



Council Minutes

June 24th, 2014

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

PUBLIC: Kaye Fox, John Morrison, Sweet Home Sanitation's Josh Metcalf and Scott Johnson, Jannea Deaver, Christine Harrison, Rick Dominguez, Alan Buzzard, Jeana Graham, Dot March, Chenoweth Robertson, Carol Deshon, Homer Turnbull, Patty Linn, Max Peschel, Marilyn Grimes, George Frasier, Bernie Castleberg, Anne Stein, Jerry Baker, Don Lyon, Jim Bitle, Susan Edens, Shannon Cason, Heather Dillon, and Randy & Gayle Simpson.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell advised Council that he will add several items to the agenda tonight: under Public Hearings E. Shannon Cason & Heather Dillon; under Legislation Items: H. Millhouse Approval; under Action Items: G. Melinda Spenser, Kettle Corn July 4th; and H. OLCC approval for Kirk's Ferry at Randy's Main Street Coffee on July 4th.

MINUTES: Council reviewed the minutes of the May 27th, 2014 meeting. *Councilor Cole moved to approve the minutes with one small correction. The motion was seconded by Councilor Gerber and was approved unanimously.*

PUBLIC HEARINGS OR PRESENTATIONS:

Illegal Dumping & Universal Residential Garbage Service – Mr. McDowell opened the public hearing with a slideshow highlighting ongoing trash nuisances around town. The crowd was very quiet during the slideshow. McDowell stated that several of these trash nuisances have a similarity to other like chronic offenses the City has been seeing over the last few years. Some people act as though the rules don't apply to them which causes delays in taking care of problems when they arise. One of the biggest concerns that City Staff faces is no force of law. This new ordinance will address that and also provide top quality service from Sweet Home Sanitation. Without the proper force of law, the City has no opportunity to make the nuisances, and particularly trash, better. Next Mr. McDowell talked about our franchisee, Sweet Home Sanitation, and their exclusive right to do garbage in the City of Brownsville. This ordinance has not been generated by Sweet Home Sanitation, they have been asked to come alongside Brownsville for help in solving the trash issues the City has been facing. Sweet Home Sanitation has been an unbelievable community partner for the City, to the tune of tens of thousands of dollars over the last several years. They were instrumental in the removal of the trailer houses on the west side of City limits on Highway 228. Each year they provide dumping facilities for the City-wide Clean Up Day for all City residents. McDowell shared Sweet Home Sanitation costs from their website. From 0-500 pounds, the dumping fee is \$19.00, more than 500 pounds is \$64.50, plus the fuel to get there. The minimum service they are offering is \$10.75 per month, which will include trash service as well as a recycling can and a yard debris can. McDowell has heard several concerns that the City is going to put an additional \$11 on each customer's water bill. McDowell clarified this concern, stating that garbage service will still be billed through Sweet Home Sanitation the normal way. This new ordinance will not affect you if you currently have service; it is just intended for those households that do not subscribe for



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residential service. Mr. McDowell then invited Sweet Home Sanitation to speak to the issue. Sweet Home Sanitation's Scott Johnson informed the group that their position is neutral. They were simply asked to put together a potential solution for the issue the City has been experiencing. Ultimately he says, this is not their decision to make. They have simply been here as needed, to contribute to the dialog as needed. Mr. Johnson stated that Sweet Home Sanitation has been here to answer the call for whatever Brownsville has needed, from City Wide Garage Sale, Sharing Hands, Brownsville Community Gardens, as well as the multiple cleanup projects around town, and that they will continue to be available to answer that call. Mayor Don Ware then talked about the parameters of the ordinance and opened up the meeting to public input. Citizens were asked to state their name and to keep their comments to within a three minute time frame. Several citizens (Jerry Baker, Homer Turnball, Max Peschel, Don Lyon, Rick Dominguez, Jim Smith, Alan Buzzard, and Susan Edens) spoke in opposition to this ordinance. Their concerns ranged from this ordinance creating a monopoly (these new 190 subscribers alone will pay over \$25,000 in a year to Sweet Home Sanitation), to the disabled folks unable to get their cans to the curb, and having to push the cans 1/2 a block away, and large items (tires and appliances) that don't fit in the trash cans anyway. Some folks stated that even if you make people pay for this service, it won't force them to put their trash in the cans. Others were concerned with the cost, and how this fee will be a hardship for low or fixed income folks, the poorest people in town. One solution offered was to table the ordinance and do further research, or try neighborhood block clean up parties. One senior citizen stated that he can afford the \$11/month, but frankly doesn't generate enough trash to put the cans out more than once a month or so. Council heard several negative comments to linking the trash service to the water accounts and the possibility of shutting off water/sewer service if trash service is not paid for. Kaye Fox spoke in favor of the ordinance stating that she has a neighbor that continually burns his trash, and that the flames go as high as the top of the trees and no one is there watching it, and that the smoke and fumes are noxious. Mr. McDowell also read into the record correspondence received from Betsy Roberts and Joni Nelson in support of the ordinance listing reasons such as protection from health hazards, tidiness, and keeping the town vermin free. Rob Wingren wrote in opposition stating that many people share services to save money. Public discussion ended and Council discussion began. Councilor Chambers responded to some of the complaints stating that she felt Sweet Home Sanitation was getting a bad rap, and that the thought that all of would have to pay more is not true. Rates go up regardless. When asked, Sweet Home Sanitation stated that they offer pack out services, on a case by case basis, many times at no additional cost to the customer depending on level of need. Councilor Gerber stated that at this time we have no clear answer for circumstances such as sharing a garbage can, fixed incomes, etc. Mr. McDowell addressed the tires and large appliances question. He said this ordinance is not designed to deal with those issues; it is focusing on the compilation of bags of trash issue. He also stated that every small town in America has franchisees for vital services such as telecommunications, solid waste, power, and natural gas service to name a few. For example, CenturyLink is the City's telecommunications provider. Often, companies must invest a lot of assets into a town to provide service and the only way for them to recover their costs is to enter into a franchise agreement with the City for a specific length of time. All of these are a "monopoly" of sorts but that is the most common way of providing these vital services to a community. Councilor Cole commented that what has sparked this debate and this issue is not the people who are courteous to their neighbors, it is the others who are chronically and flagrantly in noncompliance. These folks are creating health hazards and putting a drain on the City resources. The tax payers pay the City to deal with these kinds of problems, and that these issues are diverting City Staff from their tasks, and end result is that this is costing the City money. This ordinance was one of the ideas that were created to deal with this problem, and the beauty of this particular ordinance is



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that it is easily enforceable by being tied to the water service. Councilor Cole stated that whatever proposal we approve needs to be easily enforceable and clear to the population. Councilor Gerber stated that this ordinance is clear, but obviously has problems for the people that are complying in non-traditional ways such as sharing with a neighbor, dealing with trash through their business or place of employment, etc. Is there a way to make an ordinance with an opt out process for those folks? Councilor Van Sandt agreed that all City tax payers are paying for City Staff to deal with these issues and the folks that fall into the noncompliance area. The health issues with trash lying about with flies, rats, etc., is concerning. The current ordinance does not seem to be very enforceable. Councilor Cole stated that personally she does not support universal service. Her suggestion is to rework the current ordinance, and add more teeth to that. Councilor Van Sandt would like to solicit input from the citizens. Councilor Chambers is not for mandatory universal service, she feels it is un-American, and forces people to pay money. *Councilor Cole made a motion to table the proposed ordinance, put aside universal service, and direct staff to go back and find some teeth to make a new ordinance quick and easily enforceable. Councilor Boyanovsky seconded the motion. The motion was voted on and passed unanimously.* Mayor Don Ware invited further comments from the public. Max Peschel suggested perhaps implementing a system where the offenders were warned, and after a certain amount of warnings, they would be forced to subscribe to trash service. Councilor Cole commented that she thought it was pretty cool to have so many people in town that care enough about these issues to come to Council and share their thoughts. Councilor Gerber commented that the public's comments were well reasoned and thoughtful. Scott Johnson stated that he has over 25 years of experience of serving Brownsville, and universal service is just one idea. He looks forward to working as a team and solving this problem. He and his staff are willing to do whatever they need to, and remains committed to being a community partner, he appreciates the opportunity to serve Brownsville.

Central Linn Recreation Association (CLRA) – Mr. McDowell informed Council that George Frasier is present to take any questions that Council may have for him. A committee from the CLRA and City Staff (McDowell and Morrow) met recently to discuss future operations. An agreement has been drawn up utilizing City Staff to come alongside the CLRA to help with operational and organizational items. Councilor Cole inquired as to what impact that may have on City Staff. Mr. McDowell qualified that at this time, it is not set in stone, and may go program by program. Perhaps a 60/40 or 50/50 arrangement will work best between Staff and Rec Center Representatives. George Frasier stated that he had approached Mr. McDowell and the School District about a year ago, and figured that it would take 3-4 years before implementation. He thanks McDowell for his willingness to help with this vital mission, stating that McDowell is the reason for the forward progress. The new law last year concerning concussions has been a big paperwork nightmare for them. CLRA does not look at this agreement as binding; either party can opt out as needed or desired. George Frasier remarked that it is his dream to hire a youth facilitator to run all the programs. This position would be funded by Brownsville, Halsey, CLSD, etc. This is just a dream at this point, and this agreement is just to start to address the current problems. The Rec Center building gets used a lot, and it is a great community resource. Councilor Chambers asked about booking the facility. In the future, the City will likely be in charge of this as well. This agreement will help alleviate shortfalls and work on solutions for problems. Councilor Gerber stated that she appreciated having sports programs that were available to all kids in the area. *Councilor Gerber made a motion to approve the CLRA partnership agreement. Councilor Van Sandt seconded the motion. The motion was voted on and passed unanimously.*



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Budget Hearing – Mayor Don Ware opened the budget hearing and called for public comment. No comment was made, the hearing was closed.

Jeana Graham, Street Dance – Jeana Graham was present and was requesting a road closure on Spaulding Avenue to hold a street dance on August 2nd, 2014 from 5:30-9:00 p.m. This event will be a non-alcoholic street dance, potluck for her neighbors and community members. It will feature accordions, waltzing, polka and salsa. She has gathered 13 signatures from her neighbors approving the event. *Councilor Gerber made a motion to approve the Spaulding Street closure on August 2nd from 5:30-9:00 p.m. Councilor Cole seconded the motion.* Discussion was called for. Councilor Shepherd asked if Ms. Graham had considered other options such as the city owned public lot by the doctor's office or Kirk's Ferry Park. Ms. Graham stated that she would rather have the event at her house for convenience to a restroom, kitchen, etc. She stated this is not a public party, although all are welcome. *The motion was voted on and passed unanimously.*

Shannon Cason and Heather Dillon – Ms. Cason and Dillon were present to lodge a complaint with Council about the overpopulation of dogs and cats at 120 Moody Court. This problem has been ongoing for years, with no relief in sight. They reported this is a very densely populated area of town, with over 30 children living in the direct neighborhood. By their count there are 40-50 feral cats living at this one residence. They are receiving no vet care and are not spayed or neutered, so the cat population continues to grow. Ms. Dillon's daughter was recently treated for staph infection stemming from the flea bites she incurs when she plays in her own yard. These ladies have been seeking help from other authorities (Linn County Animal Control) but have been advised that this is within the City's jurisdiction, and to address the situation here to Council. This particular resident also has a kennel license to breed Pomeranians (estimated to have 12-15 dogs inside the home). They have talked with their neighbor, but have gotten no cooperation. The ladies stated that they hated to complain, but this is a serious health situation, not only for them and their families, but for the whole neighborhood. Mr. McDowell indicated that Staff can verify that during a recent weed abatement posting that the neighborhood is filled with the stench of cat feces. He stated that this situation is exactly like the trash issue we have been discussing tonight. *Councilor Gerber made a motion to direct Staff to draft an ordinance and authorizes publication of said ordinance. Councilor Van Sandt seconded the motion. The motion was voted on and passed unanimously.*

DEPARTMENT REPORTS:

1. Sheriff's Report. No comments.
2. Public Works. Mr. Frink reported that Public Works has been working very hard the last few weeks to prepare the town for Pioneer Picnic. The new park caretakers are doing a great job. The millrace pump station has been started, but is experiencing a bypass out by Bob & Sharon Babcock's place at the end of Kirk Avenue on the edge of the City limits. Mr. Frink has contacted the Canal Company. This overflow needs to be blocked off, or the pumps will need to be shut down as the water is just cycling back around, which means the City is spending a lot of money for no benefit. Mr. Frink indicated that the water would be shut off on Monday if the problem was not addressed by the Canal Company. Mayor Don Ware asked if we could send a thank you card to Sue Karo for mowing the Blakely Park.



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3. Administrator's Report. – Mr. McDowell reported that the San Martin-Jeffries easement is finished and filed with the County. The LCSO agreement is finished. Greg Tilley has been hired for dust control, and should be putting the oil down this week. The City Hall Phase I is nearly complete; the tree out front looks good and should be salvageable. In regards to the Canal Company – we are still on hold with the culvert dispute. The McFarland Cascade project is progressing on schedule, and Staff will be following up in July. The John Voight situation is still pending awaiting conversation with his attorney and engineer. The Willamette Country Music Festival is proceeding. Peace talks are ongoing but there is still a fair amount of work that will be required. Mayor Don Ware and Councilor Cole have officially turned in their paperwork declaring that they will be running for reelection.
4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. No comments.
7. Citizen Comments. Alan Buzzard informed Council that he had filed for election for one of the upcoming City Council positions.

LEGISLATIVE:

1. O 746: Smoking Ban (First Reading). Councilor Cole made a motion to read Ordinance 746 by title only. Councilor Gerber seconded the motion and it passed unanimously.
2. R 2014.09: FY 2014-15 Budget Appropriations. Councilor Cole made a motion to approve R 2014.09 as presented. Councilor Van Sandt seconded the motion and it passed unanimously.
3. R 2014.10: Water Rates Annual Adjustment. Councilor Gerber made a motion to approve R 2014.10 as presented. Councilor Cole seconded the motion and it passed unanimously.
4. R 2014.11: Sewer Rates Annual Adjustment. Councilor Cole made a motion to approve R 2014.11 as presented. Councilor Gerber seconded the motion and it passed unanimously.
5. R 2014.12: Year End Transfers FY 2013-14. Councilor Gerber made a motion to approve R 2014.12. Councilor Cole seconded the motion and it passed unanimously.
6. R 2014.13: Zoning and Planning Update. Mr. McDowell informed Council that this resolution is allowing us to update legislation regarding garage sales, RV permits, and weapons permits. It is also incorporating a new construction permit implementation as discussed over the last year and a half and most recently at last Council meeting. The construction permit will be \$30 and will serve as a mechanism to verify the proper distances are complied with in the Zoning Code.



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The resolution provides an update to the fees and charges. It has not been done updated since 1996. Councilor Cole inquired if the HRB is included in this legislation. McDowell responded that hopefully these issues will be addressed more efficiently through the new permitting system. *Councilor Gerber made a motion to approve R 2014.13 as presented. Councilor Cole seconded the motion and it passed unanimously.*

7. R 2014.14: \$115,285 Millhouse Sanitary Sewer Project Award. *Councilor Cole made a motion to approve R 2014.14 as presented. Councilor Van Sandt seconded the motion and it passed unanimously.*

ACTION ITEMS:

1. Library Rates Increase. *Councilor Van Sandt made a motion to approve raising the library card fee for out of town users from \$15 to \$20. The motion was seconded by Councilor Gerber and it passed unanimously.*
2. Authorize League of Oregon Cities Legislative Priorities. *Councilor Shepherd made a motion to approve authorizing Mr. McDowell to proceed. Councilor Gerber seconded the motion and it passed unanimously.*
3. Authorize Library Carpet Project. Mr. McDowell informed Council that none of the bidders are willing/able to deal with asbestos testing or abatement. Staff has called for testing from a certified hazardous materials testing company, and expect to get results back within the next two weeks. All bidders have been notified that award of this project will be held for approximately thirty days to complete this testing. If asbestos is found, this project may have to be put off for another budget season for funding reasons. This project is tabled until next meeting.
4. Authorize Mr. McDowell 2nd Term on Oregon Parks & Recreation Department's Grant Advisory Board. Mr. McDowell informed Council that he recently finished up his first four (4) year term on the OPRD Board. He feels that his participation has been worth the effort, and he is making an impact. As the only city administrator on the Board (all others are within the parks & recreation realm), he has been able to share insight on how to best spend grant funding to target the biggest population groups, instead of funding dog parks, skate parks, etc. and continuing to stress the importance of capital improvement planning and tracking. He would like to continue on this board for a second term. *Councilor Cole made a motion to approve Mr. McDowell's participation on the OPRD Grant Advisory Board. Councilor Van Sandt seconded the motion, and it passed unanimously.*

A two (2) minute recess was called and granted.

5. Appointed Official Conduct. Mr. McDowell encouraged Marilyn Grimes to approach the podium. Ms. Grimes is currently an appointed official for the City, serving on the Park Board and the Budget Committee. She has waived her right to



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discuss her recent conduct in an executive session. In the recent June 11th article in *The Times* Ms. Grimes wrote an article that did not contain facts, and caused a great deal of concern from the general public. One reason this letter was of great concern was the amount of calls and inquiry directed to City Hall regarding the information she wrote in the paper. McDowell was forced to write a rebuttal, containing the facts, effectively causing McDowell to spend hours publicly correcting this misinformation. This will be the first time that R 718 (relatively new legislation) has implications due to Mrs. Grimes being the Chair of the Park Board Committee and a member of the Budget Committee. McDowell turned the floor over to Ms. Grimes for her input. She said that she stands by her letter 100%, except maybe the numbers were off. She stated that what she stated in the paper about clean up day was told to her, and she was shown slides. She also stated that the paper had stated that if the universal service ordinance was not passed, Sweet Home Sanitation was going to raise the rates. Mayor Don Ware countered that the paper did not say that. Councilor Van Sandt suggested that in the future, when an elected/appointed official writes a paper, they should run it by McDowell first to check the facts, which is what she has done in the past. Ms. Grimes stated that if she had known that she was going to be called out for this tonight, she would have been more prepared for this confrontation and been able to prove what she is saying. She is feeling very blindsided right now. Ms. Grimes stated that if she knew that what she wrote was going to cause this big of a disturbance, she probably wouldn't have written it. Councilor Cole stated that she is feeling blindsided as well, she had no idea this was going to happen tonight; it's a bit bizarre. Councilor Van Sandt remarked that she felt this situation is more of an example for every appointed/elected official concerning proper conduct. Councilor Chambers inquired as to the problem – she stated that her understanding that it was a letter she wrote, not an editorial. Councilor Cole stated that she would like this issue dealt with in executive session. Ms. Grimes stated that she wanted this discussion in public session. This item was tabled at this time.

6. Melinda Spenser –Kettle Corn in the Park. Melinda Spenser called today and requested permission to set up and sell kettle corn in the park during the 4th of July activities. As there is no group really in charge of the park that day, this request would need to be approved by the Council. Councilor Cole stated that she sees no reason why she can't, if she meets all compliance issues. Council seemed concerned about it turning into a free for all with vendors without some procedures to follow. *Councilor Shepherd made a motion to deny this request this year as there is not enough information, or time to gather more information. Councilor Boyanovsky seconded the motion, and it passed unanimously.*
7. Kirk's Ferry – OLCC Permit. Kirk's Ferry submitted paperwork requesting a special permit to operate at Randy's Main Street Coffee on the 4th of July festivities. *Councilor Gerber made a motion to approve this special permit. Councilor Cole seconded the motion. It was voted on and passed, unanimously.*



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DISCUSSION ITEMS:

1. Key Bank Update. Mr. McDowell reported that KBO closed it's doors on June 6th, 2014. There is now currently no bank in town. There are still three banks showing interest in locating in town. Hopefully there will be a resolution in the near future. Currently, the City will courier the deposit once a week, or as needed.
2. Medical Marijuana Moratorium Committee. Councilor Cole reported that the medical marijuana moratorium committee has been formed. They have met one time, and it seems to be a good and thoughtful committee. The next meeting is scheduled for July 8th, and they are hoping to have a recommendation to Council next month.
3. Calapooia Food Alliance MOU. Mr. McDowell forwarded to Council a letter that the City received from CFA leader Don Lyon. Don Lyon indicated that he wished this letter to be part of the public record. Mr. Lyon indicated in his letter that the CFA does a lot for this town, and seems irritated that the City would ask for rent for them to continue to use a City building for storage. McDowell commented that this seems to be a reoccurring theme. Many other groups/nonprofits do a lot of work for the town; without them town would not be as vibrant. McDowell pointed out the amount of capital outlay the City has put out for the CFA alone. The City has installed two water meters (approximately \$10,000), grants them over \$300 a year in water for them, allows them to collect the fees for the garden plots with no oversight and periodically negotiates the agreement with the CLSD for the use of their land. The City has also granted them to use the current building for more than five (5) years, rent free. Councilor Cole clarified that the issued is closed basically now. The rent was agreed on at \$25 per month.
4. April Financials. No questions or concerns.

CITIZEN COMMENT: No comments or concerns.

COUNCIL COMMENTS: Councilor Van Sandt is concerned about letting the elected officials piece fester until next month. It is our job to come up with the guidelines to let our elected officials know what proper conduct is. She feels the Marilyn Grimes situation is kind of like water under the bridge at this point. Councilor Van Sandt was concerned about dealing with this in public session. Ms. Grimes was still present, and she reiterated that she had asked to deal with this situation in the public session. One idea that was suggested was that the president of Council, the Mayor, and Administrator could meet and discuss the situation with Ms. Grimes. *Councilor Gerber made a motion to authorize said members to meet with Ms. Grimes and address this issue. Councilor Cole seconded the motion.* Discussion was called for. Councilor Chambers asked what the end result will be? What are we looking for? McDowell stated that the committee will look at R 718 and review the situation. Councilor Chambers stated that both she and Councilor Van Sandt felt that this is overkill. Councilor Van Sandt suggested that perhaps we all need to learn these operating guidelines better. She feels that this is just a learning curve. Councilor Chambers asked Ms. Grimes if she had received a copy of R 718. McDowell stated that all elected/appointed officials were mailed a copy of R 718 after it was passed by Council. Ms. Grimes did concede that if she thought she was violating the rules, she would not have written the letter. *The motion was voted on and passed, with Councilor Gerber, Councilor Cole, Councilor Shepherd, and Councilor Boyanovsky voting yes, and Councilor Chambers and Councilor Van Sandt voting no.*



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EXECUTIVE SESSION: The Council adjourned to Executive Session at 9:15 p.m. pursuant to ORS 192.660 Section (e).

Mayor Ware & Council returned to Regular Session at 9:49 p.m.

City Administrator Contract. Councilor Gerber made a motion to approve the contract as proposed. Councilor Cole seconded the motion. The motion was voted on and passed unanimously.

Real Estate Transaction. Councilor Gerber a motion to appoint Councilor Shepherd and Councilor Chambers to negotiate a real estate transaction. Councilor Van Sandt seconded the motion. The motion was voted on and passed unanimously.

ADJOURNMENT: Councilor Shepherd moved to adjourn. Councilor Van Sandt seconded the motion, and it passed unanimously. The meeting was adjourned at 9:55 p.m.

A blue ink signature of S. Scott McDowell, consisting of stylized initials and a surname.

City Administrator S. Scott McDowell

A blue ink signature of Don Ware, written in a cursive style.

Mayor Don Ware