



## Council Minutes

October 22<sup>nd</sup>, 2013

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

**PUBLIC:** Kaye Fox.

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** Mr. McDowell would like Council to accept a suspended agenda due to low attendance of Councilors.

### LEGISLATIVE:

1. **R 719: Adjusting System Development Charges (SDC's).** Mr. McDowell suggested that the SDC process & methodology be re-examined to encourage and aid in future economic development. City Attorney Ross Williamson suggested reducing SDC fees across the board for one year. McDowell then shared a proposal to assist McFarland Cascade in developing their peeling operation that could be mutually beneficial to both parties. In order for the City to legally give credit, improvements made by McFarland Cascade must be public improvements that develop capacity for the City. McFarland Cascade has agreed to redesign their sanitary line improvements to make them advantageous for the City's future use. McFarland Cascade has also agreed to install their main water line in the State right-of-way for the City's future use which includes a 1,200' extension. Council will allow for semi-annual payments on the amount owed (approximately \$45,000), with a 3% amortization rate in accordance with Brownsville Municipal Code Chapter 3.10. Mr. McDowell expressed that the City is very fortunate to be able to achieve future City services in a much needed area at a low cost, and the situation is beneficial for McFarland Cascade as well. *A motion was made by Councilor Shepherd to approve R 719. The motion was seconded by Councilor Cole, and the motion passed unanimously.*
2. *Mayor Don Ware proclaimed October 19<sup>th</sup>, 2013 as the City's Arbor Day celebration. A tree will be planted at 523 North Main Street to commemorate the event. The public is encouraged to attend.*

**CITIZEN COMMENT:** Kaye Fox would like to be advised of when exactly to turn her information/report in to be included in the Council packet each month. Mr. McDowell advised Kaye that the e-mail notification was the only notification that she would get, and it would tell her each month exactly what day the information was needed for inclusion.

**EXECUTIVE SESSION:** The Council moved to an Executive Session at 7:16 p.m. pursuant to ORS 192.660 Section (e) and (i).



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Mayor Ware & Council returned to Regular Session at 7:30 p.m.

**CONTINUANCE/RECESS:** *Mayor Ware tabled the meeting until next week, Tuesday, October 29<sup>th</sup>, 2013 to reconvene so that more Councilors could be in attendance. Councilor Gerber moved to adjourn, with Councilor Shepherd seconding the motion. The meeting was recessed at 8:55 p.m.*

### October 29<sup>th</sup>, 2013

**ROLL CALL:** Mayor Don Ware reconvened the meeting at 7:00 p.m. on October 29<sup>th</sup>, 2013 with Councilors Cole, Shepherd, Gerber, Chambers, and Van Sandt present. Councilor Boyanovsky was excused. Administrative Assistant Tammi Morrow, Public Works Superintendent Karl Frink, and City Administrator Scott McDowell were also present.

**PUBLIC:** Kaye Fox and Sergeant Brad Kelley.

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** Mr. McDowell would like to add to the agenda the following: under Action Items, F. Delete Jim Mayer, I. Earthquake Insurance, J. Bows and Arrows under Legislative, C. Resolution 720, and also several discussion points.

**MINUTES:** Council reviewed the minutes of the September 24<sup>th</sup>, 2013 meeting. *Councilor Cole moved to approve the minutes as presented, with the additional notation that Councilor Boyanovsky was excused. The motion was seconded by Councilor Van Sandt and was approved unanimously.*

### **PUBLIC HEARINGS OR PRESENTATIONS:**

**Unsafe Structures (Pine Street)** – Mr. McDowell reviewed unsafe structures located on Pine Street. Pictures of said structures were included with the Council packet, as well as the applicable section of the Brownsville Municipal Code. Both structures fall under the Chapter 8.10 Code – Abatement of Dangerous Buildings # 1: “Any structure or portion thereof which, because of damage, structural weakness or deterioration, dilapidation by reason of age, or for lack or want of maintenance or proper repair, is structurally unsound, thereby endangering other properties of human life because of a possibility of its partial or entire collapse.” Council needs to determine how to proceed. *Councilor Cole made a motion to initiate unsafe structure procedure per BMC and Ordinance protocol. Councilor Shepherd seconded the motion, and the motion passed unanimously.*

**Vision Obstructions (Main & Depot and Fisher & Walnut Streets) & Nuisances** – Mr. McDowell reported that the Linn County Road Department had painted the curbs at the intersection at Main & Depot to help alleviate vision clearance issues. McDowell reported that the property is currently in probate, and he has been in contact with the family to facilitate the issue. The City has also been dealing with a vision clearance issue at the intersection of Fisher and Walnut. A Request for Action Letter was sent this summer and the red Japanese Maple tree was trimmed up by the



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property owner. Mr. McDowell reported that even after the trimming the tree does not yet meet the BMC minimum vision requirements. Councilor Gerber recommended perhaps painting a yellow line down the middle of the road to improve safety. Council thought the latest tree trim did meet the Code, and that the tree is truly gorgeous. Mr. McDowell stated that he is just bringing the situation to Council's attention at this time in relation to the Brownsville Municipal Code. Councilor Gerber also wanted to point out that at the corner of Park and Fisher there is a big boulder that has been rolled down the hill. It is sitting very close to the road on City property, and she is concerned about the possibility of an accident happening if this boulder was inadvertently rolled out into the road. Along the lines of nuisance abatement, the situation at 613 Kay Street (Roy & Wendy Houtz) continues. The City has provided them with a dumpster this year and has extended additional time for them to comply. The response has been very minimal. Mr. McDowell reported that they have had some issues in their personal lives and while we are not trying to diminish those issues, we have been working on this property since 2010. Basically, from a Staff standpoint, we are ready to go ahead and post the property and work through the process from there. After the posting, they will have ten (10) days to comply. During this ten days, they can come in and ask for an extension, which we will probably grant, but the bottom line is the property needs to be brought into compliance. Council would like to offer their help in this project. Mr. McDowell stated that he has written a letter offering them help and we have had no response from them. Council agreed to go forth with the proceedings.

***Central Linn Recreation Center*** – Mr. McDowell reported that this item will be tabled until Mr. George Frasier can be present at Council to provide a report.

### **DEPARTMENT REPORTS:**

1. **Sheriff's Report.** Sergeant Brad Kelley reported that Sheriff Tim Mueller will be retiring in January. At this time the Undersheriff will probably be acting as the interim Sheriff. Sergeant Kelley reported that there were several vehicle break-ins in Halsey last night. Sergeant Kelley also reported that LCSO will be taking over dog control.
2. **Public Works.** Mr. Frink reported that Public Works had two (2) water leaks this month. The Fire Department flushed several hydrants this week and some water users were complaining of milky water. The cloudy water was due to air in the system and cleared out in a few hours. Mr. Frink reported that the Water Treatment Plant is working correctly and he is working on making it more user friendly. The Millrace pumps were shut down on 10/15/2013 as normal. Mr. Frink is working on getting bids for several pavement overlay projects slated for next year. In Pioneer Park, the Public Works crew has been working on improving fall protection at the play structure with new curbs and additional fill material under the swings. The Rec Center had a roof leak this month. Hatco Roofing (*Albany*) was contacted, they responded immediately, and the leak was repaired.
3. **Administrator's Report.** Mr. McDowell reported that a residence in north Brownsville (corner of Hausman and Ash) has done some major lawn restructuring and impacted the drainage ditch. The property owners were contacted by letter, informing them that they are out of compliance with City Code. They made improvements, Mr. Frink inspected the property, and they are



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back in compliance. Mr. McDowell reminded Council that the annual Christmas Party is scheduled for December 6<sup>th</sup>, 2013 @ 6:30 p.m., in the Community Room at City Hall. An invitation/RSVP card will be going out soon. The City has been contacted by Jason Cota, K&D Engineering, about proceeding on an easement and encroachment agreement for the Shortridge property at 157 Holloway Heights. Council authorized this agreement in the past, and the owner is thinking of selling, and are in the process of finalizing the details. Mr. McDowell reported that there has been a personnel change in Public Works. Andy Day has replaced Andrew Phillips as a full-time employee. Mr. Day was promoted as he has performed part-time Public Works help for the last two years. The Canal Company/Millrace is currently experiencing an issue with a property owner. In the past the City has been brought into the situation as a 3<sup>rd</sup> party. If Council will refer to R 605 & R 611, these Resolutions will articulate Council's position. The current situation has yet to be resolved. Mr. McDowell reported that the Library Advisory Board has made a few minor changes; Council approval will be discussed at the November meeting. Mr. McDowell reported on the response to the UGB request letter from Robert Wheeldon. The Commissioner's opinion on the Bi-Mart Willamette Country Music Festival (BWCMF) being held on Exclusive Farm Use (EFU) property is not an ideal situation. They have inquired into the possibility of the City of Brownsville expanding our UGB (Urban Growth Boundary) to accommodate the Festival closer to the City. From the Commissioner's perspective, the benefit would be that the BWCMF could have long-standing structures on the property which is currently not allowed within an EFU zone. They also indicated that the permitting process could possibly go through the City, not the County. Ms. Emily Jerome (the City's land use attorney) informed Mr. McDowell that the BWCMF can still hold an event within an EFU zone. The only problem with going with a halo agreement or IGA with the County would be that the City would need to be careful to not subjugate the County's authority. The authority in this case is the entity that the constituents pay taxes to and that would be the County in the case of surrounding property owners at the current location. Mr. McDowell stated that updating the Comprehensive Plan is another option, but this action would take considerable time and funding. Another concern could be the perceived "takings" of the event from Reed Anderson. He may be able to bring suit against the City for this action in the future were the City & County to cause the event to move. Mr. McDowell will bring more information to Council as it is available. On another note, Mr. McDowell reminded Council that he has spent considerable time and energy diligently working with the Festival organizers to retain the event within our community for Brownsville & the Central Linn communities benefit. He has just been informed that the event organizers are putting on a "sister event" with headliner Brad Paisley at Cape Blanco on the Oregon Coast this next summer. The dates of this sister event happen to fall on the same weekend as the Sweet Home Jamboree, which puts Brownsville in an undesirable position when trying to build community bridges throughout the County and around this event. Festival Event Coordinator Ann Hankins and Bi-Mart's Don Leber informed Mr. McDowell that this was strictly a business decision on their part. By having their two events within two weeks of each other, it will save them considerably financially with logistics, etc. While this new event may cause some friction with the organizers of the Sweet Home event, the bottom line is that business is business, and the BWCMF is good business for the businesses of the City of Brownsville and the numerous charities and organizations that it has supported



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over the last several years. Mr. McDowell feels that the City needs to continue to support this event based on these facts. Councilor Van Sandt inquired as to the possibility of the coast event replacing the Brownsville event. Mr. McDowell was assured by Anne Hankins that that is not their intention. They are committed to bolstering their event in Brownsville and would like to make a presentation at the November Council meeting to share more information.

4. Library Report. No comments.
5. Court Report. No comments.
6. Council Comments. Councilor Chambers invited Council to the Haunted House at the American Legion on October 30<sup>th</sup> & 31<sup>st</sup>. The entry fee is \$2 or two cans of food at the door.
7. Citizen Comments. Kaye Fox informed Council that the seniors are planning on starting a walking program at the Brownsville Rec Center during the winter months weekdays from 7:00 – 9:00 a.m. and 11:00 – 1:00 p.m. The Seniors will need City permission for this activity. Lovica Johnson from the CL Rec Board will be contacting the City to obtain this permission.

### LEGISLATIVE:

1. R 718: Elected & Appointed Officials Conduct & General Council Rules. R 476 is currently the foundation piece for the Code of Conduct for City Officials. Proposed R 718 would enhance this policy and provide more clarification in terms of procedure and organizational expectation. Mr. McDowell stated that Councilor Cole last month had questioned the Oath of Office from the City Charter. She stated that she was uncomfortable with swearing “Under God.” Mr. McDowell assured Councilor Cole that the following language could be substituted “affirm this under pains and penalties of perjury” for under God. R 718 provides responsible officers, and consequences and corrective action procedures under Section IV, part A & B. Section A reads: “**Responsible Officers.**” The Mayor, Council President, City Administrator and/or the City Attorney shall be responsible for the enforcement of the rules and provision contained herein. Any of the responsible officers may employ the assistance of any Councilor for this purpose. Upon receiving an official complaint or witnessing inappropriate conduct, a combination of the above officials shall take administrative action. Administrative action shall include the serving of verbal warnings, issuing written reprimands or recommending Council take official legislative action in the form of resolution in an effort to correct the member’s behavior. Section B reads: “**Performance Correction Measures.** The responsible officers shall determine the appropriate measure to deal with the inappropriate behavior exhibited by the official. Depending on the severity of the offense, the responsible officers shall determine which measure(s) to employ. They may decide to verbally warn the member, provide a written warning, move for Council legislative action or cause the member (if appointed) to be removed



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from office. Councilors may not be removed from office by the Council, however anyone can start a recall of any official according to State Law. All corrective measures taken shall be reported to the affected body and to the Council.” Mr. McDowell commented that this legislation sets expectations for all officials of the City. *Councilor Gerber made a motion to adopt R 718. Councilor Shepherd seconded the motion.* Discussion was called for. Councilor Cole inquired as to whether behavior as a private citizen counts as behavior? Mr. McDowell related that there have been cases in Oregon where Councilors/City Administrators/Park Board Members/Planning Commission Members have had nefarious business dealings while serving in public office and that all behavior reflects on Council when in office. Councilor Gerber stated that she feels like we take on some extra responsibilities as a citizen when you serve on City Council. Councilor Cole then asked whether Staff felt like this Resolution helps them carry out their duties. Mr. McDowell responded in the affirmative. The Mayor and Administrator will have a clear procedure in place to deal with these kinds of issues. If R 718 is passed, Mr. McDowell assured Council the all appointed officials will receive the information, their signature will be required, and documentation will be kept in their personnel files. McDowell has also talked about this concept with all of the other Boards of the City for the last several years. *Mayor Ware again stated the motion and the second and called for a vote. All Councilors voted for R 718, with Councilor Cole abstaining stating she was uncertain how she felt about the issue.*

2. R 719: Setting SDC Charges. Mayor Ware noted that R 719 was passed last week at the October 22<sup>nd</sup>, 2013 meeting.
3. R 720: Transfer Resolution. *Councilor Cole made a motion to approve R 720 as presented. Councilor Gerber seconded the motion and it passed unanimously.*

### **ACTION ITEMS:**

1. August Council Meeting. Mr. McDowell suggested to Council that the City could officially take a recess in August. An emergency meeting may be called within 24 hours if needed per the Oregon Revised Statutes and the Public Meetings Law. Mr. McDowell will provide a monthly report as normal; there would just be no formal Council meeting. *A motion was made by Councilor Van Sandt to forego the regular August Council meeting. The motion was seconded by Councilor Cole, and the motion passed unanimously.*
2. Reappoint Members to Various Boards and Commissions. Mr. McDowell reported that Jim Mayer will be unable to continue his duties on Park Board at this time. *A motion was made by Councilor Cole to reappoint Library Advisory Board Member Joey Running, Budget Committee Members Kaye Fox & Ed Hudson, Historic Review Board Members J. David Erickson, Mandy Cole, and Tricia Thompson, Planning Commission Member Tricia Thompson, and Parks*



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*& Open/Spaces Advisory Board Member Patty Linn. The motion was seconded by Councilor Van Sandt, and the motion passed unanimously.*

3. Authorize Court Clerk Services Agreement. Mr. McDowell reminded Council that in principal they have already agreed to this agreement. This is just the formal, written agreement. Mr. McDowell is simply requesting Council approval to authorize the document. *A motion was made by Councilor Cole to authorize Mr. McDowell to proceed with this agreement. The motion was seconded by Councilor Gerber, and the motion passed unanimously.* Mr. McDowell also reported that the City has reached an agreement with Linn County on the Intergovernmental Agreement (IGA) for court clerk services. We are going to keep this IGA intact. This IGA should be received within the next week or so. *A motion was made by Councilor Cole to authorize Mayor Ware to sign this agreement when received. The motion was seconded by Councilor Chambers, and the motion passed unanimously.*
4. Park Board Recommendation – Camping Disclaimer. Mr. McDowell reported that Park Board is recommending a camping disclaimer/receipt for camping in Pioneer Park. The City has created and will install warning signs located throughout the Park in an effort to minimize the City's liability. City Insurance Agent Mike Hoyt says that they fight these kinds of liability suits all the time and each time one of these cases is won, it erodes sovereign immunity. Mr. Hoyt recommends that the City should try to limit their liability whenever possible. *A motion was made by Councilor Van Sandt to move forward with accepting Park Board's recommendation to issue camping disclaimer paperwork. The motion was seconded by Councilor Cole, and the motion passed unanimously.*
5. Earthquake Insurance. Mr. McDowell reported that the City's current coverage is \$5 million for earthquake insurance. To purchase an additional \$5 million dollars of coverage would cost \$14,592.75. The deductible for both policies is \$50,000. CIS's pool that we belong to is limited to \$200 million. Mr. McDowell suggested perhaps putting this amount in the budget for next year is Council so chooses. Councilor Cole inquired as to the real value of our City buildings in regards to the damage of a major earthquake. Damage cost really cannot be determined until the major event has happened. McDowell reviewed the costs included in the official appraisal completed in 2010.
6. Bows and Arrows. Mr. McDowell has received an email from Mike Hoyt encouraging Council to re-evaluate the current weapons discharge policy. Mr. Hoyt expressed that if there was a permitting system in place before June 2010, he highly recommends implementing this process again. Mr. McDowell reminded Council that in June 2010, the vote for this legislature was 4-3. He is bringing this topic to Council to determine whether the Brownsville Municipal Code should be revisited with the possible implementation of a permitting policy. By consensus Council agreed to revisit this legislation in November.



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### DISCUSSION ITEMS:

1. Historic Registry and Downtown Buildings. In October Mr. McDowell was approached by Joni Nelson, Chair of the Historic Review Board, in regards to forming a Historic District downtown and the tourism and economic diversification it can bring to the City. Councilor Cole reported that Ms. Nelson has been to a Chamber of Commerce meeting and her ideas were received with enthusiasm. Council would like invite Ms. Nelson to come to a Council meeting and present her proposal to the Council. Councilor Shepherd suggested that it would be important to invite the downtown business owners that would be affected by this legislation as well. Their concerns should be heard and addressed in this process.
2. Weed Abatement Ordinance Proposed Language Changes. Mr. McDowell reviewed the Council goals. Council sets policy, Staff moves forward with that policy. In September, Staff reviewed this year's weed abatement program and identified some concerns. Staff has brought to Council some proposed language changes to address those shortfalls. Councilor Van Sandt commented that Staff had said there were some complaints this year, and stated that there would be complaints no matter what we do; one or two complains does not warrant a change. Councilor Gerber stated that she is not ready to add another layer of regulation. She appreciates the quiriness that makes Brownsville unique. Councilor Van Sandt stated that the date change from July 15<sup>th</sup> to the last day of July was good. Mr. McDowell stated that we are still respecting the fact that we are an agricultural community. McDowell doesn't really understand the problem with asking people to complete an annual permit for their property. Natural habitat for snakes, ground nesting pheasants, bees, insects, etc. seems to be a concern for Council. Councilor Shepherd expressed his concern over the unfairness of the current legislation. When he is required to mow his land, which is under an acre, and others around town with property measuring more than one acre are held to a different standard, it is quite irritating, and he has fielded complaints from many people around town. Councilor Van Sandt suggested that perhaps no one should be required to mow their lawns. Councilor Cole commented that she didn't think we were going to be able to please everybody, and she did not see a need to change the legislation at this point. Councilor Chambers agreed. *Councilor Cole moved to change BMC 8.30.060 to change the dates under E to state the last day of July. Councilor Chambers seconded the motion and the motion passed unanimously.*
3. Council Goal Review. After questions from Councilor Chambers, Mr. McDowell felt the need to revisit the Council packets again. The agenda is laid out in a specific order. The table of contents has page numbers on it to allow Council to quickly find each topic. Mr. McDowell stated that if a Councilor can't get through the whole packet, at least read his report, the agenda, and the upcoming legislation before the meeting. Councilor Chambers asked that Mr. McDowell call out the appropriate page numbers as Council moves through the Council meeting. Another change is that Mr. McDowell has updated his report with colors. Green highlighted areas relate to Council goals. Some areas, such as Affordable Care Act, will really not come to a meeting before probably February or so. Mr. McDowell will keep it in his report to keep it at the forefront of





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Council's mind as an upcoming issue to be dealt with. Councilor Cole would like Mr. McDowell to tell a few jokes to liven up the audio reports. Councilor Gerber expressed her appreciation for Mr. McDowell reports and how easy he makes it for Council.

4. Council Leadership & Information. Mr. McDowell reported that the heart of the City's leadership and information is R 718. It really pertains to continuing to develop your community leaders and developing organizational identity. Council appreciates the newly implemented hand delivered Council packets. Councilor Shepherd and Mayor Ware stop in on Fridays before Council and pick up their packets. All Councilors are encouraged to come in and pick theirs up, we are open until 4:30, and home delivery is still an option.
5. September Financials. Discussion called for, no questions were asked.

CITIZEN COMMENT: Kaye Fox would like Council to talk up the Senior's walk that will be happening at the Rec Center.

COUNCIL COMMENTS: No Council comments at this time.

ADJOURNMENT: *Councilor Shepherd moved to adjourn, with Councilor Cole seconding the motion.* The meeting was adjourned at 8:34 p.m.

  
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City Administrator S. Scott McDowell

  
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Mayor Don Ware