



Council Minutes

December 16th, 2014

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

PUBLIC: Kaye Fox, Steve Brenner, Mike Neddeau, Elizabeth Coleman, Allen Buzzard, Leda Sepulveda (*The Times*), Kathleen Swayze, Diane Remoir, and Randy and Gayle Simpson.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell informed Council that he would like to add agenda items 9) B. Transfer of Funds, 9) C. Umpqua Bank Support, 10) C. McFarland Cascade, and 11) E. Boldt, Carlisle & Smith's Audit to the agenda tonight.

MINUTES: Councilor Gerber and Councilor Chambers had corrections to the minutes: one correction regarding a tie vote, Councilor Shepherd and Councilor Chambers were opposed to the 0% tax on marijuana, and Councilor Gerber was the one who volunteered to chair a Marijuana Committee meeting, and asked who would serve with her. Councilor Shepherd and Councilor Chambers volunteered to serve on this Committee. *Councilor Van Sandt made a motion to approve the November 25th, 2014 meeting minutes as amended. Councilor Chambers seconded the motion, and it passed unanimously.*

Councilor Gerber made a motion to approve the summary minutes of the Marijuana Committee Work Session on December 4th, 2014 as presented. Councilor Shepherd seconded the motion, and it was approved unanimously by Councilor Gerber, Councilor Shepherd, and Councilor Chambers.

PUBLIC HEARINGS OR PRESENTATIONS:

Diane Remoir – 1123 Oak Street – Ms. Remoir was present to lodge a complaint about her neighbors across the street. They are running an auto repair business out of the rental home in a residential neighborhood without the proper permits, etc. She presented pictures for Council. She is concerned about the hazardous materials and their proper disposal, and also about the vehicular traffic and the wreckers coming and going at all times of the day and night. Ms. Remoir has contacted the Linn County Sheriff's Office as well. Linda Scronce-Johnson was also present to show support for Ms. Remoir and to reiterate the validity of her statements. Ms. Johnson stated that she smells petroleum based fumes on a regular basis now. She said this new renter/business has affected the neighborhood livability. Mr. McDowell informed Council that the pictures that were presented were at the request of Staff. Staff has been out to this residence and spoken with the residents and were informed that they were not doing anything out of the house. The photos are now logged into evidence to the contrary. The next step is to require the residents to go through the conditional use property. If they do not comply, the next step in the process would be to post the property. Councilor Shepherd stated that they were posted before cleanup day, and the residents did comply. This issue may have to come back to Council in January.



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Mr. McDowell reminded Council that Staff has dealt with hundreds of similar complaint issues, and many of them never make it to Council's desk. McDowell emphasized the important of good public policy, in absence of policy and proper enforcement these real world situations never resolve. The ordinances currently in place quite often don't address critical issues. The ordinances themselves need to be strengthened as we can only do what the law allows. Lauren Sommers stated that there are a number of enforcement mechanisms in the Brownsville Municipal Code. Each situation needs to be evaluated individually. Some situations Staff can handle on their own, sometimes they will need direction from legal counsel.

John Voight – Sage Street – Mr. McDowell and Elizabeth Coleman met with the Snook family to discuss the disposition of Sage Street. To recap from the last meeting, there are basically three ways that will allow John Voight to gain access to his riverfront property from Sage Street. The first option is that he could improve the City Right of Way which would be very costly, probably six figures. (Once developed the City would take ownership of this improvement, and the City would basically be maintaining this improvement in an area that floods fairly consistently each year; this is not really a viable option due to the costs and associated annual maintenance implications.) The second option would be for a private citizen to bring a petition to vacate the right-of-way. Each adjoining property owner would then each gain 30' on the ROW. This is also not a great option as it is not accomplishing Mr. Voight's objective, which is access to his riverfront property. He would need to negotiate with the neighbors, with no clear result guaranteed. The third option is for the City to initiate the vacation. The problem with this option is that the peace in the neighborhood could be adversely impacted and Mr. Voight would still have to negotiate an easement with one of the abutting property owners. Mr. Voight has stated that he will contact Mr. Hagen and try to work something out that both parties can agree on.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** Sergeant Kelley was not present. No report tonight.
2. **Public Works.** Mr. Frink reported that the paving projects have been awarded to Holderman Paving, but that the paving will be done in the Spring due to weather considerations. Neal and Sue Karo have mowed all summer and now cleaned up the leaves in Blakely Park. (Mayor Ware requested a thank you be sent to them). Leaf removal has begun in all parks. In Pioneer Park Staff is using the new mower with the bagging device attachment. Brownsville Rec Center repairs have been completed this week, and also a new hot water heater has been installed at the library. The downtown restrooms have had a rash of vandalism again, and may need to be closed temporarily if the problems continue.
3. **Administrator's Report.** – Mr. McDowell informed Council that the City has been contacted by Umpqua Bank about locating a branch in Brownsville. There has been a lot of work on the backside of the issue by folks like Don Ware, Allen Buzzard, and downtown property owner Bob Anderson. Umpqua Bank would like to schedule a meeting to get a feel for the community needs. The meeting is scheduled for January 14th, 2015 at 7:00 p.m. at the Baptist Church. (The church is the best facility in town for a meeting of this size with adequate parking, etc.) Staff is waiting for confirmation from the church. The resolution before Council is toward the effort of supporting Umpqua Bank. *Councilor Gerber made a motion to adopt R 2014.23 and allow Staff to determine the meeting location. Councilor Van Sandt seconded the motion, and it passed unanimously.* Astound Broadband has contacted the City to initiate a discussion about connecting



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wirelessly via cell towers. Speer Hoyt's Christy Munson has been working with this company and will determine some parameters and outline a process for the City; more information to follow as it becomes available. Business registration letters will be going out at the end of the week, and will be due back to the City by January 30th, 2015. The City recently has received a complaint that the old depot is being used as a residence. Ms. Sommers has looked through the code and determined that there is an allowance for an owner or caretaker residence at that location. The owner will need to go through the conditional use process. As the process proceeds, it will be determined that their use is, and plans for future use will also be determined. Council received a petition a couple of months ago regarding a leash law in town. Mr. McDowell proposed hosting a town hall meeting at the regularly scheduled February Council meeting. *Councilor Van Sandt made a motion to approve holding this town hall meeting prior to the February Council meeting. Councilor Chambers seconded the motion, and it passed unanimously.* The Canal Company is still undetermined. Mr. McDowell reminded Council that the goal setting session is scheduled for January 24th, 2015 at 9 a.m. here at City Hall. Councilor Gerber asked if Mr. McDowell has checked into acquiring a facilitator. Mr. McDowell responded that time is short, but he will try. A few months ago the City was asked to write a letter requesting that satellite local channels be changed from Portland to Eugene stations. Mr. McDowell informed Council that he has been in contact with the League of Oregon Cities because they would more than likely have come into contact with this issue because they field complaints from all over the State. Satellite providers determine local channels. Requesting additional service or area coverage is a relatively individual customer preference/process. Mr. McDowell placed the FCC guidelines on the table for Council. Folks can contact their satellite providers and determine their local channels. The satellite providers may offer Eugene channels for a price. Another option would be to contact a professional antenna service to acquire Eugene stations. Mayor Don Ware considered the matter closed.

4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. No comments.
7. Citizen Comments. Steve Brenner and Kathleen Swayze were present to complain about the noise coming out of the McFarland Cascade peeling site. This high pitched sound can be heard all over town, and it starts as early as 7:30 a.m. in the morning. They believe it is interfering with quality of life here. They request that the City check into the agreement with them and see what can be done. Mr. McDowell told Council that they will find on their desk a report with comparison chart, etc. Staff did travel to Wilbur, Oregon to a McFarland Cascade site and witnessed a sound testing done there. McFarland Cascade did provide us with those final test results. DEQ does not do anything with sound pollution anymore; since 1991. McDowell explained that the City does not have a sound level ordinance and has been working with the Planning Commission and McFarland loosely basing determinations on a city ordinance from California. Staff recommends requesting that McFarland Cascade initiate some sound testing. Staff will also research their state hours of operation, etc. *Councilor Van Sandt made a motion to authorize staff to do a noise study and perhaps begin negotiations with McFarland Cascade to diminish or mitigate their noise levels. Councilor Gerber seconded the motion, and it passed unanimously.* Kaye Fox



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would like Council to hold another town hall in light of passage of Measure 91. Allen Buzzard thanked Council for their willingness to do an often thankless job and presented all of the Councilors with a Christmas card. He stated that it is great to live in Brownsville, and that he has full faith and confidence in Scott McDowell's performance.

LEGISLATIVE:

1. O 748: Public Works Standards, Accessory Structures, & Fences (First Reading). Mr. McDowell suggested that this issue be table until a full Council is in attendance. Council concurred.
2. R 2014.22: Authorizing Transfer of Funds. Councilor Gerber made a motion to approve R 2014.22. Councilor Shepherd seconded the motion. It was voted on and passed, unanimously.

ACTION ITEMS:

1. SDC Agreement with Tim Smith/Bear. Mr. McDowell presented an SDC Agreement with Tim Smith/Timothy Bear that basically spreads the payments for his property development out over 20 years. The agreement will be notarized and recorded at the Linn County Courthouse. Any unpaid portion will be a lien against the property if the property changes ownership; basically it is just a payment plan. Councilor Gerber made a motion to approve the SDC Agreement as presented. Councilor Van Sandt seconded the motion, and it passed unanimously.
2. Marijuana Committee Options and Outcomes. Lauren Sommers recapped the committee meeting and noted that the minutes accurately reflect the meeting. Discussion followed including the landscape changes that have taken place with the passage of Measure 91 and what that might mean to the City. Councilor Shepherd made a motion to direct Staff to create legislation creating buffer zones around old town and residential, proceed with the DLCD noticing, and to develop language that would prohibit large commercially licensed marijuana grows in city limits. Councilor Gerber seconded the motion and it passed unanimously.

DISCUSSION ITEMS:

1. Bi-Mart Willamette Country Music Festival. Recently McDowell and Mayor Ware attended another discussion pertaining to the updating of the Outdoor Assembly Code for Linn County on December 10th, 2014. Linn County Staff brought legislation for the Linn County Commissioners consideration and approval. The meeting was very lengthy with many points being discussed and debated. Mrs. Hankins and her Staff were relatively pleased overall with meeting though there was some consternation about a few specific points. Mr. McDowell and Mayor Don Ware are cautiously optimistic. The next meeting is scheduled for December 30th, 2014.



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2. Mayor Ware's Communications Plan. Mayor Ware is planning on implementing a new communication plan. He plans on meeting with several of the local groups/organizations several times a year. He is also planning on having a "Meeting with the Mayor" several times a year for community members, perhaps held at Randy's Main Street Coffee on a Saturday. Staff is also beginning to plan a summer event that will be held down in the park, probably in late summer that would be an appreciation gathering for all elected and appointed officials of the City. The event would most likely be a potluck event with the City providing the main course such as hamburgers and hot dogs. Another innovative idea would be to have a "talking head" format featuring Mayor Don Ware and Mr. McDowell that would be basically a YouTube style video that would be located on the City's website; this format would cover local hot topics and general items of interest for the City.
3. Brockman Water Meter Outcome. At the last meeting, Staff brought to Council's attention a situation involving Mr. Brockman's water meter and his displeasure that the City had not moved his meter as he demanded. Mr. Brockman had been told that if he was patient, the City would likely need to rent the special equipment needed to complete this project and would complete it as time allows. Mr. Brockman was unhappy with this decision, and requested a meeting with Mr. McDowell and Mr. Frink to discuss the situation. Councilor Cole showed up at the meeting as well. Council had already directed Staff to act accordingly with our policies. Councilor Cole working in favor of a compromise in favor of Mr. Brockman made Staff feel very undermined. There are several extra issues with this situation, including the arborvitaes that will need to be removed, etc. The City has contacted a boring company, and they will come out within a couple of weeks. The City's share will total no more than \$210 because that is what we would pay to rent the special mini excavator. The concern of this issue is that Council had already discussed this issue, come to a consensus and directed Staff to proceed as per regular practice. It is imperative that Council be in line to support Staff on all fronts and levels as they carry out their duties; this is not the appropriate way to deal with the public or Staff.
4. November Financials. No comments on the November financials. Mr. McDowell presented the Audit report prepared by Boldt, Carlisle, and Smith for Council's review. Mr. McDowell will bring it before Council again next month and will take questions at that time. The City's accounting software is subpar, and Staff is looking at new programs. It is also important for the internal controls governing financial activity be audited with Council approving the final recommendations and policies offered by a firm and Staff.

CITIZEN COMMENTS: Randy and Gayle Simpson informed Council that they are moving their marijuana dispensary out of town to the Hair Salon building at Kirk's Ferry. They ask that Council lift the moratorium so they can operate their business. They also request that Council change the Business Registration legislation and make the zoning requirements beneficial for them. Kaye Fox returned to the podium and commented that she is excited that Council is doing their homework on the hearing impact from McFarland Cascade. She also requested that Council direct the audience to be quiet during the meetings so all audience members can hear what Council is saying.



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COUNCIL COMMENTS: No comments at this time.

EXECUTIVE SESSION #1 - Entered @: 8:54 p.m.

- Council will be discussing a real property transaction and reviewing the performance of the City Administrator.
- 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. The City will also invoke Section (i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.
- 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 @: 9:02p.m.

EXECUTIVE SESSION #2 - entered into @ 9:03 p.m.

- Council will be discussing a real property transaction and reviewing the performance of the City Administrator.
- 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. The City will also invoke Section (i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.
- 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 @: 9:14 p.m.

The regular meeting was called back into session at 9:14 p.m.

Mr. McDowell provided for Council the compensation breakdown which includes a 1.7% COLA and a 2.5% step increase. Mr. McDowell is at Step 9, which corresponds to him starting his 9th year of employment. *Councilor Shepherd made a motion to accept the pay scale for Mr. McDowell. Councilor Van Sandt seconded the motion. It was voted on and passed, unanimously.*



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ADJOURNMENT: Councilor Shepherd moved to adjourn at 9:16 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