



Council Minutes

June 24th, 2021

ROLL CALL: Mayor Don Ware called the special Council meeting to order at 7:06 p.m. in the Community Room with Councilor Gerber, Councilor Thompson, Councilor Hansen, Councilor Neddeau, Councilor Humphreys, Councilor Craven, Public Works Superintendent Karl Frink, Administrative Assistant Tammi Morrow, and City Administrator Scott McDowell present. Public members in the room included Kathleen Swayze, Rick & Yolanda Tauzer, Steve Brenner, and Joshua & Gunner Kometz.

PUBLIC: In the listening room, Council Chambers, were Administrative Assistant Elizabeth Coleman serving as room monitor, Mari Vanderstelt, Linda McCormick, Michelle Micklewright, Joni Nelson, Mandy Cole, Rachel Lytle, Dawnita Nealon, Jeff Hetterle, Trapper & Nichole Solberg, Danny Holt, Courtney Isom, Jason Isom, Vince Capilla, Larry Thornton, Daryl & Pamela McClimans, Carl & Tomika Conner, John Claasen, Katie Craven, Stuart Short, Brian Neiningner, Mary Northern, Steve Davis, Cheryl Haworth, Sandy Salzter, Don Andrews, Wendy Toshitsune, Jack Alsman, Connie Bull, Don Lyon, Eric Gerber, Lou Kreutzer, Lyle & Marie Rust, Randy Ginn, Barbara Anderson and Pam & Kris Solberg.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: None.

Mayor Ware indicated that he directed Mr. McDowell to call this special Council meeting tonight to take action on the citizens comments and needs expressed at Tuesday night's Town Hall | Council meeting on June 22nd, 2021. For that meeting, Staff sent out Town Hall invitations to several local businesses, and the invitation was also published in *The Times* inviting everyone. It is also good to remember that Council is the 4th Tuesday of every month, and folks are always encouraged to come speak to Council.

Mayor Ware would like to un-table R 2021.22 in order to consider a simpler resolution (not more than 1 page) that he has drafted for Council's discussion and deliberation, hoping that we can get this issue addressed and finished tonight. The citizens have spoken, and now it is time for action.

Mr. McDowell reviewed the parameters of the meeting. Mayor Ware is the Chair of the meeting; all things will be run through Mayor Ware throughout the meeting. Councilors can call for recess or call for an objection. Please raise your hand to be recognized and given the floor to speak. The recorders in the room pick up a lot of background noise, so please only one person speaking at a time as folks in the listening room would like to hear what is being said.

COUNCIL DELIBERATIONS:

Mayor Ware stated that at the Town Hall Council overwhelming heard that folks want the Central Linn Recreation Center (CLRC) to open up again. It will help ease the emotional and mental hardships that have been imposed on us, especially the children, over the past year during the pandemic. So, tonight he would like Council to approve opening our public facilities.



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Councilor Gerber felt that Council could all agree that opening the facilities is in the community's best interest; she would support that. However, there is some language in the resolution that she thinks creates legal liability. She thinks that not making a statement to do this in violation of any order would be better, and more in our best interest.

Councilor Thompson is the liaison with the Rec Board. It will take a little while to get the facility up and running. If there was a fine in conjunction with opening the Rec Center, I think that would be more palpable for the community as we are trying to act in accordance with the overwhelming testimony we heard Tuesday night.

Councilor Craven stated that the time for sitting on our hands is severely past us. We are over a year past due for flattening the curve, which is ridiculous if you use common sense and look at the actual numbers and data. This data no longer supports being in a high-risk emergency state in his mind. This is what he heard Tuesday night from the citizens at the Town Hall. He likes the resolution the way it is. We, the people, control our lives. Councilor Craven stated that he learned at a very young age to assess the risk of the activities that he wished to engage in.

Mr. McDowell stated that the Town Hall notes included with the agenda were very draft, put together by Mrs. Morrow, in a very short time frame. There are also a few other things for Council to consider tonight. Basically, the Senior Center and the CLRA stated that they could use some financial assistance if it is available. McDowell reminded Council that at the beginning of the Pandemic they set aside funds to use as needed. Mrs. Morrow secured funds through the CARES Act that reimbursed City expenses related to the Pandemic. McDowell asked if Council wanted to discuss issuing some financial relief for our community partners. The City's fiscal year ends on June 30th, so time is of the essence if this is Council's desire. There are a lot of loans out there, but folks are hesitant to incur more debt right now.

Discussion followed. Council would like the funds to be shared equally, but not more than \$3,000 per entity, limiting the support to current community partners, and receive a request or submission of statement of need from the entity. Councilor Hansen clarified that these funds will be grants, not loans that will need to be repaid to the City. Councilor Craven also commented that we don't have to clear out the whole fund, just use funds for support as needed. Councilor Neddeau stated that we may have need of the funds later as well, in relation to fines for opening the public buildings. Mr. McDowell stated that there are a lot of things to discuss about that, should it happen. Council can choose to pay the fine, or challenge the fine. Essentially it might be wise to put a few funds aside for such a situation. Councilor Gerber stated that she really didn't think that there would be fines forthcoming for opening up our public buildings, as she states that things are going to be opening up in a matter of days.

Councilor Thompson made a motion to use the \$30,000 reserved funding (per Resolution 2020.17) to divide it equally among our nonprofit partners. Councilor Gerber seconded the motion. Discussion ensued. Councilor Thompson withdrew the motion.

Councilor Thompson made a motion to use the \$30,000 reserved funding (per R 2020.17) divide it equally among our non-profit community partners., pursuant to receiving a statement of need from the entity. Councilor Gerber seconded the motion and it passed unanimously.

LEGISLATIVE:

1. Resolution 2021.22 – COVID-19 Lockdown Response.



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Discussion around R 2021.22 ensued.

Councilor Gerber asked Mayor Ware if he would be opposed to stripping the motion down to just the part about opening up the public buildings as of July 1st. The concern that Councilor Gerber has is that we are stating that we are willfully violating state orders. If she signed that, she would lose her licensure as a social worker as she would be willfully violating the law, and so she could no longer be on Council if we adopt this. If we could just agree to open all the public facilities, that would be better. Statements that people want to make toward the Governor, they could do that as individuals, or as Councilors, but that we adopt something that actually affects us here and moves us forward as a community. Councilor Hansen stated that he is not sure that it would address the larger issue. Councilor Craven likes the language in the resolution as it sends a message for future situations.

Councilor Hansen asked Mr. McDowell to talk about discretionary immunity. Discretionary immunity is a legislative body's right to make a decision and eliminate other possibilities. The doctrine of discretionary immunity is very important. Council utilized it just last meeting when they adopted the budget for the upcoming fiscal year, basically telling everyone that there is a plan in place, and Council will be moving forward with that plan. Council cannot fix everything or do every project, every year. Finances and priorities dictate what can be done. Hence, discretionary immunity protects the City officials from liability if an incident arises from something that wasn't addressed.

Council Hansen asked for the distinction between an ordinance and a resolution to be reviewed. An ordinance of course is the law of the City. A resolution is a statement by the legislative body that something is going to be done. The reason a resolution is needed tonight is because Council enacted Resolution 2020.07 Local Declaration of Emergency for the City of Brownsville on March 23rd, 2020. There were provisions in R 2020.07 for lifting that resolution; the Governor, President, or Linn County Commissioners relieve either emergency declaration, or other unknown, future provisions that may allow for this emergency declaration to be lifted.

So, Council has the full authority to do this. The City could potentially get fined if we fully open, and then the Governor, or others, decide to not open, or move the date from July 1st to a later date. Councilor Hansen said, basically, the City is saying that we are taking the responsibility of any fines that may come our way for opening public buildings and facilities, and we are doing this under our authority that we the people are in charge.

Councilor Craven asked Councilor Gerber what specific law she would be breaking, that could result in losing her licensure, if we pass this resolution tonight? Gerber answered that basically the text of the resolution declares that we do not recognize the Governor's ability to declare a State of Emergency, and that we believe that she has exceeded her power, so we are going to be acting in defiance of her declarations.

Councilor Gerber stated that she understands that some folks feel strongly that we need to do this, but she is asking that they do that outside of this resolution and do it in a separate letter. She doesn't believe that Brownsville has the ability to say whether or not the Governor has the future power to declare emergency actions without going before the Oregon House and Senate before implementation. The Council has no jurisdiction over that, and she is uncomfortable putting that in this resolution. She outlined the questions she has, and would like to go through those to try to find agreement.



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Councilor Hansen still does not understand the distinction. If we vote to open the public facilities, how is that going against the Governor? Councilor Gerber stated that she does not believe that opening the public facilities will be in violation of the Governor's orders. She stated that we have been conservative in our interpretation of the order, and we probably could have opened certain places. Councilor Hansen asked how she would be in violation if Council passes this resolution declaring the opening of the public facilities and also declaring our frustration with how the situation has been handled. How are we passing from a lawful act to an unlawful act? Gerber stated that this resolution is not expressing frustration, it is saying that we believe this law is wrong, and that is why we are defying it. Mayor Ware commented that he is not sure that that is what the resolution is saying.

Mayor Ware suggested going through the resolution, line by line, and he read aloud the resolution. Councilor Thompson stated that she objects to the word arbitrary. Thompson stated that arbitrary is simply not true. Mayor Ware commented that actions of the State and Federal bureaucracies that will result in overly expensive regulations that could result in the dissolution of City government in his mind is very arbitrary. Councilor Thompson stated that the State of Oregon took a great deal of care when they chose to go with the regulations as stated.

Councilor Gerber wants to not declare a public crisis, she just wants a resolution that declares the end of the public emergency in Brownsville, and that we are opening the public facilities effective July 1st, 2021. Councilor Thompson suggested immediately opening public facilities, instead of the July 1st date. Councilor Craven stated that he does feel strongly that the word arbitrary is correct and justified. He further stated that it is a crisis, and people are struggling.

Councilor Gerber stated that she hoped that we can pass a resolution that we can all agree on. She hopes to come to something that lets us all leave here feeling that we can work together. Councilor Gerber suggested that each Councilor could write a letter individually to the Governor expressing themselves. Councilor Hansen stated that he did not think that a letter would have the same weight as a resolution because it is not a formal legislative action. Councilor Gerber suggested a separate resolution, that she would not vote for, that talks about the City's feeling that the Governor's actions have exceeded her limits by closing businesses, schools, and the right of assembly.

Gerber believes that by defying the State government she could be in jeopardy of losing her licensure. Council asked for clarification on how that could happen. Mayor Ware asked what the difference would be between one resolution or two, if she was going to cast a dissenting vote anyway. Councilor Gerber stated that she could not vote for this resolution because it seems to be defying the law, and that we are not recognizing the authority of the Governor, and that the orders have force of law. She believes the resolution should only be about the opening of public City facilities.

Councilor Humphreys stated that he was kind of in agreement with Councilor Gerber. He said the proposed resolution feels like a little bit of mudslinging, and blame does not need to be in there to make our point. He is concerned about the possibility of future funding that the City would not get due to the proposed resolution. The Governor did not cause Covid, and the CDC has set the boundaries. Councilor Humphreys stated that he would like the letter to clarify that we are trying to support our businesses and community.

Mr. McDowell suggested perhaps modifying the resolution as follows by what he is hearing Council say tonight. He offered this wording for the proposed resolution:



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RESOLUTION DECLARING AN END TO THE STATE OF EMERGENCY IN THE CITY OF BROWNSVILLE IMMEDIATELY

WHEREAS, the Governor’s crisis Covid management has resulted in the severe restriction of local businesses, loss of educational opportunities for our children and young people, and the adverse effect on the lives of all citizens; and,

WHEREAS, the Constitution of the United States and the Oregon State Constitution are the cornerstones of governance for the freedom and rights of our citizens and the grounds for legislative actions; and,

NOW, THEREFORE, BE IT RESOLVED BY, the City Council of Brownsville, Oregon, the following:

1. That all City of Brownsville facilities be open immediately for full public use, including the Central Linn Recreation Center as requested by our local citizens.
2. That any penalties imposed for this legislative action be accepted by the City as the cost of implementing the will of Brownsville citizens.

Councilor Gerber is concerned about any legal review, or lack thereof, and is worried about the liability regarding the penalties sentence. She does not think that this should be part of the resolution. Councilor Hansen doesn’t necessarily disagree with this assessment about the penalties. Generally, Council concurred.

Mr. McDowell read the entire proposed resolution again, deleting the #2 sentence regarding penalties.

Councilor Thompson disagrees with the first sentence stating “that the Governors’ crisis Covid management has resulted”. She objects to that. Councilor Thompson asked how the rest of the Council feels about it. Councilor Gerber agreed with Councilor Thompson’s assessment. Councilor Gerber stated that she would vote against this resolution with this wording in place. (Indistinct Council murmuring.) Mayor Ware would like to vote on this with the resolution modification, and then readjust the resolution as needed.

Councilor Hansen suggested putting back in the request that in the future if the emergency lasts more than 30 days that the Governor have to go to the legislature to extend the emergency order. He would like to leave this in the resolution. Councilor Thompson agreed to this. Councilor Hansen said that we are not trying to legislate the Governor, we are simply making a suggestion.

Councilor Humphreys questioned whether Council is talking about July 1st, or effective immediately. By consensus Council agreed to immediately.

Mr. McDowell was asked to read the entire revamped resolution before a vote is taken.

Councilor Neddeau made a motion to approve R 2021.22 with changes. Councilor Craven seconded the motion. All voted in favor, with Councilors Gerber and Thompson opposed. The motion passed.



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ACTION ITEMS:

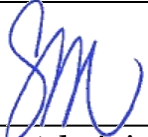
1. **Letter to the Governor.** Councilor Hansen would like to discuss the letter to the Governor from Council discussing the hardships that our community has suffered, and asking for a seat at the table and a voice for our citizens. There was a draft letter included in the agenda packet tonight. Councilor Gerber asked if there was a rush on the letter, or could we discuss this at the next Council meeting? Councilor Thompson suggested forming a subcommittee to work on this letter. Councilor Craven suggested taking a look tonight. He would like to move forward. Mayor Ware stated that he liked the letter, and he agreed with most all of it. Councilor Gerber thinks that it would have more weight if it was signed individually, it wouldn't need to come from the whole Council. Councilor Craven thought that it should be discussed by the full Council. Councilor Hansen asked why it needed to be revised. They asked Mr. McDowell to read the draft letter into the record for Council's review and so that folks in the listening room would know what Council is discussing.

McDowell stated that this letter was penned by City of Harrisburg when they sent in their resolution that they recently adopted. Councilor Gerber stated that if we were to send a letter, we should perhaps do our own so that the letter does not look like a form letter and would have more meaning.


Mayor Ware asked if we proceed with the letter and let Councilors who want to sign it do so. Councilor Craven stated that if we are sending a letter, he feels that it should be signed by the Council to have more weight as a legislative body. Councilor Hansen concurred. *Councilor Craven made a motion to approve the proposed letter to be signed by Council of Brownsville. Councilor Hansen seconded the motion. Discussion was called for. Councilor Thompson stated that she liked the letter, and didn't have a problem with it at all. However, if there are Councilors that choose to not sign it, they should have that option. Mayor Ware stated that she may want to vote against the motion then. The vote was called for with all in favor except Councilor Gerber, Councilor Thompson, and Councilor Humphreys. The motion passed.*

Councilor Gerber stated that for the Town Hall on June 22nd, 2021, not all businesses were invited, for whatever reason. She wonders if we need to have another meeting where all folks could be heard. Mayor Ware stated that at each Council meeting there is always two Citizens Comments opportunities for folks to speak to Council. We could perhaps put an ad in the paper reminding folks that if they wish to speak to Council, there is opportunity for that at our regularly scheduled monthly meetings.

ADJOURNMENT: Council adjourned by consensus at 8:15 p.m.



City Administrator S. Scott McDowell



Mayor Don Ware

Tuesday, June 22, 2021

SANCTUARY ON SCHOOL AVE
PO BOX 1
BROWNSVILLE OR 97327

City of Brownsville & Brownsville Chamber of Commerce June 2021 Invitation Response

Greetings Brownsvilleans, City Councilors, Mayor Ware, City Staff and Town Hall guests:

The ***Sanctuary on School Avenue*** is just a teeny tiny business offering a lodging alternative to traditional hotels and motels. In other words, we're among the tens of millions of AIRBNB stays available worldwide; plus we're Brownsville, Oregon's first short-term residential airbnb. Sanctuary on School Avenue is part of the leisure and hospitality industry.

Since opening in 2013, our business grew steadily through the summer of 2018. After the Willamette Country Music Festival ended in 2018 we saw a dip in reservations for July 2019, but never did we suffer as much as we did during the global COVID-19 pandemic. Most reservations began canceling in April 2020. Cancellations—including overseas travelers—cancelled clear up through early May 2021. But, in conversations with local business leaders, managers, and owners throughout Brownsville, I've learned that the impact of COVID-19 has also been uneven. It is has been a boon to a few sectors and I believe most would agree that it has been particularly hard on our local restaurants.

I have also learned that just as the impact of COVID-19 has been uneven, the varied efforts, measures and restrictions to combat COVID-19 placed upon businesses has also been uneven. Some businesses have different regulatory agencies they must answer to. **As a "Superhost" on the AIRBNB platform, I have to comply with local, state, federal AND mandatory international requirements;** a few of which I will share publicly and in person at tonight's town hall meeting.

Sincerely,

Allen L Buzzard, general managing partner