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**Special Meeting
November 14th, 2017**

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

PUBLIC: Rob & Caryn Shepherd, Brownsville Fire Chief Kevin Rogers, Dana Mikkelsen, Randy Raschein, Bob Red, Charley Wolff, Daniel O'Malley, Natalie Turner, Tim & Terry Marchbanks, Carol Humphreys, Jannea Deaver, Linda Day, Rick & Tammi Morrow, Kim Clayton, Alex Paul (*Democrat Herald*), John Morrison, Linda & Verne Hoyer, Richard & Ann Anderson, Chandra Evans, Eric Strom, Kaye Fox, Tricia Thompson, Joe Ervin, Don Andrews, Marshall & Connie McManus, Brad & Elizabeth Ramshur, Brian & Barbara Hendrickson, Karl Frink, Daniel Leopard, Randy Simpson, Gayle Ashford, Debbie Jensen, Roger Tetamore, Kelly Williams, Lynne Heller, Patty Linn, Spencer & Joan Roth, Neal & Susan Karo, David Bierek, Victoria Morrow, Lynlee Bischoff, and Erica Harms.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: No additions or deletions were added to the agenda. A sign-in sheet was circulated for the public record.

Mayor Don Ware read the public hearing format for the evening.

PUBLIC HEARINGS:

RECONSIDERATION OF CONDITIONAL USE APPLICATION:

Mayor Ware read the following statement:

The City received a memorandum from Mr. Brian Michaels on behalf of Mr. Randy Simpson & Ms. Gayle Ashford.

The reconsideration portion of this special meeting does not allow for any modification to the existing public record.

So, at the advice of City Attorney Ross Williamson I am rejecting this memorandum to be part of the reconsideration process.

Mayor Ware asked Mr. McDowell to summarize the purpose for this hearing. City Administrator S. Scott McDowell shared the timeline of Mr. Randy Simpson & Ms. Gayle Ashford's Conditional Use Application for a Recreation Marijuana Facility at 221 W. Bishop Way. The applicants initially met with the Planning Commission on July 17th, 2017. The Commission requested additional information from City Attorney Ross Williamson. The meeting was tabled and reconvened on July 31st, 2017. The Planning Commission concluded the hearing by denying Mr. Randy Simpson & Ms. Gayle Ashford's application by 4 – 3 margin. Mr. Randy Simpson & Ms. Gayle Ashford appealed the Planning Commission decision to Council as allowed by the Brownsville Municipal Code.

Council set a special meeting for September 19th, 2017. Council did not make a proper motion that evening so the matter was officially voted on at the regular session Council meeting on September 26th, 2017. Council voted 4 – 2 to uphold the Planning Commission's decision and deny the application. City Administrator Scott McDowell



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shared with Council and the audience members at that time that the City's case was not very strong according to City Attorney Ross Williamson and other City consultants who reviewed the facts.

Council held a regular session on October 24th, 2017 where they voted unanimously, with Councilor Neddeau absent, to self-remand the issue to a special meeting set for November 14th, 2017 under the general direction of legal counsel. Council could then determine if the application should be approved or if the City should continue with the denial of the application. Council also unanimously voted to require City Attorney Ross Williamson to file a Notice of Withdrawal for reconsideration with the Land Use Board of Appeals (LUBA).

McDowell said the reason Mayor Ware had to read the statement above was because the public record for Mr. Randy Simpson & Ms. Gayle Ashford's application could not be opened, no new information could be added to the record.

Mayor Ware thanked McDowell for the summary. *Councilor Gerber made a motion to approve Mr. Randy Simpson & Ms. Gayle Ashford's Conditional Use Application and adopt the Conditions of Approval contained in the existing public record. The motion was seconded by Councilor Cole.* Mayor Ware called for discussion.

Council Shepherd indicated that we have violated the State Constitution and the United States Constitution over the marijuana issue. This issue will have negative health impacts and erode future opportunities for young people. Shepherd said that future Federal funding implications could impact the City's need for Federal programs to help fund future infrastructure projects. The water system and the distribution system will need these funds and the City may not be eligible due to the violation of Federal law as directed by the State of Oregon.

Councilor Shepherd continued saying, "As a Council member, for the public record, marijuana is against Federal law. The City is strongly opposed to the State on this issue, but the State is preempting local authority."

Councilor Block added, "The State of Oregon will continue to force cities in Oregon to be a party to these illegal operations. The City has no other choice but to self-remand the issue of the Simpson-Ashford Recreational Conditional Use Application or face a costly lawsuit that will likely end in the favor of the applicant according to the City Attorney and those around the legal community. The City of Brownsville cannot afford this kind of legal battle. Even though the correct thing is not being done in this situation, the City has no choice. It seems it has come down to dollars versus the right thing."

Councilor Chambers said, "The State has put the City and other cities against the Federal government. We are in a rock and hard place here. We have nowhere to go. We are either in violation of the State or the Federal rules; it's very sad."

Councilor Cole called for the question.

The motion passed unanimously.

Mayor Ware called for a five minute recess and indicated the meeting would reconvene at 7:15 p.m.



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LINN COUNTY PROPOSED LAND USE ACTION

Mayor Ware reconvened the meeting moving on to the Linn County Planning Department's Proposed Land Use Action for a Marijuana Grow Operation at 26958 Gap Road. Mayor Ware said that there will be a public comments portion to the meeting. He asked that anyone wishing to speak would go to the podium, state their name and address for the public record.

Mayor Ware asked City Administrator Scott McDowell for a summary.

McDowell indicated that the City had been approached by citizens from both in town and out of town about a large grow operation being proposed 0.06 miles from the south edge of town. Council has been asked to send a resolution of support proposing a buffer zone around the City. Council would like to hear public comments. Administrative Assistant Elizabeth Coleman stated this use is an outright permitted use. The County sent out notices as a courtesy to neighboring properties. Linn County considers the proposed action as meeting County code. The proposed action include eight total greenhouses and a processing plant.

McDowell indicated the City has received additional letters and pages of a petition. He made a table of contents for Council's convenience. The additional petition pages would bring the total up to 137 signatures. McDowell also indicated that Mr. Randy Simpson & Ms. Gayle Ashford's legal counsel's, Mr. Brian Michaels, memorandum was also placed on Council desks.

Councilor Gerber explained the public speaking process indicating that she will time each speaker and hold a yellow folder as an indication that the speaker has 30 seconds left. She reminded folks to state their name and address for the public record.

PUBLIC TESTIMONY:

Randy Simpson, 29055 Sheephead Road – Mr. Simpson encouraged everyone to read and understand the State and Linn County's regulations. He feels they both have done a good job at regulating these types of proposed uses. Mr. Simpson indicated that he is not involved with this operation, but has met the person who seems reputable. Simpson said you will not be able to hear or smell the operation, the only thing you will notice are the buildings. Water rights are required. Everything has to be signed off by State certified engineers. The area will be safer because of the security cameras. Simpson said, "Know what the regulations are before you complain about it."

Ann Anderson, 751 Templeton – Mrs. Anderson said that odor will be a problem. She is aware of the terrible odor and said that it will impact her breathing issues. There will be traffic problems, watering problems... who is going to check these places? What are the fines? "Is it \$100 a day? Big Deal." It will be something that we will regret and the taxpayers of Brownsville will be paying for these impacts. The water implications will be the local residents expense to drill deeper wells. "Do not let this happen to our home!"

Verne Hoyer, 204 Cooley Avenue – Oppose this operation due to the proximity to the town. Mr. Hoyer is concerned about property values and safety. "For those who say it is safe, it is not safe..." Mr. Hoyer said. Hoyer related a story about his private investigation business being contacted by a marijuana grow operation that wanted him to do a show of force due to employee theft issues. Mr. Hoyer feels that there is no safe drug use. He has dealt with enough people under the influence during his law enforcement career to know that problems will happen.



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Spencer Roth, 102 E. Worley Avenue – The water issue is his primary concern. He has a really good well, but if they drill more wells his well could be impacted which would hurt his property value. Mr. Roth mused as to why the applicant didn't put the operation by their own home. They have plenty of room out there. He will be across the fence from these greenhouses.

Rich Anderson, 571 Templeton – Water table concerns are serious. Four pot plants in his neighborhood smelled like a skunk. Mr. Anderson said he has never held a marijuana cigarette, but if that's what people want to do, it's their decision. His wife has breathing problems. The major problem is the ignoring of the Federal laws and government. He believes in law and order and we are moving toward a lawless society. He is prepared to take a stand for what is right. He understands the position the Council is in, but the right thing has to be done. The State has no right to ignore Federal law.

Brian Hendrickson, 996 Washburn Street – There is a lack of teeth in Linn County's regulations. Mr. Hendrickson talked about the limitations of the regulations and the materials being used for odor mitigation as an example. Factors such as the types of plants, humidity, temperature and other conditions will vary. Within a 1000' there are 34 homes, within 1,500' there will be 50 plus homes in the direct path of danger – odor, crime, water table issues etc. Mr. Hendrickson shared a few articles about crime related activities regarding marijuana; one in Corvallis. People are coming through other people's property to commit crimes... "how is that safe?"

Linda Hoyer, 204 Cooley Avenue – Mrs. Hoyer shared an article from Cottage Grove that talks about the stench of marijuana from a grow operation close to a neighborhood. Daily quality of life issues like gardening and walking are majorly impacted due to the location of this marijuana grow operation. The operation's armed guards yell at area residents to get away from the fence when they are too close. She has lived for 30 years in Brownsville. People are saying they can't even eat outside due to the smell. Mrs. Hoyer has worked as the drug and alcohol prevention coordinator for Central Linn schools for 20 years. She has worked with the teenagers in this community. She is witnessing a decline in teens caring about illegal drugs; their perceptions are changing but the harm the drugs have on young lives is not changing. Her grandsons got involved in illegal drugs and all they want to do is party. Marijuana alters the teen brain. "We have allowed a recreational shop and now a marijuana grow operation in town? What next?" She hates to see the community's quality of life change this dramatically.

Rick Morrow, 27006 Gap Road – For 35 years Mr. Morrow has served this City in many capacities including sitting on the Planning Commission and the Brownsville Council. Mr. Morrow asked Council to adopt a three mile buffer around the City of Brownsville. Mr. Morrow shared the open burning rules to show limits and buffer zones around towns. He shared another comparable issue regarding cement and vineyards that clearly demonstrated the use of a buffer zone for a vineyard. A buffer zone has to be done. The State does not have the right to cause harm to the safety, health and welfare of the citizens of this State.

Kelly Williams, 755 Templeton – Ms. Williams has lived behind someone who grew four plants and the smell was obnoxious. If the filters fail, it will be unhealthy for neighbors. The proposed operation will negatively impact the quality of life.

Richard Anderson, 571 Templeton – (Mr. Anderson was granted a minute by Mayor Ware.) Anderson talked about armed guards using their weapons and the concern over ballistics. "Bullets will not stop at the property line..."



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Tammi Morrow, 27006 Gap Road – Provided a letter for the packet. “Currently there are over 1,500 grow operation in Oregon alone. Linn County has 30 applications pending right now.” People who are not even from this State are applying to operate these grow operations. They don’t care about our area or share our interests. OLCC and the County are supposed to be in charge of enforcing the laws and conditions for this proposed use. “How is that going to be possible when Linn County can’t run traffic now? The County is already stretched way too thin.” Due to prevailing south/southwest winds, the whole town may be blanketed by this odor. Mrs. Morrow asked Council to take a look at the regulations previously passed to see if they can be strengthened. There has to be a sense of urgency to take control of our future regarding marijuana. Mrs. Morrow feels powerless. She asked Council, “Shouldn’t her rights matter? All the rights favor the growers.” She urged everyone to write legislators about this issue. She feels that she has no voice, that no one cares and that justice is only for those who can afford it.

Lynne Heller, 25685 Gap Road – Mrs. Heller cannot be in favor of this issue. She recalled a story when marijuana was becoming rampant at the University of Oregon, 50 years ago, the hospital where she worked in Springfield did an in-service training on how to treat emergency marijuana patients. She had a major bronchial reaction to marijuana being burned. “It has to stop now.”

Chondra Evans, 1116 Ash Street – Mrs. Evans raised her children here and teaches pre-school for Sharing Hands in the Central Linn Rec Center behind City Hall. She believes in the future. She highly recommends the buffer zone. Mrs. Evans stated that being able to walk around town and go to places like the Post Office and the park are quality of life issues that will be changed due to this marijuana grow operations. “This is not good for our future.”

Rob Shepherd, Gap Road – Mr. Shepherd’s business deals directly with law enforcement agencies and private investigators. No one in any form of law enforcement is in favor of these new marijuana laws. Enforcing these laws are extremely difficult. The future repercussions are going to be dramatic and everyone will feel the pain.

David Bierek, 233 9th Street, Corvallis – Mr. Bierek grew up in Philomath and understands small quality of life issues. Mr. Bierek said that he read all the regulations and there are tiny things hidden in the rules that will cause major problems. Bierek explained the renewal process will allow marijuana grow operations to bump up their canopy size and grow outdoors at 1 to 4 ratio. It may start small, but realistically this could be massive and there will be no effective controls.

Marshall McManus, 1126 Linn Way – He really likes the buffer zone area. McManus was looking for property in the area where this proposed operation is being planned and when he learned about the potential grow operation – the property did not have any value. “It won’t be worth crap.”

Roger Tetamore, 912 Oak Street – Please refer to his letter.

Jannea Deaver, 35313 Oak View – “Better to do something now, because once it happens you can’t take it back.”

Linda Day, 304 Blakely Avenue – Ms. Day has been around Brownsville since 1955 and property value is a big issue. Equity in her home is her retirement. She doesn’t want her value to go down. She is worried about crime and other associated issues with such an operation.



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Kaye Fox, 203 Averill Avenue – Mrs. Fox said that everyone loves Brownsville because of the quality of life we all enjoy. This will affect everyone if this is allowed. She said she is very sad that the recreational facility was approved.

Mayor Ware closed the public comment portion of this hearing.

McDowell reiterated that this issue is a Linn County Planning Department decision. Marijuana is a State-wide issue. These on-going marijuana discussions and this marijuana issue have divided the community since January 2014. Mr. McDowell read Resolution 2017.18 for the audience. Please refer to the legislation for the full text.

Councilor Cole made a motion to approve Resolution 2017.18, seconded by Councilor Gerber. The motion passed unanimously.

Councilor Chambers and Mayor Ware stated that this is only a proposal. The issue is for Linn County and the State Oregon to resolve.

McDowell shared pertinent information from the agenda packet for interested parties to send letters to Linn County. November 17th, 2017 is the deadline for public comment. McDowell asked Council to consider a motion to include a proposed letter and all public information to Linn County Planning Department and Linn County.

A motion was made by Councilor Block, seconded by Councilor Shepherd to forward a letter and the public information as duly noted. The motioned passed unanimously.

ADJOURNMENT: *Councilor Cole moved to adjourn the Council meeting at 8:06 p.m. Councilor Shepherd 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 "DW", written over a horizontal line.

Mayor Don Ware