



## Council Minutes

September 26<sup>th</sup>, 2017

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

**PUBLIC:** Fire Chief Kevin Rogers, Merritt and Jan Schilling, Kim Clayton, Chenoweth Robertson, James and Susan Smith, Steve Chambers, Ralph Seyler, Joel & Eleanor Stith, Don Neddeau, Sergeant Greg Klein (LCSO), Robert & Alfreda Miller, Kathleen Peake, Alex & Tanisha McIntyre, David & Katt Simpson, Randy Simpson, Gayle Ashford, Kelly Williams, Elizabeth Coleman, Ken Meadors, Jannea Deaver, Rebekah Schneiter, Patty Linn, Dave Erickson, Liza Peake, Marilyn Grimes, Vernell Landers, George Frasier, Jonathon Rush, Stacey Meneses, Kaye Fox, Bryan & Amy Bradburn, Tricia Thompson, and Jordan Parrish (*The Times*).

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** Mayor Don Ware would like to add an administrative motion right after the minutes are approved. McDowell would like to add under Action Items: 10) E. Inspection Services. There are no deletions tonight.

**MINUTES:** Councilor Block indicated that he did not say intoxicated or distracted drivers last month, he said impaired. *Councilor Gerber made a motion to approve the July 25<sup>th</sup>, 2017 meeting minutes as presented and the September 19<sup>th</sup>, 2017 minutes with corrections. Councilor Shepherd seconded the motion, and it passed unanimously.*

*Mayor Don Ware made a motion to publicly correct the public behavior of Councilor Chambers in accordance with R 718. Councilors are required by the very nature of these leadership positions to treat each other and members of the public with courtesy and respect. Actions recently taken by Councilor Chambers at the July 25<sup>th</sup> Council meeting and in subsequent encounters with Mr. Bryan Bradburn were, and are, unacceptable. Councilor Gerber seconded the motion. Councilor Chambers stated that in subsequent encounters, she did not indicate that she was acting as a Councilor. Councilor Gerber stated that regarding this issue that when out in the community we are always Council members and we cannot abdicate our duty and position at any time. Mr. McDowell clarified for Councilor Chambers and Council that R 718 states that you are always a Council member while in these leadership position. Councilor Chambers asked that in future she needs to declare that she is not acting as a Council member? Mayor Ware continued that Councilor Chambers need not engage is what R 718 indicates. Mr. McDowell stated that these rules pertain to all Council members, not just Councilor Chambers. Councilor Chambers would like to state that she disagrees with the motion as worded, and as a citizen. *The motion was voted on and passed by all.* Councilor Chambers then stated that she sincerely regretted any pointed personal comments made to Mr. Bradburn during the meeting. She would like to apologize to the City Staff, Mr. McDowell, and Council about comments she made during the July 25<sup>th</sup> Council meeting.*

### **PUBLIC HEARINGS OR PRESENTATIONS:**

1. **Central Linn Recreation Association – Blaine Cheney.** Mr. Cheney, current acting Vice President of CLRA, thanked Council for having him here tonight. Over the summer the CLRA launched their online website for local



## Council Minutes

elementary aged youth sports programs. This online platform will help minimize CLRA liability and provide access 24/7 for registration, electronic payment options, early bird discounts, as well as many other services. This launch took 3 months of meetings, 60 days of design, and 30 days to build the concept, overall about 6 months of work. They are also working on bilingual possibilities as well as phone options for those folks that don't have computer access. The website seems to be working well. He would like to thank Council and Staff again for their continued support of CLRA.

Rebekah Schneider, Central Linn School Board member, spoke next in favor of the upcoming school bond for capital improvements. After the last bond did not pass, the School Board and District have done pollings and focus groups and determined that the community wanted more details. The new bond will be roughly \$28 million, \$7.2 million less than the last bond. The bond will provide 3 new schools at the current high school location. It will include a new track, redevelopment of the Halsey school, and furnishings for \$1.72 per \$1,000 of assessed valuation. She encouraged everyone to go to the website ([www.clsbond.org](http://www.clsbond.org)) for more information. Schools are the backbone of rural communities like ours. This new facility will provide a shelter and gathering place as well. Schneider said it will help personal property values, and she asked that Council endorse this project.

2. **Marijuana Odors – Bryan Bradburn.** Mr. Bradburn, 522 E. Washington Avenue, was present to ask Council to seriously consider enacting legislation similar to what Eagle Point and Central Point, Oregon have done limiting marijuana grows in town to inside grows only. He believes the town needs this ordinance to create laws for our own town. This issue has been an ongoing source of major concern for him and his family as several of his neighbors are growing large numbers of marijuana plants. The problem is only increasing in nature as people are illegally growing more marijuana plants than allowed, with local law enforcement unable or unwilling to prosecute. Bradburn stated that Oregon is now the biggest drug exporter in the world. He said that living next to a grow operation is basically hell; those that don't like it shouldn't be subjected to this unfairly. He is very concerned and asked for help from Council through legislation.

### **DEPARTMENT REPORTS:**

1. **Sheriff's Report.** LCSO Sergeant Klein reported that August had 13 traffic citations, 17 warnings, 1 DUI crash, 5 adults arrested on outstanding warrants, 86 complaints, 15 hours for traffic enforcement, ending with 220 hours overall for Brownsville. Mayor Don Ware stated that he was happy to see the citation numbers are up; it means more safety with driving. Klein addressed marijuana grow concerns. He said that when they get a complaint, they will go to the residence and make contact. If the residents allow, LCSO can examine the plants. It is important to remember that plants are not illegal until they have buds on them. Klein has investigated 3 or 4 complaints in Brownsville. He has gone to the Linn County District Attorney who has reviewed practices with the Department of Justice (DOJ) in Salem. The legislation has changed and is allowing more cases to be legal. The legal language can be confusing and hard to understand. LCSO is looking at policy very carefully.
2. **Public Works.** Public Works Superintendent Karl Frink reported that at the water treatment plant they had a major control valve fail. It is an estimated repair cost of \$5,000. The valve is critical to maintain a constant flow in operations. Staff is manually operating the valve at this time until repairs can be made. In other



## *Council Minutes*

areas, fire hydrants have been repainted, sewer work is happening on Depot Avenue for the Lepman development, trees are being trimmed per ordinance, and Pioneer Park is being maintained with facility and trash clean up. Don and Carol Neddeau (Park Caretakers) are doing a great job and continue to help out down in the park even after their work contract has been completed. It is great to have local folks help us out in the park.

### **3. Administrator's Report.**

McDowell mentioned that is one of Council's larger business meetings of the year due to the August recess. McDowell pointed out the new clock that was built by Jane Macqueen and Bernard Gross. Public Works helped hang the clock.

McDowell shared that Eugene Kennel Club (EKC) has informed the City that this will be the last year for their dog show in Pioneer Park. The EKC would like to thank Council, the Park Board and the Staff for allowing them to host their annual in Brownsville. They are grateful for the time they have spent in Brownsville. Debbie Berry indicated that the club will be dissolving at the end of 2017.

McDowell reported that the deed for the Central Linn Recreation Center has been finalized. Councilor Shepherd attended a Central Linn School Board meeting with Staff earlier this to iron out the details. First American Title out of Albany assisted with this transaction. McDowell extended thanks to the Central Linn School Board and Superintendent Brian Gardner for their assistance.

McDowell talked about a comprehensive economic development meeting that was held at Linn Benton Community College that had been many months in the making. The meeting transpired on September 6<sup>th</sup>, 2017. Many major economic developments players were at the table: Corvallis, Albany, Millersburg, Linn County, Benton County, the State of Oregon, Cascade West Council of Governments (COG), Oregon State University (OSU), Linn Benton Community College (LBCC) and representatives from the Go Team effort. McDowell said this meeting was a momentous occasion because, the have-nots, had never before been invited to the table. McDowell credited COG Executive Director Fred Abousleman for the invitation to participate in the meeting. Many great concepts and ideas were shared at the meeting. The outcome was that representatives from the COG, OSU and LBCC would reach out to the private sector for thoughts and guidance in a qualitative manner. The group was hopeful of an update within two weeks from the meeting.

Councilor Gary Shepherd accompanied McDowell to the first meeting with the Linn County Sheriff's Office under the new contract. Several issues were addressed from communication, to conflicting marijuana laws, to traffic enforcements. Overall, the meeting went very well. Communities were glad to have the Sheriff, the Undersheriff and Sergeant Klein in the room listening and addressing concerns and challenges. Challenges not only facing the communities, but for Linn County as well. Several suggestions were made for improvements.

McDowell expressed disappointment in the fact the Cascade West Council of Governments agreement for general ledger and utility billing software would not



## *Council Minutes*

be happening. The COG will be going out for a contract soon for another provider. The City's saving was predicated on the agreement the COG had with the software provider and the fact that COG staff would be assisting with questions and data conversion. McDowell indicated that Administrative Assistant Tammi Morrow and Administrative Assistant Jannea Deaver would be starting the search shortly after the annual audit which will transpire the last full week of October.

McDowell and Administrative Assistant Jannea Deaver met with Kevin Sullivan, who is the President of Alyrica Internet Company from Philomath, to discuss a fiber optic system in Brownsville. Currently, Alyrica is installing a fiber optic system in Halsey. Halsey has an advantage due to a major trunk fiber cable already existing along Highway 99. McDowell said that a fiber optic system is vital for the future of Brownsville and other rural towns. Recently, computer scientists have developed Photonic Data Transfer which can transmit data at the speed of light. This development will shape computer for the foreseeable future. Fiber optic systems are the key component of transmitting data as light signals. Developers have not quite figured out how to slow the data down to capture it just yet, but they will. McDowell said that he recently talked with Juine Chada at Senator Wyden's office to inquire about possible funding options and mechanisms that may be available for small, rural systems. Senator Wyden has been active on this issue.

McDowell said that Public Works Superintendent Karl Frink and Administrative Assistant Elizabeth Coleman presented information in March regarding the City's In Fill Policy. The City cannot expand residential available lands due to the amount of available lots that currently exist within the City limits and the Urban Growth Boundary (UGB). The problem is that many of these available lots are "dry lots" meaning utilities and/or roadway must be extended to connect these lots to the public utility system or road system. Due to the high costs of making these connections, the lots are not attractive for development. Any one attempting to develop a lot is required to meet the City's Public Works Standards. The City has several options, 1) Do nothing, 2) develop the utility system and assess associated costs, as allowed by law, to the lots in order to make them more affordable options for development, or 3) allow owners to match existing conditions thereby lessening the Public Works Standards. McDowell will be bringing the discussion back to Council later this year.

Recently, the City considered a Social Work intern to assist with various projects. The City ran into a few concerns that included applicable work toward the major and a confidentiality issue which was impossible to address effectively since the City is a public entity. The City would like to host an intern in the future if the situation is more conducive for the City's needs.

McDowell gave a brief overview of the needs in Pioneer Park. Last October, Public Works Superintendent Karl Frink and McDowell prepared a presentation that demonstrated the need for a serious review of the Central Linn Recreation Center and the structures in Pioneer Park. Many of the structures are nearing the end of their useful life as they were built in the early 1970's. McDowell reminded Council that a conversation with the Linn County Pioneer Picnic Association is pending for the Pioneer Picture Gallery on Main Street. McDowell proposed hosting a Town



## Council Minutes

Hall style meeting once a report is completed on the structures. All community partners using these assets would be invited to discuss future improvements and financing options.

McDowell reported that Administrative Assistant Tammi Morrow and Staff would send the Fall Newsletter out on Friday of this week.

McDowell thanked Staff and Public Works for all of their work during the month. Staff hosted the Volunteer Party on September 14<sup>th</sup>, 2017. Councilor Neddeau helped tremendously by being the master chef for the celebration. Brownsville is fortunate to have such vibrant and talented volunteers.

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

**Citizen Comments.** Marilyn Grimes stated that she voted to legalize marijuana, and that Council does not have the right to take this away, when it was voted on and passed. The plants look big when they are grown outside, but they shrink down to only about 1/4 of the plant for actual use. She believes that cannabis needs to be grown outside for best results. McDowell asked that she refrain from personal attacks, and encouraged her to address Council only. This statement goes to everyone in the room. Ms. Grimes concluded with the statement that if the Council passes this, they are not voting for what the citizens of Brownsville voted for and want.

Kelly Williams stated that she and her elderly mother are having a lot of health problems (headaches, etc.) due to a neighbor that is growing marijuana and encroaching on her backyard. The skunk smell is quite bad, and very difficult to deal with. She is asking that Council put a limit on how close to a neighbor's residence marijuana plants can be grown. She is unable to use her backyard at all.

Ralph Seiders stated that he had been a marijuana user for years. He has witnessed firsthand the destruction this drug has caused in his own family. He believes it will contribute to the ruination of the young people. He is against marijuana.

Robert Miller is Mr. Bradburn's neighbor and he stated that he put up a fan to combat the male pollination from getting on his plants.

Ken Meadors from Sweet Home stated that he is honestly for marijuana. He believes education of the young is where it should start. There is bad to go with the good, and vice versus. There are a lot of grey areas. Folks should meet halfway and come to an agreement that benefits us all.

Amy Bradburn stated that she lives the marijuana nightmare every day. She works at LBCC, and educates youth. When she puts her daughter to bed at night the smell in their bedroom is just awful. Allegations from the neighbors are ridiculous. Mrs. Bradburn stated that she is not for or against marijuana necessarily, she just doesn't want her daughters exposed to it. When other people's choices infringe on you or your health, you have a right to speak up. She implored Council to pass an ordinance for inside marijuana grows only in town.



## Council Minutes

### LEGISLATIVE:

- A. Resolution 2017.14 – Machinery Fees.** McDowell stated that it has been three years since Council has reviewed this list of fees. This resolution is just modifying costs to this list. *Councilor Gerber moved to approve R 2017.14 as presented. Councilor Neddeau seconded the motion, and it passed unanimously.*
- B. Resolution 2017.15 – Cut and Fill Requirement – Public Works Standards.** McDowell explained that the City has been employing this technique for a number of years. Developers do all they can to maximize profits, and the law is always changing, so this resolution should help with clarification. *Councilor Block moved to approve R 2017.15. Councilor Shepherd seconded the motion, and it was approved unanimously.*
- C. Resolution 2017.16 – Planning Fees.** Staff is recommending two changes, adding a no-fee demolition permit and also looking at secondary lot options. *Councilor Gerber made a motion to adopt R 2017.16. Councilor Block seconded the motion, and it passed unanimously.*
- D. Resolution 2017.17 – Park Fees.** McDowell stated that Park Board is recommending this legislation to Council. This summer Council had to take immediate action to discontinue most camping and only allowing camping on a very limited basis. Staff made this transition go as smoothly as possible. In future, camping fees shall be incorporated into park reservations as much as possible and fees will be collected at City Hall as appropriate. It is important to always remember that our park is a park, not a campground. There may well be a time when the City can no longer allow long-term camping in the park at all. Other recommendations to consider is only allowing camping of Friday, Saturday, and Sunday nights. Exceptions could be made if a holiday falls mid-week. There will be a broader discussion around this issue soon. *Councilor Chambers moved to adopt R 2017.17 as presented. Councilor Shepherd seconded the motion, and it was approved unanimously.*
- E. Ordinance 769 – Architectural Front (First Reading).** *Councilor Gerber moved to read by title only. Councilor Block seconded the motion, and it passed unanimously.* Mayor Don Ware read by title only. This legislation is recommendation of the Planning Commission. McDowell stated that the City does not have a law on the books surrounding this issue. It is a public safety issue, and many communities have enacted legislation like this. Council will review again next month.
- F. Arbor Day Proclamation.** Mayor Don Ware proclaimed October 14<sup>th</sup>, 2017 as this year's Arbor Day for the City of Brownsville. There will be a tree planting event in the park.

### ACTION ITEMS:

1. **Simpson Condition Use Application – Findings of Fact.** To recap, McDowell stated last month Council held a special open hearing meeting on September 19<sup>th</sup> around this issue. Council needs to follow proper procedure and pass a motion. The agenda packet includes both the findings of fact which is



## Council Minutes

required by State law if approval is denied and the conditions of approval should Council choose to approve the application. There are two motions that Council needs to pass tonight due to the statutory 120 days requirement. *Councilor Block moved to deny the Simpson's Conditional Use Application based on the information provided to Council and to adopt the Findings of Fact as contained in the Council Agenda Packet for this evening's meeting. Councilor Shepherd seconded the motion.*

Discussion followed.

McDowell stated that this is an issue that has certainly divided this community. This issue puts these Councilors, Staff, neighbors, and users at odds. He does not envy any of the people to his left that have to make these kinds of decisions. He applauds all who are here tonight. To articulate for the public record, this has never just been about marijuana. Some folks think that the U.S. Constitution is being ignored and the Federal law is being broken. There is a strong body that believes that nationally. In the State of Oregon, voters did approve Measure 91, legalizing marijuana, and some will argue that it is unconstitutional. It is split down the line in this room tonight. City Staff and City Councilors are charged with discharging certain responsibilities. The City Attorney is focused on not getting the City involved in a liability situation. Liability is precarious at best. If the Simpsons appeal to LUBA (Land Use Board of Appeals) some folks are saying that the City's argument will not stand and the City will probably lose. With that said, sometimes Councils have to make decisions that they don't want to make. Councilor Gerber stated that she will be voting in the same way as she did before. She believes the Simpsons have met the conditions and that they City did vote in favor of recreational and medical marijuana. However, she would definitely vote for a City ordinance limiting outdoor marijuana grows outdoors; the City should be able to legally control that. Mayor Don Ware said that he will be voting the same as well. An official vote was called for. *Voting to deny the approval were Councilor Shepherd, Block, Chambers, and Neddeau. Voting against the denial were Mayor Don Ware and Councilor Gerber. The denial motion passed, 4-2.*

- 2. Calapooia Food Alliance – Red Barn Agreement.** McDowell has been contacted by Don Lyon, CFA president, and they would like to renew the red barn agreement. Mr. Frink said the agreement is working fine in relation to Public Works. *Councilor Gerber moved to renew the agreement. Councilor Block seconded the motion.* Discussion followed. Councilor Shepherd stated that the City has recently put a lot of improvements into the building and he believes the rent money should go up to get a return on the City's investment. A vote was called for. *Mayor Don Ware, Councilors Block, Chambers, Neddeau, and Gerber voted to renew the agreement as presented. Councilor Shepherd opposed the motion. The motion passed, 5-1.*
- 3. Calapooia Food Alliance – Kirk's Ferry Agreement.** McDowell stated that the City entered into this agreement many years ago, but it was never utilized. If the CFA would like to use this space in the future, they should come back to Council and go through the process again. *Councilor Block moved to vacate the current*



## Council Minutes

agreement. Councilor Chambers seconded the motion and it was approved unanimously.

4. **Wickett Landscaping Maintenance Agreement.** The City entered into a landscape maintenance agreement with the Wickett's on the corner of Depot and Main Street. The agreement is up for review; McDowell is recommending renewing the agreement. *Councilor Gerber moved to continue the agreement for three more years. Councilor Block seconded the motion, and it passed unanimously.*
5. **City Building Inspections.** McDowell has secured a bid from Inspections Unlimited, located in Salem, Oregon, for \$9,800 to do a full inspection of City buildings for maintenance and repair into the future, focusing in particular on the Rec Center and Park buildings. Due to the cost of the estimate, Staff would like Council approval before proceeding. The bottom line is that some of these buildings are going to need a lot of upgrading and improving and the public will be severely scrutinizing the situation. Staff feels it will be difficult to proceed without getting cost estimates for future needs and improvements. It is not mission critical right now, but costs continue to rise, and from a budgetary standpoint, cost projections are critical. McDowell would like to possibly have a town hall meeting around the issue in December. *Councilor Gerber moved to go forth with the contract, and approve Ware and McDowell to sign the necessary documents. Councilor Chambers seconded the motion, and it passed unanimously.*
6. **Eagle Point Marijuana Ordinance.** *Councilor Gerber moved to authorize McDowell to move forward with researching this legislation. Councilor Shepherd seconded the motion and it was approved unanimously.*

### **DISCUSSION ITEMS:**

1. **Annual Master Checklist.** McDowell included the Master Checklist for Council's general information. The report is put together as part of a broader document based on Budget Committee outcomes. The report also shows the depth of Staff responsibilities to serve as a reminder to Council and the other committees how involved the City's Staff already is with current requirements. The only three resources that we have is time, energy and money to accomplish goals. Due to limited Staff and unlimited responsibilities, Staff and Council have to have a plan to accomplish key directives and objectives over the course of any given year. One problem with accomplishing goals is things like the marijuana issue and the sheer amount of time that the issue alone has consumed. Marijuana was never a goal or an objective of Council or the City. It is a goal of the Oregon State Legislature that was forced on cities and counties through pre-emption. These and other legislative issues and initiatives by outside agencies force Staff to spend a lot of time **not** on facilitating Council Goals. There are always several projects that were not listed that come up that need to be dealt with each year as well. McDowell includes it in Council's agenda packet sporadically so that progress can be monitored by Council and so that Council can understand the challenges as they arise. This list is simply a tool for Council to track and be aware of Staff's day to day work. Mayor Don Ware commented that he thought it was a fascinating and important document.





## Council Minutes

### 2. July & August Financials. No comments.

**CITIZENS COMMENTS** – Bryan Bradburn spoke about Inspections Unlimited, stating that he has not had good dealings with the company. He says they are a shady outfit and he would not recommend using them for any services. Vern Landers stated that he believes that marijuana is here and it is not going anywhere because of how much money is involved. He proposed that the City outlaw growing it in town so that neighbors don't have to put up with the smell. Marilyn Grimes spoke next stating that she does not like the smell of the mill, or the smell of skulls from the taxidermist. Kaye Fox commented that she was privy to the letter that Kevin Keenan wrote about the situation on Kirk Avenue. Is there something that can be done about the situation? There is a lot of traffic on Kirk Avenue.

**COUNCIL COMMENTS** – Councilor Gerber asked Mr. McDowell about recommendations for the inspection company? Mayor Don Ware and McDowell will do further research. If they feel comfortable executing an agreement, they will do so. If not, they will come back to Council with other options.

**ADJOURNMENT:** Councilor Gerber moved to adjourn at 8:57 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.

S. Scott McDowell  
City Administrator

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

Don Ware  
Mayor