



## Council Minutes

November 23<sup>rd</sup>, 2021

**ROLL CALL:** Mayor Don Ware called the meeting to order at 7:00 p.m. in the Community Room with Councilor Thompson, Councilor Hansen, Councilor Humphreys, Councilor Chambers, and Councilor Craven present. Councilor Neddeau was excused. Public Works Superintendent Karl Frink, Administrative Assistant Tammi Morrow, and City Administrator Scott McDowell were also present. Public members in the room included Alice Tetamore, Chenoweth Robertson (*Central Linn Community Foundation*), Kathleen Swayze (*Calapooia Food Alliance*), Nate Conroy (*RAIN*), Captain Beth Miller (*Linn County Sheriff's Office*), and Tia Parrish (*The Times*). Lara Letaw joined the meeting by teleconference.

**PUBLIC:** Council chambers provided a listening room with Administrative Assistant Elizabeth Coleman, and Rick and Yolonda Tauzer present.

The pledge of allegiance was recited.

Councilor Thompson inquired by whose request, and for what purpose, were the letters from Dr. Glenn and Linn County District Attorney Doug Marteeny included in the packet tonight? Councilor Thompson sees no relevance to anything Council is discussing tonight. Mr. McDowell stated that what he thinks Councilor Thompson is referencing is the editorial from Doug Marteeny recently published in *The Times*. This article has a lot of relevance due to Council's ongoing discussions about the law enforcement contract with Linn County which is on the agenda for this evening's meeting.

McDowell said that Doug Marteeny, as Linn County's District Attorney, is the highest-ranking legal law enforcement officer in the county. His editorial puts emphasis on how Governor Kate Brown's commuting felony sentences is negatively impacting local communities. Marteeny's article stated that "soft-on-crime governance has real consequences for our neighborhoods and our local criminal justice infrastructure."

McDowell also stated that he and Councilor Humphreys are preparing to attend the quarterly LCSO meeting soon, where citation numbers, advocacy, and codification of nuisances are going to be discussed. Councilor Thompson stated that when she read the letter, she came away with the feeling that it was just a letter trashing Kate Brown, and perhaps the reason for it being included in the packet was a misunderstanding on her part. She asked if Council is to be worried tonight about Kate Brown commuting sentences.

McDowell responded that Council's focus regarding Mr. Marteeny's editorial would be to determine if Council wants to reach out to him to discuss possible support and/or advocacy on many issues such as commuting felony sentences. Mayor Ware asked that we move the meeting along.

McDowell reminded everyone that the microphones in the room are very sensitive. Please do not engage in side conversations as they will muddle the recording. We also have a listener on the phone tonight, so it may be difficult for them to hear with a lot of background noise. This will be a hybrid meeting utilizing in-person, a listening room, and online access for the meeting.



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**ADDITIONS AND DELETIONS:** Mr. McDowell reported that deletions tonight include 10) B., the Pacific Power franchise agreement, and 11) B. the Brownsville Municipal Code Chapter 11.25.

**MINUTES:** Councilor Hansen made a motion to approve the September 27<sup>th</sup>, 2021 minutes and the October 26<sup>th</sup>, 2021 minutes. Councilor Humphreys seconded the motion and it passed unanimously.

### **PUBLIC HEARING | PRESENTATIONS:**

1. **Chenoweth Robertson | Brownsville Community Foundation (also dba Central Linn Community Foundation (CLCF)).** Ms. Robertson submitted a request via the agenda packet requesting annual support. Mayor Ware declared a conflict of interest, as he serves on their Board; he will not take part in the discussion or the vote. *Councilor Chambers moved to approve the request. Councilor Hansen seconded the motion, and it passed unanimously.*
2. **Nate Conroy | RAIN.** Nate Conroy introduced himself as a new venture catalyst, working for RAIN. RAIN helped him with an entrepreneurship showing him what he needed to do and supporting him through the process. Mr. Conroy recapped their purpose and current projects. He also extended a thank you to Scott McDowell for his recent work on the ROI grant among many other regional efforts he has coordinated.
3. **UTV Street Use | William Copeland (not present).** McDowell referenced an email included in the agenda packet from William Copeland with a request to allow UTV use in the City. Discussion followed with Lieutenant Beth Miller. Council is not interested in pursuing the issue at the time.
4. **Spaulding Avenue Closure Request | Chamber of Commerce.** Mrs. Jenna Stutzman, Brownsville Chamber of Commerce, has requested the closure of Spaulding Avenue for the annual Christmas tree lighting ceremony and festivities. The closure would be for Friday, December 3<sup>rd</sup>, 2021. Mrs. Stutzman will also be handling all details associated with the event. *Councilor Craven moved to approve the request. Councilor Chambers seconded the motion and it passed unanimously.*
5. **TMDL Bi-Annual Review.** McDowell reported that twice a year the City is required to report on TMDL requirements, and the City has been doing it for a number of years. As you know, the once "voluntary" program has now blossomed into requirements with the force of law and possible fines from the State. Many cities in Oregon are charging citizens for stormwater runoff based on impervious surfaces such as roofs, concrete, and pavement. The requirements stem from the Clean Water Act passed by the United States Congress. In Oregon, the Department of Environmental Quality (DEQ) administers the program. The basic premise of TMDL is that stormwater runoff is negatively impacting fish habitat and making fish unsafe to eat in large quantities by humans. The requirements come from an ever-growing list of unfunded mandates handed down to the states by the Federal government.

In March the City received a letter informing us that the City is now a DMA (Designated Management Agency) required to file reports, implement protocols, etc., regarding TMDL for our area. McDowell talked about the TMDL development process, where the City is at, and possible future protocols, regulations, and implications. If Council does not want to have to start charging your citizens for stormwater, the time for advocacy is now. Mr. McDowell and Mr. Frink will be presenting the annual TMDL



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report to Council for approval in January. Staff is also pursuing assistance for the new DMA TMDL plan due in September 2022.

### **DEPARTMENT REPORTS:**

1. **Linn County Sheriff's Office (LCSO) Sheriff's Report.** Captain Beth Miller was present to report for the month, including 13 citations, 25 warnings, and 204.75 patrol hours for the City. Councilor Chambers stated that the City Council has been asking for the citation numbers to increase, the warning numbers to decrease, and we are just not seeing it happen. Captain Miller stated that the system is built on officer discretion. Unfortunately, LCSO cannot hire fast enough to fill the vacancies, and they are stretched to the limit right now. She has offered some overtime hours that would focus solely on traffic enforcement.

Councilor Hansen asked for Captain Miller's take on the UTV street use request brought to Council tonight. Captain Miller discussed the matter in depth with Council, highlighting the City of Millersburg's recent review of a similar ordinance, and Sweet Home's recent adoption of a policy similar in scope. LCSO has several concerns with enforcement, insurance, etc. She did add that such an ordinance would possible increase their workload as well.

**Public Works (PW).** Superintendent Karl Frink recapped activities and projects for the month. Frink stated that the Downtown Sanitary Sewer (DTSS) project is moving along. All services are reconnected, and the water line and sewer lines are in.

The leaf cleanup in Pioneer Park is underway.

Mr. Frink received a complaint about hazardous trees on Holloway Heights. After inspection, the trees were found to be hazardous, but not an immediate danger. Frink called in a tree service for removal.

Tim Tice, OAWU, is working on the conservation plan required by TMDL. Frink is responsible for gathering all the numbers and data in an effort to determine the water loss in our system. This is a huge project, and there are a lot of mandates and compliance issues associated with the project. Mayor Ware expressed his appreciation for all of the work Mr. Frink has put into the project.

2. **Administration.** Mr. McDowell spoke about the DTSS project. The Menefee trail is brand new again. McDowell expressed his appreciation to Mr. Frink for his inspections and work on the project, as well as Mrs. Coleman.

The Linx transportation project is on hold, as the City is waiting for definitive numbers from the City of Lebanon. Mayor Ware and Councilor Thompson are on this committee.

The River's Edge (RE) planned unit development (PUD) project is continuing. RE would like to move forward with plat approval for Phase 2 and/or move into Phase 3. However, there are some details that have not been finished, or addressed, for the previous phases. Staff drafted a letter asking for the project parameters to be met. The City is not interested in approving any next phase until the current phase is satisfactorily completed based on the requirements set forth by the Planning Commission. A big thank you to Planning Commissioners Gary Compton and Steve Schilling for coming in to work out details for the project to get moving forward again. McDowell reported that the City is supposed to receive a performance bond tomorrow



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ensuring that the unfinished details will be completed, and the project can then continue forward.

McDowell reported that Disaster Preparedness (D-prep) is moving forward. The group (six organizers consisting of nearby cities and fire districts) worked together to put a proposal together to hire a consultant. The first proposal netted three responses, but was not the exact fit that the group was hoping for. They rewrote the proposal, and responses are expected back by mid-January.

McDowell reported that JayRay has been hired as a contractor for the Mid-Valley Prosperity (MVP) group. JayRay will be working on branding, marketing, and website development. The group will be bringing resources to small communities, and working on retaining, growing, and attracting more businesses. The group met last week for the first time in a long time. McDowell will be attending and presenting to Tangent and Scio City council meetings to promote the group and include those communities in the partnership.

McDowell reported that RAIN has been working with Biz Oregon to bring some much needed grant funding and resources to the group.

McDowell thanked Council for bringing in the laptops for updating.

McDowell reviewed a Policy & FYI for Council. Mayor Ware had a question this morning from a citizen on how the water works here. From November through May the City draws water off the City wells. Then during the summer months when the turbidity (dirt in the water) in the river is diminished, the City pulls water from the river. This is just one of the many questions that the City gets every day. Answers can be found on the website in Policy & FYI report on the City website under City Council.

Mr. McDowell thanked Councilor Hansen for pointing out a correction that needed to be made on the 2022 calendar. The revised 2022 calendar is in Council packets.

McDowell would like to create hot links on the website for Councilors so that constituents can easily contact Council by email. The emails would be directed to the City established 97327 emails set up for each Councilor.

McDowell reviewed a few advocacy points that will be talked about tonight during the discussion phase. One point of interest is that the State decided to make all Councilors mandatory child abuse reporters. So now, the City is going to have to make sure that each Councilor has the proper training each year to comply with this mandatory requirement.

McDowell reported that due to redistricting, Jamie Cate will become the City's House of Representatives representative in January 2023, replacing Representative Marty Wilde.

McDowell showed the Remington Park project plans and the finished project to date. Mayor Ware stated that the neighborhood is grateful.

3. **Planning.** No comments.
4. **Library.** No comments.
5. **Court.** No comments.



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6. **Council Comments.** No comments.

7. **Citizen Comments.**

Kathleen Swayze, Main Street, requested that Council put their emails and telephone numbers on the City website so that folks are able to contact them easier. She also suggested posting the agenda in the paper, preferably on the Wednesday before Council meeting.

Yolonda Tauzer, Kirk Avenue, spoke next, agreeing with Mrs. Swayze.

### **ACTION ITEMS:**

1. **Board & Committee Appointments.** *Councilor Thompson moved to appoint Jo Ann Neddeau to the Parks and Open Spaces Advisory Board (POSAB), and Don Andrews to the Budget Committee. Councilor Humphreys seconded the motion and it passed unanimously.* McDowell stated that there will be another vacancy on the POSAB due to Lynda Chambers appointment to the Council vacancy. An advertisement for the vacancy will be in tomorrow's paper.
2. **Kirk's Ferry Park Use Agreement | Calapooia Food Alliance (CFA).** Kathleen Swayze stated that the CFA was very pleased with the Kirk's Ferry Park arrangement. The market was very successful, and she feels it is a good partnership. Swayze suggested that it would be helpful if the City could address the steep bank, making a smoother transition from the parking lot up to the market site. Councilor Hansen stated that he could see where the steep bank might be a challenge for some. Mr. McDowell stated that Park Board is comfortable going forward with the agreement for one more year. *Councilor Thompson moved to approve the agreement for one more year. Councilor Hansen seconded the motion and it passed unanimously.*

### **DISCUSSION ITEMS:**

3. **Vaccine Mandates and Operational Impacts.** McDowell stated that on the desk tonight he has shared an email from League of Oregon Cities, highlighting the pause by Oregon OSHA for the Federal Vaccine Rule implementation. Councilor Hansen also contributed the Digital vaccine records project information for Council review. McDowell would like to preface the discussion with the fact that this is still a nationwide issue, we are still in pandemic throes, and Oregon is no different than the rest of the country.

Councilor Hansen also requested that this issue be on the agenda so that Council can discuss our operational issues going forward. He said that he would like to have an open discussion. Councilor Thompson thought that it is not the time to rush to make a decision at this time; she would like Council to "walk with awareness." It may well be a waste of time, and doing anything right now may be a moot point.

Councilor Craven weighed in stating that we need to stand behind our employee's right to choose, and that it is a pretty simple thing to do to write some policy on that. Councilor Chambers agreed, stating that she feels it is a good idea to protect our employees, and their jobs for the City. If Council has to "waste a little time", Chambers stated that she felt it was well worth the time wasted. Councilor Chambers stated that even if we lost any employee, that is huge for the City.



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Councilor Thompson asked if anyone else thinks that the employees have an obligation to move closer to the middle? She thinks there is real value in expecting that our employees can make a choice; they currently have the choice of wearing masks and being tested, that is a choice that they can make. She asked of Council if it is unreasonable to ask that they are willing to do that?

Councilor Hansen interjected here stating that his intention with bringing this to Council for discussion was not to get all caught up in the details; he thinks that Council will be confronted with this issue soon, and that Council needs to be thinking about it. In his opinion, Council should have already addressed the issue.

Councilor Hansen answered Councilor Thompson's question about the masking and testing, stating that there are significant health issues with wearing a mask and potentially to the testing, and he doesn't believe that we should be asking our employees to do these things as a condition of employment. Councilor Thompson respectfully disagreed with Councilor Hansen. Councilor Humphreys stated that there are exceptions available, such as religion exemption, or reasonable accommodations.

McDowell stated that reality is that the unvaccinated employees are having to pay for the costs of the testing, with no insurance reimbursement. Religious exemptions are also problematic; who will be the judge of the level of your faith? There is also the issue of everyone's body autonomy? This pandemic death rate is **not** 1 out of 2, but it is fact that lots of folks have already lost their jobs nationwide because they did not get vaccinated.

So, moving forward, out of this conversation, what is the path going forth?

McDowell suggested reaching out to our representatives and discussing the situation, perhaps. Councilor Thompson is concerned with the legal consequences of the City doing a resolution stating that our employees don't have to follow a state mandate. McDowell stated that Council is between a rock and a hard spot for sure, this is not an easy discussion. Mayor Ware stated that his final stance is going to be to support staff, in whatever way that means. Councilor Hansen closing statement indicated that he feels that this is a constitutional issue, civil liberties issue, and an intrusion into people's lives. He feels that we are on the precipice of medical tyranny, and that Council needs to do what is right because it is right, not make a moral decision only if there is little or no recourse in doing so.

Councilor Chambers asked Mayor Ware how he was going to support staff going forward? He said that it is not clear at this time, but that it his intention. Councilor Craven would like to support drafting a resolution to support staff and their right to choose. Councilor Chambers agreed. Councilor Thompson stated that she thinks Council should table the issue until more information is available. *Councilor Craven made a motion to move forward with drafting a resolution to support staff and their right to choose, and run this resolution by the attorney. Councilor Chambers seconded the motion. The motion was voted on and passed unanimously with the exception of Councilor Thompson, who voted against the motion.* McDowell suggested forming a committee to look at the issue and perhaps reach out to our representative, Senator Lee Beyer and Representative Marty Wilde. Members on the committee will be Mayor Ware, Councilor Thompson, and Councilor Chambers.

4. **Law Enforcement Levy Outcome.** Mr. McDowell informed Council that he and Councilor Humphreys will be meeting with LCSO for the quarterly meeting on



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December 13, 2021. He is looking for guidance from Council for topics of the meeting. Would Council like to continue the conversation around increasing traffic citations in the City? Council agreed and encouraged that conversation. Councilor Hansen stated that he believes that the roadside education is a part of the equation, and that sometimes he feels Council is preoccupied with citation numbers. Councilor Humphreys stated that he thinks that 38 traffic stops only resulting in 9 citations is not really a deterrent.

Recently, Mr. McDowell and Mrs. Morrow had an opportunity to have a conversation with new LCSO Sergeant Steven Frambes around the idea of streamlining high use ordinances that would match across our local communities. This streamline would benefit the communities and would make it easier on the law enforcement when trying to enforce the laws. McDowell stated that the partnership will likely start with a high use ordinance and see how it plays out.

The third question tonight from McDowell was, is Council interested in going to talk with District Attorney Doug Marteeny, as discussed earlier? Councilor Hansen, Councilor Chambers, and Councilor Craven volunteered to serve on this committee. Councilor Humphreys suggested perhaps having Mr. Marteeny come here and have a work session as most of Council seems interested in the topic? McDowell will reach out to Mr. Marteeny and try to schedule something.

- 5. Pharmacy Impacts and Policy.** At the request of Mr. Joe Ervin, Brownsville Pharmacy, McDowell included in the packet and an email discussing pharmacy patient safety risk across Oregon. The email article discussed the Corporate Activities Tax (CAT). The practicality of how this tax is working is that the big corporations are passing this tax down to consumers whenever possible. McDowell stated that this may be another advocacy opportunity Council could address. Councilor Chambers and Councilor Humphreys volunteered to meet with Mr. Ervin and perhaps our State representatives. Councilor Craven stated that the CAT tax is affecting a lot of businesses everywhere. Councilor Humphreys suggested reaching out to Napa and Carlson's as well.

- 6. October Financials.** No comments or questions.

### **CITIZEN QUESTIONS & COMMENTS.**

Yolonda Tauzer, Kirk Avenue, respectfully requested that Council and Mr. McDowell, refrain from using hyperbolic and subjective language when discussing something they don't like or agree with. Comments such as medical tyranny, or that Wilde decided to lecture everybody when talking about religious exemptions. Tauzer stated that she didn't feel that Wilde lectured her when she read that article. She stated that this opinion, or rhetoric, is not conducive to civil discussions for the City, and it just makes her angry when hearing it.

### **COUNCIL COMMENTS.**

Councilor Thompson asked why the rats in Portland article was in the agenda packet? McDowell stated that he puts general interest articles in the packet each month for Council's review and information sharing. Councilor Thompson doesn't see the relevance of the article for the City of Brownsville. Mayor Ware stated that her objection was duly noted.

**ADJOURNMENT:** Council adjourned by consensus at 8:53 p.m.



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A handwritten signature in blue ink, consisting of the initials "SM" in a cursive style.

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City Administrator S. Scott McDowell

A handwritten signature in blue ink, appearing to be "D. Ware" in a cursive style.

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Mayor Don Ware