



# Council Minutes

June 25<sup>th</sup>, 2019

**ROLL CALL:** Mayor Don Ware called the meeting to order at 7:00 p.m. with Councilors Neddeau, Chambers, Block, Thompson, and Hansen present. Councilor Gerber was excused. Administrative Assistant Tammi Morrow, Public Works Superintendent Karl Frink, and City Administrator Scott McDowell were also present.

**PUBLIC:** Allen Buzzard, Joe DeZurney, Danielle Meyers, Austin Snelling, David Heinz, Jack Alsman, Wendy Toshitsune, Elizabeth Coleman, Lieutenant Michelle Duncan (*Linn County Sheriff's Office*), Bryan Bradburn, and Tia Parrish (*The Times*).

The pledge of allegiance was recited.

**ADDITIONS AND DELETIONS:** None tonight.

**MINUTES:** Councilor Block made a motion to approve the May 28<sup>th</sup>, 2019 meeting minutes as presented. Councilor Neddeau seconded the motion, and it passed unanimously.

## **PUBLIC HEARINGS OR PRESENTATIONS:**

1. **FY 2019 – 2020 Budget Public Hearing.** Mayor Ware opened the public hearing for public input. Allen Buzzard, 220 School Ave., spoke thanking everyone who had helped during Pioneer Picnic. He complimented Mr. McDowell and Mrs. Morrow for putting together a splendid budget addressing many needs that are prudent, conservative, and mindful of the conservative tendencies of many of the residents. He would like to make a request regarding the ongoing speeding issue. He stated that Ed Peterman came before Council and presented possible steps that could be taken regarding the safety of the downtown crosswalks. After more conversations with folks of Brownsville, Mr. Buzzard now thinks that is putting the cart before the horse; safety is important, yet Brownsville streets are very narrow and yet it is paramount of importance to preserve historic value. He has been talking to folks and getting them to sign a petition about some of the possible changes they would like to see. He believes the traffic impact analysis is the first proper step to happen with upcoming build outs and projects, traffic will be increasing. Councilor Hansen asked Mr. Buzzard's opinion of what the advantage for the City would be to do the traffic study now, or wait until traffic does actually increase? Buzzard stated the statutes allow Council to adjust speed limits outside of County code; he says Council has the authority to do that and change speed. His biggest concern is for Mr. Peterman, Buzzard is petitioning on his behalf. Mr. Buzzard also stated that if a pedestrian is hit in a crosswalk, after all these concerns have been raised, the City and CIS will be liable. Mr. McDowell injected here stating that there is actual statute, and then there is practice. Mr. Buzzard is correct, in that the statute does say that the City trumps the County, but Mr. McDowell assured everyone, that any change in speeds on County roadways will be approved by Linn County. The bottom line is, if there was an issue involving a car and a pedestrian, it would be a private matter, not a City matter. McDowell also stated that perhaps there is some merit in reviewing what Mr. Buzzard has brought before Council tonight. Is Council interested in reviewing the matter, even though Council has already made a decision on this issue? Councilor Block stated that he would like to wait. Councilor Chambers stated that the person you are concerned about has done nothing other than put a triangle on the back of his wheelchair. He has a responsibility to be as safe as possible and it doesn't appear that he has made



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that effort. We all need to take responsibility for ourselves regardless. Councilor Thompson stated that she is conflicted. Council has already made the decision a couple of months ago that we do not want to invest the funds for the traffic study at this time. She actually voted for the traffic study, but the majority of Council voted against it. Councilor Thompson is concerned about setting a bad precedent. How many other times will this come back up and will we have to revisit all issues? Councilor Chambers stated that if there is new information on an issue, we could revisit the issue; she is not hearing new information tonight.

- 2. Concert in Pioneer Park – Joe DeZurney.** Joe DeZurney, Locust Avenue, stated that he has lived here almost 50 years. He has been the coordinator for the Antique Faire in the Park for many years. He has decided that this will be his last year of serving in that capacity; and is interested in changing it up this year and adding a music festival to the day's activities. There is a lot of local talent, and he has secured about 15 musicians. DeZurney has approached the Chamber and asked if they would cover the additional expense for the insurance for this expanded event. He said they wholeheartedly welcomed him to do it. He stated that the Chamber will serve lunch and dinner, and then someone mentioned having a beer garden. So, he again approached the Chamber, and they were aware that the Council does not allow alcohol in the Park due to an ordinance, but variances have been given in the past, so he is here to petition Council to allow alcohol in the Park.

Mr. DeZurney approached Michelle Harper, Harpers Winehouse, and she agreed to do the event. The Dance Hall would be the enclosed beer garden, with another stage at the grandstands. He is here asking for permission or a variance to allow alcohol in the Park for this event to raise revenue that has been lost. DeZurney would like to make this another part of the Chamber event going forward, possibly a two-day event, or perhaps a different weekend. He encouraged Council not to wait for more study for this event. He stated that he is fine doing the music festival without the alcohol as well. The Chamber of Commerce seems to be driving the alcohol issue to raise more money. Councilor Block stated that he doesn't see the need for alcohol in the park. Mr. McDowell filled in some background information, and stated that for a long, long time Linn County Picnic Association (LCPA) had an event that allowed a beer garden. After a period of time, the beer garden idea got out of control, and was causing a lot of troublesome issues. At that time, City Council said no more alcohol in the Park. If folks drink responsibly it is probably okay, but as soon as it gets out of control, LCSO can remove folks from the Park. More recently, in 2009 & 2010, Council allowed LCPA to do alcohol in the park again for two years. It did not work; there was not enough revenue made due to all the OLCC requirements and standards that must be met.

Mayor Ware asked about the attorney's comments. City Attorney Ross Williamson has stated that he thinks it is a bad idea, and the problem is that now we are subjugating our authority to the Chamber which is another organization. What about allowing Rally on the River or anyone else that wants to have alcohol in the Park?

Procedurally, if we try to make this move tonight, Council would have to pass an emergency ordinance to allow alcohol in the park due to the time frame required by Antique Faire, which is not the best idea according to the attorney. When changing an ordinance, Council has always allowed proper time for public input through public hearings. Emergency passage presents a significant perception problem as well by circumventing these processes.



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The insurance pieces described would be the liability insurance provided by both the Chamber of Commerce and the alcohol provider. In a worst-case scenario, if there is a wrongful death situation, it is likely folks would pursue the City for permitting the event through these procedures. The question is really two decision points tonight, whether or not to allow the event and whether or not to allow alcohol in the park for this event. Councilor Hansen stated that there really needs to be more time to look at this. What is Council's risk level? Mr. DeZurney stated that there's alcohol in the park every day; you have those same risks every day right now as folks are drinking in the park every day. Councilor Neddeau agreed, but stated that the difference is that it is not a sanctioned risk as we are not allowing that and giving that consent. He further stated that he has no problem with the alcohol, other than the location of the City park.

Councilor Hansen stated he feels some discomfort and anxiety at a fundamental level with the idea of alcohol in our public Park. The park should be somewhere that anyone can go to at any time. A beer garden can still spill out many problems, and this would set a precedent that we may not want to set. Councilor Thompson stated that she would like to know how it could play out, and alcohol events in the Park might be okay, but not yet, it is too soon, too quick; more work to do before that happens. Mr. DeZurney said that he is not talking about next year he is trying to do this event this year. *Councilor Block made a motion to approve the music festival in Pioneer Park during and following The Antique Faire, August 3<sup>rd</sup>, 2019. Councilor Chambers seconded the motion and it passed unanimously.*

*Councilor Block made a motion to deny the alcohol request and honor the current ordinance. Councilor Hansen seconded the motion, stating that he felt we did not have enough information to make any other decision tonight. The motion passed unanimously, with Councilor Chambers stating that she may like to see an adult event in the Park in the future.*

### **DEPARTMENT REPORTS:**

1. **LCSO Sheriff's Report.** Lieutenant Michelle Duncan presented the numbers for May 2019. There were 21 traffic citations, 47 warnings, and 9 adults arrested. LCSO devoted 10 hours to traffic, and 204 hours overall. Duncan also stated that there were lots of traffic stops, lots of park patrols, and parking complaints in Fields Court and Moody Court. The break-in at Napa is still an active investigation; the video surveillance has been helpful in this case.

Councilor Chambers stated that she was concerned about some of the warnings given for speeding; 15 of them were 49 miles per hour and 35 mile-per-hour zone. Lieutenant Duncan stated that there is no hard, fast line. Officer discretion is held by the deputies in the situation. It's not all about the speed, sometimes there is compassion to be used as sometimes people need a break. Roadside education is the true goal, and it is for the deputies to determine whether a warning or citation will be the best option.

Mr. McDowell stated that it is important for LCSO to let Council know how many hours can be entailed on each type of call. Duncan went on to describe different scenarios and time frames that may be needed to complete certain calls to the LCSO. McDowell thanked her, stating that it is important to understand and have context for Council members and the general public. Traffic is not the only service the City receives through this contract with the LCSO. Lieutenant Duncan feels that in the last year to LCSO has made improvements in the traffic area.



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- 2. Public Works.** Mr. Frink reported that Public Works has had several small water leaks over the last month mainly due to shut off valves failing. He has switched to a different type of water valve, stainless steel, which are more expensive, but over the long run should pencil out. The wastewater treatment plant switched to the Calapooia River on May 1<sup>st</sup>, as the river could accommodate that switch. The south treatment plant has finished discharging as normal; it is working well. Frink is trying to run it a little high to minimize odors, and to do that he has to plan six months in advance.

Frink reported that he continues with the electronic reporting for DEQ. It is an incredibly frustrating system to use. The program overly complicated, and not user-friendly. McDowell suggested that Mr. Frink bring an example to show Council next month. Mr. Frink stated that Public Works is getting ready to do the dust control, and crews are preparing the roads for that. The majority of their time has been spent getting ready for Pioneer Picnic. Crews have been cleaning flowerbeds, pruning, mowing, weeding, and generally making everything as presentable and inviting as possible in town. Pioneer Picnic ran smoothly more or less, with the normal hiccups. There was an issue with the information booth key situation, ramps that could not be found. New ramps were constructed and put into place before the event. The cemetery has been mowed again, and he has recently marked several plots up there.

- 3. Administrator's Report.** Mr. McDowell stated that he had been asked by John Lee, Brownsville American Legion, to speak at Boys State at Western Oregon University. McDowell spoke about what the City's role is, duties, responsibilities, etc. McDowell also spoke recently at the Chamber monthly luncheon. The Park was a big discussion point. Again, Council had no other option than to retreat from the river. Folks are encouraged to review more information about this issue on the website.

McDowell discussed the nuisance abatement process. Council tends to favor "a kinder, gentler process" to Code enforcement. Staff has added an RFA (*Request for Action*) letter to the nuisance process, basically asking for compliance before a nuisance is posted. From about the end of May through September, Staff goes out on a weekly basis. There are many different levels of abatement and staff will watch some things for a couple of weeks hoping for resolution. Most of the time, situations resolve. If they do not then an RFA letter may be sent, and then actual abatement happens after that. The City has a third-party person that does the abatement mowing. Often the third-party person makes arrangements to mow for the property owners automatically. It is important to remember that abatement mowing is not aesthetic issue, it is for fire hazard.

In July, Staff will be finalizing the budget and inputting it into the general ledger system. There are bond payments to make, and loans to retire.

McDowell is working with EPC to make a joint website for all things EPC. The Canal Company is still a work in progress. The Ad Hoc Committee on Facilities is still at work determining next steps. Soon the City will hire a structural engineer to review the Rec Center. The advocacy at the COG is going well, and some things came out of committee due to what we are doing now. It's a pretty good first year effort. In the future, we need to work doubly hard to make sure that we are working in the workgroups where a lot of things are decided before bills get to the legislators.



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

### **LEGISLATIVE ITEMS:**

1. **Resolution 2019.12 – FY 2019 – 2020 Budget Adoption (Annual).** *Councilor Block moved to approve 2019.12, as presented. Councilor Chambers seconded the motion, and it passed unanimously.*
2. **Resolution 2019.13 - Water Rates (Annual)** *Councilor Block made a motion to adopt R 2019.13 as submitted. Councilor Hansen seconded the motion, and it passed unanimously.*
3. **Resolution 2019.14 – Sewer Rater (Annual).** *Councilor Block made a motion to adopt R 2019.14 as submitted. Councilor Hansen seconded the motion, and it passed unanimously.*
4. **Resolution 2019.15 – Year End Transfers FY 2018 – 2019 (Annual).** *Councilor Block made a motion to adopt R 2019.15 as submitted. Councilor Hansen seconded the motion, and it passed unanimously.*

### **ACTION ITEMS:**

1. **Approved Delinquent Assessments.** *Councilor Block made a motion to adopt the delinquent assessments list as submitted. Councilor Hansen seconded the motion, and it passed unanimously.*
2. **Capital Improvements Plan (CIP) Update.** *Councilor Block made a motion to approve CIP as submitted. Councilor Hansen seconded the motion, and it passed unanimously.*

### **DISCUSSION ITEMS:**

1. **Allen Buzzard Request.** Mr. McDowell asked Council if they would like to discuss the Allen Buzzard proposal. Mayor Ware stated that Council has decided this issue three or four times already. Councilor Block stated that he felt Council, by consensus, was comfortable staying with the decision that has already been made. Councilor Thompson stated that over time as she looks back, Council has approved expenditures that don't always make perfect sense, like the cat situation, spending money that we didn't always need to spend. She understands that \$6,000 is a lot, but perhaps a traffic study may give us the information we need to stay here, or move forward; it may clarify the situation. Councilor Neddeau stated that he doesn't see it is a huge problem, it's not an over and over again situation where people are almost getting killed. Speed limits will be exceeded even if they are set lower. Councilor Hansen stated that he thought there were things we could do



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without the traffic study and is unsure about spending that amount of money. He suggested crosswalk flags which would be in inexpensive measure with minimal aesthetic impact downtown. South of the post office, that space creates some visibility issues that may need to be addressed. He is not necessarily opposed to funding this traffic study. McDowell said the first step to do is the traffic impact study before Linn County would consider moving forward. No motion was forthcoming, Council moved on.

2. **Council Work Session.** McDowell stated that it has been about six months since the last work session. He asked if Council would like to check in after the meeting in July and have a short session. Council concurred.
3. **Annual Master Checklist (MTTDL) Review.** McDowell informed Council that he prepares this list every year about halfway through the year. It gives Council the width and breadth of what is happening at City Hall. The list is linked to priorities set up in the budget. We are constantly hit with a lot of things that don't make this list. In green and white in the Council packet you will find a lot of things that don't always hit the MTTDL list. It is also important to remember we also have our regular jobs and duties to fulfill and stay compliant. Every two years Council gets 38 to 50 priorities to review for goal setting. Many situations are identified and reviewed, then Council goals are set. In February, we will reassess where we are at, and what we have accomplished. Our performance is very linked with Council goals and priorities.

McDowell clarified that the City does not spend money 'willy-nilly' at all, we have more than doubled the treasury in 13 years while funding \$4 million worth of public projects, and getting an A+ rating from Standards & Poors, which is unheard of for a town this size. Councilor Thompson objects to willy-nilly; McDowell stated that it was alluded to, but willy-nilly is his wording. McDowell stated that in reference to the issue with the cats on Moody Court, it was a public health situation, that had gone on for a long time. Multiple families were being impacted. Kids were coming up here with flea bites, pock marks, and other medical issues and implications. It was not taken lightly, and we spent the least amount of money while getting the situation under control. Multiple cats (more than 30) were taken off the property which benefited the health of the whole neighborhood and its inhabitants. Trapping feral cats is basically what had to happen to get resolution. That situation was not in the priorities list, but sometimes priorities are going to change as needs change and situations develop. The budget had some funds put away for a vector truck, but the downtown sewers are becoming a much higher priority and will need more immediate attention soon.

Councilor Chambers inquired about the email from Steve Uerlings referencing an update as of July 1, 2019 regarding the Oregon tort limits. McDowell stated that the tort limit is going up, but Barker – Uerlings is confident that \$2 million is enough for now. It will likely go up in the future.

4. **April Financials.** No comments.



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**CITIZENS COMMENTS** – Danielle Meyers, 333 North Main St., stated that she would like to address the crosswalk issue. She said it is not just an Ed Peterman problem. She has nearly gotten plowed down twice. There's a lot of people that are impacted from the speeding folks. Councilor Hansen asked if she had a solution for the problem. Ms. Meyers likes the flag idea, she would also like to see a pushbutton crosswalk, possibly a lit-up crosswalk. She stated she is a big city girl and is very comfortable with that idea.

Bryan Bradburn, Washington Avenue, asked where all the speeding is occurring? He said that he has occasionally seen it on Highway 228, but what is the source of all this in downtown? He suggested putting in a speed bump to slow everyone down.

**COUNCIL COMMENTS** – Mr. McDowell responded to the sidewalk conversation. He says that the State and County are anti-speed bump right now and speed bumps are being removed all over the place. The installation of a speedbump would need to be part of a traffic impact study. Speed bumps can cause vehicle damage and people are suing over entities over damages. Councilor Hansen stated there are likely some considerations to be thought of for speed bumps and parking will have to be addressed as well. You need to be able to go over a speedbump at the posted speed limit. If you go over a speedbump at 25 miles per hour you will do damage to your car.

**ADJOURNMENT:** *Councilor Block moved to adjourn the Council meeting at 8:41 p.m. Councilor Chambers seconded the motion, and it passed unanimously.*

Handwritten signature of S. Scott McDowell in blue ink.

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City Administrator S. Scott McDowell

Handwritten signature of Don Ware in blue ink.

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Mayor Don Ware