



Council Minutes

February 24th, 2015

ROLL CALL: Council President Lynda Chambers called the meeting to order at 7:00 p.m. with Mayor Ware, Councilors Shepherd, Cole, Van Sandt, Neddeau and Gerber present. City Administrator Scott McDowell, Administrative Assistant Tammi Morrow and Public Works Superintendent Karl Frink were also present.

PUBLIC: Steve Chambers, Randy Ginn, Elizabeth Coleman, Tim & Desi Housley, Dave Erickson, Kaye Fox, Brad Kelley (LCSO), Allen Buzzard, Christine Harrison, Cindy Thibedeau, Don Andrews, Joe and Diana Ayala, Trisha Thompson, Charlotte Bates, Larry & Karen Bowman, Marilyn Grimes, Mike Landi, Mike Hillsman, Lea Sepulveda (The Times), JoAnn Neddeau, Johnny & Diana Young, Joshua Mushrock, Eva Jean Morley, John Morrison, Kathy MacIntyre, Vanessa de la Puente, Sean Gagner, Mike Elliot, Tom & Sherry Watson, Zebidee Ira, Lloyd Morlan, and Randy and Gayle Simpson.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell informed Council that the weapons permit issue with Chad Hein has been resolved; he will not be appearing before Council tonight. Mr. Hein will be issued a provisional permit, containing his shooting to his own property, and will abide by all future provisions as well.

MINUTES: *Councilor Cole made a motion to approve the January 27th, 2015 meeting minutes with the additional language "applying for grant funding and the Brownsville Community Foundation" under R 2015.05. Councilor Van Sandt also stated that she did vote no last month on O 748, but did support the fence section, but had concerns about the accessory structure being unclear. Councilor Gerber seconded the motion, and it passed unanimously.*

PUBLIC HEARINGS OR PRESENTATIONS:

Leash Law Town Hall – Mr. McDowell stated that Council had received a petition regarding implementation of a leash law in town in October 2014. Council elected to have a public comment town hall session to hear input from the community. Brownsville residents Charlotte Bates, Karen Bowman, Marilyn Grimes, Cindy Thibedeau, Christine Harrison and Kaye Fox are all in favor of a leash law. Reasons stated include being chased and attacked by dogs, neighborhoods overrun with loose dogs, and safety for children and seniors. Mike Hillsman, Brownsville, spoke in opposition of a leash law, stating his dogs have never caused any problems. *Councilor Cole made a motion to direct Staff to move forward with legislation concerning a leash law for town. Councilor Gerber seconded the motion, and it passed unanimously.* Council likes the language used by Multnomah County, and also Harrisburg has a new leash law that seems very comparable with our needs.

Land Use – Marijuana Facilities – Mr. McDowell read the following statement as background:

General Information

- ▶ Council has worked on issues surrounding marijuana since January 2014 when Randy & Gayle Simpson decided to open a medical marijuana dispensary in Brownsville.



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- ▶ The State Legislature had passed House Bill 3460 and it was signed by Governor Kitzhaber on August 14th, 2013. The Bill allowed medical dispensaries to be open through a licensing process by the State of Oregon.
- ▶ The State Legislature had passed Senate Bill 1531 and it was signed by Governor Kitzhaber on March 19th, 2014. The Bill allowed local governments such as cities and counties to pass a moratorium on medical marijuana facilities.
- ▶ The City of Brownsville filed a moratorium following the process outlined by the State of Oregon. The moratorium will run out April 30th, 2015.
- ▶ Council formed a Medical Marijuana Committee to review the subject. The outcome of this Committee was to recommend Council pass a Business Registration Ordinance that would **not** allow marijuana facilities to open in Brownsville based on language included in the Ordinance. The Ordinance says that in order to obtain a business registration the business has to be compliant with local, State and Federal Law. Marijuana is still a Schedule I Controlled Substance and considered illegal by the Federal government, therefore a registration cannot be issued.
- ▶ Council passed the Business Registration Ordinance on September 23rd, 2014 as an emergency. The local law came into effect in October of 2014.
- ▶ Measure 91, the recreational marijuana use legislation, was passed by Oregon voters at the November 4th, 2014 election.
- ▶ At the direction of the City Attorney, Council decided to form another committee to review the impacts of Measure 91.
- ▶ The Committee met and made a recommendation to Council for their December 16th, 2014 Council meeting that basically encouraged Council to move forward with land use legislation that would allow marijuana facilities in certain zones of the City, **if** the Business Registration Ordinance is ever stricken down by the State Supreme Court or changed by City Council.
- ▶ Council directed Staff to move forward with Ordinance 751. Ordinance 751 will be subordinate to Ordinance 747: Business Registration. As long as the Business Registration Ordinance contains the language "Federal" or "federally" and Federal law does not change, opening a marijuana facility of any kind in Brownsville is against local law.

A Measure 51 notice was mailed to every residence/establishment in town. This ordinance, if approved, establishes certain zones where dispensaries could be located. This land use ordinance came before the Planning Commission last night. They voted to recommend this ordinance to Council with the added language of allowing a medical marijuana dispensary in the old town commercial zone as well.

Mr. McDowell showed a zoning map and explained zoning uses. Council has an opportunity tonight to read O 751 as a first reading. The session was opened for public comment. Brownsville residents Joshua Mushrock, Cathy MacIntyre, Mike Elliot, Don Andrews, Randy and Gayle Simpson all spoke in favor of a dispensary in Brownsville citing medical reasons, convenience for cardholders, etc. Gayle Simpson also stated that she believed locating the dispensary downtown will bolster the downtown business economy. Mike Landi, Sweet Home, Eva Jean Morley, Lebanon, Vanessa Delapuenta and Zebidee, Corvallis, John Gagna, Lebanon, Tom & Sherry Watson, Lebanon, Lloyd Morrill, Lebanon, also spoke in favor of marijuana. Brownsville residents Diana Ayala, Johnny Young, Dave Erickson, JoAnn Neddeau, and Kaye Fox spoke in opposition citing reasons such as the downtown location, the small size of the town, and availability elsewhere. Kaye Fox also made a suggestion of putting the matter out to a vote of the city to determine the clear wishes of the community.



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The public session was closed, and Council discussion ensued. Councilor Cole asked Randy Simpson if they still had their license for the downtown dispensary location. Mr. Simpson replied that they had turned that license back in, but that it would be easy to reinstate. He said they would prefer to be at the downtown location. Mr. McDowell recapped a few key pieces of the marijuana issue with Council. The reason this legislation is before Council now is due to time constraints with noticing the Department of Land and Conservation. Currently marijuana dispensaries are not allowed in town due to the moratorium Council has in place; which will expire on April 30th, 2015. The City's business registration states that all businesses must abide by all local, state, and federal laws, which will prevent a dispensary from opening as it is considered a Class I substance and is illegal federally. If federal law changes, allowing marijuana dispensaries, O 751, if passed, will limit dispensaries to Volume Commercial and Light Industrial zones. A question was raised as to the validity of restricting dispensaries to the Light Industrial zone solely. Our legal counsel has advised us that you need to make the zones a viable location, and by removing the Volume Commercial zone, chances are the City would be challenged as the legislation would be too restrictive. Basically, Council has three options: 1) allow dispensaries anywhere in town, 2) not allow dispensaries anywhere in town, and 3) pass O751 and allow dispensaries in certain zones. *Councilor Cole made a motion to accept the Planning Commission recommendation, but eliminating the amendment portion which would allow medical facilities in downtown, thereby taking the ordinance back to its original proposed language. Mayor Don Ware seconded the motion.*

Discussion was called for. Mayor Don Ware stated that he was maintaining his consistency – stating that he is not in favor of the dispensary downtown. He stated that the Simpson's have volunteered to move out of downtown, and he wants to honor that. He also stated that the voters have passed the marijuana issue and he thinks it will soon be allowed federally as well. Just for clarification, Mr. McDowell reminded Mayor Don Ware that currently the Simpson's are not allowed to open a dispensary in Brownsville due to the Business Registration requirements. *A vote of the above motion was called for, and all were in favor, it passed unanimously. Councilor Gerber moved to read O 751 by title only. Councilor Shepherd seconded the motion, and it passed unanimously.*

More discussion followed with Councilor Van Sandt stating that she prefers the dispensary location downtown. Councilor Cole stated that the City and Council have been dealing with this issue for a very long time, trying to resolve the issue. Council appreciates the valuable testimony and the thoughtful discussion the Planning Commission had last night. She would like to see the issue come before a vote of the people so that Council can get clarification on the matter. *Councilor Cole made a motion to take this issue to a vote of the citizens of Brownsville at the earliest election possible. Councilor Gerber seconded the motion.* Discussion was opened. There are many variables that can change including federal law. After this vote, however, Council would have the knowledge of what the people in town want. Councilor Gerber stated that this vote, however, would not shackle Council, but it would be good knowledge to have. *A vote was called for on the above motion, and it passed unanimously.*

Mayor Don Ware made a motion to strike the word federal from the business registration application. Councilor Van Sandt seconded the motion. The motion was voted on, and failed, 2-5. (Councilor Van Sandt and Mayor Don Ware in favor, all others opposed.)



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DEPARTMENT REPORTS:

1. Sheriff's Report. Sergeant Kelley was present. He reported that the burglary at the post office had gone to federal agents. The case may be referred back to local law enforcement, but will likely end up in Lane County due to other crimes committed. Sergeant Kelley reported that there are new regulations governing the release of information through the Sheriff's Office. These security measures are enforced by the Criminal Justice Information System (CJIS) and procedures are currently being enforced. Some of the reports that we receive from LCSO may look a little different. Also, the LCSO is in the process of reorganizing the patrol division. This reorganization should make it easier for the City to contact LCSO. There will be no reduction in patrol hours.
2. Public Works. Mr. Frink reported that they have replaced the water services at 316 Washburn and also finished the installation of 3 new services at Bishop Royale. The final sewer construction at Bishop Royale has been completed; we are just waiting on the final testing. Discharge at the south plant has occurred – with no problems! The sewer manhole bases on Northpoint Loop have been installed incorrectly and need attention. Dave Brant Services will be coming in to correct this issue; hopefully it will be fixed this week or next. Councilor Cole asked if there was any way to have the original contractor come back and fix the problem. Mr. McDowell replied that the warranties are long over, but this issue can be tied back to the importance of the City having recently adopted public works standards. The City did not have an inspection process in place when this project was completed. The new standards will address this deficiency, and aims to prevent these situations in the future. Mr. Frink continued with his report stating that grading and graveling has begun. The leaf collection has been completed in Pioneer Park, with a total of seven 30-yard dumpsters of material removed. The next project will be the installation of the infiltration pumps at the water plant. Hopefully, the pumps will be in before the end of April. After that the next project will be the landscape project at the front of City Hall.
3. Administrator's Report. Councilor Chambers expressed her appreciation for the quotes that Mr. McDowell inserts in the packet. Mr. McDowell reported on the Chad Hein weapons permit application. McDowell and Morrow visited with a neighbor and had been given unclear information, which caused the application to be denied. After a conversation with Mr. Hein clarifying the situation, a permit will be issued with provisional requirements that Mr. Hein will need to comply with. The Eugene Kennel Club will not be holding their annual event in the park this year. Their required timing conflicts with other events already scheduled. They will hopefully be back next year. Currently Staff is spending quite a bit of time "auditioning" new utility and finance software. We are hoping to be operational with it by July 1st if the prices are within what the City has budgeted for the project. The Central Linn School District has invited Mr. McDowell to meet on March 12th, 2015. McDowell is unsure what the topic is but thought it could be about the Rec Center. Sweet Home Sanitation has not received this CPI information yet, so they will propose their rate adjustment in March, and will ask that it is retroactive to the first of March. Mr. McDowell directed Council's attention to the new artwork on the walls. There is a piece on Herb Dominguez, as well as the cancelled bonds, etc. McDowell thanked Jannea Deaver for completing this project.
4. Library Report. No comments.



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5. Court Report. No comments.
6. Council Comments. McDowell reported that there will be a law enforcement training (similar to Neighborhood Watch) at the American Legion on March 17th, 2015 at 6:30 p.m. *Councilor Gerber made a motion to support the training seminar. Councilor Cole seconded the motion, and it passed unanimously.*
7. Citizen Comments. Kaye Fox thanked the Council for referring the marijuana decision to a vote of the community residents to truly reflect what the city constituents want. Marilyn Grimes asked if the Council was going to be providing snacks for the law enforcement training as support. She received a negative reply.

LEGISLATIVE:

1. O 751: Land Use Options for Marijuana Facilities. See page 2 of these minutes.

ACTION ITEMS:

1. Appoint Budget Committee Member. Mr. McDowell informed Council that Ed Hudson had moved out of the City, and therefore no longer able to serve on the budget committee. After publishing a vacancy notice, the City has received one application for the position from Allen Buzzard. *Mayor Ware made a motion to appoint Mr. Buzzard to the Budget Committee. Councilor Van Sandt seconded the motion, it passed unanimously.*

DISCUSSION ITEMS:

1. Elected Officials Replacement Policy. Mr. McDowell proposed a draft elected officials replacement policy. *Councilor Cole made a motion to approve this policy as written, and authorize staff to develop this language into ordinance form. Councilor Shepherd seconded the motion, and it passed unanimously.*
2. Umpqua Bank Update. Mayor Ware, Bob Anderson, and Mr. McDowell met with Umpqua Bank officials recently. After a month of campaigning and gathering information, Umpqua informed the City that they have only received about half of the holdings/deposits needed to establish a branch in Brownsville. They will not be coming to town. All concerned are very disappointed. The City will continue to explore other options/opportunities.
3. Oregon Government Ethics Committee (OGEC). Mr. McDowell reminded Council that the State of Economic Impact (SEI) from OGEC will be arriving in their mailboxes soon. Forms are due April 25th. You are welcome to return it to Ms. Morrow for mailing, or return it to OGEC yourself. Please let Ms. Morrow know if you mail your information back for our recordkeeping purposes. There are penalties for non-compliance.
4. Criminal Justice Information System (CJIS). Court Clerk Jan Henry and Mr. McDowell recently participated in an audit administered by the Oregon State



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Police's CJIS representative. City policies and procedures will need to be corrected and updated as required by the audit findings.

5. January Financials. No comments.

CITIZEN COMMENTS: No comments.

COUNCIL COMMENTS: No comments.

EXECUTIVE SESSION entered @: 9:20 p.m.

- Council will be discussing a real property transaction.
- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.
- Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session
- A final decision may be made after this Session.

Exit @: 9:30 p.m.

The regular meeting was called back into session at 9:30 p.m.

DISCUSSION: Mayor Ware commented that the tally he came up with for the marijuana issue from this meeting was 12 people from out of town for marijuana. City residents tally at 3 for marijuana and 3 against.

ADJOURNMENT: *Councilor Gerber moved to adjourn at 9:33 p.m. Councilor Van Sandt seconded the motion, and it passed unanimously.*



City Administrator S. Scott McDowell



Mayor Don Ware