



Council Minutes

September 27th, 2016

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

PUBLIC: Elizabeth Coleman, Jennifer Moody (*Albany Democrat-Herald*), Doug Block, Kim Clayton, Tricia Thompson, Marc Nelson, John Morrison, Allen Buzzard, Marilyn Grimes, Jannea Deaver, Chenowith Robertson, Jayne Scaltreto, Courtney Meadors, Leland Teichrow, Bill Sattler, John Rossell, Steve and Barbara Ellison, June Schlosser, Kaye Fox, Patty Linn, Lt. Michelle Duncan (*LCSO*), Joe Ervin, and Jo Ann McQueary.

The pledge of allegiance was recited. Councilor Gerber asked the audience to please refrain from speaking out of turn. Council appreciates disruptions kept to a minimum. During the citizen's comment item is the appropriate place on the agenda to express concerns. Councilor Gerber also asked Councilors to refrain from sidebar conversations.

ADDITIONS AND DELETIONS: McDowell informed Council additions to the agenda include item number 6) E. Bill Sattler, Canal Company. McDowell also stated that there are additional handouts on the desk concerning Joe Ervin's traffic study request, an additional RV letter, 817 N. Main Street (Easter) Sightline Case Study, and a ORLA letter regarding transient room tax.

MINUTES: Councilor Cole made a motion to approve the July 26th, 2016 meeting minutes as presented. Councilor Chambers seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

Jo Ann McQueary – Economic Development Proposal from the Go Team – Mrs. McQueary discussed the economic development proposal that was included in the packet. Mr. McDowell and John Morrison, among many others, have been instrumental in developing this proposal and the economic development priorities for the rural areas of Linn County. The Go Team has met with many key community economic leaders to vet this program and make a plan of action. McQueary recently presented this proposal to the Ford Family Foundation, and it was very well received. Ford has recently sponsored several leadership trainings in East Linn County, and is invested in supporting rural areas. Councilor Cole asked if there is something required of Council tonight. McDowell replied that sending Mayor Ware to the forum discussion would be necessary. McDowell asked Councilors to bring forward questions or concerns, if there were any. Cole thinks that this is an excellent proposal, focused on rural areas, and the focus on jobs is essential and absolutely fundamental.

RV Appeals – Jayne Scaltreto, 529 Robe Street, was present to appeal to Council to consider a hardship clause for the RV ordinance. Due to circumstances beyond their control, her daughter and grandchildren have been living with her for some time. The daughter sleeps in the RV. Her daughter is now working full-time and is trying to save up enough money to get her life back on track.

John Rossell, 615 Kirk Avenue, was present to appeal to Council to consider a medical hardship clause for the RV ordinance. He respectfully asked Council to review a faxed document discussing his father's diagnosis and need for daily care submitted by his doctor.



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Barbara Ellison, 221 E. Washington Avenue, was present to also request the addition of a hardship clause for the RV ordinance. They are caring for a cousin that is sick and has no other place to go. He is living in an RV in their driveway.

McDowell gave some background on the recent history of RV's in town. Council put this ordinance into play several years ago due to negative side effects of people choosing to live in RV's. The economy had taken a downturn and several RV's were being used as permanent housing. Extended RV use produced an upswing in LCSO calls resulting from drug issues, domestic abuse charges, etc. Some folks had even tried to supplement their income by renting out their RV for folks to live in. Council then had to address the issue, and consider what would be in the best interest of the City. When the Planning Commission (PC) was reviewing the ordinance, a hardship clause was discussed. The PC really felt that a hardship clause was a slippery slope, as it would be hard to define the criteria, and difficult to enforce. Council agreed. When Staff determines that an RV is being lived in, we give a lot of grace time for folks to come into compliance. Sometimes the situation resolves itself as family is just here for a short period of time, etc. Request for Action (RFA) letters are sent out, providing the folks with the ordinance language and giving them a time frame to correct the situation. If compliance is not met, the violators are then posted, giving them 10 more days to remove the nuisance and come into compliance. When the official posting is made in accordance with the ordinance procedure, violators are given an option to appeal the Administrator's decision to Council, at the next regular Council meeting, which generally grants them more days while in non-compliance. Options for Council to consider tonight include: 1) if they were cited into court, the offenders would be granted 10 more days to bring the nuisance into compliance, 2) Council could grant more time, or 3) Council could send this back to Planning Commission to consider adopting a hardship clause. Councilor Gerber then asked for the discussion to be opened up for Council comments. Councilor Cole stated that she feels that this is an extremely difficult and emotional issue. She has done a lot of thinking about it, and agrees with the PC that a hardship clause is not the answer here. It would be extremely hard to be objective and develop a consistent rule as each case is different, and the standards have to be equally applied to each situation. The issue is quality of life for everyone involved. The City has received complaints from neighbors, and she is alarmed by the high proportion of law enforcement visits to RV's. Cole has developed a list (and suggested that it could be posted on the City website) of resources that might be able to help folks in time of need. She has also found several RV parks that rent monthly, and would personally like to see folks comply with the ordinance on the books now. Councilor Cole would also like to see a pamphlet developed that would accompany the RFA letter. Councilor Neddeau agreed that this is a tough situation. It might be tricky to judge what a hardship is, and what is not. He personally has kids at home right now, and it is sometimes not comfortable to live so close to others. You do what you have to do in hard times. Councilor Shepherd agreed with Councilor Cole. There are lots of resources available. He is concerned about sewage getting dumped on the ground, etc. He feels bad for folks in this situation, but it can also lead to discomfort for the neighbors. Councilor Van Sandt thanked everyone for coming to talk about the issue. She said that it sounds like we basically have homeless people living here in our community. Van Sandt did state that folks need to be living in homes, not RV's. She would like to know the number of RV's around town that are being lived in, and would like to help people get into houses, and wonders if we can come up with some other plan for hardship cases. But since there is no city social worker, doesn't know how we would implement that. Councilor Chambers agrees with Councilor Neddeau that we need to stick with our ordinance. She acknowledged that it is a tough situation, and one that anyone one of us could be in someday. She feels strongly that when people decide to live in a City, everyone needs to live by the rules and ordinances we have. Councilor Gerber expressed that the lack of adequate housing resources is a huge problem, and not just here in Brownsville. There are long waiting lists, rules, etc. that folks have to comply with. It breaks her heart that



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we can't solve those problems, but as Councilors we have to balance the ordinances too. Gerber stated that she didn't know how Council can grant the appeals based on the laws that we have, but perhaps Council could give them more time. *Councilor Cole made a motion to grant a 30 day extension for those that have appealed tonight. Councilor Chambers seconded the motion, and the motion was approved unanimously.* Cole also added that it's clear that there are many other situations in town similar to these. She would like to suggest implementing a link on the City website that would list resources for people to access too. Cole stated that she thinks it's important to maintain this ordinance, as it is quality of life for the whole town, but still wants to be responsive to folks that are experiencing hard times. We are sympathetic to these situations. Councilor Van Sandt thinks that the City should make sure that everyone has a place to live. Councilor Gerber called a five minute recess for any folks to would like to adjourn the meeting.

Bill Sattler – Canal Company – Bill Sattler, Spaulding Avenue, was present to discuss Canal Company concerns. He is concerned that Council is planning on forming a Local Improvement District (LID) along the millrace to help pay for it. His point is that this would be very unfair as several folks who live along the millrace (and benefit from it) reside outside of town; thereby the City would have no authority in including them in the LID, or making them help pay for the costs. He stated that there are only 6 or 7 people that have actual water rights to the millrace, and there are several folks that have been using more than their allotted fair share of the water. How would the City propose to deal with that situation? He believes the City has no legal authority to form this LID. Sattler feels that the City is trying to maintain this utility by taxing a handful of people, when truly this utility, and the drainage it supplies, benefits all of the folks living along the millrace. When a new sewer line is put in, will the City tax all of the folks that will benefit from that? What is important to remember also is that the millrace is private property, owned by a third party, on which the City is trying to collect funding for the Canal Company. Mr. Sattler stated that he has put up with the Canal Company for years because he is sympathetic to their cause. He is also concerned about conflict of interest with Councilor Shepherd. He should be removing himself from all votes as he is on the millrace, and that in itself constitutes a conflict of interest. Sattler stated that if the City is set on improvements for the millrace, they should be funded out of the General Fund, or not funded at all. Mr. McDowell responded that it is important for Council to understand the situation. It is a very complex issue. The Canal Company owns a 40' strip of land from the Calapooia River to Don Ware's property on Millhouse Street. Several years ago in 2008, the dam was taken out and pumps were installed to force the water down the ditch. The City does not own these pumps, but continues to maintain this infrastructure on behalf of the Canal Company. The problem is there are about 12 water rights, 6 or 7 active water rights that are basically using the water, and not paying, which is theft of service. The Canal Company does not have teeth to enforce payment for services rendered. Many folks have put up their own time and money for the millrace such as Gary Shepherd, Vice President of the Canal Company along with several others. Council is interested in coming up with a cooperative agreement in an attempt to address this complex problem. McDowell is talking to the City Attorney Ross Williamson to determine if there is a viable solution. If the City decides to pay for the millrace out of the General Fund as suggested by Mr. Sattler, Council will need to take a good hard look at what the City is willing to give up. Does Council want to eliminate the Library, the Park, the Planning department? Not to mention the impacts of TMDL. There will be some very difficult decisions to be made in the near future. It is unclear at this time if there is really anything that Staff can bring back to Council for consideration. Councilor Shepherd stated that he would recuse himself in the event of any vote of Council. Councilor Shepherd stated that he has paid on the insurance this year as well as previous attorney fees.



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DEPARTMENT REPORTS:

1. **Sheriff's Report.** LCSO Lt. Duncan reported that they spent 205 contract hours in July and 202 contract hours in August for the City. Citations did go down in the month of August to a total of 3. She stated that citations do need to be addressed. There are approximately 8 deputies serving south Linn County, and this issue will be addressed at a meeting with them near the end of October. They had 2 complaints about speeding on Kirk Avenue during the Willamette Country Music Festival. They had a deputy stationed on Kirk Avenue between 1:15 – 2:00 p.m., and all speeds recorded were between 25-33 mph. Councilor Gerber stated that she continues to witness high rates of speed and was wondering what progress is being made. Lt. Duncan replied that they have upped the hours for traffic in Brownsville for the last two months.
2. **Public Works.** Mr. Frink reported that it has been a busy month. Backflow devices were tested in July. A few failed, and some will need to have new devices installed. McGovern Maintenance will be doing the street striping and painting soon. The park caretakers, David and Sharon Peterson, did a great job for us this year, and have departed from the park for the season. A road in Pioneer Park will be removed soon as the Calapooia river is encroaching too closely for safety reasons. The area around the pavilion will be reworked and a cul-de-sac type of turnaround area for traffic will be installed. The area where the road is being removed will be turned back to grass. The cemetery was recently mowed, and several plots were marked. Recently the new cemetery sign was heavily damaged. The guilty party has stepped up and will pay for the sign to be repaired or replaced as needed. The Red Shed downtown is getting a facelift with a new roof, siding repair and new garage style doors. Councilor Cole inquired about the Spaulding street trees – any plan for those? Mr. McDowell replied not at this time. The bench plan submitted to Council was not pleasing to the Historic Review Board and so Park Board will have to come up with another plan and resubmit it. McDowell reported that several have commented favorably on the new look of Spaulding Avenue. Signage is easy to see and pedestrian traffic is safer without trip hazards.
3. **Administrator's Report.** Mr. McDowell reported that the Volunteer Appreciation Picnic was well attended; a big thank you to Staff for taking care of the logistics. McDowell thanked Public Works for all the time they put in toward making the summer events so successful. The upgraded electrical bollards in the park have been a nice improvement. Staff has dealt with some vendors that expect the City to provide electrical cords that will adapt the bollards for their use during events. The City has told all event organizers that it is the vendors responsibility to determine how to use the City's system. Mayor Don Ware and Mr. McDowell met with Executive Director Fred Abousleman of the Council of Governments on several different issues ranging from mobile banking for small rural communities, to Go Team assistance, and implementation of a utility billing and financial software program that could serve several small local rural cities. The bond refunding process is complete! A big thanks to Staff for assistance in getting through the process. The City was fortunate enough to actually get the lowest interest rate – 2.9% - which will net a savings of over \$2 million over the life of the bond. McDowell has been contacted by Jim Hagan requesting that the leash ordinance be updated to include electronic leashes. He walks through town using this device and feels that it is adequate in controlling his dog. The drawback to this would be that instead of a hard and fast leash for the owner to hold on to, you would be depending on a battery operated system. McDowell reminded Council



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that this was already considered when the ordinance passed. Council determined that a physical restraint was best. Also, McDowell thanked Councilor Shepherd for completing a sign mapping project in town.

4. **Library Report.** No comments.
5. **Court Report.** No comments.
6. **Council Comments.** No comments.
7. **Citizen Comments.** Kaye Fox, Kirk Avenue, inquired as to when Linn County is going to take over Kirk Avenue and initiate the repaving of that road. She has been here 11 years, and has been hearing that story ever since they moved here. Also, she is still having trouble with the intersection at Kirk and Averill by her house. Big trucks travel through the area and kick up rocks, which at times actually hit her house. In relation to City ordinances, Staff is quite often on the firing line, and she would like to see Council back them up better. Staff is often in a difficult position. Mrs. Fox believes that Council members need to be complying with the laws of the City as well.

LEGISLATIVE:

1. **Arbor Day Proclamation** – In Mayor Don Ware’s absence, Councilor Gerber proclaimed October 15th, 2016 to be the Arbor Day celebration for the City.

ACTION ITEMS:

1. **Canal Company Update.** Discussed earlier in the meeting.
2. **Central Linn School District Agreement.** McDowell stated that the City is taking a lot of questions and a lot of heat concerning the disposition of 331 Blakely, (the Blakely School gym). McDowell recounted the many meetings that the City representatives have had with school officials and still have not had requested information provided back to us. McDowell feels that this lack of response on their part should say something to Council. McDowell stated that the proposal to possibly involve Willamette Neighborhood Housing Services (WNHS) is probably the best use of the property provided that four very important elements are kept in mind: 1) no negative backlash on the Planning Commission and the Council from the community (remember, this is a school project, not a City project, 2) the City needs to receive full tax value for this property, 3) the City should receive full System Development Charges, not a reduced rate, and 4) the City cannot afford to construct or install any infrastructure associated with such a development. McDowell said the developer should bear all of the associated costs of developing the property. Superintendent Gardner has indicated that WNHS has until the end of October to submit a bid or plan to the school district. Mr. Bryan Wyant recently contacted Samaritan Health and hosted an exploratory visit of the Blakely property with their officials. Mayor Don Ware and Councilor Shepherd were also present at that meeting. Councilor Cole completely agrees with McDowell, we need to be referring folks to talk with the school district about this project, not the City.



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Councilor Gerber feels that supporting affordable housing within our community is vital.

- LCSO Contract Addendum.** McDowell stated as per Council wishes, it is time for the quarterly review of the LCSO contract. Council is acutely aware of the lack of traffic citations and dog leash enforcement that we have experienced for quite a while now. In May, a contingent from the City met with Sheriff Bruce Riley to discuss these issues. Several residents including Marc Nelson, Joe Ervin, and Kaye Fox were present also voicing concerns about lack of improvement in presence, performance, and enforcement. The City needs to see some improvement in this area. Perhaps another meeting with Sheriff Riley? Perhaps garnering support from other rural contract cities that are having the similar issues? A couple of years ago we had a resident deputy and the City saw a lot of enforcement going on, which is simply not the case now. Councilor Cole thought that partnering with other communities would be great. Council agreed.

DISCUSSION ITEMS:

- Weeds and Nuisance Abatement Process Review.** McDowell reviewed the season, and said that overall, folks are complying well. It is important to remember that Staff are not code enforcement officers; we are simply Staff trying to enforce the code. The distinction comes from enforcement strategies. An enforcement officer notes an offense, and would simply issue a citation on the spot. Staff handles the nuisance abatement process in a far more gentle way. Typically, a nuisance is noted, and time is given for the situation to correct itself. If no action is taken after a period of time, a phone call or a Request for Action letter is sent. These actions will give the offender a certain amount of time to correct the nuisance, and then if that action does not happen, the nuisance is posted. Once a nuisance is posted, the violator has 10 days to comply with city codes. There is an appeal process, in some cases, (that you witnessed tonight with the RV's) that allows folks to come before Council to state their position. It is important to note that we have had a lot of success with the process overall, and Staff believes in extending grace periods when necessary. The time process for nuisance abatement is June 1st – October 31st. A time frame is important for Staff as there is a lot of City business to conduct; perspective and priority need to be at the forefront of these situations as they arise. It is also important to note that in the current ordinance, dandelions are not abated. The ordinance is geared more toward fire standards, not aesthetics. Nuisance abatements will be posted through the winter months if they are egregious. Consistency over the past several years has helped the City's program tremendously. A simple phone call now can often resolve the issue. In August two habitual violators were posted. One situation resolved, and one case will be going to court for resolution. For several years, there has been a sight concern at the corner of Main and Depot. McDowell provided photos on the desk tonight for Council highlighting the situation. If the bushes were cut back to the power pole on sight, you would still attain only limited visibility due to the possibility of vehicles parking along the street. The owners do not want to simply take out all the bushes due to privacy concerns, and since the bushes were planted on the right-of



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-way, they would not be allowed to put a fence or more plantings in the same spot. Staff will continue to work with the owners, but the situation is difficult.

2. **Future Capital Improvements Planning.** McDowell stated that one of Council's goals has been capital improvements. The City has done over \$3.3 million in capital improvements without asking for additional funding from tax payers. That being said, there are things that desperately need to be addressed. McDowell recommends spending time every Council meeting over the course of the next few months to hear a presentation on these growing concerns. One future growth issue is the implication of the Urban Growth Boundary (UGB) and the Department of Land Conservation and Development. The City currently has a lack of buildable land. Another major issue facing the City is that the City's water rights are under fire by the State. If the State curtails the City's water rights, Council may have to reconsider the moratorium idea from several years ago (2010). It could turn into a very difficult situation. Only time will tell how the situation will resolve. The amenities that the City offers out of the General Fund are really amazing for a community the size of Brownsville. It would be difficult to move any resources toward a project such as the Blakely gymnasium. If that were to occur, Council would have to take a long hard look at what amenities might be discontinued in the future that are supported by the General Fund.
3. **July and August Financials.** No comments. Council thanked Staff for all the hard work on the debt refinancing.

CITIZENS COMMENTS – Allen Buzzard, School Avenue, thanked Council and Staff for getting behind the refinancing of the debt and saving all the money for the City. The A+ rating from S&P will be very helpful when more debt is needed. Buzzard believes that capital improvements need to happen in a measured approach in order not to force citizens out due to high taxes.

ADJOURNMENT: *Councilor Van Sandt moved to adjourn at 9:20 p.m. Councilor Shepherd seconded the motion, and it passed unanimously.*

A blue ink signature of S. Scott McDowell.

City Administrator S. Scott McDowell

A blue ink signature of Don Ware.

Mayor Don Ware