



Council Minutes

October 23rd, 2018

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

PUBLIC: Kim Clayton, Chenoweth Roberts, Elizabeth Coleman, Allen Buzzard, Ed Petermen, Brian and Barbie Hendrickson, Corey Cook, David Hansen, Phil and Kaye Fox, Sheriff Jim Yon and Lt. Michelle Duncan (*LC*SO), and Jorden Parrish (*The Times*).

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: McDowell would like to add Board Committee openings under Action Items. There are no deletions tonight.

MINUTES: Councilor Shepherd made a motion to approve the September 18th, 2018 meeting minutes as presented. Councilor Gerber seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

1. **Chenoweth Robertson – Central Linn Community Foundation (CLCF).** Chenoweth Robertson was present representing the CLCF. She invited any questions Council may have for her. Mayor Ware stated that he would abstain from the issue as he is on the CLCF Board. Councilor Chambers inquired as to past recipients. Robertson stated that they have given to many local groups including the Gleaners, CFA, Linn County Museum, Learning Tree Parents and Pals, Willamette Valley Quilts of Valor, CLRA, and Meals on Wheels among others. Councilor Gerber asked if anyone has been turned away? Robertson replied in the affirmative as some requests didn't meet the requirements. Councilor Gerber made a motion to approve support funds of \$1,000 to the CLCF. Councilor Shepherd seconded the motion, and it was approved unanimously.
2. **Ed Petermen and Allen Buzzard - Crosswalk.** Ed Petermen and Allen Buzzard were present to talk about making the crosswalk downtown safer. Mr. Buzzard provided documents and shared photos. Buzzard shared an enlarged photo of Mr. Petermen crossing Main Street relating the difficulties Mr. Petermen has had recently crossing in the downtown area. Mr. Petermen spoke next stating that the crossing on the north side of Spaulding Avenue by the antique shop, has an 8% grade which causes him great difficulty in crossing the street there. His recommendation would be to install a flashing light system to give people time to get across the street. Event days are also especially dangerous street crossing days for him. Petermen related to Council that he was struck by a vehicle during an event and broke his leg. Council indicated that they would look into the matter.

DEPARTMENT REPORTS:

1. **LCSO Sheriff's Report.** Sheriff Jim Yon and Lieutenant Michele Duncan were present. Duncan reported that in September there were 36 traffic citations, 43 warnings, and 48 hours for traffic enforcement. Lt. Duncan talked about several of the crimes and incidents from last month and stated that she had cited a marijuana sight violation into court. Councilor Shepherd stated that it would be



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appreciated if traffic patrol could focus on crosswalk safety, and especially illegal parking contributing to crosswalk and pedestrian visibility issues. Sherriff Yon spoke up and stated that speed and traffic are always an issue. Perhaps one idea is a traffic grant that would help purchase a warning device for downtown. As more and more cars are on the roadway, it is inevitable that there will be more incidents. Mr. McDowell shared that the City investigated those kinds of traffic control devices, and they are not inexpensive or effective without enforcement.

McDowell stated if you look at averaging citations from January to present, the City is at 16.5 per month, which is up significantly from the last few years. The City truly appreciates Deputy Mumey's efforts and your continued focus on traffic patrol. McDowell also related that it is important to remember that it doesn't matter how many officers you have, you will never catch everyone. Also, all LCSO contracts are limited to the number of hours that LCSO can provide. All incidents take quite a bit of time, and that must be considered when looking at the hours spent on each incident and on the cumulative report. The plight of law enforcement is trying to fit everything in.

McDowell asked Council if it would be helpful for them to hear some of the background hours used when they are fulfilling their contract to the City. Council concurred that this information could be helpful. Lt. Duncan stated that the marijuana citation alone cost her 7-8 hours, conservatively. She now also has a court date, as the defendant pled not guilty, and that will be hours spent on preparation and a court appearance for the case as an example. Sheriff Yon agreed that sharing the time involved with different kinds of complaints may be useful in better communicating the workload.

2. **Public Works.** Public Works Superintendent Karl Frink reported that the Robe Street project is nearly complete. Basically, all they need to do is clean up, the walk through today went well, with just a small punch list of items to address.

Public Works staff is working on the Water Treatment Plant scraping all three filters; two are done. This is quite an intensive project as no power equipment is used due to possible contamination factors. Each filter takes 2-3 weeks to complete. All the filter work needs to be completed before winter. Councilor Shepherd asked about the sand in the filters. Frink reported that they have scraped out about 9', roughly halfway done.

Frink reported that there are a few hazardous trees in town; one on Washburn and another up at the cemetery. The one in the cemetery is particularly dangerous and will be quite a lot of work to take down. There are lots of headstones near the tree, and each branch will need to be lowered down by ropes, which will entail all hand work. The stump will also have to be ground out, and all of this will take a lot of time. When working up in the cemetery cutting blackberry bushes a hunter was encountered coming out of the woods. It was an unnerving situation as the hunter stated that he didn't know there were people in the area!

Frink reported that as soon as the rain comes in, the streets will be graded. A new tree was planted in Remington Park for Arbor Day. The tree looks good and really compliments the area.

Public Works staff is desperately trying to pick up leaves while they are still nice and dry. Last Friday they were mowing them up and had a pile of dry leaves catch



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fire probably due to a muffler igniting the leaf pile. The pile was extinguished with no real damage.

3. **Administrator's Report.** Mr. McDowell congratulated Norman Simms and Councilor Gerber on completing their NIMS training. Also, he mentioned that Councilor Block has been delivering Council packets for more than a year, and he would like to pass that torch on to another Councilor. This week is audit week for the City. Everything seems to be going well; they are a very nice team to be working with. Judge Lemhouse retires in December. Please let McDowell know if you would like to RSVP to his retirement party.

The vineyard's wind machines located near Washburn Street have been kicking on for the past several mornings about 4:30 a.m. City Hall has received a lot of complaints about the noise generated by these machines. After extensive research, McDowell finally tracked down a contact. He was told that basically the turbines kick on at 40 degrees to move the air around the crop for frost protection. It would be difficult for the wind machines to be any less noisy than they are. The vineyard contact indicated that the harvest is done now, but that the wind machines will be kicking on for the next few weeks for routine maintenance. The machines will turn on again in April for maintenance and to protect the grape vines. The vineyard encompasses 394 acres, with about 20 acres in the City limits. For the most part all this land is considered EFU (Exclusive Farm Use), so noise limits and such do not apply as EFU is exempt from City ordinances or control.

McDowell reported that recently 19 abatement RFA (Request for Action) letters were sent before the Clean-up Day event reminding folks of the event and that they had items that needed to be addressed. After Clean-up Day, Staff found 13 properties still out of compliance. The properties were then posted for abatement.

McDowell reported that Norman Simms and Marilee Frasier hosted an EPC event downtown with the cooperation of the American Legion. The event was sparsely attended, but good conversations were had at that event. The group may start to make more of a regional effort to engage more folks.

McDowell reported that Collin McCandless, Calapooia Watershed Council, recently reported that an aquatic invasive plant known as *Ludwigia* had been found in the Calapooia River. It is the #1 invasive species right now. They have treated the river with the appropriate herbicide to eradicate it.

Just a reminder that the LCSO is holding a Drug Take Back event here at City Hall this Saturday from 12:30 p.m. – 1:30 p.m. in the front lobby area. This event is designed to keep extra unwanted, unused or partially used drugs out of the landfills and water sources.

There are several power poles in Pioneer Park that will be removed soon by Pacific Power.

Council will find on the desk tonight pictures of storage containers. McDowell has brought this subject up for Council consideration due to the current trend of placing these containers on properties as an accessory structure. Currently, the City must permit these as an accessory structure. McDowell contended that these storage containers are not accessory structures to a house, they are an accessory to a truck. However, City Attorney Ross Williamson indicated that without specific language the City could not limit the use of these storage containers. Does Council



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want to allow storage containers allowed in town? Predictions indicate that there will be many actual issues and annoyance complaints around these storage containers remaining on properties for a long-term basis. Council has been proactive in passing guidelines around things such as outlawing swine in the middle of town, passing sound and noise guidelines, among a myriad of other issues and concerns. Councilor Gerber indicated that she would like to see Staff move forward with getting more information and a possible ordinance for Council consideration. Councilor Chambers asked how an ordinance would affect pods. McDowell responded that in the language temporary pods can be an authorized use. *Councilor Gerber made a motion to authorize McDowell and a subcommittee to look into language about prohibiting storage containers. Councilor Neddeau seconded the motion.* Discussion was called for. Councilors Block and Thompson stated they were unsure just yet. Councilor Shepherd stated that he has two in his driveway right now due to a disaster inside his home. He thinks there is nothing wrong with them, and he is considering keeping them into the future due to the security of them. Councilor Neddeau stated that he would rather see one of these than garbage just piling up. Councilor Shepherd agreed that they are much nicer than trash all over. The vote was called for. *Councilors Neddeau, Gerber and Chambers voted in favor of the motion. Councilors Shepherd, Block, and Thompson, and Mayor Ware voted in opposition of the motion. The motion did not pass.* Mayor Ware stated that he would like Council to keep the issue in front of them, think about the implications some more, and perhaps gather more information.

4. **Library Report.** Mayor Ware stated that Mrs. Lemhouse is doing a fine job.
5. **Court Report.** No comments.
6. **Council Comments.** No comments.
7. **Citizen Comments.** No comments.

ACTION ITEMS:

1. **2019 Council Calendar.** Mayor Ware stated that he will be gone for the November 2018 Council meeting as he will be on vacation. *Councilor Block moved to approve the calendar as presented. Councilor Gerber seconded. A vote was called for and passed unanimously.*
2. **Advertisements for Board and Committee Openings.** McDowell reported that several current Board and Committee members have indicated interest in continuing to serve. *Councilor Gerber moved to reappoint Don Andrews, Pat MacDermott, and Mike McDaniels to their respective positions. Councilor Block seconded the motion, and it passed unanimously.* Advertisements will be generated for two (2) Park Board, three (3) Budget Committee, and possibly one (1) position on the Planning Commission pending the outcome of the election. Council can consider appointments at the December Council meeting.
3. **Cascade West Council of Governments Policy Statements.** The Cascade West Council of Governments asked for all public bodies to review the policy



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statements for the upcoming Legislative Session. Council had no comments or additions.

- 4. Temporary Signage and Right of Way.** McDowell stated that interesting things have been happening around the temporary signs. By definition, temporary signs do not need a permit. Historical past practice has been extremely lenient. Temporary signs include things such as real estate signs, garage sales signs, political signs, directional signs, event signs such as Carriage Me Back, Bloomin' Barbeque etc. McDowell is asking if this is something that Council wants to review the ordinance and make certain call-outs for types of signage? He has had 2 calls in 12 years, one for a museum sign, and one political sign. The Brownsville Municipal Code is available on-line, and when reviewed by the general public, folks tend to get into semantics and what they think the law means in order to get around the Code requirements.

Staff must have force of law to enforce issues while considering past practice. Staff is constantly culling through the ordinances to get to Council those that need clarification. Councilor Block stated that he read the ordinance, and that it seems fairly straightforward; thirty (30) days before and seven (7) days after an election, five (5) feet from the right-of-way.

McDowell stated that the main "kerfuffle" is around past practice; for decades the City has not enforced this time frame or requirement. The City would need to notify folks that this ordinance will be in full force from a certain time forward. Council and Staff will certainly hear about these changes because of all the different kinds of signs that fall within this definition.

Councilor Gerber wondered about having a rollout time like we have done with nuisances and weeds, etc., letting people know that as of this date, the City will be enforcing this. Mayor Ware commented that he thought past practice should stand, and he doesn't think it has really been a problem, only during election times. McDowell also stated that there should be discussion around what the City Attorney has provided, concern about possible civil rights issues, etc. McDowell suggested looking at specific definitions and requirements to see if we can bolster what we have now, and what we may pass going forward. Councilor Gerber stated that she would like to have some further discussion, maybe repeal the ordinance on the books if we are not going to enforce it. Councilor Chambers stated that she didn't see the problem. We seem to only get these complaints during election time, and everyone has always been really good at picking up their signs. The City doesn't seem to have problems the rest of the year. Councilor Gerber stated that the signage on the sidewalks can cause trip hazards. Mayor Ware stated that at this point the situation seems complaint driven. Councilor Neddeau agreed that most folks will move their signs and comply with the ordinance in general. Councilor Gerber stated that she would like to have ordinance match our practice. *Councilor Gerber moved to investigate some options for changing the language to match our practice or what future practice would like to look like, also to repeal or replace the current ordinance to match the will of Council. Councilor Block seconded the motion.* Councilor Shepherd commented that he thought it should be



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equal and fair to all. Mayor Ware concurred. Councilor Thompson stated that she thinks it's a time burden to note when everyone puts up their signs and takes them down. The burden on City Hall needs to be considered. She feels that just letting things be works due to the short period of time of elections overall. *A vote was called for. The motion passed with all voting in favor with the exception of Councilor Chambers and Thompson. (Mayor Ware's vote was indeterminable from audio.) The motion passed.*

- 5. Robe Street Project Decision.** Councilor Shepherd stated that last month Council made a decision and that Staff overruled them, and he doesn't understand why. Councilor Chambers stated that she doesn't feel overruled. It was a tough situation, and Staff had given their word, and that means something. Chambers stated that she would like it to never happen again; she would like to see some grace extended, and she is willing to give a warning that it not happen again. Councilor Shepherd stated that no one had a right to negotiate after Council's rule. Mr. McDowell stated there are extenuating circumstances, but he acknowledges that when Council makes a call, it needs to stand. Ideally, McDowell would have liked to have had an opportunity to make phones, get a quorum, or perhaps a special meeting could have been called around the decision reversal. Councilor Neddeau stated that most everyone has a cell phone, and it could have been handled differently. Council is here to support Staff, but he would like to have had more information about the situation, which could have had a different outcome. *Councilor Gerber made a motion to remind City Staff that if after a Council ruling different actions are required, the issue needs to come back before Council before further action is taken. Councilor Chambers seconded the motion.* Discussion was called for. Councilor Block stated that it is Council's duty to protect the Treasury and make policy. Superintendent of Public Works disregarded Council's wishes. Councilor Shepherd stated that he hasn't heard any reason that would have changed his vote. It all comes through the funnel, and that is the decision that is made. He feels like this situation is like standing on the street corner, and flipping Council the bird! Councilor Thompson stated that she feels there should be a consequence such as a written warning in his file, which is a significant thing. Councilor Shepherd stated that no one is out here hunting heads; he is still looking for the reason of why this happened. *The vote was called for with Councilors Chambers, Gerber, and Neddeau voting in favor and Councilors Shepherd, Block, Thompson and Mayor Ware voting against. The motion failed. Councilor Thompson made a motion to recommend a formal written reprimand be placed in employee's personnel file. Councilor Shepherd seconded the motion.* Discussion was called for. Councilor Gerber stated that she would vote against the motion as it is a city personnel action. This person does not report to us, so it is a personnel issue for which we do not have direct say over. McDowell affirmed this. Mayor Ware stated that this individual is an outstanding employee, has done marvelous things for the City, and has much value to us, in his opinion. *The vote was called for, with the motion passing, with all voting in favor except Councilors Gerber and Chambers. Mayor Ware did not vote.*

CITIZENS COMMENTS – No comments.



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COUNCIL COMMENTS – Mr. Frink stated that he would have liked a chance to address the situation, but no one gave him that opportunity before the motion was made. Comments now would be pointless.

Lastly, McDowell would like to clarify that Kirk Avenue is owned by the City, not Linn County. Linn County owns several roads that run through the City.

ADJOURNMENT: *Councilor Gerber moved to adjourn the Council meeting at 8:33 p.m. Councilor Block seconded the motion, and it passed unanimously.*

A handwritten signature in blue ink, appearing to be "SM", written over a horizontal line.

City Administrator S. Scott McDowell

A handwritten signature in black ink, appearing to be "Don Ware", written over a horizontal line.

Mayor Don Ware