

BROWNSVILLE CITY COUNCIL
MEETING MINUTES

January 15, 2008

ROLL CALL: Mayor Ware called the meeting to order at 7:00 p.m. with Councilors Brenner, Cole, Shepherd and Hoffman present. Councilors Pinnock and Hoyer were excused. Also present were City Administrator Scott McDowell, City Planner Bill Sattler and Public Works Director Karl Frink.

ADDITIONS AND DELETIONS: Mr. Scott McDowell had three additions to the agenda; a public hearing on a request for annexation and rezoning, a concert proposal for discussion and a proclamation under Action Items.

MINUTES: The Council reviewed the minutes of the December 17, 2007, City Council meeting. Councilor Cole moved that the minutes be approved. The motion was seconded by Councilor Shepherd and was approved unanimously.

CITIZEN COMMENT: Ms. Kaye Fox addressed the Council on several issues. She said that she had recently discovered that her sewer connection went to Averill Street rather than to Kirk Avenue as she had been told. Ms. Fox said that she believed public notices such as committee openings should be published in the Albany *Democrat-Herald* or mailed to residents as not everyone reads *The Times*. Ms. Fox was also concerned about utility bills going up. Mr. Dave Erickson told the Council that he lives near Kirk Avenue and is disturbed by the large trucks using the street. He would like to see truck traffic prohibited on Kirk Avenue. Councilor Shepherd said that the City could request Linn County to not allow truck traffic on Kirk Avenue as it connects to Main Street and Northern Drive which are County roads. Ms. Fox told the Council that there is mud on the sidewalk in front of her home from the wastewater project. Mr. McDowell said that it would be addressed as soon as possible as a punch list item. Ms. Janet Briley said that she wanted assistance from the City in cleaning out the Tailrace below her property because where it goes through private property it is overgrown, hindering the passage of water. In addition she said the City should work on the Millrace bank as there are areas where it is leaking.

PUBLIC HEARINGS / PRESENTATIONS:

1. **Wastewater Project.** Mr. McDowell gave the Council a report on the wastewater project as Mr. Brugato was not available. Mr. McDowell explained that he has been working with the funding agencies in an attempt to add some additional work to the project in order to take advantage of the grant funding which has been secured. Mr. McDowell provided the Council with a preliminary list of proposed additions and their estimated costs. The highest priority work was Kirk Avenue east of Putman Street, Linn Way from Hausman Avenue to the North Lagoon and Averill Street from Kirk Avenue to Stanard Avenue. There may be an opportunity to do additional work depending on the costs. Councilor Brenner asked about the City's share of the cost. Mr. McDowell said that the numbers are not yet firm but it looks like the City will need to spend around \$290,000 in order to access the \$1.1 million in grant funding. Mr. McDowell said that the total cost of the project will still be within the amount predicted before the project was started; the reason for the additional work being added is that the main components of the project came in below cost estimates.
2. **Glaser Application for Annexation and Rezoning.** Mayor Ware opened the public hearing by explaining the process that would be used for the hearing. Mayor Ware read the required statement regarding appeals. There were no conflicts of interest or ex parte contacts declared. Mr. Sattler presented a summary of the staff report, stating that the application is for the annexation of 4.98 acres of land within the UGB and that the applicant has requested the property be rezoned from Industrial to Low Density Residential. Mr. Sattler said that the Planning Commission has been working on a project to rezone some of the property originally

designated Industrial as Residential and to expand the UGB on the southwest corner of town to accommodate additional Industrial land where it would have the least impact on the City. Mr. Sattler said that this area has been identified by the Planning Commission as suitable for rezoning and that the Planning Commission had unanimously recommended approving the application at their meeting the previous night. Mayor Ware asked the applicant if he would like to make a presentation. Mr. Frank Walker of Salem represented Mrs. Glaser and addressed the Council. He agreed with the staff report and said that the applicant supported the Planning Commission's plan to relocate industrial development to the southwest portion of town where it would have less impact on existing development. Mr. Walker said that the property had originally been identified as residential but had then been rezoned to Industrial and said that this application is only the first step in the process of developing the property, the next step will be a market study and a site plan for development which will be reviewed by the Planning Commission. Adequate services and road access is available for the property to be developed. Hume Street will be improved either by the developers of the proposed RV park or by the developer of this property to handle the expected traffic. Some of the property is located within the 100 year floodplain of the Calapooia River but initial surveys indicate that most of the land is above the flood level. Mr. Walker noted that the property has been in residential use for the last 20 years.

Mayor Ware asked if anyone else wished to speak in favor of the application, there was no response. Mayor Ware then asked if anyone wished to speak in opposition to the application. Ms. Deborah Maskell said that she lives just to the east of the subject property and is concerned about floodplain issues. Ms. Maskell said that she has a cell tower on her property and hopes to add more and she is concerned about complaints from any residential development on the property. Ms. Maskell discussed the City's requirement that industrial development be screened from residential development and wanted the Council to require the applicant to provide visual screening between the properties. Ms. Maskell said that she thought the Council should review the final development proposal before approving the annexation and rezoning.

Mr. Johnny Young said that it didn't do any good to object as the Council didn't listen anyway. Mr. Young said the City needed to know how much additional traffic would be generated by any development before approving the annexation. Mr. Young said that he has a large number of hound dogs that bark and he didn't want any new neighbors who might complain about his dogs. Mayor Ware then allowed Mr. Walker to rebut the testimony.

Mr. Walker said that in considering the impact of a residential development the Council should consider the alternative uses that could be placed on the site under the industrial zoning. Mr. Walker discussed some of the uses allowed outright as industrial uses, stating that these uses would have much more impact to the neighbors and to the street than residential use of the property. Heavy trucks have a disproportionate impact on streets so residential use would be less burdensome. Mr. Walker said that although the surrounding properties to the east and south are zoned Light Industrial they have homes on them and are primarily residential in nature.

Mayor Ware then closed the public input section of the hearing and the Council discussed the application. Councilor Cole said that she was generally in favor of approving the application. Councilor Brenner said that there would be development and change in the area and that would bother people no matter what went in. Councilor Brenner said that the application tied in with the City's long-term plan to rearrange the industrial areas of Brownsville and he was in favor of approval. Councilor Hoffman said that most of the testimony was related to details of development of the property and was premature. Councilor Cole moved that the application be approved as submitted, based on the recommended Findings of Fact in favor of approval. Councilor Brenner seconded the motion and it was approved unanimously.

3. Linn County Juvenile Department. – Bill Jordan. Mr. Bill Jordan addressed the Council to update them on the activities of the Peer Court program. Mr. Jordan said that the amount of

grant funding for Peer Court has been reduced over the years so they are not in need of as much matching funds. The activity of Peer Court had been down but has recently begun to pick up considerably. Last year 32 South County youths were processed through Peer Court. Mr. Jordan wasn't sure how many were from Brownsville. Mr. Jordan explained that Peer Court is designed to handle minor first-time offenses. Most of the youths are charged with Minor In Possession and some lesser Theft charges. Mr. Jordan said that a juvenile record can sometimes be expunged after they turn 18 years old. The recidivism rate has been demonstrated to be lower with Peer Court. Mr. Jordan was not sure how much would be needed this year in matching funds to continue to support Peer Court.

DEPARTMENTAL REPORTS:

1. Administrator Report. Mr. McDowell submitted a written report to the Council. Mr. McDowell told the Council that he had included correspondence from Mr. Jon Erwin in the Council packet regarding the various areas in need of fill permits. Mr. McDowell said that he had visited the sites, researched the ordinances and spoken with DSL. It is up to the City to decide the process used to review the fill permits for these properties. Mr. McDowell said the three property owners would need to apply for fill permits and provide documentation that the fills will not raise the 100-year flood level by more than the allowed amount. Mr. Erwin is requesting before and after cross sections of the flood plain at the point of the fills so that the volume of fill and its effects can be calculated. Councilor Cole asked what can be done if too much fill has been placed. Mr. Erwin said that in that case the only remedy would be to remove some of it. Mr. Lou Monroe asked if each property is considered individually or cumulatively. Mr. Erwin said that in this case each of the properties would be considered individually as they are far enough apart to not interact with one another. Ms. Fox asked if there was a time limit to provide the documentation. Mr. McDowell said that there's no defined time limit but the City should set a reasonable one. Mr. McDowell suggested 60 days to provide the data may be reasonable. Councilor Shepherd felt that was too long but Mr. Erwin said that it would be difficult to retain a surveyor and have them do the work in much less time. Mr. McDowell discussed the proposed change in the Council meeting night, saying that having the meeting on Tuesday was good as it gave him time on Monday to properly prepare for the meeting. Mr. McDowell suggested holding the meetings on the fourth Tuesday of the month. The Council agreed by consensus to try the fourth Tuesday meeting date.
2. Public Works. Mr. Frink submitted a written report. In addition, Mr. Frink told the Council that there was a sewer overflow on Seven Mile Lane during the recent heavy rains. There was a major problem on Averill Street which caused sewage to back up into Councilor Cole's home and dis quite a bit of damage. Mr. Frink said that Phase I of the Wastewater project is taking a lot of time as it is at a critical stage. Mr. Frink said the Public Works department took eleven thirty-yard dumpsters of leaves out of Pioneer Park. The Public Works crew has been working on the Council Chambers doing painting and other work to make it more attractive. The "Welcome To Brownsville" sign has been repaired and replaced. Ms. Janet Briley said that some old tires have been dumped in the cemetery. Ms. Kaye Fox said that she thought the sewer project would resolve all her sewer problems but now she has found out her sewer connection is on Averill Street. Mr. McDowell said that her sewer problem was due to the failed river siphon backing up and that with the upgrade her problem should be fixed, regardless of where her sewer connects to the main.
3. Planning. Mr. Sattler provided a written report and updated the Council on current projects around town. Mr. Sattler said that he had attended a training meeting on some new digital flood maps that will be coming out this summer which will improve the mapping of the flood plain. Mr. Sattler said that he will be meeting with the owners of the Olsen Field subdivision property and that they are planning to proceed with their project this Spring. The Fire Department is still waiting for their building permit and are also planning to start construction in the Spring.

4. Library Report. Mr. Smith provided a written report for the Council.
5. Sheriff's Report. The Sheriff's Department provided a written report for the Council.
6. Council Report. None.

LEGISLATIVE ACTION:

1. Resolution 593 – Supporting Community and Economic Development. Councilor Brenner moved that Resolution 593 be approved. The motion was seconded by Councilor Cole and was approved unanimously.
2. Resolution 595 – Pro Tem Judges. Councilor Cole moved that Resolution 595 be approved. The motion was seconded by Councilor Hoffman and was approved unanimously.
3. Resolution 596 – Providing Community Facilities for the Continuation of Recreational Programming. Councilor Cole moved that Resolution 596 be approved. The motion was seconded by Councilor Hoffman. Councilor Shepherd asked if Resolution 596 was for the Rec Center. Mr. McDowell said that it was not, that it is related to the Community Gardens and the Croquet Court. Mr. McDowell explained the terms of the agreement and said that the intention of the Resolution is to set out public policy for what the City is doing. Councilor Shepherd did not like the provision that the policies of the Community Gardens would be worked out in the future, he wanted to see the rules before voting on the Resolution. Ms. Janet Briley and Ms. Carol Monroe said that they didn't want anyone to be allowed to sell any produce from the Community Gardens. Ms. J.D. Cochran said that she is the Project Manager for the Community Gardens. She said that last year the Community Gardens shared a water meter with the Croquet Court which uses large quantities of water plus there were leaks in the water system so it's hard to tell how much water the Community Gardens actually used. Each garden used drip irrigation and hand watering to minimize water use, not much was wasted. The Community Garden group is working on a new site at the old elementary school in association with the Central Linn School District. Ms. Cochran said that Mr. Ed Curtis, the Superintendent, had been concerned that students be allowed to use the Community Gardens if they were located on school district property and that the students be able to grow produce and sell it to gain business experience. Ms. Cochran said that Sharing Hands is not set up to handle fresh produce so she started a produce program along with 22 market vendors who donated free produce. Mr. McDowell said that those details will be worked out in the lease agreement. Councilor Hoffman pointed out that the plots are only 300 square feet in size and that no one is going to make any significant amount of money from such a small space. Mr. McDowell said that the core issue is that Resolution 596 sets out public policy for what the Council is doing. After the policy is determined the detailed agreements will be worked out. Councilor Cole asked for a vote on the motion. The Council voted 4 to 1 to approve Resolution 596 with Councilor Shepherd voting no.

ACTION ITEMS:

1. Appointments to Open Positions on Budget Committee, Planning Commission and Historic Review Board. Mr. McDowell said that there are three open positions on the Budget Committee and one on the Planning Commission. Mr. McDowell said that the terms of Ramona Ginn on the Budget Committee, Jim Isenberg on the Planning Commission and Dave Erickson on the Historic Review board had expired and that those individuals had asked to be reappointed. Councilor Hoffman moved that Ms. Ginn, Mr. Isenberg and Mr. Erickson be reappointed to their respective positions. The motion was seconded by Councilor Brenner and was approved unanimously.

2. Advertise Open Positions on Budget Committee, Planning Commission and Historic Review Board. The Council discussed advertising the positions but as Mayor Ware and Councilor Cole had to declare conflicts of interest a quorum was lacking and no motion was made.
3. Lease Agreement with Eric & Carla Gerber. Councilor Cole moved that the proposed lease agreement with Eric & Carla Gerber to use some of their property for the croquet court and community gardens be approved. The motion was seconded by Councilor Hoffman and was approved unanimously.
4. Proclamation Thanking Ms. Joni Nelson. Mayor Ware said that Ms. Joni Nelson has retired from the Planning Commission after many years of service and proposed a proclamation formally thanking her. Councilor Shepherd moved that the proclamation be approved. The motion was seconded by Councilor Brenner and was approved unanimously.

DISCUSSION ITEMS:

1. Transient Room Tax. Mr. McDowell said that he is still waiting for information from the Chamber as requested by Council; the matter was tabled.
2. Park Ordinances. Mr. McDowell said that he had met with Councilor Cole to discuss her concerns with the park ordinances. Mr. McDowell said that he was recommending that the part of the ordinance stating that the Parks & Open Spaces Advisory Board attend Council meetings be struck. The criteria for review of a proposal should be "best interest of Brownsville citizens and businesses." Mr. McDowell said that this was important to give the Council flexibility in reviewing proposals and to help limit possible judicial review of their decisions. Councilor Brenner said that a numerical limit on the size of an allowed crowd seemed reasonable to him based on the size of the park and available parking. Councilor Cole said that crowd size would be a factor to be considered in reviewing a proposal. Councilor Brenner was concerned about the fairness of reviews. Mr. McDowell said that his interest was retaining flexibility for future Councils making decisions pertinent to each proposal.
3. Central Linn School District & Community Gardens. Mr. McDowell said that he and Mayor Ware, Councilor Brenner and Ms. J.D. Cochran had gone to the last School Board meeting to discuss locating some garden spaces at the school site north of Washington Street behind the Central Linn School District Offices. Mr. McDowell said that the School Board was receptive to the idea and thought that the program could be integrated into the school's curriculum. Councilor Brenner asked if the school's grant writer was going to work on obtaining grants for the program. Mr. McDowell said that Ms. Cochran will be contacting them and that there is a possibility of obtaining some federal funding.
4. Concert Event. Mr. McDowell said that Mr. Steve Otis has proposed holding a small concert in Pioneer Park to benefit the Central Linn High School Music Department. Mr. Otis will be present at the February City Council meeting to discuss the idea with the Council. Mr. McDowell said that Mr. Otis is hoping for an attendance of 300-400 people and plans on using the stage and seating area. Councilor Cole asked if this proposal would be handled the same as Mr. Williamson's proposal. Mr. McDowell said that the process and requirements would be somewhat different due to the much smaller scale of this proposal but that he would take adequate measures to safeguard the City's interests.

COUNCIL COMMENTS: NONE

HANDOUTS:

1. Westech Monthly Report.
2. December Financials.

EXECUTIVE SESSION: The Council adjourned to an executive session pursuant to ORS 192.660(e) at 9:45 p.m.

ADJOURNMENT: The Council returned from Executive Session and the meeting was adjourned at 9:55 p.m. with no further action being taken.



City Administrator S. Scott McDowell



Mayor Don Ware