



Council Minutes

November 22nd, 2022

ROLL CALL: Mayor Ware called the meeting to order at 7:01 p.m. with Council President Hansen, Councilor Thompson, Councilor Chambers, Councilor Craven and Councilor Humphreys present. Administrative Assistant Elizabeth Coleman, Administrative Assistant Tammi Morrow, Public Works Superintendent Karl Frink, and City Administrator Scott McDowell were also present.

ABSENT: Councilor Neddeau (excused).

PUBLIC: Michael & Heidi Winklepleck, Sandy Saltzer, Lynlee Bischoff, Don Lyon (Via call-in), Jeff Brown, Dan Murphy, Joshua Bloomfield, Peggy Purkerson, Steve & Nan Van Sandt, Penny Rosenberg (*Albany Democrat-Herald*), Tia Parrish (*The Times*), and Deputy Frambes (*LCSO*) were present.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Action Item 10) D. Climate Change Initiatives & Intergovernmental Agreement (IGA) | DLCDC was tabled.

MINUTES: Councilor Chambers made a motion to approve the October 25th, 2022 Council minutes with one correction to include Councilor Craven as attending the meeting. Councilor Humphreys seconded the motion and it passed unanimously.

PUBLIC HEARING | PRESENTATIONS:

1. **Total Maximum Daily Load (TMDL).** – Mr. McDowell presented the State required semi-annual TMDL review. Council hears this report in April and November.

McDowell gave the origination story of TMDL starting from the creation of the United States Environmental Protection Agency (EPA) through the adoption of the Acts to the State agencies who handle the administration of this specific program. McDowell recapped the many levels of TMDL from water quality impairment, assessing pollutants, determining source reduction, reports indicating reductions input, and implementation. McDowell discussed what TMDL's are, including background load, non-point load and waste load. Basically, TMDL's calculate how much pollution can be in a stream while maintaining all beneficial uses to aquatic life.

McDowell shared a final U.S. EPA letter, dated March 2nd, 2021, stating DEQ had designated the City of Brownsville as a Designated Management Agency (DMA). As a DMA, the City is constantly responsible, and is now required under OAR to prepare and submit a TMDL implementation plan to incorporate implementation requirements based on several criteria by September 3rd, 2022. Failure to submit this plan carries civil penalties which can be assessed for each day of violation. McDowell explained this is how the State and Federal governments justify the expenditure of millions of dollars on local community systems, just like was done in 2005 on the City's wastewater system.

McDowell shared slides showing many ways pollutants get in water sources, including runoffs from hard surfaces, precipitation washing land-based bacteria into waterways, animal waste, agricultural chemical applications, etc. Forever requirements of TMDL include temperature, bacteria, mercury, and IDDE (public reporting and staff training). McDowell shared common storm water construction techniques and outcomes. McDowell reminded everyone to pick up after their pets.

Mr. McDowell reported that the City of Brownsville is ahead of the curve regarding TMDL with some of the things the City already does due to the City's stormwater constraints in many areas of town. The DMA requirements added to the plan have been filed with Department of Environmental Quality (DEQ) and are currently under review.



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2. **The Nature of Projects | Weeks, Months & Years** – McDowell shared with Council the nature of City projects and how they run through time. Some projects clear up in a week or a month, while others drag on through decades. Other types of projects are ‘forever’ projects like the City’s Water Rights. McDowell shared how projects work through time. He then shared the ‘Daily Grind’ slide along with four slides that clearly showed some of what Staff is working on. McDowell is concerned about Staff capacity due to the already extensive list of items Staff is already tasked with completing.

DEPARTMENT REPORTS:

1. **Linn County Sheriff’s Office (LCSO) Sheriff’s Report.** Sergeant Frambes reviewed the numbers from last month. Frambes stated that there were several stolen vehicles last month. Owners are leaving their keys in their cars. One motorcycle was stolen from a garage, and it is currently under investigation. LCSO Staff was heavily involved with the major pile up on I-5. Several deputies made it back to town to handle the traffic problems caused by the pile up. A felon was charged with a weapons violation. The person suffered from a self-inflicted gunshot wound. Sergeant Frambes explained that the department spends a lot of time reviewing surveillance footage on certain kinds of cases.
2. **Public Works (PW).** Superintendent Karl Frink said he had spent a lot of time on the WMCP. Staff is working on providing more information to the State on their requests. Frink shared the challenges the City is experiencing with dechlorinating the wastewater. The City Engineer is currently working on reviewing this matter to ensure correct contact times are met. Frink said Blackstone will be working on the asphalt patches as soon as the weather permits. The weather turned, making the work impossible to perform due to the cold temperatures. Frink explained that the software issues with the traffic devices have been resolved. The units have been deployed and he hopes to have information for Council in the near future. McDowell asked Frink to give a little insight into the City’s cross connection program. Frink explained the details of the program that were highlighted in the Policy FYI article contained in the City Administrator report. Frink explained nuances to the program. He said that all of this is required to keep the public water system safe from contamination. The City runs bulk water sales that work in conjunction with the program in order to properly protect the system.
3. **Administration.** McDowell discussed the election procedures as explained by the Linn County Clerk’s Office. The Clerk’s Office will certify the election results in late November. Council will pass a resolution officially recognizing those results from the County in December. The Rally on the River RV event will play host to a national Spartan Rally in October 2025.

There will be an open house for Mayor Don Ware on December 29th, 2022 from 12:00 – 2:00 p.m. to celebrate Ware’s sixteen years of service as the Mayor of Brownsville.

Standard & Poor’s announced the City’s current rating of AA- will continue to be in effect. The City will be hosting the upcoming discussion with League of Oregon Cities Interim Executive Director Patty Mulvehill on December 12th, 2022. Five small cities will be addressing issues pertaining to advocacy and how the League and Small Cities could be more effective in the process.

The Disaster Preparedness effort will launch in December. The Friends of the Library are hosting their annual sale at the Library from December 1st through December 10th.

McDowell addressed Councilor Chambers motion regarding Measure 114 at the last Council meeting. McDowell said this issue caused a great deal of consternation and he felt that clearing up the issue would be helpful. First, Council positions are political positions. The City is a political subdivision of the State of Oregon. The idea that the Council positions are non-partisan is false. Second, any Councilor may have a political stance on any given issue. In this case, Councilor Chambers indicated that she felt that Measure 114 was a violation of Constitutional rights, and she was opposed to the Measure. She made a motion to that effect and the motion was seconded. After the vote, the Council had approved the motion.



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Council had, by consensus, asked Staff to publish a Council Synopsis starting in June to inform citizens of what was happening at Council meeting. The City has published four of these documents. One in each month of June, July, September, and October. Council has a recess in August. All of the documents were sent out no later than the Friday after Council meetings. Although accused of wrong doing, neither the Council nor Staff did anything illegal according to City Attorney Ross Williamson. The issue has been largely overblown costing Staff a lot of time explaining the situation to nearly a dozen people who expressed concern. All of the people reporting concerns had been given incorrect information by someone else or had simply jumped to conclusions based on little to no information. The bottom line is that the citizens of the State voted to allow Measure 114 rendering the Council motion moot.

4. **Planning.** Report included in the Council Agenda Packet. No comments.
5. **Library.** Report included in the Council Agenda Packet. No comments.
6. **Court.** Report included in the Council Agenda Packet. No comments.
7. **Council Comments.** No comments.
8. **Citizen Comments.** Lynlee Bischoff read a statement regarding the appointment of a Councilor to fill the Council seat that will be vacated by Councilor Adam Craven. The statement is included at the end of these minutes.

LEGISLATIVE:

1. **Ordinance 792: Camping (Second Reading).** – Mayor Ware asked for a motion to read by title only. *A motion was made by Councilor Hansen, seconded by Councilor Humphreys to read this ordinance by title only. The motion carried.* Mayor Ware read the title. McDowell gave a brief description to the audience about the purpose of the ordinance. *Councilor Chambers made a motion to approve Ordinance 792 as presented. Councilor Thompson seconded the motion and it passed unanimously.*
2. **Ordinance 793: Pacific Power Franchise (First Reading).** Mayor Ware asked for a motion to read by title only. *A motion was made by Councilor Hansen, seconded by Councilor Humphreys to read this ordinance by title only. The motion carried.* Mayor Ware read the motion by title only. McDowell briefly explained the purpose of this ordinance and the purpose of a franchise agreement. A second reading will be held next month. Council had no comments regarding the language of the ordinance.

ACTION ITEMS:

1. **Chamber of Commerce | Memorandum of Agreement.** McDowell explained the purpose of the agreement and recapped the request of Chamber President Jenna Stutsman from the last Council meeting. Council had repealed the Transient Room Tax in June 2022. Council indicated that they would include an amount in this agreement to help cover the revenue lost for marketing. The City has allowed the Chamber to use the TRT money for marketing purposes since the inception of the ordinance. Council Chambers asked how much is being committed for this purpose. McDowell said that Staff came to the mean average of \$2,500 based on the revenue that was historically generated by the TRT. McDowell said that the Chamber is also required to submit an annual report accounting for exactly how the funds were spent. *Councilor Hansen made a motion to approve the memorandum of agreement as presented. Councilor Humphreys seconded the motion and it passed unanimously.*



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2. **Calapooia Food Alliance | Memorandum of Agreement.** McDowell reported that after two meetings about this agreement, everyone felt pretty good about the discussion and direction between the City and the CFA. The agreement incorporates similar conditions for use of City property as the previous two market location agreements. The CFA understands that Library Park is the best site for the 2023 market given capital infrastructure projects being executed by the City. Any potential, future market locations involving publicly owned property will be considered, and ultimately determined, by Council. McDowell highlighted the following items:

- ★ The Red Barn use will continue as it has since 2008.
- ★ The City will extend the water allocation to the new Garden site on Main Street. The City has provided a water allocation for the Garden since 2007.
- ★ The City is not being asked to consider changing any policies regarding liability or do anything that would set a precedence.

McDowell provided a report as part of this agreement that was requested by Councilor Chambers & Councilor Craven regarding the associated costs of providing water to the new garden site. Councilor Chambers asked McDowell about the cost of the actual water used. McDowell said that the City provides between \$1,100 and \$1,350 dollars worth of water annually. McDowell asked Councilor Craven about his portion of the report he requested. Councilor Craven said the previous meter was installed on public property; this one is being installed on private property. Councilor Craven felt that this disenfranchises a private developer due to all the required costs of developing property. No one is allowed to just put a stand alone water meter on a lot. Many other requirements accompany development. Councilor Craven wants to come alongside community partners, but Craven feels this extension of a water allowance goes too far. Councilor Craven suggested helping the CFA with their 2023 location by freeing up additional space by closing half of Park Avenue.

Councilor Chambers pointed out that the citizens and rate payers pay the costs associated with this agreement and other agreements like this one. Councilor Chambers figures the total cost of this agreement over the full term is nearly \$13,000. Councilor Chambers felt like this is a very big ask; this is more than the City does for other community partners. Councilor Chambers wished the CFA would be more grateful to the citizens for supporting their mission. Councilor Chambers did not feel this discussion was handled well by the CFA since she returned to Council last October. Councilor Chambers likes Councilor Craven's idea of extending half of Park Avenue, if that would help Library Park work out better.

Councilor Chambers wanted the CFA representatives to know the total expenses associated with this agreement. Councilor Hansen addressed the water meter being on public property by asking for solutions. Councilor Craven suggested that they could supply water from the adjacent property owner. Councilor Humphreys asked about the term of the agreement. The agreement is a three-year term. Hansen pointed out the market location is set for Library Park for 2023 with a future Council discussion to follow for 2024.

Councilor Chambers made a motion to approve the memorandum of agreement as presented. Councilor Humphreys seconded the motion and it passed 5-0 with Councilor Craven abstaining for the reasons stated during discussion.

3. **GR12 Waterline Project | Dyer Partnership Task Order.** McDowell received the updated Task Order from City Engineer Ryan Quigley. The construction price is up considerably from the first estimate provided to the City late last summer. Market conditions are still terrible post-pandemic due to inflation and other factors. McDowell reviewed the details of the project along with the proposed timeline. *Councilor Humphreys made a motion to authorize the execution of this document by the appropriate personnel as presented. Councilor Hansen seconded the motion and it passed unanimously.*



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4. **Climate Change Initiatives & Intergovernmental Agreement (IGA) | DLCD.** Tabled.
5. **Authorize KeyBank Agreement.** Staff is requesting Council authorize an agreement with KeyBank that would allow check readers to be installed at City Hall. After talking with Linn County Treasurer Michelle Hawkins and City Insurance Agent Darrin Godfrey, this agreement looks like a very good option. McDowell was not originally in favor of the City taking the liability associated with this agreement, but the City does have more than adequate insurance coverage that protects Staff and the City from any potential financial loss. Hawkins said that the County has had a very good experience using these machines. Hawkins put a few internal controls in place to ensure transactions are performed a certain way. She indicated that if there is a discrepancy between the County and the bank, it is worked out the next business day and it rarely happens. Staff will implement similar policies and controls. *Councilor Humphreys made a motion to authorize the City Administrator to execute an agreement with KeyBank for this purpose. Councilor Thompson seconded the motion and it passed unanimously.*
6. **Authorize Council Opening Advertisement.** Staff is requesting authorization to place an advertisement in *The Times* for the potential Council seat that will be open if Adam Craven wins the mayoral race.

The Brownsville Municipal Code requires Council to fill a vacancy as follows:

Chapter 1.25 Council/Elected Official Vacancy

Sections:

1.25.010 Appointment by Council procedure.

In filling a vacancy, the Council shall make such inquiries and hold interviews as it considers necessary to make the appointment. The appointment must be made at a regular or special Council meeting.

The Council will use the following procedures in the appointment process:

- A. Public notice in a newspaper of general circulation and/or by standard electronic means and posting of a notice at City Hall, the Library and the Post Office for two consecutive weeks;
- B. Deadline for interested parties to submit applications shall be no later than 30 days after the initial public notice;
- C. Appointment from those applicants nominated and seconded for consideration by members of the Council. The Recorder will announce the results of each ballot and will record each Councilor's vote. An applicant who receives a majority of the votes by the current Council members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the Council will continue to vote on the two applicants who receive the most votes until an applicant receives a majority of the Councilors voting;
- D. All applicants shall qualify for public office as required by the City Charter and may be subject to the same requirements of Linn County and the State of Oregon;
- E. Vacancies shall be filled within 60 days of reasonable notice to the Brownsville City Council.

The Brownsville Charter reads as follows:

CHAPTER VII Elections

Section 27. Terms.

The term of office of a person elected at a regular city election commences on the first Monday in January following the election.



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Mayor Ware would call a special meeting for January 3rd, 2023 at 7:00 p.m. The special meeting will be a swearing-in ceremony to ensure a full Council. Mayor Ware and Councilor Neddeau will be recognized for their service, and potentially Councilor Thompson pending the official election results. The City would then host a reception in the Community Room.

Staff could then begin the necessary reviews with the new Council members so goal setting and other important planning items can be dealt with prior to budget season starting in March. The League of Oregon Cities also holds Councilor training that will be offered to the new members as well.

The City would also like to hold a reception for Mayor Ware on December 29th, 2022, from 12:00 p.m. to 2:00 p.m. in the Community Room to honor his historic years of service to the City of Brownsville. *Councilor Chambers made a motion to authorize the Council opening as described. Councilor Humphreys seconded the motion and it passed unanimously.*

- 7. **Central Linn Recreation Center | Agreement Addendum.** The City has recently changed service from AlSCO to Cintas. The City has entered into an agreement with Cintas to provide monthly professional cleaning for the Rec Center restrooms. The City will also be providing mat service and mop service for the Rec Center. A few months ago, the vendor who provided janitorial services to the Rec Center quit. The Rec Center Board respectfully requested janitorial services from the City at their Board meeting last week. President Katy Kallai, Vice-President Stephanie Koontz and McDowell worked up the amount of hours that would be required to adequately clean restrooms, the bleachers, mop the floor and take out the trash. The Central Linn Recreation Board has approved a lump sum of \$2,400 to cover the cost of janitorial services to be provided by the City. The addendum included in this agenda packet would extend this service to the Rec Center. *Councilor Craven made a motion to authorize this addendum to the existing contract with the Central Linn Recreation Association. Councilor Chambers seconded the motion and it passed unanimously.*

DISCUSSION ITEMS:

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

CITIZEN QUESTIONS & COMMENTS.

Lynlee Bischoff said that she would not have read her statement if she would have known what transpired earlier.

COUNCIL COMMENTS.

No comments were made.

ADJOURNMENT: *Councilor Hansen moved to adjourn. Councilor Chambers seconded. The meeting adjourned at 8:20 p.m.*

City Administrator S. Scott McDowell

Mayor Don Ware