



Council Minutes

July 25th, 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: Kim Clayton, Don Andrews, Erin Halbeisen, Kelly Halbeisen, Liza Peake, Kathleen Peake, Marilyn Grimes, Tricia Thompson, Marilee Frasier, Chenoweth Robertson, Robert Miller, Alfreda Miller, Cathy and Mike Franklin, John and Laura Holbrook, Abe Sword, Kaye Fox, Bryan Bradburn, Sherri Lemhouse, Jorden Parrish (*The Times*), and Alex Paul (*Democrat Herald*).

The pledge of allegiance was recited.

Mayor Don Ware commented that he would like to extend a big thank you to Staff for always doing a great job and maintaining the front line at City Hall. Also, a big thank you to Mr. Frink and Public Works for their work on the red shed. It is looking great.

ADDITIONS AND DELETIONS: McDowell would like to add under Action Items: A. Pioneer Park Camping, and B. Park Caretakers. There are no deletions tonight.

MINUTES: Councilor Chambers made a motion to approve the June 27th, 2017 meeting minutes as presented. Councilor Shepherd seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

1. **Transient Room Tax – Allen Buzzard.** Allen Buzzard was present to discuss the City's TRT policy and rate. He provided a lengthy report to Council via Mr. McDowell. Basically, he would like to reduce the rate from 6% to 3%, or use a flat rate option, to attract more tourists to Brownsville.

Laura Holbrook was also present in support of Mr. Buzzard's proposal. She stated that she thought it was unfair for the City's Airbnb's to be taxed when her establishment is outside of town, and therefore not taxed. She stated that she has not had any guests that were brought in by the Chamber promoting Brownsville. Mrs. Holbrook stated that she is forced to pay for ads through the Airbnb Association.

Council discussion ensued. Councilor Chambers responded with what is a "fair tax"? Taxes outside the City are less than those inside the City. Councilor Gerber stated that she has gotten a lot of information on the subject from both sides of the issue. TRT is actually not a tax on the purveyor, it is the folks coming through that pay this charge. Councilor Gerber stated that she feels it is a significant way to promote tourism in Brownsville. When looking at Oregon in general, Brownsville's rate seems like a fair percentage, as we are a bit of a touristy town. Councilor Gerber made a motion to leave the TRT rate at 6%. Councilor Shepherd seconded the motion, and it was approved unanimously.

Local Airbnb owner Kelly Halbeisen was present and requested that perhaps Council could direct the Chamber to more actively promote the Airbnb's. Councilor



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Gerber amended her motion to include this promotion of Airbnb's. Councilor Shepherd seconded the motion, and it passed unanimously.

- 2. Marijuana Odors – Bryan Bradburn.** Mr. Bradburn, 522 E Washington Avenue, was present to lodge a complaint against marijuana odors in his neighborhood. He and his family have been having problems since the legalization last year. Last year his neighbor grew 4 plants, and the smell in August and September was horrendous. This year this same neighbor has 10 plants. Bradburn said that he has tried to talk to his neighbors, to no avail. They did put up a piece of plywood, but that has not done anything to abate the smell. 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 would like some resolution on the issue, that is why he is here tonight. Bradburn also stated that in the past, the Planning Commission has denied a coffee grinding operation due to potential odors, but there seems to be no recourse for marijuana grows. He does come with a solution tonight. The City of Eagle Point and Central Point have enacted legislation to limit marijuana grows to inside structures in residential areas.

Several neighbors, Cathy Franklin, Robert Miller, and Liza Peake, spoke against Mr. Bradburn stating that he has offended many by walking around like private security, hanging his taxidermy skulls on his fence, bullying folks, and that he is just trying to control the neighborhood.

- 3. Agreement Request – Della Klinkebiel.** Mr. McDowell stated that Mr. and Mrs. Fred Klinkebiel were present tonight and have asked for him to describe their situation to Council. In 2009, an agreement was reached with the Klinkebiel family granting the City an easement to install a new water line across their property in exchange for a non-transferrable water and sewer SDC to their property. In summer of 2010, the water line was successfully installed. In 2015 as part of the Water System Improvements Plan, the aging water line was replaced with a new line which fixed the distribution area that now services north Brownsville.

The Klinkebiels are proposing to divide their property to provide a piece of property for a daughter. They would like to transfer this SDC allowance to her. McDowell has checked with the City Attorney Ross Williamson and he said that Council can open up the contract and do as they wish. Part of the original agreement talked about a stormwater inclusion. The other neighbor is unwilling to participate in that, so that part of the agreement will be rescinded regardless of tonight's outcome. Councilor Gerber asked Mr. McDowell for his opinion. McDowell said the first thing is – non-transferrable should mean just that. Another option would be to allow the transfer, take the storm water inclusion out, re-record the agreement, and the Klinkebiels will bear all costs as the taxpayers should not have to pay again. A timeframe might also be a good idea, potentially October 31st – November 15th.

Councilor Shepherd suggested there be a documented understanding that if they should require city services in the future, they would be required to pay all SDC's. *Councilor Chambers made a motion to allow the Klinkibeils a one-time transfer of this agreement to their daughter. The contract shall be rewritten with the*



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storm water inclusion taken out, re-recorded as non-transferrable, with a deadline no later than October 31st, 2017, and the Klinkebiels will bear all costs. Councilor Shepherd seconded the motion, and it passed unanimously.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** LCSO Sergeant Klein reported that June has been a busy month. There were 5 traffic citations, 5 warnings, 65 complaints, with 7 hours for traffic enforcement. There were 2 units in town for the Stand By Me event. The event went well, with no known complaints. Mayor Don Ware stated that more speeding citations would be welcome. Klein said he will address that with patrol.
2. **Public Works.** Public Works Superintendent Karl Frink reported that backflow devices were tested; two devices failed, they will be addressed. City Right of Ways are mowed; it took Staff 4 weeks to accomplish. Street painting is underway. Work will include a crosswalk in Pioneer Park, curbing in front of the Art Center, and 2 cul-de-sacs. PW Staff has graded all of the gravel streets, and dust control has been applied. This year the product was virtually odorless, but we still always get complaints.

The park hosts are continuing to do mowing, trash collection, etc. More information on that area later in the meeting. Work on the red shed continues. It is almost all painted; a cherry cola red with black trim. The cemetery has been mowed, but no time for weed eating this month. Mayor Don Ware expressed his gratitude to Public Works for the outstanding job they continue to do. Councilor Shepherd asked that Mr. Frink notify the street painter of the small sized parking spaces next to the picture gallery; they are too small for cars to park within and needs adjustment.

3. **Administrator's Report.** Mr. McDowell reported that the GO Team has a meeting scheduled for November around regional development. There are lots of folks invited to that meeting. The driving force is a regional economic development effort together with Lincoln and Benton counties, among others.

McDowell reported to Council that he and others at the monthly city managers meeting are working together to create some policy advocacy for small cities. Mayor Don Ware and Councilor Neddeau sit on the Cascade West Council of Government Board. One example of bad policy is the current BOLI rates. They have not been revised to stay current with the times in many, many years. Our restroom project cost us \$93,657 instead of the \$48,500 from the original bid. Since the amount was so close to the \$50,000 BOLI threshold allowed amount, the City decided to use the BOLI rates to stay in compliance, which nearly doubled the cost. The public bidding process is not working as it should be. Mayor Don Ware has reached out to Phil Barnhart. It is a work in progress.

McDowell informed Council that CLRA VP Blaine Cheney has been in contact. They have crafted a website for CLRA for all future sign ups. It also has a payment module where folks can pay online. There are incentives for early sign ups, as well as discounts for multiple children in the programs.

The City's first re-funded bond payment is due 7/31/2017. Staff is working on the logistics of making the payment/wiring funds.



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McDowell reminded Council of the Emergency Planning Committee August 5th, 2017 event. Councilor Neddeau will be cooking hamburgers and hot dogs for the first 150 folks. Community partners have been invited, and will have information out for folks. There will also be a short program by the EPC, Fire Chief Kevin Rogers, and CERT instructor Vickie Meyers.

McDowell reminded Council that August is our recess month. However, City Hall is starting to get a lot of kick back on the possibility of the Dollar General store coming to town. Some key factors to remember in regard to the situation is that private lands can and will be sold to other private parties. The City does not build apartments, houses, etc., they are private transactions. For the proposed Dollar General store location, a mercantile is an outright permitted use, which means they will not need to go before the Planning Commission or Council for approval. Staff will scrutinize the plans to make sure they hit all the marks as needed, city, State, and Federal regulations included. All reviews and comments will need to be addressed before the project will begin. *The Times* did a great job reporting on the potential development in a recent issue. Mayor Don Ware stated that folks seemed concerned about the look of the building. Councilor Gerber asked if this might be the role of the Historical Review Board or Council? McDowell replied that the City does not have standards such as roof styles, etc. Dollar General has made some changes to try to fit in better; the City does not have ordinances on the books to require any developer to do this however.

McDowell has heard a lot of talk about the CLRA. The City is not getting rid of the building. The deed is being redone to take out the reversion clause so that the City can own the building outright. However, the buildings in the park and the CLRA are at the end of their useful lives. An inventory needs to be taken and Council will have some tough decisions to make about the future for these buildings and needed projects. Mr. Frink and McDowell will look into hiring a professional inspection service to give the City estimates on what repairs are needed, and Council can take a look at funding options. Other options include bringing in community partners and having conversations about what needs to be done, and the best way to achieve the goals. The City is trying to be proactive in the process.

Weeds and nuisance season is in full swing. It has been a tenuous and tumultuous year. Staff has had a lot of push back from property owners when extending courtesy calls. We are 3 lots short of finishing up the first wave of abatements; hopefully our mower will get to them this week. Wave 2 will happen in the next few weeks. McDowell just received RV language back from the attorney today, so hopefully Staff will have something for Council in September.

The software conversion is on indefinite hold for now.

The Antique Faire is this weekend. McDowell and his band, the *Down Hill Gang*, will be playing for the event down in the park from about 11:00 a.m. – 1:00 p.m.

4. **Library Report.** Mrs. Sherri Lemhouse was present to recant current happenings to Council. The Summer Reading Program is going very well; she has a great team and coordinators. The Oregon College Savings Plan is sponsoring the program this year. The event has doubled in size, and over 1800 folks have attended. The Library will be open on August 21st, 2017 at 9:00 a.m. for an eclipse event.
5. **Court Report.** No comments.



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6. **Council Comments.** No comments.
7. **Citizen Comments.** Bryan Bradburn stated that he is being unfairly accused by his neighbors as being the neighborhood bully. He has recordings of his conversations with Robert Miller that will prove this is not so. He would like Council to know about Eagle Point's city statute that allows only inside marijuana grow operations within city limits. This policy seems to be working well for them, and keeping offensive odors to a minimum. Bradburn will submit documentation to Mr. McDowell about this legislation.

Tricia Thompson, Historical Review Board, stated for Council that the HRB gives input of the downtown OTC area. If Dollar General would like to ask for their review, they would love that, but they are not obligated to do that. Mr. McDowell responded that he, as City Administrator, is well aware of the HRB's role and he asked before items such as signage and building architectural choices to be reviewed and forwarded to the Planning Commission. The HRB is very knowledgeable about the towns architecture and feel. Getting their input to the Planning Commission for things such as this, that impact the whole town, is a great reason for a broader discussion and that has not happened yet.

Marilyn Grimes said there are about 2 weeks in August where there are lots of outside offensive odors, such as cow manure, and if marijuana is offensive to some, something should be done about that smell too.

Laura Holbrook spoke again regarding the TRT. She said the unfairness of the TRT tax is that many of the businesses benefit from it, but only one business pays for it. She thinks it would be more fair to tax all the businesses, not just the Airbnb's. Allen Buzzard spoke again about the TRT tax. He feels that this is a tax on him as well as his customers, because it is harder for him to compete with other towns when folks have to pay this tax. He asked for clarification on the motion, and was asked to wait until after the meeting for this information.

ACTION ITEMS:

1. **Pioneer Park Camping.** McDowell stated that it is important for Council to remember that we are a park that offers camping, Pioneer Park is not a campground. Law enforcement is not here 24 hours a day to handle any issues that arise. Last year we had a lot of issues that caused a big strain on resources. Last year we had one incident where we had to trespass folks; this year we have had 9 to date! On that note, the caretakers have resigned as of 9 days ago. Curtis & Tami Bayer have agreed to stay on until August 1st, 2017. There are several things that have led to this predicament; public nudity, cheap camping rates, facilities damage, drug use, and folks feeling threatened and unsafe in the park. Due to these conditions, Mr. McDowell is recommending suspending all camping in Pioneer Park immediately. Exceptions would be events that have already been scheduled, such as Antique Faire, family reunions, etc. Mr. Frink said that PW is spending twice as much on cleaning supplies as normal. Campsites are requiring 45 minutes -to an hour to clean each one. Debris being removed from campsites has included mattresses, old clothing, diapers, litter, pillows, even human feces in five-gallon buckets. Much of this gets hauled down to the dumpster at the City Shop, which consumes a considerable amount of time for Staff. Mr. Frink is in agreement with



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Mr. McDowell about the closing of camping in the park immediately. Councilor Block stated that we will have to get cooperation with LCSO to trespass folks out of the park as needed. Councilor Gerber stated that the park has a very different feel this year, and it is not safe or pleasant. *Councilor Shepherd moved to close camping for the rest of season, effective immediately, with the exception of contracted events, all others will be trespassed by LCSO. Councilor Gerber seconded the motion, and the motion passed unanimously.* Discussion followed. Council will need to have a joint meeting with Park Board to determine what next year might look like. Councilor Chambers would like to thank the park caretakers for their work. There are two campers there now that have paid through Friday, they can remain.

Councilor Neddeau asked if we should consider raising prices. McDowell responded that is a park charges more than \$15, recreational immunity does not apply to any accidents that may arise. The City of Brownsville just simply doesn't have the resources to deal with these types of issues. The City has recruited 2 new caretakers who are interested in fulfilling the rest of the park caretaker season obligations. They have asked that they be allowed to remain in the park until November as they are giving up their current lodging, and then will be leaving for Arizona. Mr. McDowell will draw up a new caretaker contract that will end mid-September. *Councilor Gerber moved to allow Mr. McDowell to proceed. Councilor Shepherd seconded the motion, and it was passed by all with Councilor Neddeau abstaining.*

DISCUSSION ITEMS:

1. **June Utility Bill Outcome.** McDowell stated that Staff would like to discuss the utility bill outcome from last month. A customer came to Council stating that they had paid their utility bill, to a certain staff member, but had no proof of payment. Council forgave the debt, as a one-time situation only. Staff would like to set the record straight and discuss how this Council decision has impacted City Hall and Staff.

We recognize that Council is a volunteer board, and doing public work is difficult. That being said though, it is imperative that we continue to work on Council goals and values in order to improve and further our commitment to excellence. In Council values, under organizational development, Council is tasked with understanding the financial nuances of local government in Oregon. Staff is tasked with creating the best possible work environment that is full of respect and compassion for the citizens and is honest and trusting among all the ranks of the organization.

Council's decision last month did not benefit Council, Staff, or the City on a number of fronts. Next, Mrs. Morrow spoke to the situation. After the last Council meeting she was approached by several community leaders in support of her, and claiming that they believed in her. While these claims of faith in her are very appreciated, the fact that her integrity and ethics have been called into question in the situation is very disturbing. The customer had no receipt, no proof, just allegations, and to



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the public opinion, it may look like Council is siding with the customer in forgiving the debt. If the customer had made the payment, the funds would be in the cash drawer, which simply isn't the case.

Mrs. Morrow stated that she has lived and worked in this community her whole life. Her reputation means something to her, and to have it unfairly called into question is not acceptable. Councilor Gerber extended a heartfelt apology saying that that was not Council's intention in the slightest. Councilor Shepherd also apologized and reiterated his support for all of the office staff; he considers us above reproach. Utility Clerk Deaver spoke next asking that in the future if Council is unsure about an office situation to please table the matter. Staff keeps very good documentation records, and they are always open for Council review. While this accusation was directed at Mrs. Morrow, it really encompasses all of the office staff. Mrs. Deaver verified again that the payment was not made. She spent a whole day searching for the payment, and it was never found.

Councilor Neddeau said that the reason the matter was not tabled was because the Council does believe in Staff. Mayor Don Ware agreed that it never occurred to him that there was ever a question of Staff integrity. McDowell commented that the important thing to focus on here is that our integrity is called into question constantly, due to the nature of the job. By all rights, Council can definitely make a decision on the matters brought before them at the time; but please try to understand the ramifications on the integrity of Staff. Councilor Gerber commented that this situation is a good reminder to take our time and not always try to rush. Staff hopes that this can be a training moment, and we can all do better in the future.

2. **Disinterment Policy.** Staff has been approached by a woman who would like to disinter her grandmother and place her in a different spot where future family graves could be located. McDowell has checked with the Oregon State Mortuary Board and City Attorney Rebekah Dorman. It is imperative to remember that Brownsville's cemetery is an historic cemetery and it is important to disturb the graves as little as possible. McDowell did receive an e-mail from the attorney at 5:03 p.m. tonight. He will get information together for the September meeting for Council to consider policy and make a decision. Councilor Gerber and Councilor Chambers expressed interest in helping as needed.
3. **June Financials.** No comments.

CITIZENS COMMENTS – Kaye Fox commented that before marijuana was legal, she had a situation where folks were smoking marijuana next door. The smell made her very ill; some folks have sensitivity to certain things. LCSO was called, and the neighbor willingly complied, even though there was no force of law to do so. Mrs. Fox believes that people should have an expectation to raise their family in an environment of their choosing. She agrees with Mr. Bradburn that growing plants indoors should help the situation.



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COUNCIL COMMENTS – Councilor Chambers commented that her mother lives in front of Mr. Bradburn, and that once in a while you do get a smell from Robert Miller’s residence. He has beautiful plants, she said. Councilor Chambers also stated that her sister spoke earlier about the tree, and she doesn’t lie. She then spoke about Mr. Bradburn’s fence that seems to be a point of contention.

McDowell reminded Council that on March 28th, 2017 he addressed the issue of marijuana odor. His suggestion was the situation should be looked at; LCSO said there is nothing that they can do. They can check to make sure they have the right cards to grow, but any action beyond that would get thrown out of court. Measure 91 has massively changed marijuana, and has pitted neighbor against neighbor. McDowell suggested that the State legislature should address the problem; perhaps only allowing grows inside would mitigate the situation to some extent. This is a policy advocacy piece that he will bring to the COG, and look at what can be done at that level. This issue is bigger than just Brownsville. The olfactory (nose) is a difficult area to regulate. What is tolerable to some, is intolerable for others. The City’s animal policy also needs to be looked at. If a hog operation comes to town (and there are currently areas where one could operate), it would immensely change the character of our City. Councilor Chambers reiterated that Robert Miller is not doing anything wrong.

ADJOURNMENT: Councilor Shepherd moved to adjourn the Council meeting at 9:06 p.m. Councilor Gerber seconded the motion, and it passed unanimously.

A blue ink signature of S. Scott McDowell.

City Administrator S. Scott McDowell

A blue ink signature of Don Ware.

Mayor Don Ware