erwin and Ryan Quigley (Erwin Engineering) had recently met and discussed how to best accomplish the planning & development goals of the City. In your packet McDowell has included a Development Plan Review Process step by step diagram that ranges from pre-design/intake to Pre-con and/or inspections at the completion of the project. This process outline will greatly help Staff, and developers, to standardize planning department projects, policies, and processes. Recently, Public Works Superintendent Karl Frink found that grouting and channeling in sanitary sewer manholes in North Point Loop needs to be done. The City has gone out for bid on this project, more information to come as it is available. McDowell indicated that enforcing standards is important for these kinds of items not to have to be paid for by the taxpayers.

4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. No comments.
7. Citizen Comments. Allen Buzzard passed out a handout for Council dealing with O748 and the covenants, conditions & restrictions (CCR's) required in his subdivision. Mr. McDowell responded that he had already talked with the City's contractual planner and attorney and the City is not required to recognize CCR's; they are to be enforced by a homeowner's association or other private mechanism. The language provided by Mr. Buzzard was talking about fencing going across easements or right-of-ways but does not address fencing on private property.

### LEGISLATIVE:

1. O 748: Public Works Standards, Accessory Structures, & Fences (Second Reading- Tabled from December Meeting). Councilor Cole stated that based on the work session she would like to suggest that Council needs clarification of values and vision, and that perhaps this clarity will come from the upcoming February 21<sup>st</sup>, 2015 work session. Councilor Cole would like to suggest taking O 748 off the agenda for now and perhaps address this issue after the upcoming work session. Mayor Don Ware stated that he did not understand the need to do that. Councilor Van Sandt stated that she had been told that this issue was going to be tabled until the next meeting. The reason this issue needs to be discussed tonight is because the DLCD has already been noticed, and this issue has been



## Council Minutes

tabled twice by Council already. Mr. McDowell suggested, however, that Council does not have to punt on the whole issue, they could approve the ordinance issue by issue. For example they could pass just the Public Works Standards or any other piece that they were comfortable passing and maybe reach a compromise that way. Mayor Ware stated that he would like to hear the reasoning behind tabling or removing this item from the agenda. Councilor Cole stated that she feels that Council gets bogged down in details. She feels that if Council can take this item off the agenda now, after the next work session, Council may have a better grasp of the vision and the character of Brownsville. Councilor Shepherd stated that he felt the ordinance was very straight forward. Mr. McDowell clarified some of the fence ordinance language for Council. He stated that one of the problems with not having standards and a permitting process is that when structures or fences are built, historically, no one has ever gone out and done inspections that verify that any structure meets setback requirements, etc. With this new ordinance Staff will be required to properly check these parameters. This ordinance will honor the Brownsville Municipal Code as it is written. *Councilor Shepherd made a motion to read O 748 by title only. Councilor Chambers seconded the motion, and it passed unanimously. Mayor Don Ware read O 748 by title only. Councilor Shepherd made a motion to pass O 748 as presented. Councilor Chambers seconded the motion. The motion was voted on and passed, 5-1, with Councilor Van Sandt opposing.*

2. R 2015.01: Pro Tem. *Councilor Cole made a motion to approve R 2015.01 appointing Pro Tempore Judge(s) for the Brownsville Municipal Court. Councilor Shepherd seconded the motion, it passed unanimously.*
3. R 2015.02: Commitment to Safety Program. *Councilor Cole made a motion to approve R 2015.02 reaffirming the Safety Policy and Loss Prevention Program. Councilor Chambers seconded the motion, it passed unanimously.*
4. R 2015.03: Transfers. *Councilor Shepherd made a motion to approve R 2015.03 authorizing transfers within certain fund for the fiscal year 2014-2015 budget. Councilor Cole seconded the motion, it passed unanimously.*

### ACTION ITEMS:

1. Elect Council President. *Councilor Cole made a motion to nominate Councilor Chambers to serve as Council President for 2015-2016. Councilor Shepherd seconded the motion, it passed unanimously.*
2. Appoint Cascade West Council of Governments (COG) Representative. *Mayor Don Ware agreed to be the representative for this year. Councilor Cole said that she might be able to do it after that. It is not an interchangeable position as it is a voting member seat. All of the Council may attend as observers.*
3. Appoint Central Linn Recreations Association Liaison. *The meetings are held on the last Monday of each month. Councilor Chambers volunteered to be the representative.*



## **Council Minutes**

4. Parks & Open Space Advisory Appointment. The City received one letter of interest from Mrs. Elizabeth (Betsy) Ramshur for the Parks and Open Space Advisory board. *Councilor Cole made a motion to appoint Ms. Ramshur to this position. Councilor Van Sandt seconded the motion and it passed unanimously.*
5. Budget Committee Meetings. Mr. McDowell informed Council that, as normal, the Budget Committee meetings have been scheduled for the last Thursday of April, and the first two Thursdays of May.
6. Budget Committee Advertisements. *Councilor Cole authorized Mr. McDowell to advertise for a vacancy on the Budget Committee, and all appropriate budget committee meeting notices. Councilor Shepherd seconded the motion, and it passed unanimously, with Mayor Don Ware abstaining.*

### **DISCUSSION ITEMS:**

1. Canal Company. Councilor Shepherd asked for the City's help with clearing out a stump and tree from the Canal that is impeding water flow. This blockage is affecting City drainage. *Councilor Cole made a motion to authorize Staff to assist the Canal Company with this blockage as needed. Staff and equipment will need to remain on public property, and abide by all insurance and safety regulations. Councilor Chambers seconded the motion, and it passed unanimously.*
2. Bi-Mart Willamette Country Music Festival. McDowell reported that the Linn County Commissioners did finally pass a new permitting process for Outdoor Assembly. The highlights include a five-year permit that will be reviewed annually. It is a very subjective ordinance, highlighted by the "moral turpitude" language that exists in the ordinance. It has been a long and sometimes painful process, and it is good to be able to move forward. McDowell and Mayor Ware were hopeful for the future.
3. Umpqua Bank Update. McDowell reported that the City had sent out a Call to Action Letter this last week requesting folks to get in contact with Umpqua Bank and let them know of their intentions. There were over 200 people at the community meeting, and the crowd was very enthusiastic about Umpqua opening a branch in Brownsville. After talking with Umpqua Bank officials after that meeting, it seems that they are still substantially short of the goal they need to reach to justify location a branch in town. Time is of the essence if we are able to entice a financial institution to town, and Umpqua would make a great community partner.
4. Noise Mitigation Effort. McDowell reported that McFarland Cascade has hired a firm to collect empirical noise data in six key areas around town. They had already initiated this process before they became aware of the noise complaints. The study showed that they are within the noise parameters. They have contracted with AMI to modify their equipment. This modification seems to have made a noticeable difference. Phase two of the modification includes building a



## Council Minutes

baffling wall to further mitigate the noise. They project that Phase 2 should be completed by the end of April. However, the process could take longer if the structure has to be attached to the building as it would have to go back through the Linn County Building Department. Council was pleased with the resolution of the issue and asked that Staff send McFarland Cascade a letter of appreciation. Staff will continue to work with officials from McFarland Cascade on this issue.

5. Elected Officials Replacement Policy. Councilor Shepherd stated that he feels it is important to have a standardized policy on replacing elected officials. Council has tried many things in the past, and it seems like it would be better to have an actual policy and procedure, perhaps an application? Council concurred and directed Staff to go forth and bring something back for their review.
6. Mayor's Notes. As part of an outreach program, Mayor Don Ware has sent out about 12 letters to community groups offering a chance for them to have him come speak to their group about City issues and concerns. He is also hosting a chance to speak with the Mayor at Randy's Main Street Coffee shop on Saturdays at 9:00 a.m. He was coerced into buying cinnamon rolls for those that attend! He would also like to have someone else, perhaps the new Council President, run the Council meetings starting in about May or so. The City is going to have a summer gathering this year in the park for all the city officials, staff, and volunteers. The Museum would like to co-sponsor this event. Mayor Ware is also considering doing Public Service Announcements. This would be located on the City website, and would probably feature a link to a YouTube video. This PSA will discuss current events and hot topics.
7. December Financials. No comments.

**CITIZEN COMMENTS:** Kaye Fox reminded Mayor Ware that the paper said he would be holding his Mayor coffee talk from 8-9:00 a.m. on Saturday. Randy Simpson informed Council that they have been on an emotional roller coast for over a year over the Medical Marijuana Dispensary issue. He said that they have relinquished their dispensary license for the building downtown, and are applying for a new license for the Salon building at Kirk's Ferry. He believes that public opinion is changing in regards to marijuana. Simpson also stated that he has ordered a vault for the new building, and asks that Council lift the moratorium and the federal regulations in the City's business registration application so they can open at that location.

**COUNCIL COMMENTS:** No comments at this time.

EXECUTIVE SESSION entered @: 9:10 p.m.

- Council will be discussing a real property transaction.
- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.
- Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the



## Council Minutes

general subject of the session as previously announced. No decision may be made in executive session

- A final decision may be made after this Session.

Exit @: 9:19 p.m.

The regular meeting was called back into session at 9:19 p.m.

**ADJOURNMENT:** *Councilor Shepherd moved to adjourn at 9:19 p.m. Councilor Cole seconded the motion, and it passed unanimously.*

City Administrator S. Scott McDowell

Mayor Don Ware