



Council Minutes

February 25th, 2014

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

PUBLIC: Jennifer Moody, Randy and Gayle Simpson, Scott Johnson, Josh Metcalf, Kaye Fox, John Morrison, and Max Peschel.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell would like Council to add Tim McBride Complaint under 6) A. Public Hearings/Presentations, and Budget Committee Appointment under 10) D. Action Items. Laura Meckle and BWCMF are rescheduled for March due to the heavy agenda this month.

MINUTES: Council reviewed the minutes of the January 29th and February 12th, 2014 meetings. *Councilor Gerber moved to approve both months' minutes as presented. The motion was seconded by Councilor Shepherd and was approved unanimously.*

PUBLIC HEARINGS OR PRESENTATIONS:

Tim McBride Complaint– Tim McBride, 806 Bishop Way, was present and stated that he is having an ongoing neighbor dispute with Jad Lemhouse. He informed Council of the situation and asked for any help he could get to resolve the situation. Mr. McDowell stated that after talking to Mr. McBride, he had encouraged him to come to Council and inform Council of the on-going situation. Mr. McDowell attempted to contact Donny Nealon, but was unsuccessful. Mr. McDowell suggested initiating a meeting with Sheriff Bruce Riley and Donny Nealon to clarify the situation and hopefully get some resolution for all parties involved. Council encouraged Mr. McDowell to go forth. Mr. McBride thanked Council for their time.

DEPARTMENT REPORTS:

1. **Sheriff's Report.** No report tonight.
2. **Public Works.** Mr. Frink reported that Public Works had a good month, all is going well. Ongoing projects continue to be the GR-12 well project and the computer system at the Water Treatment Plant.
3. **Administrator's Report. Open Space and Park Board Opening** – Mr. McDowell reported that he has received one application for this opening. Unfortunately the applicant is from out of town and both of the out-of-town positions as allowed by Code are currently filled. Mr. McDowell will continue to hold onto this application to fill an out of town position possibly opening up. In the meantime, the City will continue to seek an individual to fill the open position. **Flood Insurance** – Mr. McDowell continues to work on this project. **City Hall Entry Project** – Mr. McDowell shared with Council the idea of breaking this project up into phases. Phase I will redo the entry into City Hall from the old fire bell north. An idea is moving the water fountain from the front of Key Bank to the front of City Hall. Public Works will do some of the Phase I work such as preparation,



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excavation and irrigation and the block work will be contracted. *Councilor Van Sandt made a motion to approve Phase I of this project, basically soliciting quotes and moving the fountain. Councilor Chambers seconded the motion, and the motion passed with Mayor Ware voting against the motion.* Mayor Ware stated that he preferred the fountain stay where it is currently located. BWCMF – Mr. McDowell convened a community partners meeting to discuss current developments with the BWCMF. The Linn County Commissioners are discussing Outdoor Mass Gathering Permit code changes that would basically shut down the festival. One of the biggest proposed changes would be that the WCMF could not enter into contracts until the Outdoor Mass Gathering permit was approved. The problem with this new requirement is that to get top name artists, the festival folks have to enter into those contracts about a year in advance. If this new requirement is adopted, it will be a death knell for the festival in Brownsville or in Linn County for that matter. Mr. McDowell sent Council a draft letter of inquiry directed to the County Commissioners recommending the BWCMF's application being approved this year and next as the permit application was submitted on January 23, 2014, before any proposed changes were adopted. John Morrison was present and Mr. McDowell asked that Mr. Morrison relate the telephone conversation he had with Commissioner Roger Nyquist. Mr. Nyquist insisted that he knew of no upcoming proposed changes to the Code and denied all culpability. *Councilor Gerber made a motion to authorize Mr. McDowell to submit the letter of inquiry to the Linn County Commissioners and to convene a group to monitor the situation. Councilor Shepherd seconded the motion, and the motion passed unanimously.* Roy Houtz Situation – Mr. McDowell would like to provide some clarification on the issue. In the agenda packet you found a detailed outline of *all* of the letters that were sent to Mr. and Mrs. Houtz. Mr. McDowell wanted to assure Council that contrary to Mr. Houtz's comments last month, Staff has been doing everything above and beyond what is required by the Code. The Houtz' are currently in compliance with what was asked of them for the past nuisance abatement season. There is more work to do this next season, so this will be an ongoing process. Sweet Home Sanitation has been very accommodating and great to work with on this project. Upcoming Elections – Mr. McDowell stated that Councilor Cole is not seeking re-election per an email he received this week. Mayor Ware declared that his decision is pending. Picture Contest – Mr. McDowell informed Council of the results of the picture contest. Terry Marchbanks won 1st, 2nd, & 4th place! Laura Holbrook won 3rd place. The pictures are displayed downstairs in City Hall. CFA – Mr. McDowell reported that Public Works is working on constructing some walls in the red barn, and the MOU is simultaneously in progress as well. Visit Linn Coalition – Mr. McDowell reported that there has recently been great cooperation between the BWCMF and the Sweet Home Jamboree. A Facebook page has been created, launched last week, and has been very successful.

4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. No comments.
7. Citizen Comments. Kaye Fox inquired of the 25% increase for her flood insurance – will it keep going up? Mr. McDowell responded in the affirmative. The seniors walking program at the Rec Center is going well. She stated that she feared the waste management increase of 2.5% will be hard on the senior citizens.



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LEGISLATIVE:

1. O 742: Amending Title 9 of the Brownsville Municipal Code, Chapter 9, Section 9.20.010; Discharge of Weapons (Second Reading). *Councilor Gerber made a motion to read O 742 by title only. Councilor Shepherd seconded the motion and it passed unanimously. Councilor Van Sandt asked for clarification on what constituted an air gun. Discussion followed. Councilor Gerber made a motion to approve O 742 as written. Councilor Shepherd seconded the motion, and it passed unanimously.*
2. R 2014.05: Solid Waste Rates. Josh Metcalf, Sweet Home Sanitation, addressed the rate adjustment submitted. The proposed rate adjustment in 2.5%, the same as the level of inflation. There will also be a 59¢ Household Hazardous Waste fee, which just recovers their costs of disposal. *Councilor Shepherd made a motion to approve R 2014.05 as presented. Councilor Gerber seconded the motion, and it passed unanimously.*
3. R 2014.06: Medical Marijuana Dispensary Moratorium. At the last Council meeting Council had authorized Staff to go forth and put together some legislation declaring a moratorium on the establishment of a medical marijuana dispensary. Mr. McDowell discussed pending legislation (Senate Bill 1531) and the City's options. It is unclear at this time what will be handed down from the State House. The legislation may allow cities to have local authority to ban dispensaries, and it may not. At this point it looks like a moratorium is not an appropriate option without State legislation to allow an applicable approach. City Attorney Lauren Sommers reported that to enact a moratorium the City would have to go through an official land use moratoria which requires a land use application. Due to the permissiveness of the Brownsville Municipal Code, the City does not require a land use application for the creation of a dispensary. Mr. McDowell reported that if the State Legislature denies cities and counties the right to ban, the City attorney says that we still have a right to do so. Mr. McDowell's opinion is that there are basically two options: 1) Be involved in a lawsuit banning the dispensaries that may well lead to litigation that the City cannot win. So, we basically may have to allow the dispensary if the goal is to avoid litigation, or ban it, fight a lawsuit, and pay attorney, court fees, etc., and still probably have to allow the dispensary. Reality is that the City will likely lose either way – does Council want to maintain the Treasury, or expend resources in this way? 2) The second scenario is that the local authority language remains in SB 1531, and the City could ban dispensaries if desired. Does Council want to ban if allowed? Council will need to re-evaluate the Brownsville Municipal Code and update it as necessary. Mr. McDowell is looking for Council direction on the issue. Councilor Gerber inquired what we could ban if SB 1531 passed with Council authority. Mr. McDowell stated that Council could ban outright, initiate specific regulations, state specific zones where dispensaries could be allowed, etc. *Councilor Gerber made a motion to authorize Staff to call a special Council session after the State Legislature makes a decision on SB 1531 to consider*



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Council's options. Councilor Shepherd seconded the motion, and it passed unanimously.

ACTION ITEMS:

1. **Administrator Special Committee Acknowledgment.** Mr. McDowell announced to Council that he has formed a special committee that will oversee the special conditions of approval as required by the Planning Commission to ensure that those conditions are being properly met. The committee members are the Planning Commission Chair Gary Compton, the City Administrator, Administrative Assistant Elizabeth Coleman, Public Works Superintendent Karl Frink and the City Engineer. *Councilor Gerber made a motion acknowledging the formation of this special committee. Councilor Van Sandt seconded the motion and it passed unanimously.*
2. **McFarland Cascade Developments.** Recently Council entered into an agreement with McFarland Cascade regarding improvements/developments at their site west of town. New information from their management team has come to light. They prefer to pay for the SDC costs outright, with no lien being held against their property. *Councilor Van Sandt made a motion to accept their Letter of Intent and modify the agreement accordingly. Councilor Gerber seconded the motion, and it passed unanimously.*
3. **Budget Committee Opening** – Mr. McDowell reported that Theresa Wilhelm has stated interest in serving on the Budget Committee again this year. There have been no other applicants; Council had no problem with Ms. Wilhelm continuing to serve in this capacity. *Councilor Gerber made a motion to re-appoint Theresa Wilhelm to the budget committee. Councilor Van Sandt seconded the motion, and it passed unanimously.*

DISCUSSION ITEMS:

1. **Goals Review & Organizational Prospectus.** Mr. McDowell will send out an e-mail to try to find an agreeable date.
2. **Economic Development & the Urban Growth Boundary.** Mr. McDowell stated that without a full Council, this conversation still seems somewhat inappropriate. However, Council should remember that they recently approved a 20% reduction in System Development Charges (SDC) rates while that issue was being researched further. Mr. McDowell continues to work on getting proposals for the restructuring of the SDC fee scale. According to the information received from the City Attorney, purchasing land for re-sale is not permitted by State law. Cities are required to put any public land that is for sale out to bid which defeats the purpose of being able to convey land directly to a potential company. In regards to the proposed Urban Growth Boundary (UGB) expansion, this County proposal is not legal according to the Department of Land Conservation & Development; a three (3) mile expansion would not meet the land compatibility requirements of the State of Oregon. Cities in Oregon are not allowed to annex additional land.



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Cities in Oregon are only allowed to expand their UGB by trading available land in their current land inventory.

3. Nuisance Abatement Program (Defining Timelines). Last month Mr. McDowell shared a video with Council highlighting success that Staff has had this year regarding the nuisance/abatement program. Staff has been working endlessly since early summer. The annual City Wide Clean-Up Day is typically scheduled for April, and Mr. McDowell would like Council to consider moving the clean-up day to October. This date change would benefit Staff and the nuisance abatement program as March and April are typically our busiest budget months of the year. Councilor Chambers remarked that it would be a good change as October is generally a nice dry month. Councilor Shepherd asked the Sweet Home Sanitation folks if it was possible to have two clean up dates a year, like Halsey does. Josh Metcalf responded that it was certainly possible, however rates would have to go up due to the amount of material that Brownsville collects opposed to the amount gathered in Halsey. *Councilor Gerber made a motion to move the City Wide Clean-Up Day to October instead of April. Councilor Shepherd seconded the motion and it passed unanimously.* Staff would like some direction from Council as far as proceeding with nuisances, abatements and Recreational Vehicles, Right of Way, fences, buildings, etc. Is Council interested in writing a process/procedure ordinance? Councilor Gerber thought a uniform process would be a good idea for nuisance abatement, and Council instructed Mr. McDowell to go forth.
4. December Financial. No questions or concerns.

CITIZEN COMMENT: John Morrison stood up and thanked Council for doing a good job, and serving in an often thankless position.

COUNCIL COMMENTS: Mr. McDowell informed Council that for the record, Councilor Boyanovsky would like to state that regarding the utility billing issue last month, the citizen had as much culpability as the City.

EXECUTIVE SESSION: The Council adjourned to Executive Session at 8:59 p.m. pursuant to ORS 192.660 Section (e).

Mayor Ware & Council returned to Regular Session at 9:05 p.m.

ADJOURNMENT: *Councilor Shepherd moved to adjourn, with Councilor Gerber seconding the motion.* The meeting was adjourned at 9:05 p.m.

A blue ink signature of S. Scott McDowell, consisting of stylized initials and a surname.

City Administrator S. Scott McDowell

A blue ink signature of Mayor Don Ware, featuring a stylized 'D' and 'W' followed by the name 'Ware'.

Mayor Don Ware