



Council Minutes

November 24th, 2020

ROLL CALL: Mayor Don Ware called the teleconference meeting to order at 7:04 p.m. with Councilors Block, Thompson, Gerber, Hansen, Chambers and Neddeau, Administrative Assistants Tammi Morrow, Elizabeth Coleman, and City Administrator Scott McDowell present.

PUBLIC: Sergeant Greg Klein (*Linn County Sheriff's Office*), Kimberlee Clayton, Allen Buzzard, Michael Humphreys, Austin Snelling, Jenna Stutzman (*Chamber of Commerce*), and Tia Parrish (*The Times*).

City Administrator McDowell reminded everyone of the ground rules for speaking and interacting during the teleconference. Folks speaking at the Citizen's Comments time will have 3 minutes each. Council motions will be done differently. Councilors will raise their hand to oppose motions in order to efficiently vote on matters before Council. Anyone wishing to speak will need to select the raised hand icon or dial *2 on their telephone or mobile devices.

The pledge of allegiance was recited by Mayor Ware.

ADDITIONS AND DELETIONS: McDowell reported that there are two deletions tonight – Action Items 10. C & D.

MINUTES: Mayor Ware stated that Allen Buzzard had stopped him on the street and informed him that the minutes as presented are incorrect. He would like the minutes to be corrected, stating that he actually said every other week regarding street sweeping. *Councilor Gerber made a motion to approve the October 27th, 2020 meeting minutes as corrected. Councilor Chambers seconded the motion, and it passed unanimously.*

PUBLIC HEARING | PRESENTATIONS:

- 1. Chamber of Commerce Tree Lighting Request – Jenna Stutsman.** Jenna Stutsman stated that the Chamber is excited to do the tree lighting this year. They will be adding a couple of festive things as well. The Chamber is proposing closing Spaulding Avenue on December 4th from 5:30 – 8:00 p.m. This closure would give them extra room to afford social distancing. Stutsman has gotten signatures from most everyone on the block that will be affected. Mr. McDowell stated that the City has received the insurance certificate needed for the event. *Councilor Block moved to approve the street closure as proposed for the event. Councilor Neddeau seconded the motion, and it passed unanimously.*
- 2. Total Maximum Daily Load (TMDL).** McDowell gave a presentation on TMDL by screen share, 17 slides. The State requires Council, through the DEQ, to review our plan twice a year. McDowell will give a brief overview to share what it's about, and current and future implications. TMDL started with the United States Congress creating the Environmental Protection Agency (EPA) in the 1970's, and then adopted the Clean Water Act and the Safe Drinking Water Act. TMDL comes from the Clean Water Act. DEQ and the State of Oregon regulate wastewater treatment, training, and enforcement and stormwater. Water Resources Department (WRD) regulates water rights and creates standards and rules. Oregon Health Authority (OHA) regulates water treatment, training, and enforcement. DEQ requires review of the National



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Pollutant Discharge Elimination System (NPDES) permit every three years. We work with our engineer to make sure that we are compliant.

DEQ requires daily and weekly samples to ensure compliance. It requires the City to have certified operators with continuing education, which Karl Frink goes through every year. DEQ also requires monthly reporting. WRD regulates water rights and has the power to shutdown water, limit usage, and modify our rights. They also create standards and rules. We are currently under a finding from them to create a water conservation plan, and we have until the end of next year to complete that plan. OHA performs a sanitary survey every three years. These also require daily and weekly samples, certified operators with continuing education, and monthly reporting to ensure compliance. McDowell showed a slide with a picture basically showing the cycle that we are trying to control. TMDL is basically concerned with all the runoff from fields, farms, houses, and buildings. They contend that the runoff is causing problems with the fish. The shared picture showed the rain falling down, ending up in the storm drain, and then during the life cycle the water ends up in the water course.

We have forever requirements now, which started out as a voluntary program. McDowell tells this to Council twice a year, but feels that it is important to note the costs associated with all of these once voluntary, and now required, regulations. Highlights of TMDL forever annual requirements include temperature, bacteria, mercury, Illicit Discharge Detection & Elimination (IDDE), and all pollutants. Requirements of IDDE include construction practices and infrastructure techniques, like fencing, riparian vegetation, natural filters concept, etc. McDowell feels that sometime soon we are going to see a drainage charge with the shift of the leaders at the Federal government level. The Obama Administration were pushing WOTUS (Waters of the United States) which would give the Federal government control of all waterways including ditches.

Many communities already charge for stormwater. They will measure that charge by the impervious areas on your property, total square footage of rooftops, driveways, and parking lots. McDowell shared a comparison of rates from other cities in the Valley. The recent DEQ Willamette Basin Toxics Monitoring sampling reported that DEQ did not find evidence of toxins that pose an immediate risk to human health or the environment. OHA then broke down a map of the sub-basins monitored for toxins, again finding levels that were too low to be harmful. So, their next steps moving forward look like more regulations, and likely more costs.

- 3. Annual Audit Review.** Mr. McDowell reported that the auditors were here in August for the annual audit work. This year they turned the report around very quickly. Cyrus Ward was the lead auditor, and he and his team came well prepared with information that Staff had provided ahead of time, and they finished the field work in 2 days instead of the normal 4-5 days. (Mr. McDowell, Mrs. Deaver, and Mrs. Morrow spend about a week collecting and submitting data pre-audit.) McDowell reviewed the audit with Council. McDowell stated that the secret is to budget well and spend conservatively, which is the secret to self-funding projects and results in the positive fiscal health the City has enjoyed over the last fourteen years.

Mayor Ware asked that we review the month end recap page which gives the overall financial picture for the City. McDowell reviewed revenues, expenditures, as well as the Sewer Debt Fee, showing that \$46,348.48 has been collected towards this debt so far this year. This \$15.00 fee is paid by the actual system users which covers both renters and owners.



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McDowell stated that he, Mayor Ware, Councilor Block, and Councilor Neddeau are the current check signers. Generally, Staff tries to keep expenditures in the 35%-45% range to keep collecting funds and be in a positive fiscal position.

McDowell did have one person question the amortization table in the audit. McDowell stated that the auditors group years together to save space. You simply take the figure and divide it by the number of years listed. It will correspond to the other numbers in the same way. By refunding the bonds, the City has a bonding limit until February 2024.

DEPARTMENT REPORTS:

- 1. Linn County Sheriff's Office (LCSO) Sheriff's Report.** Sergeant Greg Klein delivered the report for the month of October 2020. Klein reported 16 traffic citations, 18 warnings, and 202 total hours spent for the City. Other incidents include a couple of vehicles broken into down on Ash Street and Walnut as well. There were about \$1,300 worth of valuables taken. LCSO is advising folks to lock their vehicles and try to leave them in a garage, or at least in a lighted area. Animal Control has been doing patrols in town, and have given some educational warnings for dogs at large. They will continue the patrols through the winter. Klein reported that there will be a new radar trailer down on Highway 228 soon. McDowell informed Council that Sergeant Klein will be retiring at the end of December. McDowell stated that Klein has worked with the City for a number of years, and has done a fantastic job. We wish him all the best in his retirement.
- 2. Public Works.** Mr. McDowell will deliver the Public Works Superintendent Report tonight.
- 3. Administrator's Report.** McDowell stated that Governor Brown recently put Oregon in a 2-week freeze due to increased Covid-19 cases. The freeze is confusing for the City, as apparently cities were exempted from closure. The City is still required to comply with OSHA requirements and deadlines, and assessments. Staff will be making sure that we get them implemented and done by the time frames provided. Council agreed by consensus. Municipal courts were not shut down thought higher courts were.

McDowell stated that he recently participated in a survey for ODOT. The first questions on the survey centered on climate mitigation, social equity, and climate adaptation/resilience. McDowell stated that he felt ODOT needs to be focused on safety, congestion, and multi-modal mobility. At a seminar McDowell attended, even Representative Peter DeFazio has stated that we cannot afford what we have now, let alone adding more things that are going to cost a lot of money. Councilor Gerber represents the City on that Committee through the Cascade West Council of Governments. Each year we are required to set aside \$1,800 for the bikeway/footway path in our budget, and the funds are highly restrictive in what they can be spent on. Overall, it just costs taxpayers more money, and less gets done due to over-regulation and fad requirements.

Federal Emergency Management Agency (FEMA) Region X – this ties into TMDL. Region X has been looking at the flood maps. These maps have not been updated since 1978 nationwide, and has been a battle between counties and the federal government for a while now. FEMA was using old lidar maps that would have incorporated 20-25% more land into flood zones, and Linn County was fighting against this several years ago. Region X has expanded their effort, and Linn County is very concerned, Roger Nyquist, Chuck Knoll, and Steve Barnett were all on the call. WOTUS (Waters



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of the United States) is ramping up their efforts. WOTUS gives full control of the waterways to the Federal government. Regulation can be good if it has the right impact, but this regulation doesn't appear to be good for the people of the United States.

McDowell reported that Samaritan Health Services conducts our employee ODOT physicals and random drug testing for our CDL holders. There is now a new procedure (and fee) at the Federal level, and we are now in essence paying twice for the same service.

Mr. McDowell reported that the kitchen flooring upstairs in the Community Room was recently upgraded. Thank you to Mrs. Morrow for handling this project.

McDowell stated that the City continues to be in the market for a Vactor truck as planned for in the budget for FY 2020.2021.

McDowell explained to Council the four common types of construction contracts, just as a Council refresher. The City has used all these forms in some way or fashion.

McDowell reviewed the City's relationship with Linn County Rehabilitation Program (LCHRP), formerly known as Willamette Neighborhood Housing Services (WNHS). Several communities, including Brownsville, joined the organization in 1989. LCHRP recently merged with DevCo, and is now called DevNW. Liza Newcomb runs the consortium's meetings and makes sure that the projects are completed correctly. Brigetta Olson is the Chief Operating officer who makes sure that the Federal dollars are spent appropriately.

McDowell reported that the Boldt, Carlisle and Smith recently merged with SingerLewak. Reports indicate that nothing substantial is going to change with BCS. Cyrus Ward is hoping to continue to be our lead auditor.

Mr. McDowell stated that Park Board agreed with Council's recommendation to move forward with invitations to participate in the Park reservations lottery system as usual. Mrs. Deaver sent out the letters last week to those folks. Staff is continuing to work on the Remington Park plan.

The City recently received a letter from NW Natural Gas (as found in the Council packet) stating that customers must pay their bills. NW Natural has over 700,000 customers, so this mailing likely cost around \$350,000 to do. Now the rules have changed, per the Governor, and they may need to send a new letter to all of their customers extending payment delays. McDowell shared these other impacts on how the Pandemic has been handled.

McDowell reported that Marty Wilde sent an email out recently recommending some public records, public meetings changes. McDowell and Mayor Ware have been following this closely. McDowell would like to write a letter clarifying the City's needs and how these laws could make a positive impact for the City. Basically, the State wants to take our ability to charge a deposit fee. Currently if someone requests a public record, and it is not labor intensive. Staff just handles the requests as they are received. However, if it is going to be a labor-intensive research project to gather and collect extensive information requested, the City certainly has the right to recover the costs of that research.



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The State looks like it is thinking about being the one to determine those costs. Again, this is a home rule issue. McDowell suggested requiring these public records requests by made in writing. The City is at risk of all kinds of cyber security issues and ransomware when we open documents from unknown sources. McDowell also talked to Rep. Marty Wilde about public meetings law. It would have been nice if the State would have temporarily suspended some of the public meetings laws so that Council could meet in person during the Pandemic. McDowell stated that Council needs to be monitoring these laws going into the upcoming legislative session. The executive session rules were mentioned, but not to be included. Executive sessions are critical for the City to conduct business as needed, such as securing land, easements, discipline employees as needed. Council needs to be able to do this privately. This is a small advocacy piece, that could have a huge impact on the City and the business we try to conduct. McDowell would like to follow up with a plan in letter form to concrete it and make it impactful.

McDowell reviewed the recycling article in the packet. Recycling is an illusion. Programs like TMDL add additional costs with no proof of intended outcomes of the programming. We are led to believe that we are making a difference by recycling, but we are not making it better. McDowell suggests partnering with some of our local cities consortium and the COG and work toward effective advocacy for the cities rights.

Mr. McDowell shared that there are 2 traffic equipment units that we are considering. At the request of Staff and Councilor Block, money was put in the budget for these units. McDowell proposes purchasing 2 of the Stattrak units (with cloud-based recording and reporting capabilities, and reader boards), and 2 of the Shield 12 units. The LCSO will cover the cloud service for the first year, but after that it would need to be determined if this is a service that the City wants to continue, and the costs associated with it.

4. **Planning.** Mrs. Coleman reported that the River's Edge development is moving along. They are requesting a building permit for a model home. The home has no power or water services to the unit. Mrs. Coleman said the request has not been accepted by the City at this time. It is likely that some conditions will be added before approval is granted.
5. **Library.** No comments.
6. **Court.** No comments.
7. **Council Comments.** No comments.
8. **Citizen Comments.** Allen Buzzard wanted to publicly thank Mayor Ware and Councilor Hansen. Councilor Hansen and several local folks were helping out with shovels when a commercial truck driver lost air and spilled rock on the roadway, ensuring that no injuries to motorists occurred due to this incident. Also, Mayor Ware recently helped pick up some broken glass at Dari-Mart. Buzzard stated that what a neat town we live in where folks just pitch right in and help out.

LEGISLATIVE ITEMS:

1. **Resolution 2020.19 – Certify Election Results.** Councilor Block made a motion to approve R 2020.19 as presented. Councilor Hansen seconded the motion, and it passed unanimously.



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ACTION ITEMS:

1. **December Council Meeting.** Mr. McDowell reminded Council that the December Council meeting is moved up a week from normal due to the Christmas holiday week. The meeting will be December 15th, 2020 at 7:00 p.m.
2. **Traffic Equipment Purchase.** McDowell reminded Council that \$15,000 is set aside for this purchase in the budget. McDowell is recommending purchasing 2 of each of the Stattrak units, and 2 of the Shield 12 units. Councilor Block asked for McDowell to reiterate about the lifetime warranty replacement. McDowell stated that the units cost about \$5,000 each. In the future if Council decides to go with the \$1,500 annual fee, \$400 of this fee covers a lifetime warranty. *Councilor Gerber made a motion to approve the recommended purchase of 2 of each of these units and the insurance. Councilor Neddeau seconded the motion, and it passed unanimously.*
3. **Planning Commission Appointment.** McDowell informed Council that he had received one letter of interest from Kimberlee Clayton. Councilor Block recused himself from the vote for personal reasons. *Councilor Gerber made a motion to appoint Kimberlee Clayton to the Planning Commission. Councilor Hansen seconded the motion and it passed unanimously.*

DISCUSSION ITEMS:

1. **Officials Handbook.** McDowell stated that the Officials Handbook (approved by Council in October 2019) will go out to all elected and appointed officials after Thanksgiving. There is an acknowledgement form included that will need to be signed and returned. McDowell is working on getting the employee side of the website working as well for the employees.
2. **October Financials.** No comments.

CITIZEN COMMENTS: No comments.

COUNCIL COMMENTS: It was noted that Austin Snelling was on the call tonight as well.

EXECUTIVE SESSION: Council entered into executive session at 8:17 p.m.

- Council will be discussing a real property transaction(s).
- 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.
- 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.



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Executive Session ended @ 8:27 p.m.

Councilor Gerber made a motion to authorize Mr. McDowell and the City engineer to enter into an agreement with a 3-year warranty on pavement with Knife River. Councilor Hansen seconded the motion, and it passed unanimously.

Councilor Block moved to authorize Mr. McDowell to close Park Avenue to proceed with the downtown sewer project. Councilor Thompson seconded the motion, and it passed unanimously.

Mr. McDowell stated that he would like to clarify for the record that last month Allen Buzzard had suggested advertising vacancies and openings for City boards and committees on the monthly utility bill. McDowell stated that there is not room for this on the postcard – we are limited to 30 characters, which would not provide adequate space.

ADJOURNMENT: There being no further action or business of Council, the meeting was adjourned by consensus at 8:30 p.m.

A blue ink signature of S. Scott McDowell, consisting of stylized initials "SM".

City Administrator S. Scott McDowell

A blue ink signature of Mayor Don Ware, featuring a long horizontal stroke.

Mayor Don Ware