



Council Minutes

November 22nd, 2016

ROLL CALL: Mayor Don Ware called the meeting to order at 7:00 p.m. with Councilors Neddeau, Gerber, Shepherd, Cole, and Chambers present. Councilor Van Sandt was unable to attend and Public Works Superintendent Karl Frink was absent due to vacation. Administrative Assistant Tammi Morrow and City Administrator Scott McDowell were also present.

PUBLIC: Doug Block, Kim Clayton, Tricia Thompson, Greg Klein (*LCSO*), Elizabeth Coleman, Patty Linn (*The Times*), Marilee Frazier, Chenoweth Robertson, Roger and Alice Tetamore, and Alex Paul (*Democrat Herald*).

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: Mr. McDowell informed Council that on the desk there is information regarding the election certification. After conferring with Derrick Sterling, Linn County Elections Office, he told McDowell that it would be wise not to pass any resolutions before the election is actually certified. They are certifying the machines soon, and will certify results within a few weeks. McDowell will bring the certification resolution to the December meeting. At this time, it looks like Doug Block will fill Councilor Van Sandt's seat, and Councilor Gerber and Councilor Chambers will retain their seats on Council. This item will be deleted from the agenda tonight.

MINUTES: Councilor Cole made a motion to approve the October 25th, 2016 meeting minutes as presented. Councilor Shepherd seconded the motion, and it passed unanimously.

PUBLIC HEARINGS OR PRESENTATIONS:

Total Maximum Daily Load – McDowell reviewed a brief history of TMDL. TMDL is a regulatory term contained in the Clean Water Act (CWA), adopted into law in 1972 that describes the maximum amount of particular pollutants that a body of water can legally receive while meeting water quality standards. Basically the State of Oregon under the CWA is making a strong effort toward requiring NPDES (National Pollutant Discharge Elimination System) permits for storm water. Lee Engineering did a drainage study after the 1996 flood, and determined that the City does not have a storm water system. These systems are very expensive to install, typically \$100-\$200 a foot, and often are not as effective as hoped or promised.

The City's current TMDL plan, under what the EPA refers to as Phase II, includes four general categories, 1) Bacteria, 2) Mercury, 3) Temperature, and 4) Illicit Discharges. Recently, the Federal government has attempted to pass Waters of the United States (WOTUS) which would give the Federal government, through the EPA, sweeping regulatory power over all public drainage ways. It is amazing how far reaching this power extends and is argued by many to be unconstitutional. The tangible concern is the result of this policy could mean future mandated requirements that could cost the City of Brownsville millions of dollars. The EPA through the State's DEQ could require the construction of a separate storm water collections system and, possibly, a treatment facility. Preliminary cost of such a system would be between \$10M and \$12M based on the 1996 Brownsville Storm Water Study. Mr. Frink and McDowell are in the process of re-writing the City's TMDL plan. The City is also working on the City's NPDES permit for the Wastewater Plants, which must be renewed every three years. Westech Engineering is assisting in this process. The bottom line is that Council must understand the



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implications of the TMDL programmatic effort and incorporate these requirements as part of Council goals. The City's size makes it nearly impossible to focus Staff's efforts in so many different directions when Staff already struggles with the myriad of tasks required by the State and Federal governments. Council may want to consider engaging State and Federal officials to demonstrate the local burden to the residents of our communities.

The major factor/contributor of water runoff is the forty-four miles of land between the beginning of the Calapooia River and the City of Brownsville. The agriculture lobby has exemptions that are unfairly burdening cities and counties. The State and Federal governments do not care about these major obstacles and have done nothing to assist by 'changing laws that would make them responsible for their "degradations"; under Federal law. Instead they have doubled their efforts to force cities and counties to find solutions, without any funding, and take the full brunt and anger of the general public. As Council moves forward, it is imperative to have a strategy that can be incorporated into Council goals. Administrative Assistant Elizabeth Coleman and McDowell recently attended a meeting in Harrisburg. Ms. Coleman recapped the meeting for Council. She said the first topic was enforcement, and that basically the cities are going to be forced to deal with this program. It was not mentioned where the funding for these requirements was going to come from. An average utility bill could easily go up \$80 on top of what they are already paying (which would double the average bill). There is no easy answer. Another question posed at the meeting, was "How does the City charge for a utility that we don't even have?" Mr. McDowell thinks that Council needs to redouble our efforts in talking to legislators and try to keep the matter in front of us. There is no easy answer.

Future Capital Improvements Planning – Part II – Mr. McDowell stated that the City is in serious need of infrastructure replacement and repair and planning for these issues must be addressed soon. The City made past decisions that have set precedence moving forward that eliminates some funding options. The City funded projects for water and sewer lines, for example, and did not assess the fees against the adjoining property owners (tax lots). Since this is the historic policy, it is too late to change that policy and do it differently now. It is important to remember that street improvements are different, those same precedents have not been set. Another option to remember is the fact that the City is not levying the full bond on the tax payers. We have supplemented the bond payment by levying a \$15 sewer bond debt on each utility bill so that the users are sharing the tax burden, instead of just the property owners. This funding goes into a special fund which generates about \$100,000 - \$150,000 each year. Council could change the percentages should they so choose.

Brownsville Community Foundation – Chenoweth Robertson – Mayor Don Ware declared a conflict of interest as he is on the Board for the organization. He will not participate in the discussion. Ms. Robertson stated that they have changed their name to the Central Linn Community Foundation to better reflect their service of the Central Linn area. Robertson stated that the Foundation awarded several grants last year, supporting various programs in the area, and totaling about \$5,000. She is here tonight to request funding for this year's grants. Last year the City donated \$1,250, and any amount the City could provide would be greatly appreciated. Councilor Cole stated that she has watched this organization grow over the last few years, and it is an impressive organization, with a very important goal. *Councilor Cole made a motion to approve a \$1,250 donation again this year. Councilor Gerber seconded the motion.* Discussion was called for. Councilor Shepherd stated that he would like to ramp it down a bit because of all the other commitments the City is facing. He sees a need to take control of the budget, and spend very wisely. Councilor Gerber feels that the City gives to a limited number of organizations, and this has a great benefit for our community and is a way help our most



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vulnerable folks. This donation allows Council an opportunity to direct folks to the BCF to apply for grants. Councilor Cole also stated that the BCF can be used as a conduit as a way to do good in the community, instead of having to entertain all requests at the Council level. Councilor Shepherd feels strongly that we need to give less; it is a very worthwhile organization, but we need to do what's right for everyone in town. Councilor Chambers thinks that this organization does encompass a lot of stuff that we are individually supporting. She does agree with Councilor Shepherd that we need conserve funding where possible. Councilor Shepherd stated that he would feel comfortable matching the \$500 that the City of Halsey donated. *Councilor Cole would like to amend her motion to give \$1,000 to the BCF. Councilor Gerber seconded the motion. It was voted on and passed, 4-1, with Councilor Shepherd opposing, and Mayor Don Ware abstaining.*

DEPARTMENT REPORTS:

1. **Sheriff's Report.** LCSO Sgt. Klein reported that there were 20 citations, 27 traffic warnings, 5 adults arrested, and the burglary investigations are continuing. They also spent 30 hours on traffic in October. LCSO has also assisted the City in citing ordinances, with two more to be cited shortly.
2. **Public Works.** Mr. Frink was excused from the proceedings.
3. **Administrator's Report.** Mr. McDowell reported that the person who vandalized the trees on Main Street has been caught. The City has been summoned to court in December; more information to follow. It may be too late to get replacement trees this year; it is weather dependent, time will tell. Under the Clean Water Act (CWA) every city or other public discharge point is required to have a NPDES Permit, which is required to be reviewed every three years. Westech Engineering is working with Staff on this project.

While Mr. Frink has been on vacation, Public Works Operators Josh Kometz and Andy Day have been holding down the fort. Mayor Don Ware stated that he had attended the Go Team Summit in Lebanon recently where McDowell was a speaker. Alex Paul, *Democrat Herald*, wrote a great article about the event. McDowell stated that Mayor Don Ware had also attended the last COG meeting.

The Cascade West Council of Governments has undertaken a study of how many rural cities have now lost their financial institutes. The COG held a meeting to discuss options. Yachats, Brownsville, and Scio were represented at the meeting. Scio is pursuing different options, but Brownsville and Yachats are very interested in a solution. One idea is for rural cities to compile a lump sum to lure some sort of banking into the area. No one is sure what that another model might look like, but perhaps a location could be a part of Dari-Mart, the Post Office or another like location. A follow-up meeting will happen in a month or two. McDowell stated that he thought it is a great idea to leverage several small cities over several rural counties together. The shock was initially very difficult, but we are now conditioned to go to town for groceries, hair appointments, and now, for banking services. For some businesses in town, the impact of not having a bank is a very big obstacle. One comment from the crowd was that every day from here forward, fewer folks are actually walking into a bank to do their banking. At least here in Brownsville, store fronts have never been filled; maybe we do nothing instead of trying to leverage some factors. More information to follow.

The City was recently hit with a ransomware attack. Basically this kind of attack is inadvertently downloaded, often through a disguised website that is one that you



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normally use. It locks up all your files, and basically holds them for ransom. If you pay the perpetrator, they will unlock the virus allegedly. This particular virus shut down the City computers for several hours while repairs were made. The COG sent down a computer technician, and he and Mr. McDowell found a un-encryption program to remove the ransomware from the system. The City was very lucky that the ransomware was discovered immediately, and contained to one computer. One of the major concerns would be if this ransomware uploaded to Gemini (the daily backup system initiated from New York through our software provider). McDowell's concern is what is the City's liability if a ransomware attack or virus is inadvertently uploaded from here during the backup operation? He has contacted CIS and they are delving into that matter further. This a growing concern every day, and no one seems immune. Cities are spending a ton of money on firewalls, etc. to try to prevent this from happening.

COG is working on the possibility of acquiring Accela (Springbrook) software that they might be able to subcontract out to cities for a fraction of the prices that we are paying now for general ledger and utility software.

McDowell reported that two of the RV's in non-compliance have complied. There are still a couple under review. LCSO is actively working on those situations.

McDowell asked Council how they would like to proceed with the leash law request from Jim Hagan last month. After discussion, it was mutually agreed that Council would not change the ordinance. Council would like Mr. McDowell to write Mr. Hagan a letter and advise him of Council's decision.

4. **Library Report.** No comments.
5. **Court Report.** No comments.
6. **Council Comments.** No comments.
7. **Citizen Comments.** No comments.

LEGISLATIVE:

1. **Resolution 2016.20.** Tabled, discussed earlier.

ACTION ITEMS:

1. **Marijuana Tax Collection IGA Option.** McDowell provided Council with an email from Wendy Johnson, League of Oregon Cities, containing a 15 page document that contains details concerning the State collecting the marijuana tax on behalf of the City. McDowell expressed that he thought this would be a valuable service. There is a 4% fee for collection. Mayor Don Ware and Councilor Cole volunteered to review the document. Council is comfortable moving forward with their direction. When the election results are certified, and if the marijuana issue passes, Council may need to move forward with that matter. Councilor Chambers stated that she had read the email from the Simpson's and stated that it is one of the nastiest letters they have written to us. She feels that Council has always been very polite and respectful to them. Two summers ago they showed their disrespect for the City and Staff by opening up and giving away free marijuana when they



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were told they could not open as a retail establishment. Chambers said that they have alienated folks around town, and have shown that they are not the good neighbors they purport themselves to be. If anyone disagrees with them, name calling ensues, and it would be nice if they started to show some respect in return. Quite honestly, Councilor Chambers says, that she is fed up with this kind of behavior.

2. **Brownsville Senior Center MOU.** At the last Council meeting McDowell was directed to move forward with a MOU with the Brownsville Senior Center with general purpose language. *Councilor Gerber moved to authorize Mr. McDowell to go forth with the MOU as written. Councilor Cole seconded the motion.* Discussion ensued. Mayor Don Ware and Councilor Shepherd excused themselves from the vote as they are members of the Senior Center. Councilor Chambers stated that she is uncomfortable with the 3-year term. Cole stated that she understands her position, but felt that this MOU supports the quality of life for the town, keeping the community tight and networked. She acknowledged that Council has massive budget concerns coming up, but that it is important to balance infrastructure versus benefit. Gerber remarked that the Senior Center provides a huge benefit to many people and other organizations in our community. Mrs. Marilee Frazier, Senior Center President, spoke next highlighting a few of the services that are offered to seniors through this Center. They help folks find services, loan out equipment, help with transportation to get to town, offer Medicare counseling, and have an emergency calling tree for seven different zones around the community. They also open up their facility when the town has an event for restrooms and respite. *A vote was called for, with Councilor Gerber and Councilor Cole voting yes, and Councilor Neddeau and Chambers opposing. Motion failed. Councilor Neddeau made a motion to modify the agreement to an annual term. Councilor Chambers seconded the motion with Councilor Neddeau, Chambers, and Gerber voting yes, and Councilor Cole opposed. Motion passed.*
3. **Chamber of Commerce MOU.** McDowell stated that Chamber President John Morrison was unable to be here. McDowell highlighted some of the Chamber activities. *Councilor Gerber made a motion to authorize McDowell to facilitate the Chamber MOU. Councilor Cole seconded the motion and it passed unanimously.*
4. **Alyrica and Fiber Optic Internet.** McDowell has been approached in regards to interest in a fiber optic internet option for the City. Alyrica is currently installing a fiber optic system in Halsey, and is looking for interest to install the same in Brownsville as the company's next project. McDowell stated that it may be the most expensive of internet options, but feels that it is vital system for the City to have access to because of the myriad of opportunities it opens for citizens of Brownsville. Councilor Gerber asked about the cost difference. McDowell replied that we have no information on that just yet. McDowell asked Council members to chat this up with folks around town to see if they are interested in this better internet service.

DISCUSSION ITEMS:

1. **Canal Company Update.** McDowell asked to table this item for now.



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2. **LOC Councilor Basic Training.** Councilor Cole informed Council of an upcoming training titled "Elected Essentials" in Lebanon on January 25th, 2017 from 8:30 a.m. – 4:15 p.m. This is a free workshop offered through the League of Oregon Cities, and it sounds like it would be extremely important for Council to attend. Topics range from: how to use your League, the role of elected official and staff, land use, city finances and budget, legal issues (ethics, meetings, and elections), and risk management. You will need to register to attend the training. This topic will be discussed again in December.

3. **October Financials.** No comments.

CITIZENS COMMENTS – No comments.

COUNCIL COMMENTS – No comments.

EXECUTIVE SESSION – Executive session was entered into at 8:16 p.m.

- Oregon Revised Statutes, Chapter 192.660 governs the conditions for a public body to convene in an Executive Session. The City will invoke Section (i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.
 - ▶ 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.

Executive session was exited at 8:20 p.m.

Councilor Gerber moved to authorize Mayor Don Ware to contact the City Attorney regarding the employee contract if needed. Councilor Cole seconded the motion, and it was approved unanimously.

ADJOURNMENT: *Councilor Cole moved to adjourn at 8:21 p.m. Councilor Shepherd seconded the motion, and it passed unanimously.*



City Administrator S. Scott McDowell



Mayor Don Ware