



Council Minutes

November 26th, 2024

ROLL CALL: Mayor Craven called the meeting to order at 7:00 p.m. with Council President Chambers, Councilor LaCoste, Councilor Humphreys, Councilor Hansen, Councilor Winklepleck, and Councilor Solberg present. Administrative Assistant Elizabeth Coleman, Administrative Assistant Jannea Deaver, Public Works Superintendent Karl Frink, Administrative Assistant Tammi Morrow, and City Administrator Scott McDowell were also present.

ABSENT: None.

PUBLIC: Shantel White, Paul & Rosann Winther, Don Lyon, Joe Ayala, Sandy Saltzer, Chenoweth Robertson, Dan Murphy, Michael Rodolf, Bill Hand, Victor Aguilar, Michael and Betty Doren, Jason Rolfe, John Claasen, Kris and Pam Solberg, Tia Parrish (*The Times*), Felipe Eversull, Ryan and Karly Geider, Linda and Larry Willaims, and Sergeant Steve Frambes (*Linn County Sheriff's Office*).

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: None tonight.

MINUTES: *Councilor Chambers made a motion to approve the October 22nd, 2024, meeting minutes as presented. Councilor Humphreys seconded the motion, and the motion passed unanimously.*

PUBLIC HEARING | PRESENTATIONS:

1. **Ayala Conditional Use Appeal | Mike Rodolf.** Mayor Craven opened the public hearing appeal and discussed the process for the appeal. Staff have disclosed all documents submitted to the Planning Commission including the Staff Report. Council may only consider the documents previously submitted to the Commission. Mayor Craven stated that he will abstain from the vote due to business matters and owning an abutting property. Council acted in a quasi-judicial capacity reviewing Mike Rodolf's appeal of an approval the Planning Commission made on August 26th, 2024, and reconvened on October 14th, 2024. Mrs. Coleman provided a recap of the matter including concerns from Mr. Rodolf. Mayor Craven opened the floor for public comments. Joe Ayala and Larry Williams spoke in favor of the application reviewing the steps they took to remedy concerns raised by the Planning Commission. The Commission tabled the August 26th, 2024, hearing until October 14th, 2024 so items raised could be properly researched. Williams stated that he felt that this matter has become too personal for Mr. Rodolf. Ayala explained a visit that Rodolf made to the shop when Ayala wasn't present. State OSHA wrote up two concerns that Williams & Ayala had corrected. Mike Rodolf spoke in opposition. Rodolf does not feel that this auto shop belongs in a residential neighborhood. He is mainly concerned about fire, possible hazardous waste, and marring the appearance of the area.

Councilor Winklepleck made a motion to uphold the approval made by Planning Commission in this matter. Councilor Chambers seconded the motion, and it passed unanimously with Mayor Craven abstaining.

Mrs. Coleman recapped next steps including an appeal to Land Use Board of Appeals (LUBA). The City would likely be summoned to testify at that hearing. Mr. McDowell clarified for the record that Chapter 15.125.050 of the Brownsville Municipal Code states that Mr. Williams does not have to work in the operation, but rather clarified that no more than two employees, other than the family, be employed at the operation. Councilor Winklepleck stated that Council and the Planning Commission are only responsible for the application of the Brownsville Municipal Code. All other



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County and State regulatory agencies are between the applicant and those governing agencies. Nothing in Ayala's application violated the Brownsville Municipal Code according to the Staff report and the earlier Planning Commission ruling. Councilor Hansen stated that unless Council sees a compelling reason to overturn an appeal, Council will likely uphold the Planning Commission ruling.

2. **Bi-Annual Total Maximum Daily Load (TMDL) Report.** Staff provided the semi-annual plan review. McDowell covered the history of the U.S. EPA and the origin of these new requirements. The City is doing its best to deal with this unfunded mandate that will carry a heavy future cost. TMDL focuses on regulations and requirements pertaining to stormwater runoff. To learn more about TMDL visit, <https://www.ci.brownsville.or.us/publicworks>.
3. **Annual Audit Report.** McDowell shared numbers from the most recent audit completed by SingerLewak. The audit shows a healthy treasury, with a net position at just under \$6 million. McDowell showed the indebtedness the City currently holds as well. All funds have been returned from the General Fund to the Cemetery Trust Fund as earlier reported by McDowell. The audit has been filed with all required State and regulatory agencies. McDowell also discussed the financial month end recap and the Cemetery Trust fund.

DEPARTMENT REPORTS:

1. **Linn County Sheriff's Office (LCSO) Report | Sergeant Steve Frambes.** Sergeant Frambes reviewed the stats for October highlighting several items including three arrests, a DUI, a trespass, and an outstanding warrant. Frambes said the Sheriff's Office apprehended a person who had stolen a car in Eugene and ended up in Brownsville under pursuit of the LCSO. The Office was able to apprehend the suspect, but Frambes asked that people stay in their homes when these situations happen. Unfortunately, two additional people were arrested for interfering with the investigation. People were interfering with drones being used by the LCSO. Frambes responded to some criticism he had seen on Facebook about the LCSO not notifying people of this issue. Frambes explained that the only priority of the LCSO during an incident is to ensure the safe apprehension of the suspect.
2. **Public Works.** Superintendent Karl Frink reported that all instruments have been calibrated at the Water & Wastewater Treatment Plants. Frink is preparing the Wastewater Treatment facilities for January discharge. The new GR12 waterline project was put to good use November 1st. Frink is still working on ironing out operational logistics. Public Works closed and winterized the Park on October 31st, 2024. Frink has also been attending to operational details at the Rec Center to allow public rentals.
3. **Administration.** Administrator Scott McDowell discussed the finalization of the cleanup of 517 Averill.

The City has an opening on the Planning Commission and one on the Parks & Open Space Advisory Board. The deadline to apply is December 11th, 2024.

Canal Company and LAPC (Legislative Advocacy Policy Committee) meetings have been pushed out to January due to time constraints; it has been an extreme challenge to get our goals accomplished.

McDowell reported on the continuing email hosting problem. City email went down on September 21st, 2024, and has not come back online yet. Staff is still hoping that the old ci.brownsville.or.us emails will be repaired and able to be used again. Meanwhile, the website has been updated with current emails. Civic plus will be providing a new reservation calendar for the City soon. Staff will try it for a year and make sure that it suits our needs.



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McDowell shared seven major unfunded mandates (including PFA's, Lead and Copper rule, FEMA/PICM, TMDL, RMA, and CWPP) being pushed on to cities by the State and Federal government. These regulations are only going to add more burden to the taxpayers of every community while the City tries to maintain a lot of community amenities including a 26-acre park, a library, a rec center, and a whole host of services. Recent priorities have been connecting the GR 12 well to the Water Treatment Plant and the Central Linn Rec Center Renovation project. McDowell shared how these regulations intersect with the City budget and what future costs could be. McDowell discussed the current goals, and that Council will be reprioritizing the goals in February 2025. Council and the Budget Committee have been very pleased to have self-funded projects over the last eighteen years.

McDowell also reported that inflation has increased exponentially over the last 4 years, making it very challenging to self-fund future projects.

Mr. McDowell discussed the sidewalk project. This project comes up each year at the training and/or goal setting sessions. This project always hits the goals discussion. Reality is that there simply are not enough funds to complete all projects the City would like to fund. Tough decisions must be made every goal setting session. The sidewalk project has several steps that would be necessary for implementation which are mostly laid out in the Brownsville Municipal Code, Chapter 3.15. Sidewalks are the responsibility of the homeowners. If the City were to tackle the project, likely the town would be broken into eight or more sections. The City would need to be able to fund the entire identified project for any given year, and then each property would be assessed their costs, and a lien would be placed on each property. The lien would be assessed over ten years. A cost analysis a few years ago for the Kirk Avenue pavement & drainage project forecast costs at about \$40,000 per abutting property; those costs are significantly higher now with inflation. The other major consideration for the Kirk Avenue project is drainage. It makes no sense to put in sidewalks if the drainage issue is not addressed first. Council considers affordability to be a major setback because the City must be able to cover the cost of the sidewalks upfront.

Mayor Craven called for a 5-minute recess at 8:16 p.m.

4. **Planning.** No comments.
5. **Library.** No comments.
6. **Office.** No comments.
7. **Council.** No comments.
8. **Citizen Comments.** Paul Winther was concerned that he was misidentified in a recent Facebook post regarding a political sign that was taken from the corner of Main Street and Park Avenue. He read a prepared statement (please see attached.)

Don Lyon and Sandy Saltzer expressed concern and confusion regarding a document that was placed in the Council Agenda Packet by Councilor Hansen. (See Don Lyon's statement, attached.)

Shantel White shared her concern about sidewalks throughout the City. White urged Council to make this a priority. McDowell reviewed the City's efforts and requirements to execute a sidewalk program (see above under Administrator Report).

LEGISLATIVE:



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1. **Resolution 2024.15 | Vanderstelt Reimbursement.** Mr. McDowell stated the City is seeking to reimburse a property owner for sewer costs that were incurred by the owner that should not have been. *Councilor Humphreys moved to approve R 2024.15 as presented. Councilor LaCoste seconded the motion, and it passed unanimously.*
2. **Resolution 2024.16 | Approving FYE June 30th, 2024 Audit.** *Councilor Solberg moved to approve R 2024.16 as presented. Councilor Humphreys seconded the motion, and it passed unanimously.*
3. **Resolution 2024.17 | FEMA Pre-Implementation Compliance Measures (PICM).** McDowell and Administrative Assistant Elizabeth Coleman are following this situation closely. It is a situation that is putting cities in a very difficult situation. Basically, non-profit environmental groups sued the Federal government, FEMA, alleging that their food protection policies are causing problems for killer whales and other sea life near water courses. This new policy will affect 30 out of 36 counties in Oregon. The Department of Land Conservation and Development (DLCD) administers FEMA in Oregon. DLCD began issuing commentary about PICM to cities in October. December 1st is the deadline for the City to elect how the City will handle the new regulations. Basically, there are three options: 1) prohibit all development in special development areas; 2) adopt model FEMA ordinance; and 3) use a permit-by-permit process. McDowell stated there is really no good option here. Option 1 is completely unconstitutional as it aims to take land rights away from property owners without due process, Option 2 gives FEMA carte blanche which is highly impactful to every property owner in the floodplain and could put the City in a terrible future position on many fronts yet unknown. Option 3 is the best choice, but is still not great. This option will force Staff to inform folks and advise them to go to FEMA for more information on complying with the regulations being imposed by FEMA. Property owners will be responsible for performing an environmental assessment prior to doing any work on their property if they are in the floodplain. Details are forthcoming. McDowell said Council will have to make a final determination by January 2026 as the timeline currently stands; more to come.

Councilor Hansen moved to approve R 2024.17, opting for Option 3. Councilor Winklepleck seconded the motion, and it passed unanimously.

ACTION ITEMS:

1. **717 Kay Avenue Abatement Appeal | Virgaela Brewer and Bill Hand.** Mr. McDowell reviewed the situation. Councilor Hansen asked if there was anything McDowell would like to add to the agreement. McDowell suggested extending the deadline until January 17th, 2025, and ask for permission to enter the property to abate the nuisance at that time if needed.

Councilor Hansen moved to authorize Mr. McDowell to create an agreement with these conditions and forward it to the party responsible. Councilor Humphreys seconded the motion, and it passed unanimously.

2. **Streetlight Request | Jim Smith.** Mayor Craven indicated that all signatures from neighboring property owners have been obtained (and possible light trespass addressed), and the light pole will withstand a new light installation. Councilor Hansen inquired as to cost to the City. McDowell responded that it will be approximately \$18 per month.

Councilor Chambers moved to approve this request and authorize Staff to move forward. Councilor Humphreys seconded the motion, and it passed unanimously.

DISCUSSION ITEMS:



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1. **Council Logistics & Council Training Schedule 2025.** Mr. McDowell suggested holding the swearing in process for the new Councilors at the December 17th, 2024 meeting, pending election results received from Linn County. Council would then have the month of January available for possible Council training and goal setting sessions. Council concurred and set the first training date for Saturday, January 25th, 2025 at 9:30 a.m. The training will last approximately 3 hours, and Councilor Hansen offered to bring donuts for the group. Lunch will also be provided.
2. **Easements & Right-of-Ways.** McDowell reported that there has been a bit of confusion lately about easements and rights-of-way. Rights-of-way are City owned property and City personnel can legally work on the property. An easement is privately owned property but may grant the City ingress and egress typically for utility needs or for other reasons. Easements can also be between other parties including neighbors and private utility companies. Currently there are about 110 infringements on the rights-of-way around town, examples include shops, parts of houses, fences, etc. Staff would like to clarify these infringements for the property owners going forward with an annual letter aimed at defining the infringement and the City's rights.
3. **October Financials.** No comments.

CITIZEN QUESTIONS & COMMENTS. Sandy Saltzer asked for clarification about Councilor Hansen's statement in the packet. Councilor Hansen responded that he would address it under Council comments.

Bill Hand, 717 Kay Avenue, stated that he had removed another 5 cars from the property, and he appreciated the time extension for the abatement of this nuisance.

COUNCIL COMMENTS. Mr. McDowell stated that this month's synopsis will be sent the week after Thanksgiving.

Councilor Humphreys commented on the recently completed audit, FYE June 30th, 2024. He stated that he was very glad to see the Cemetery Trust Fund restored. Councilor Humphreys stated that he extends his kudos to Staff as it is very hard to achieve a public audit without some remarks from the auditors, job well done!

Councilor Hansen apologized to Don Lyon stating that he had never received an email that Don said he had sent. Hansen stated that it was not an intentional non-response. Councilor Hansen is always happy to engage in political ideology conversations and is happy to visit with people if they have questions.

Councilor Winklepleck applauded Councilor Hansen for issuing his statement in the packet. It is every elected official's right to express their opinion, and he celebrates it.

Mayor Craven addressed Paul Winther's concerns about a Facebook post. Mayor Craven does not have a Facebook page in his official public capacity. He does have a personal page. His post about signs being stolen around town was simply to raise awareness. Comments on public Facebook pages are out of his control. Craven stated that it was unfortunate if Paul Winther was misidentified.

ADJOURNMENT: Councilor Humphreys moved to adjourn at 9:10 p.m. Councilor Hansen 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 Adam Craven.

Mayor Adam Craven

November 25, 2024

Response to a recent post on Mayor Cravens Social Media

A recent post on Mayor Cravens' Facebook page, dated 11/09/2024 was brought to my attention 11/24/2024. A series of photos from a surveillance camera shows a person who resembles me stealing / vandalizing a political candidate yard sign here in Brownsville. It was shocking to my wife and myself to see this persons image and upset to see that he does resemble me.

Mr Cravens' stated purpose of the post was to 'make this person famous'. One of his Facebook followers responded to the call for identification said that he recognized this guy as he is often seen walking around town. This same person, then posted that he had it from a *trusted source* that it was Paul Winther.. The expected angry comments followed along with my name being posted again.

No one contacted me, either my accuser or Mayor Craven, whose feed then perpetuated this false statement. I would have been clueless that this libel existed on a public forum. (*Libel is communicating a defamatory statement by writing or picture, while slander is defamation by oral or spoken communication.*). A comment was made to my wife that this existed so she went to Mayor Cravens Facebook page which is apparently not blocked to Non Friends and read the thread and comments. Yes, indeed, there was my name posted as 'the old tool' who'd stolen these signs.

First let me state that I too feel that this persons actions were egregious. We all have a right to express our preferences with lawn signs during election years. This is the time that all political factions should just agree to disagree and not tamper with each others expressions of support.

This post and accusation with out verification concerns me greatly as it destroys my reputation and unjustly puts a target on me. I am a fairly low profile person known locally for volunteer work at Hands on History, Carriage Me Back as we'll as supporting several local business' with patronage and frequent use of the library. As a long time outdoorsman, I do walk in our beautiful town and park several times a week.

While I have no signs, flags or banners (other then on Veterans Day, at which time I fly the banners for both of our fathers who served in WWII). I respect the right of others to do so. As an Oregon resident since 1978, without so much as a traffic citation, it is disturbing to be labeled a criminal without even being contacted. The calls to action with the 'lets make him famous' line further raises alarm in our family with concerns for the safety of my family and myself.

I am requesting the Mayor to issue a correction to this post requesting all those that reposted to their own pages, of which there were several, to do likewise. I would expect the person who claimed to have confidence in identifying me as the culprit to contact me through the Mayor, with an explanation and an apology.

Submitted by Paul
Winther

Donald Lyon, 352 Kirk AV. Brownsville

Councilor Hansen has inserted a curious document into the packet on P.41. Have you all seen it? I'm sure that he has brought some copies to share. He wrote it, he is proud of it. The title, we can say, is **Stealing is Wrong**. That part I agreed with but all of the rest I found quite confusing. Counselor Hansen seems to be saying that when governments require individuals to pay taxes that government is stealing. He seems to be saying that anarchy is the only moral form of social organization. That is, if there were no government, if mankind lived in a state of nature we would get along just fine. I guess I'm a bit pessimistic about mankind because I agree with Thomas Hobbes that life in a state of nature would be nasty, brutish and short. Councilor Hansen apparently has not given up on the United States entirely because he groups the US in the positive column along with "moral anarchy" and "anarcho-capitalism". I won't try to explain those two concepts but I suggest that you Google them. **Moral Anarchy** and **Anarcho-Capitalism**. They are a deep dive into chaos and confusion. I appreciate Counselor Hansens efforts to educate the hoi poloi of Brownsville but I'm afraid this document is confusing and frightening. It will take more than a one page broadside to explain these concepts. I'm asking that Counselor Hansen start by explaining what this document is doing in the packet and what he intends to do with it. If he wants to schedule a lecture in the Community Room, I will attend with great interest. I did send Counselor Hanson a couple of emails asking for an explanation but heard nothing back. Thank you.