



Council Minutes

February 27th, 2018

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

PUBLIC: Kim Clayton, Crystal Garcia, Elizabeth Coleman, Brian and Barbie Hendrickson, Linda and Verne Hoyer, Sergeant Greg Klein (*LCSSO*), Steve and Nan VanSandt, Bryan and Amy Bradburn, Tricia Thompson, Stephen Brenner, Kathleen Swayze, Alex Paul (*Democrat Herald*), Dave Hansen, Marilyn Grimes, Joe & LeAnne Ervin, Don Lyon, Marilee Frasier, Homer Turnbull, Jordan Parrish (*The Times*).

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: McDowell added 10F. Engineering Services Agreement to the agenda tonight.

MINUTES: Councilor Block would like to clarify that it was Councilor Shepherd that attended the LCSSO meeting on February 6th, 2018 with Mayor Don Ware and Mr. McDowell, not himself. *Councilor Chambers made a motion to approve the January 23rd 8th, 2018 meeting minutes with the correction. Councilor Neddeau seconded the motion, and it passed unanimously.*

PUBLIC HEARINGS OR PRESENTATIONS:

- 1. Sweet Home Sanitation – Brian White, District Manager.** District Manager Brian White was present to discuss the upcoming rate increase. The CPI indicates an increase of 4.2%, which will equate to \$1.09 to the service mostly used by Brownsville residents. White was happy to report that in 2017 SHS was accident free in the City of Brownsville. He also thanked Ms. Morrow for her help with the \$1,000 scholarship awarded to a senior at Central Linn High School. Councilor Chambers asked if this new rate still includes the yard cart and recycling. Mr. White confirmed it includes what is offered now. Mr. McDowell added that, just for clarification, the documents in the packet reflected a 2.4% increase, which was a transposition error accidentally made by Sweet Home Sanitation. The rate Council is being asked to approve is 4.2%. *Councilor Gerber moved to adopt R 2018.06 as amended. Councilor Chambers seconded the motion, and it passed unanimously.*
- 2. Open Council Seat – Candidate Statements.** Mayor Don Ware invited the 3 candidates to make a statement, honoring a 2-minute time limit.

Marilyn Grimes stated that she has volunteered for countless organizations and committees around Brownsville. She has wanted to be on Council since 2002. She has attended 4 out of the last 6 Council meetings. She stated that she would stand up for what's right, can compromise, is ready to represent, and it would be her honor to serve as City Councilor.

Bryan Bradburn spoke next stating the he is honest and believes in integrity and doing the right thing. He can work with people and believe in others' ideas as well.



Council Minutes

Bradburn stated that he understands the time and dedication that each of the Councilors contributes, and he appreciates your service and the magnitude of your commitment. He is willing to serve on Council and donate some of his time for that purpose.

Tricia Thompson spoke last thanking Council for the opportunity to speak. She provided her qualifications in a letter that was included in the Council packet. Her attributes include being a property owner, longtime volunteer, business owner, love for community development, and strong interpersonal skills. When ordinances are reviewed, citizen input should be considered, and what is best for Brownsville and the citizens that live here. She believes there are challenging and rewarding days ahead.

Councilor Gerber thanked all applicants for applying and their willingness to serve. Voting by secret ballot was conducted by Councilors. Votes were tallied by Administrative Assistant Tammi Morrow. Tricia Thompson was appointed to serve the remainder of Mandy Cole's council vacancy. Ms. Thompson thanked Council for their confidence.

McDowell indicated that Ms. Thompson would be sworn in at the next regular Council session on March 27th, 2018.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** Sergeant Greg Klein was present to recap the month. In January LCSO spent 220 total hours for the City, resulting in 34 hours on traffic, 23 citations, 29 warnings, and 86 complaints. Mayor Don Ware asked why there was such an increase in citations this month? Council is very appreciative of this. Klein responded that they were more aggressive, resulting in more citations. Also, Sergeant Klein also stated that Sheriff Bruce Riley is retiring, effective June 1st, 2018. Undersheriff Jim Yon will be taking over his position.
2. **Public Works.** Public Works Superintendent Karl Frink reported that the Dollar General project is just about complete. PW installed a new service on Washburn Street, and are waiting on one permit from Linn County. The Water Treatment Plant is performing correctly. A hoist failed at the North Treatment Plant. A new hoist was purchased due to the cost of repairs of the old one. Public Works crew has just finished the leaves in Pioneer Park. They will be moving on the graveling and grading roads soon. PW removed a tree at the Library. Volunteers came in and planted some new bushes and did a lot of clean up as well. It's exciting to have to a volunteer core that does a lot of this extra work for the community.

In the packet there is a violation information letter that will soon be mailed out to all city water users. The State has informed the City that back in December, there was a chlorine contact time violation. Frink explained the situation, stating that the State called it a violation, but in effect it is not truly a violation. State reporting requirements cite the numbers as a violation, but it is not an accurate report. There was no danger to the public at any time. Frink is very frustrated. This is the first violation he has ever received during his career that spans 26 years. If you do the



Council Minutes

math correctly, it isn't a violation, but the State says that it is. The City was out of compliance for 2 ½ hours. He will humbly mail out the letter. He is very upset this has occurred. Mr. McDowell stated that it takes about 8 hours to pump up the reservoir a foot. He said that maybe 5,000 gallons made it to the reservoir. It is at best, a technical violation, but the State will not budge on it. McDowell also pointed out that the City is required to maintain a chlorine residual in the distribution system. Plus, there is a considerable level of chlorine in the reservoirs that ensure public health as well. Letters will be mailed out the first of next week.

Frink also stated that a new law coming down is that if there is a broken line or reduction of pressure in the main line, boil water notices must now be sent out until testing comes back clear. This rule does not make a lot of sense, but we will still have to comply. Typically, the City has several breaks each year. It is common to shut down 4 or more blocks to fix a water leak, line break, valve leak, etc. This new law will require a substantial amount of Staff time, working up notices, stuffing envelopes, etc. This whole new law is very costly and frustrating for everyone involved and is creating havoc that doesn't need to exist. Frink has never heard of a reported illness due to a broken water line.

3. **Administrator's Report.** McDowell reported that he and Administrative Assistant Jannea Deaver will be attending the CIS conference later this week.

Lately he has been taking a lot of concerns around the condition of Kirk Avenue. Mr. McDowell and Councilor Gerber attended a meeting last June with Linn County. They have created a great transportation plan that uses criteria to determine future projects. Basically, with this new criteria, Kirk Avenue is unlikely to ever qualify for funding. McDowell estimates this project to be approximately \$2 million dollars. There are several ways to fund these improvements. A LID (Local Improvement District) could be formed, generated by the citizens or Council. These funds could be bonded out and then collected back from those folks over ten years on individual tax bills. There has been a lot of talk around this issue for several years. McDowell encouraged folks to go to the website for more in-depth information. Councilor Gerber stated that the County prioritizes these projects by safety, congestion, pure volume, etc. In some ways Kirk Avenue is safer because of the pot holes, keeping speeds down, etc.

McDowell reported that the City has signed a contract with Municode to update the website. We are currently operating on 2002 technology, and it is only a matter of time before it fails under the current method of operation which was close in 2015. It will take approximately 3 months to launch the new website.

Kevin Sullivan, President of Alyrica, has been working feverishly on Brownsville's fiber optic solution. They are conducting a study to implement aerial internet service in town, and are working on a franchise agreement. To be viable here, they estimate to need a 50% market saturation. Approximate cost for 100 MBps is \$69.99. The City currently operates on about 1.75 MBps of the projected 10 MBps Century Link promises. This new internet speed will be critical for our upcoming software update which is cloud-based.

After researching several general ledger and utility billing software vendors, Staff has decided to remain with Harris Computer. The upgrade price will be about half the cost of initiating a new vendor, and the City will have no data conversion which will save many, many hours. Harris is offering several upgrades, and Staff is excited for this new transition.



Council Minutes

The EPC met a few weeks ago and set some good direction for the year. They will send a contingent to the April Council meeting to report out.

The Go Team and RLED proposal is still floating around but is moving forward.

The Inspections Unlimited group has been delayed in conducting the inspections. Hopefully, this project will get started soon.

Last month Council directed Mr. McDowell to submit the TMDL report. DEQ has responded and their requirements and comments are unreasonable. The cost to taxpayers will be outrageous. Brownsville and other communities cannot afford these requirements and regulations to persist. These regulations have got to be stopped. Council will have to take action to blocking these kinds of unfunded mandates from the Federal and State governments.

4. **Library Report.** No comments.
5. **Court Report.** No comments.
6. **Council Comments.** No comments.
7. **Citizen Comments.**

Elizabeth Coleman informed Council that she had recently been made aware of some negative reviews posted on Yelp about several local eateries in Brownsville. The reviews were signed by Liz C. She would like to clear the record and state that as a community member and City of Brownsville Staff member, she would not post negative reviews on social media nor act in that manner. She supports the City and it's many businesses.

Verne Hoyer spoke in reference to O 770, allowing outdoor marijuana grow operations in the City. He stated that he would like his rights considered by this Council, just as the growers are demanding their rights. Hoyer has served in various law enforcement capacities for 23 years. He stated that fences alone will not solve the problem. Kids will climb fences, and break into houses trying to obtain drugs. There is a recent case of a man being beat to death over marijuana. Hoyer stated that we don't need that kind of violence here. Outdoor crops are being affected by nearby marijuana operations. He implored Council to contain marijuana grows to inside only; we are a small community and we all should have equal rights here.

Brian Hendrickson stated that with the application pulled for the large-scale marijuana grow on Gap Road, the City has narrowly avoided a very bad situation. However, the property is still being advertised as an approved land use cannabis operation. A three-mile buffer zone is still very much needed to prevent this kind of operation impacting the City and community. He believes that the State did not give enough time to regulate this industry properly. The City is facing the same challenge. Hendrickson said that the attitude that neighbors can work these marijuana situations out between themselves is very naïve, and someone is going to get hurt.



Council Minutes

Joe Ervin spoke in favor of the 3-mile buffer zone to block the locating of any marijuana grow within this area. In November the City sent a Resolution to the Linn County Commissioners requesting the enactment of this buffer zone due to the fact that the proposed operation was located just outside City limits. Since that time the permit application has been withdrawn, and the upcoming hearing canceled. The property is now listed for sale, RML # 728655, for \$950,000 with the language "also has Linn County approval for an indoor cannabis growing permit". Ervin and his neighbors are still very concerned about the property being sold and the plans for a marijuana grow proceeding. The use is simply not compatible for south Brownsville. He strongly encouraged Council to urge Linn County Commissioners to make this resolution a priority, time is of the essence.

Nan Van Sandt spoke next, thanking Mr. Frink for all the hard work that he does. She agrees with Joe Ervin about the proximity of a big grow operation right outside of town. It is not appropriate, any more than a pig farm would be, right next to residential areas. Van Sandt stated that she believes folks in town should be able to grow a couple of plants outside in the sunshine, or a greenhouse, for medical or recreational use. She believes there should be a way to be able to grow outside, maybe Council should wait a year before making any determinations.

Homer Turnbull echoed what Joe Ervin and Brian Hendrickson said tonight.

Jack Alsman stated that he has lived here about 7-8 months now. The marijuana issue is very contentious and asked for clarification. Mr. McDowell indicated that The State of Oregon has preempted cities, proclaiming that the City must allow marijuana. He quoted statistics about the vote and stated that the language of the ballot measure was very confusing. Home rule has been preempted, and we must now wait for the legislature to put new rules out.

Steve Van Sandt stated that people have made irresponsible statements tonight in regard to children's safety in relation to cannabis. Cannabis hasn't killed anybody. People smoke outside all the time, and he is exposed to that carcinogenic smoke. Cannabis is more of an anesthetic danger.

Linda Hoyer concluded the citizen's comment session stating that she has worked out at CLHS for 20 years. She has been involved at a national level working with children and has an extensive background in drug and alcohol abuse. She finds that it is more of an emotional thing, versus a physical thing. Hoyer has witnessed more and more kids using pot and has seen that they then don't care about grades, sports, etc., and tend to go into a downward spiral. She believes there is an effect with its use, she has witnessed it firsthand. *Time* magazine just put out a new publication about opioids. The article stated that almost all heavy users of opioids started with alcohol and pot. Marijuana is very much a gateway drug. What kind of message is this new acceptance of marijuana sending to our youth? She easily identifies the marijuana users at the high school, it is very apparent.

LEGISLATIVE:

- A. O 770 – Marijuana Home Grow Operations (Second Reading).**
Councilor Gerber moved to read O 770 by title only. Councilor Block seconded the motion, and it passed unanimously. Mayor Don Ware designated Mr. McDowell to read O 770 by title only. Mr. McDowell informed Council that the ordinance has been modified from the last meeting as directed by Council. These changes precipitated a conversation with the attorney to talk about the



Council Minutes

best way to meet the challenge that Council is facing regarding marijuana issues. He stated that the best way to handle it may be a 2-part process. The first part of the process is to proceed with O 770 establishing marijuana in the nuisance ordinances. By passing this ordinance tonight, Council will ensure that the ordinance is in place for this upcoming grow season, which will be happening soon. The second part of the process may be a land use ordinance which could limit what you could grow dependent on lot size and area. Some landowners have large areas that could be scalable, any might be able to grow without a lot of odors affecting others. That is not what is happening right now. There is a structured process to go through with the DLCD to make changes to the City's ordinances pertaining to Title 15 changes of the Brownsville Municipal Code. Currently processors are allowed in town, with no regulations to correct or mitigate the problem. The City would use Linn County Code to establish baseline regulations. The ordinance tonight is the nuisance piece of this two-pronged process. Councilor Gerber recapped that this ordinance tonight is a much softer version of what has been previously proposed. It will identify when marijuana creates an issue and Staff will be called out to determine if the situation warrants a nuisance. If necessary, the nuisance could be cited into court for determination by the Municipal Court. Councilor Block likes this piece of the ordinance. *Councilor Gerber moved to adopt O 770. Councilor Block seconded the motion, with all voting in approval except for Mayor Don Ware who voted in opposition.* Councilor Chambers would like to move forward in a timely fashion on the land use issue. Staff will consult with legal and present an ordinance to Council when available. Mr. McDowell stated that it will be a long process, but will start as soon as possible. Council concurred by consensus.

- B. **R 2018.05 – Cole Public Service Recognition.** Staff has prepared a gift and a proclamation for Mandy Cole for her many years of service to the City. *Councilor Gerber moved to wholeheartedly approve R 2018.05. Councilor Chambers seconded the motion, and it passed unanimously.*

ACTION ITEMS:

1. **Historic Review Board Membership.** McDowell proposed that Council appoint two (2) Councilors to join this group for an interim period. Mayor Don Ware and Councilor Neddeau have agreed to be appointed. *Councilor Block made a motion to approve this appointment. Councilor Chambers seconded the motion, and it was approved unanimously.* Councilor Gerber would like to look at some guidelines for building the committee back up. McDowell stated that Planning Commission members are working with Staff in discussion of some parameters.
2. **Cascade West Council of Governments (Transportation Committee)** McDowell stated that the Cascade West Council of Governments is looking for a representative to serve on this committee. The Committee serves Linn, Benton, and Lincoln counties. Councilor Gerber tentatively volunteered, dependent on her work schedule. *Councilor Block made a motion to approve this appointment. Councilor Chambers seconded the motion, and it was approved unanimously.*
3. **Canal Company Solvency.** Mr. McDowell reminded Council that last year few key folks resigned from this group, and to his knowledge, there is not an entity in



Council Minutes

place at this time. The City will need proof of insurance to operate the pumps for the Canal. He is recommending that Mayor Don Ware draft a letter to determine the group's solvency. *Councilor Block moved to send Mayor Don Ware forth. Councilor Gerber seconded the motion, and it passed unanimously.*

4. **Linn County Commissioners and Buffer Zone.** McDowell reported that the Raschein application has been officially rescinded and is no longer being heard by Linn County. The City had put together a letter that was part of that appeal process. McDowell recommends that the City move forward to reach out to Linn County Commissioner Chairman Roger Nyquist and determine the process for moving forward with a 3-mile buffer zone legislation. *Councilor Gerber made a motion to authorize Councilor Neddeau and Mr. McDowell to advocate and move forward for buffer zone legislation. Councilor Block seconded the motion, and it was approved unanimously.*
5. **Approve Klinkibeil Agreement Revision.** McDowell provided Council with the revised agreement; he is requesting approval and authorization. *Councilor Chambers made a motion to authorize Mayor Don Ware and Mr. McDowell to execute the revised agreement. Councilor Block seconded the motion, and it passed unanimously.*
6. **Erwin Engineering Retirement.** Jon Erwin, Erwin Engineering, the City's longtime engineer will be retiring in the near future. McDowell would like to sign the Dyer Partnership to be the City's engineering firm. Ryan Quigley of Dyer Partnership is a former employee of Erwin Engineering and is very familiar with the City's needs. *Councilor Gerber moved to authorize Mayor Don Ware and Mr. McDowell to engage Dyer Partnership as the City's new engineers. Councilor Chambers seconded the motion, and it passed unanimously.*

DISCUSSION ITEMS:

1. **OGEC Process and Deadline.** McDowell reminded everyone that they will soon be getting this annual email invitation to complete the required paperwork. Contact Mr. McDowell or Ms. Morrow if you need assistance. Also, please send us notification when your paperwork is complete.
2. **Goals Review Work Session.** The Council Goals Review Work Session is scheduled for March 17th, 2018 from 9:30 – 11:30 a.m. McDowell will send out a reminder and small packet of information.
3. **Prospectus Update.** Every year McDowell publishes a prospectus. The document can be found online on the City's website. He will send out budget process letters soon.
4. **January Financials.** No comments.

Citizen Comments.



Council Minutes

Homer Turnbull stated that there is a different aspect to marijuana than just the health of a child. There is a health issue. There is violence over drugs every day. It's not always what marijuana does to your body, it's what other people who want it might do to your body.

Crystal Garcia is interested in land use for Brownsville. She is working on a project for her college education. Mayor Don Ware encouraged her to meet with Mr. McDowell for information.

Council Comments. No comments.

ADJOURNMENT: *Councilor Block moved to adjourn at 8:42 p.m. Councilor Gerber seconded the motion, and it passed unanimously.*

A blue ink signature of S. Scott McDowell.

S. Scott McDowell
City Administrator

A black ink signature of Don Ware.

Don Ware
Mayor