



Council Minutes

November 25th, 2014

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

PUBLIC: Sergeant Brad Kelley, Allen Buzzard, John Morrison, Elizabeth Coleman, Kaye Fox, Jennifer Moody (*ADH*), John Voight, Josh Metcalf (*Sweet Home Sanitation*), Glenn Reinemer, Mr. & Mrs. Doug Block, Leda Sepulveda (*The Times*) and husband, and Randy and Gayle Simpson.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell informed Council that he would like to delete agenda item 11D. Recreational Vehicles and add item 11E. Leash Law to the agenda tonight.

MINUTES: Councilor Cole made a motion to approve the October 28th, 2014 meeting minutes. She will clarify her statement regarding the HRB in the comment section tonight at the end of the meeting. Councilor Gerber seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

John Voight – Sage Street – Mr. John Voight informed Council that he had purchased a piece of river front property that abuts his residential property. This property is basically landlocked, however it does border an undeveloped city street. He would like to be able to gain access to this property, and would like direction from Council to best determine his options. Several options were discussed, with no clear outcome at this time. Mr. McDowell will meet with the adjoining property owners and see what the best option might be. Mr. Voight's options are to 1) improve the street to City standards, 2) file a petition of vacation of the right-of-way or 3) the City vacates the right-of-way. More information for Council at a future date.

Josh Metcalf – Cleanup Day Results – Josh Metcalf from Sweet Home Sanitation was present to report the fall cleanup day results. He said that the Public Works Department did a fantastic job; they are a top notch group. Mr. Metcalf thinks it is important to share cleanup day results as a way to place perspective on the importance of this event. As you know, cleanup day was moved to fall as opposed to springtime this year. Final statistics reveal that 43 tons of material was collected, approximately 10-15 tons more material than last spring! Twenty-two tons were diverted to recycle/reuse. City staff has spent a considerable time keeping nuisances to a minimum. Councilor Cole would like clarification – is cleanup day done in lieu of franchise fees? Mr. McDowell indicated that has always been the case with this franchise. McDowell continued by saying that the clean-up day signifies much more than monetary value. The City is sending the message to the community that we want to keep our town clean. The event probably costs Sweet Home Sanitation \$6,000-\$8,000 to operate. Mr. Metcalf agreed with Mr. McDowell's estimate and also stated that clean up day benefits the entire community whether they are Sweet Home Sanitation's customers or not. Mr. McDowell also stated that moving clean-up day was great for Staff in terms of Code



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enforcement. Seventeen abatement postings were rectified due to moving this event to October.

Lauren Sommers – Measure 91 – Ms. Sommers reminded Council that up to this point, conversations have focused mainly on medical marijuana dispensaries. Now with the new laws in effect, consideration needs to be given to growers, processors, etc. as well. Mr. McDowell stated that this is an opportunity for Council to give Staff some policy direction on how to proceed. The City of Albany recently made some policy change language that states that recreational and producer, in the marijuana industry, cannot be within 300' of a residential space. Basically the City of Albany went through the land use process to enable them to write their own rules that best serves their community. Mr. McDowell stated that if this is a direction that Council wants to go, land use needs will have to be discussed in detail. Time is of the essence as the DLCDC requires two readings and prior notification consisting of thirty-five (35) days. Ms. Sommers stated that this change would require a Title 15 amendment to the Code, and that land use regulations are more defensible. Another factor would be that all of old town commercial has a secondary residential use, so basically this would prohibit a dispensary in the downtown core. Councilor Gerber asked if Council could reconvene the marijuana committee to discuss how best to proceed. Councilor Cole stated that she would like to see a new group formed to get a different perspective on the issue. Mr. McDowell suggested forming a group of councilors – three perhaps – to study the issue and bring back a recommendation to Council at the December meeting. Councilor Gerber agreed and asked who would serve with her on the committee? Councilor Shepherd and Councilor Chambers agreed to serve on the committee. Councilor Gerber will be the committee chairperson.

Review Goals – Economic and Community Development – Mr. McDowell shared some highlights with Council on the year's accomplishments, particularly in the economic and community development areas. A lot of the accomplishments are economic building blocks, and will be benefitting the community for years to come. The Ford Foundation has made a significant effort here developing community leadership. We have new business coming into town, and expect to be continuing down that path.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** Sergeant Kelley was present. He stated that it has been fairly quiet lately. Mayor Don Ware asked about coverage for the town, and Sergeant Kelley responded that there are usually a couple of people in town all the time.
2. **Public Works.** Mr. Frink reported that the new water line has passed all testing and is now in service. Road grading will be happening in December or January. The paving projects have been awarded to Holderman Paving. Paving will be done either this fall, or possibly in the spring, dependent on weather. The park has been closed and winterized. Public Works is waiting on a bid for stage lights at the Rec Center. Mr. Frink also spoke with a plumber today about getting a fountain and a hot water heater for the building. Public Works will begin picking up leaves in the Park very soon.
3. **Administrator's Report.** – Mr. McDowell informed Council that the business registration letters will be rolling out soon, around mid-December. The new business registration will take effect the first of the year, and businesses will begin to complete the paperwork at that time. The audit is getting close to being finalized. It will be presented to Council when completed. The water rights and GR-12 news remains the same as chronicled in the staff report. There is a new



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process that has been developed in the last year according to Wyatt Rolfe. Mr. McDowell and City Engineer Jon Erwin recommend that Council proceed with this process quickly to preserve the City's rights. Council instructed Mr. McDowell to go forth, post haste, and to take the most sure path. The Emergency Planning Committee will kick off in a few weeks. Mr. McDowell will start with a small informational meeting and proceed from there. The Central Linn Rec Center Agreement (CLRA) transition has been working well. Mr. McDowell thanked Staff for facilitating this whole process. There is more work to be done, but we have made a good start. Councilor Cole inquired as to the City's liability for injuries. Mr. McDowell responded that this has not changed. The CLRA carries their own liability insurance, and any injuries would fall within that parameter. The City has not taken on additional liability, the exposure remains the same. If someone should ever sue, they will name all parties involved. Staff went out and visited with the neighbors of 120 Moody Court. All said that they have noticed a substantial difference with 23 cats removed from the area. Staff will continue to monitor the situation. A nuisance situation has surfaced at 108 E. Blakely. There is considerable trash, mattresses, etc. in the yard and driveway. After trying for over two weeks to contact the property owner, staff posted an abatement on the property on November 24th, 2014. Mr. McDowell also brought to Council's attention a matter involving a customer's water meter. Mr. Brockman has requested that the water meter be moved closer to his house. Mr. Frink told Mr. Brockman that it would take considerable work and special equipment to make this happen. However, if Mr. Brockman could be patient, the City would likely need to rent this special equipment for another project, and would complete his project at the same time, thereby saving Mr. Brockman the expense. The city's policy remains the same. The water line to the water meter is the City's responsibility; from the water meter to the house is the property owner's responsibility. Mr. Brockman is unhappy that this project has not been completed yet. There are several extra issues with this situation. There are a row of arborvitae that will need to be removed and the road presents challenges. The City is going the extra mile to help with this project. For now, this is just an awareness issue for Council.

4. Library Report. Don't forget about the book sale next weekend.
5. Court Report. No comments.
6. Council Comments. No comments.
7. Citizen Comments. Kaye Fox, Kirk Avenue, remarked that she has heard from the young parents around town that this was the best Halloween ever! She stated that she appreciated the merchants being open, and the increased safety for the children in the neighborhoods. She expressed her thanks to Council and Chamber for all their hard work.

Randy Simpson, Sheephead Road, stated that in regards to the new marijuana committee, if you regulate them so many feet from residences, etc., they will be regulated out of town. He commented that if you regulate the dispensary out of town, you should consider regulating the liquor store, etc.

Allen Buzzard, School Avenue, suggested a subcommittee of fair people, not just Council, in regards to the marijuana issue. He stated that he is a small business owner, and over regulation is the death of new business. He shared a few suggestions for language in the fence ordinance.



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LEGISLATIVE:

1. O 748: Public Works Standards, Accessory Structures, & Fences (First Reading). Mr. McDowell informed Council that he has had several conversations primarily focusing on the deer fence part of the proposed ordinance. He has highlighted the changes for Council's review. Remember, this ordinance coming before Council is to increase equality and to give Staff a standard to operate under. The Code sets the guidelines. If neighbors have a dispute, quite often they look to City Hall to work out the problem. This Code would set standards and help alleviate this problem. Council is not obligated to act on this issue. This ordinance has been vetted through the Planning Commission. Discussion followed. A vote was taken, with three for and three against this legislation. The topic was tabled until the December meeting.
2. R 2014.20: Adopting a Marijuana Tax Rate. Mr. McDowell commented that this resolution is in place just in case the City will be legally able to tax marijuana. Discussion followed. Several motions were made resulting in tied votes. *Councilor Gerber made a motion to adopt R 2014.20 with a 7% tax on recreational marijuana and 0% tax on medicinal marijuana. Councilor Cole seconded the motion. It was voted on and passed, 4-2, with Councilor Cole and Councilor Van Sandt opposing.*
3. R 2014.21: Certify Election Results. Mr. McDowell informed Council that the Linn County Clerk's Office has mailed the official election results that need to be authorized by Council. The City is not in receipt of the letter, but have verified the results online. *Councilor Cole made a motion to authorize Mr. McDowell to certify the election results as presented. Councilor Shepherd seconded the motion and it passed unanimously.*

ACTION ITEMS:

1. 2015 Goal Setting Session. Mr. McDowell inquired of Council when they would like to set the 2015 Goal Setting Session. January 24th, 2015 was agreed upon at 9:00 a.m. here at City Hall. Mayor Don Ware reminded everyone it is very important for all to attend.
2. Address Marking. Mark Stevens, Brownsville Fire Department, would like to gain Council approval to paint house numbers on curbs. One concern surfaced that not all houses in town have curbs. Current ordinance reads 2" numbers, but has no specifics about placement. This can be a problem in dark, inclement weather. *Councilor Van Sandt made a motion to allow the Brownsville Fire Department to paint house numbers on curbs. Councilor Shepherd seconded the motion and it passed unanimously.*

McDowell suggested reviewing the current ordinance due to many changing factors. McDowell was asked to review those ideas with Mr. Stevens.



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3. Delinquent Court Accounts. Mr. McDowell informed Council that in their packet they would find a list of delinquent court accounts of more than ten years. There are a number of reasons for the delinquency: death, moving out of state, illegals, etc. Mr. McDowell recommends approving that these delinquent accounts be written off. *Councilor Shepherd made a motion to approve the write off of the delinquent court accounts. Councilor Van Sandt seconded the motion, and it passed unanimously.*

DISCUSSION ITEMS:

1. Bi-Mart Willamette Country Music Festival. Recently McDowell and John Morrison attended a discussion pertaining to the updating of the Outdoor Mass Gathering Permit legislation for Linn County. Language is still being reworked and changed for this County process. Linn County Staff has been directed to have the legislation ready to approve at the Linn County Commissioners meeting on December 10th, 2014. McDowell hoped that the result of the changes would be positive. *Councilor Gerber made a motion to authorize Mr. McDowell to ask for the ordinance to be tabled if the language would exclude and prohibit the Willamette Country Music Festival from remaining in Linn County. Councilor Van Sandt seconded the motion, and it passed unanimously.*
2. Snow Removal Policy. Mr. McDowell informed Council that Staff has received several complaints last year regarding snow removal from roadways. As we do not have equipment to deal with snow removal, and the County does a great job for us making sure the main highways are graded and sanded, the City's position has always been to wait out the weather. It would cost the City about \$10,000 to initiate a program.
3. Weapons Discharge. The current weapons discharge ordinance was discussed. At this time, Staff is not interested in issuing permits without some kind of administrative rules in places as the liability is just too great. Mayor Don Ware proposed going back to the original ordinance. This item was tabled until a future meeting.
4. Recreational Vehicles. This item was tabled until a future meeting.
5. Animals. Staff has received a petition to enact a city wide leash law. There are a number of ways to do this, as you will see from the report on page 85 in your packet. Currently the leash law in town only applies to the park, in certain areas. A town hall forum was suggested to hear what the citizens would like in their community. Councilor Shepherd commented that a woman in Eugene recently lost her life because she tried to save her dog from being hit by a train. If the dog had been leashed, this accident would have never happened.
6. South Oak Drainage Issue. Staff is asking Council to address an ongoing issue with drainage at a residence on South Oak Street. Recent paving improvements have been made on this street, and the continuous water runoff will soon begin to erode the new pavement. Council agreed and asked Mr. McDowell to compose a



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letter to the property owner stating the reasons for the City's concern and their options to correct the problem.

7. 382 Kirk Avenue Options. Mr. McDowell is asking for Council's input on how best to proceed with the situation at 382 Kirk Avenue. The property has been in non-compliance for several months. Mr. McDowell reminded Council that the ordinances need to be enforced as fairly and equally as possible. If the ordinance is not working, then maybe a change is in order. It is unfair to require some citizens to follow the ordinances, and not others. The Code needs to be enforced unilaterally. Discussion followed. Three motions were made that resulted in tied votes. *Councilor Shepherd made a motion to send another letter to Ms. Garrison detailing the fines to date, offering assistance, and requesting that the nuisance be abated by the first of January. If after that time period, the nuisance remains, Ms. Garrison will be cited into municipal court. Councilor Chambers seconded the motion. It was voted on and passed, 4-2, with Councilor Cole and Councilor Van Sandt opposing.*

8. September Financials. Mayor Don Ware inquired about the low balance in the LGIP account. Mr. McDowell indicated that the City has funded many projects this last year, and that the property tax monies will be coming in soon.

CITIZEN COMMENTS: Kaye Fox returned to the podium and informed Council that she has been living in this community for 10 years. Council's behavior tonight is one of the reasons that she ran for office in the last election. There are clear ordinances in place to deal with nuisances and Council is still choosing not to enforce their own rules. Her hope that in the new year, Council will come around and do the right thing.

Allen Buzzard spoke next and agreed with Kaye Fox's comments. He asked Council why Washington Avenue and French Street have been overlooked and not paved. Mr. McDowell responded that this situation has not been overlooked. After getting three estimates for this project over the last eight years, it was concluded that the project would cost upwards of \$400,000, and the City cannot afford this expenditure at this time due to the other emergencies that have been addressed over that same period of time.

Randy Simpson spoke again. He again asked that Council lift the moratorium. He stated that they have been abiding by the moratorium, and drive outside of town to give marijuana to cardholders.

COUNCIL COMMENTS: At the last meeting Councilor Cole intended to convey that she would like to see the Historic Review Board (HRB) strengthened, reminding Council that the HRB's jurisdiction is only old town commercial. She would like Council to explore language that could be incorporated with Parks and Open Space, but also with business licenses and public works standards. She would like to explore how to bring the HRB into more than just Parks and Open Space. Councilor Cole is willing to support Staff with whatever needs to be done. Mr. McDowell responded that perhaps the first step is the involvement with the Spaulding tree project and go from there.



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Councilor Chambers commented that in regards to the citizen's comments earlier, she tries to vote as a Councilor, not as a private citizen, in regards to what is best for the community. This vote does not always coincide with her personal opinion.

EXECUTIVE SESSION

Entered @: 9: 20 p.m.

- Council will be discussing two separate real property transactions.
- 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.
- A final decision may be made after this Session.

Exit @: 9:33 p.m.

The regular meeting was called back into session at 9:34 p.m.

Councilor Cole made a motion to decline the property offer from Mr. Jungwirth due to flood considerations among others. Councilor Gerber seconded the motion. It was voted on and passed, unanimously.

Councilor Shepherd made a motion to instruct Staff to get more information on a building that is being occupied that is not zoned residential due to a complaint that has been filed with the City. Councilor Gerber seconded the motion. It was voted on and passed, unanimously.

ADJOURNMENT: *Councilor Shepherd moved to adjourn at 9:39 p.m. Councilor Van Sandt seconded the motion, and it passed unanimously.*



City Administrator S. Scott McDowell



Mayor Don Ware