



Council Minutes

January 23rd, 2018

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

PUBLIC: Sheriff Bruce Riley, Undersheriff Jim Yon, Captain Kevin Guilford, Lieutenant Michele Duncan (*LCSO*), Chief Kevin Rogers (*Brownsville Fire Department*), Kim Clayton, Roger Tetamore, Scott and Rita Gese, Steve and Nan VanSandt, Tricia Thompson, Stephen Brenner, Anne Stein, Ron & Gini Bramlett, Mike Moshofsky, Kathleen Swayze, Librarian Sherri Lemhouse, Alex Paul (*Democrat Herald*), Lynlee Bischoff, Marilyn Grimes, Robert Miller, Rick Morrow, Brian & Barbie Hendrickson, Marilee Frazier, Elizabeth Ramshur, Joe & LeAnne Ervin, Jordan Parrish (*The Times*).

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: No additions or deletions tonight.

MINUTES: Councilor Cole made a motion to approve the November 28th, 2017 meeting minutes as presented. Councilor Neddeau seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

1. **Brownsville Art Association.** President Kris Costal and Dr. Lori Garcy thanked Council for the opportunity to come and report on their year. They have had a fantastic year, all thanks to the support of the City and Staff. They stated that the building is the key to their success, and again expressed their appreciation. They reported that they are financially sound and self-sustaining except for the room and some utilities. They have many great events, for example writer Jane Kirkpatrick is coming to conduct a writing workshop soon. All are encouraged to attend an art class or event, for most classes no experience is needed. Mayor Don Ware said Council is glad that they are here, they add quality to our town.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** Sheriff Bruce Riley was here thanking Council for the longstanding positive relationship the County enjoys with the City. He said that Brownsville is a big piece of the county. They are currently experiencing a hiring blitz. Overall, they are still down some personnel, but are working on it. Lieutenant Duncan spoke next recapping the month. In December LCSO spent 214 total hours for the City, resulting in 44 hours on traffic, 11 citations, 15 warnings, 5 arrests, and 85 complaints. They did cite one owner for a dog at large. Councilor Chambers inquired about the border collie dog that has been on the loose in town since the first of January. Duncan will check into the matter.
2. **Library Report.** City Librarian Sherri Lemhouse was present to give a 6-month update to Council. She said that the children's programs are where the action and most interest is. Tonight, she brought her auto harp to accompany her with her report because it is a lot easier to play than the ukulele! Her tune basis was "You



Council Minutes

are my Sunshine”, and she encouraged the audience and Council to join in on the chorus!

3. **Public Works.** Mr. McDowell stated that Superintendent Karl Frink is out tonight due to sickness. Public Works crews have been finishing up in the park, working on the leaves. Frink has also been very active working with the Dollar General folks on that project. The sidewalks are in, and water lines have been installed. They had two water line breaks. Public Works Staff handled the incident very well as Mr. Frink was out on vacation. The furnace at the Central Linn Recreation Center went out. This furnace will be the last of the three to be replaced. In the park there is a very active beaver causing damage. Some trees will need to be removed this spring.
4. **Administrator’s Report.** McDowell has provided a meeting schedule for the year for Council. Also, please remember there are mailboxes downstairs, and he encouraged Council to check them regularly. McDowell also asked Council for some help in delivering the agenda packets on the Friday before Council meetings. Councilor Block said that he could help with that.

There are several upcoming meetings that McDowell would like Council to be aware of. Representative Barnhart will be in Halsey on Thursday night for a town hall meeting. There is also a LCSO meeting on February 6th, 2018 at 2:30 p.m. Last time Councilor Shepherd and Mayor Don Ware attended with McDowell. Mayor Don Ware has volunteered the City to host the League of Oregon Cities meeting on February 9th, 2018 at 11:00 a.m. The CJIS (*Criminal Justice Information System*) audit will be next Tuesday, January 30th, 2018. McDowell and Court Clerk Carol Humphreys will be meeting with OSP (*Oregon State Police*) to go through that process.

As directed by Council, the Randall Raschein/Amin Patel proposed marijuana grow operation appeal was filed with the Linn County Planning Commission and Linn County Board of Commissioners. The appeal was deemed complete, and a hearing date has been set and changed. The hearing date is yet to be determined. It would be beneficial for the City to have at least one elected official present at that hearing.

Recently, the City has been looking at the useful life of several City buildings in the Park and the Rec Center. An inspection is scheduled to give a better overview of what is needed and estimated costs. Once this report is received, a town hall meeting will be scheduled inviting the community partners to disseminate the information. The town hall meeting is likely to be held late March or early April.

McDowell reported that he has been meeting with the GO Team around the regional economic development progression. The group will be meeting with the COG (*Council of Governments*) soon. It is a very exciting process.

Staff continues to look for general ledger and utility billing software. The City had planned on working with the COG last year through their vendor, but that situation has changed. The City is in urgent need of upgrading as our current software suite will not be supported much longer.

Josh Metcalf from Sweet Home Sanitation has taken a promotion, and will be located in Tacoma, WA now. Brian White will be taking his position in Sweet



Council Minutes

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Council Minutes

Home. Last meeting Council had asked for an estimate for a second clean-up day for the City. The cost for this event would be \$30,000. If incorporated into rates, that would mean a 15% increase.

The BWCMF (Bi-Mart Willamette Country Music Festival) have applied for a land use permit in Marion County, and are planning on making a move there (City of Jefferson area) in 2019.

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

Lynlee Bischoff was present and expressed concern over the beavers and their damage in the park. She stated that at least 25 trees have been affected so far, with 12-13 already fallen. It has radically changed the riverfront with losing so many trees.

Kathleen Swayze spoke next and wondered about getting rid of the digger squirrels in the park as well? Her response to the proposed O 770 is it is a great overreaction about the smell of a few cannabis plants, and she is disturbed to see this trend by the City Council. She suggested giving state law time to work out the bugs, and then see what is more appropriate for all of our citizens. She thinks that it is best for the neighbors to work something out between themselves if there are issues, city government should not get involved other than issuing some general guidelines.

Anne Stein spoke stating that she agrees with Mrs. Swayze. Stein is concerned about the cost of enforcement and having a law that cannot be enforced. She thinks O 770 is not realistic and asked that Council not go down this road.

Steve Van Sandt stated that his objections to O 770 have nothing to do with the large-scale marijuana grow proposed on Gap Road. Mr. Van Sandt read a prepared statement. He said that he is disappointed in the city councilors that he voted for. Cannabis can be used for legitimate, chronic ailments, and this is being denied to people. A more realistic approach might be property setbacks, or perhaps require them to be grown in a greenhouse, or maybe limit the number of plants. Not all can afford to purchase, and this would deny many the free use of their property. He called it overreach on Council's part.

Ann Clark said she is new to the community but has been brought up to speed rather quickly. They have had trouble with a neighbor situation and have contacted LCSO in the matter. She stated that they moved here from Washington and have dealt with many of the same issues. People need to make adjustments.

Nan Van Sandt said that she is very disappointed with O 770. She feels the City is prematurely overreacting to one growing season by going to the extreme of making no outside grows. She knows that cannabis smells bad during the growing season, but we must give and take on this issue. Please consider alternate ways to deal with it.



Council Minutes

Steve Brenner stated that he likes the rural atmosphere of Brownsville. He feels that if there are issues, the citizens need to work these issues out between themselves. Government should not get involved. The cannabis issue has become demonized, objectivity has gone out the window. He stated that City Administrator McDowell is not objective on this issue. He is a great city manager but has stated that he would leave if cannabis is grown here. Mr. McDowell responded to Mr. Brenner's comments stating that Council has been dealing with the marijuana topic for over 3 1/2 years. The topic changes weekly, it is challenging and nearly impossible to stay ahead of changes made by the State and activity by Federal government as it relates to marijuana. It is a testament to Council and Staff for the effort that we have all put in to save taxpayers. The City has a medical & recreational shop. This ordinance is not about one person complaining about cannabis. Multiple complaints have been lodged. Council received a petition sign by 196 people. The suggestion that Mr. McDowell is leading Council is preposterous. They have looked at many different ways to deal with the issue. Cannabis growers are not following the rules, and that is a large part of the problem. We want people to do what they are allowed to do, but it is a tremendously difficult when there no compromising positions on either side of this issue. It is important to remember Council has not made any decision on how to handle this concern yet. Mr. Brenner asked to finish his allotted 3 minutes. He said the City of Grants Pass is being sued right now on the issue.

Joe Ervin was the last to speak on the issue. He stated that he wanted to briefly comment on O 770. He said that he is not debating the marijuana issue, medical or recreational. It is important to remember that the actions of others affect the rights of those around them. Our governing body enacts and enforces laws to protect health, safety and peace. He agrees that you should be able to do what you want on your property, however, with that right and privilege, also comes responsibility for how your actions affect others. Changes in the law have occurred. Outdoor marijuana grows should not be seen or allowed to become a nuisance. If they do become a nuisance, they should be treated no differently than other nuisances, such as car parts, weeds, trash, etc. Nuisances negatively affect property values. It is Council's responsibility to enhance livability for our community.

LEGISLATIVE:

A. O 770 – Marijuana Home Grow Operations (First Reading). *Councilor Cole moved to read O 770 by title only. Councilor Chambers seconded the motion, and it passed unanimously. Mayor Don Ware read by title only. Councilor Cole stated that she will be resigning from Council, effective tomorrow. Council has been dealing with cannabis for months and months. Clearly this has been due to two factors, the public complaints and the ambiguity of state regulations. As an attempt to address these concerns, Council has asked for some proposed legislation. Cole stated that she would like to stand with Mayor Don Ware and let the ordinance rest. She thinks Council should take a year off before proposing any legislation. She is looking for the citizens to self-regulate and demonstrate their capacity for agreement. She believes Brownsville citizens are capable of this action. Councilor Chambers has heard some good ideas about setbacks. She believes there are laws in place now, number of plants, etc. Chambers thinks that forcing people to grow indoors is dangerous. She is worried about the electrical implications, fire, etc. Councilor Chambers also addressed the recent editorial in the paper that Don Ware wrote discussing ordinance 770. She stated that she felt that was not well done as Council had not even had a chance to discuss the issue, and he had a full*



Council Minutes

discussion in the paper. Ware said he appreciated her input. Mr. McDowell stated that the process is that Council will look at the ordinance at a first reading. Edits can be made at this point. Councilor Block would like to see some changes. He does not want it to be strictly complaint driven. Setbacks and marijuana out of view would be a start. Number of plants and requirements should mimic state law, also removing indoor grows only. Mr. McDowell commented that it is important to remember that marijuana law and applications are still a very fluid situation. Billy J. Williams, Oregon US Attorney, has stated that something is going to change. Congress is looking at legislature around this issue as well. The City and State are in unprecedented territory with states ignoring Federal law. Councilor Cole stated again that this is exactly why we need to not do anything for a year, and let it rest. It is almost impossible to keep up with. Mr. McDowell stated that the implications of the proposed grow operation should be overlooked. Council has appealed a proposed marijuana grow operation 0.06 miles from town. It seems it would be wise to consider options about controlling negative impacts of marijuana on neighboring properties. Council directed McDowell to bring edits on this ordinance back to Council for further consideration in February.

- B. **R 2018.01 – Pro-Tempore Judge Appointment.** *Councilor Cole moved to adopt R 2018.01 as presented. Councilor Neddeau seconded the motion, and it passed unanimously.*
- C. **R 2018.02 – Commitment to Safety Program.** *Councilor Cole moved to adopt R 2018.02 as presented. Councilor Block seconded the motion, and it passed unanimously.*
- D. **R 2018.03 – Distribute Transient Room Tax Funds.** *Councilor Chambers moved to adopt R 2018.03 as presented. Councilor Cole seconded the motion, and it passed unanimously.*
- E. **R 2018.04 – Secretary of State Audits Division – FY 2016-2017.** *Councilor Neddeau moved to adopt R 2018.04 as presented. Councilor Cole seconded the motion, and it passed unanimously. McDowell reported that this resolution is a required response to the audit that was recently filed with the Audits Division; this year the auditors filed a few comments with their report that required a City response. Basically, the resolution is the City's evidence that explains that rationale as to why certain decisions were made or shows how financial issues were handled or how things will be handled differently in the future.*

ACTION ITEMS:

1. **Board and Committee Appointments.** *Applicants and positions were discussed. Councilor Cole made a motion to appoint Pat Cook to the Open Spaces and Park Board. Councilor Chambers seconded the motion, and it was approved unanimously. Councilor Block made a motion to appoint David Hansen to the Planning Commission. Councilor Chambers seconded the motion, and it was approved unanimously.*



Council Minutes

2. **Internet System Development.** Council has heard multiple reports about the possibility of upgrading internet capacity to a fiber optics system. Mr. McDowell reported that without more robust internet options, the City could be left behind. However, it is important to remember that this is not necessarily a City issue. Alyrica an ISP out of Philomath, Oregon is in the process of installing a fiber optic system in Halsey. The main difference between Halsey and Brownsville is that they already had a main trunk line running down Highway 99, so it was a relatively easy decision for Alyrica to provide service to Halsey. Alyrica is interested in growing their business in either Philomath or Brownsville. However, there are a lot of details for consideration: 1) up-front infrastructure costs, 2) private capital, 3) possible partnership opportunity to leverage Federal funding, 4) customer base canvassing to determine who is interested in switching service, and 5) regulatory concerns around net neutrality and the recent FCC ruling. McDowell is looking for direction from Council on this issue. McDowell reported that he has received many concerns from businesses and citizens about the current capacity of the Centirylink system. Mayor Don Ware would like to go forth and get a few answers. *Councilor Cole made a motion to go forth and obtain some answers and encourage Alyrica to canvass the customer base. Councilor Neddeau seconded the motion, and it was approved unanimously.*
3. **Regional Policy Advocacy Effort.** Mr. McDowell has been working with the COG on regional policy advocacy. The region has been in neutral on policy issues. The COG board is in favor of the idea of working together to develop policy areas and policy positions. The group is working on getting ready for the next legislative session, 2019, to approach the legislators and get our collective, regional voice heard. Many small cities have the same issues as Brownsville. *Councilor Cole moved to endorse these priorities and authorize Mr. McDowell to go forth. Councilor Neddeau seconded the motion, and it passed unanimously.*
4. **Approve TMDL Report.** McDowell reported that Staff is required to put together a report every year. Councilor Cole commented that this is the most amazing report she has ever seen. *Councilor Cole made a motion to approve the TMDL report. Councilor Block seconded the motion, and it was approved unanimously.*

DISCUSSION ITEMS:

1. **Water Treatment Plant Sanitary Survey.** This survey report was included so that Council was aware of the depth of what the report contains. McDowell indicated that Public Works Superintendent Karl Frink did a great job ensuring the City was in full compliance with the necessary, mandated regulations. The City puts a lot of resources and energy ensuring a safe water supply for residents. No action needed.
2. **Buildable Land Inventory.** McDowell provided a zoning map in the packet tonight for Council review in terms of buildable land inventory. The City is close to being out of available, developable residential and volume and light industrial



Council Minutes

property. There are a few areas off Highway 228 to the east and west that could be utilized, but there will be some controversy and folks are likely to be very concerned and possibly quite unhappy. The City is looking at residential availability as well. Certain factors such as sloped hillsides are not developable and they can be taken out of the available inventory with proof and verification. One of the few developable, future residential areas is south of town along with a small area north of town. This is one of the reasons that the Linn County Raschein/Patel appeal is so critical to the City in terms of future development. Placing a light industrial application in the middle of a residential area does not make sense for the future development of Brownsville.

3. **Ordinance Reviews.** Council elected to table this discussion tonight. They would like Mr. McDowell to set up a goal setting work session in February. He will send out an e-mail with possible dates for a meeting.
4. **Budget Advertisements.** McDowell stated that Council will begin to see the annual budget advertisements published in *The Times* over the next few months.
5. **November and December Financials.** Mayor Don Ware inquired about the large increase in the account balances. McDowell replied it is the property tax funds filtering in.

Citizen Comments.

Nan Van Sandt stated that she is very opposed to the large marijuana grow south of town. She is impressed with Council that is not enforcing O 770 right now. If it comes to only growing marijuana indoors, she is wondering how Council will enforce that.

Anne Stein returned to the podium and stated that she is thrilled to hear about the City working with the COG and LOC around regional policy issues. The DLCDC (*Department of Land and Conservation*) has been skewed in the rural areas for years. She would like to see the boundaries expanded. She will be attending the meeting with House Representative Phil Barnhart in Halsey and will broach the subject there as well.

Joe Ervin expressed gratitude for all the comments in opposition to the large marijuana grow south of town. He encouraged everyone to attend the Linn County Board of Commissioners meeting in February to express their concerns.

Council Comments. Councilor Cole distributed her formal resignation letter to the Council, effective tomorrow, Wednesday, January 24th, 2018. *Councilor Block moved to accept Councilor Cole's resignation. Councilor Cole seconded the motion, and it passed unanimously.*

Mr. McDowell stated that the empty Council position will be filled as per ordinance. The vacancy will be advertised, and applicants will be considered. It is likely someone be appointed at the February Council meeting.

Councilor Chambers thanked Councilor Cole for her service and- stated that she has learned a lot for her. She also stated that she approved of the e-mail that Councilor Gerber supplied regarding O 770.



Council Minutes

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

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

S. Scott McDowell
City Administrator

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

Don Ware
Mayor