



Council Minutes

March 3rd, 2015

ROLL CALL: Mayor Don Ware called the meeting to order at 8:00 p.m. with Councilors Shepherd, Chambers, Cole, Van Sandt, Neddeau and Gerber present. Administrative Assistant Tammi Morrow and City Administrator Scott McDowell were also present. (Mr. McDowell arrived at 8:15 p.m.)

PUBLIC: Kaye & Phil Fox, Diana Ayala, Allen Buzzard, Jannea Deaver, Elizabeth Coleman, Floyd & Irene Corbett, Ralph & Mickie Morrow, Danny George, Randy Ginn, Pastor Kelly Williams, Daniel Hartsook, JoAnn Neddeau, Jim LaCoste, Ruby Cast, and Randy and Gayle Simpson.

The pledge of allegiance was recited.

LEGISLATIVE:

1. **Resolution 2015.06 – Marijuana Facilities Special Ballot.** Mayor Don Ware stated that Council would hear public comment tonight, but reminded everyone that comments need to address only one issue: whether or not to put a public ballot out to the voters of Brownsville regarding allowing marijuana facilities within the City.

Public Comment:

- ▶ Randy Simpson, Sheephead Road, wondered about the cost to the City. He was in favor of having the vote in the May election.
- ▶ Randy Ginn, Hunter Street, has spoken to hundreds of people in town; he thinks it is important to put this issue out to a vote. If it is voted in, so be it, but don't take that right away from the people.
- ▶ Dan Hartsook, Walnut Avenue, stated that many facts are not known at this point about marijuana. He feels it would very much be a mistake for the Council to authorize marijuana at this point. Give this decision back to the people, and take it off Council's plate.
- ▶ Kelly Williams, Templeton Street, asked Council to take this issue to a vote of the people.
- ▶ Diana Ayala, Spaulding Avenue, would like the vote to go to the people. She stated also that people have to go other towns to for many things, doctor's appointment, etc., and marijuana is readily available in many other places. She does not see the need to have it in Brownsville as well.
- ▶ Debbie Jensen, Spaulding Avenue, in favor of marijuana in town. She thinks that it will boost the economy for town. She is in favor of a vote as well.
- ▶ Kaye Fox, Kirk Avenue, is in favor of having this issue on the ballot. She stated that we have heard from a lot of folks from out of town, it is time to hear what the city residents want.
- ▶ Mickie Morrow, Brownsville, said that yes, it needs to be on the ballot.
- ▶ Gayle Simpson, Sheephead Road, thinks that it is only fair to go to a vote of the people. She also believes a dispensary will bolster the local economy.
- ▶ Floyd Corbett, Averill Street, is definitely against recreational marijuana. He also thinks this should go to a vote of the people.



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All citizens, whether for or against marijuana, spoke in favor of putting a vote to the people.

COUNCIL COMMENTS and DISCUSSION: Mr. McDowell stated that he has heard a lot of procedural conversation from Council regarding this referral. To clarify, this is a resolution that will place the ballot as a referral from Council; therefore you do not need signatures to be on the ballot. McDowell feels strongly that Council is required to be a form of representative democracy however in a situation as clearly as decisive as the marijuana issue has proven to be over the course of the last year, it is important, even prudent, to put this advisory question to the electorate. It is also important for folks to understand that the Controlled Substance Act is a Federal law. It is also important to understand that Federal law does not see a distinction between medical and recreational marijuana. McDowell quoted an excerpt from *Going to Pot* by *William Bennett and Robert White*, "Keep in mind that none of this (marijuana) effects federal law, and it is in direct opposition to the Federal Controlled Substance Act. Most of us were taught in high school civics class that federal law is the supreme law of the land and states **may not** violate federal law. States **may not** contravene federal law."

McDowell also quoted from the Cole memo (James Cole, Deputy Attorney General) that on page 4 of the memo Cole writes that "this memorandum does not alter in any way the department's authority to enforce federal law, including federal laws relating to marijuana, **regardless** of state law. Neither the guidance herein, nor any state or local law, provides a legal defense to a violation of federal law including any civil or criminal violation of the Controlled Substances Act."

McDowell then stated that this information is for Council to be able to put into context all of the testimony they have heard over the last year. He stated that these 7 folks (Councilors) are volunteers, dedicated to representing Brownsville, have had some very heated conversations over whether marijuana is right for the community, and have certainly reviewed what their oath of office means. Councilor Gerber inquired as to what the cost to the City will be for this ballot measure. The Linn County Clerk's office will not disclose that information. He said that they basically split the cost of the election between the entities that will be participating in the election, and that the rate should be low due to many schools having May ballot measures. However, Mr. McDowell feels that the cost is almost inconsequential and for Council to not get a true vote of the people on such a controversial issue would be most unwise. Councilor Chambers asked who would be participating in the vote. Only registered voters within the City limits will be able to vote on the ballot; the City does not have jurisdiction outside city limits.

Councilor Cole asked a question, knowing the answer, but felt it bears repeating. On this ballot, Council may not separate out medical from recreational marijuana. Correct? Mr. McDowell replied, that is true. Councilor Van Sandt then commented that the State voted for legalization of recreational marijuana, Linn County voted against Measure 91 and she wonders why we expect the vote to change. She personally does not want a recreational marijuana facility here, but



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would vote for a medical marijuana facility. Councilor Van Sandt stated that they have heard tonight "ad nauseum" from McDowell about all the federal facts, but after calling Senator Beyer and Barnhart's offices, she was informed that licenses for recreational facilities are not even going to be issued until January 2016. So, in her mind, she was hoping that the vote could just be for medical marijuana facilities, and if it can't be separated, why even bother with the vote? Councilor Cole stated that she thinks Council needs to bother because of political reasons. Councilor Van Sandt agreed with that statement now after hearing community input tonight. *Councilor Cole moved to approve R 2015.06 to initiate a marijuana facilities special ballot at the earliest election possible. Councilor Shepherd seconded the motion.*

Discussion: Councilor Chambers wanted to clarify that the Business Registration License is still in effect, so regardless of the special election results, marijuana facilities may not currently operate in the City of Brownsville. Truly this election will be information gathering for Council, it is advisory. Councilor Van Sandt reiterated that if they could separate the medical and recreational, she would vote for the resolution. Since that is apparently not possible, she will be voting no tonight. *A vote was called for with all Councilors approving the resolution with the exception of Councilor Van Sandt opposing.*

ADJOURNMENT: *Councilor Shepherd moved to adjourn at 8:28 p.m. Councilor Van Sandt 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