

January 14, 2008

**City of Milton-Freewater  
City Council Minutes**

The Council of the City of Milton-Freewater met in regular session Monday, January 14, 2008 at 7:00 p.m. in the Albee Room of the Library.

The following members were present: Council President Debbie Kelley, Councilors Orrin Lyon, Ed Chesnut, Keith Woods, Steve Irving, Brad Humbert and Youth Councilor Patsy Sandoval.

Mayor Lewis Key was absent due to being ill.

Staff members present were: City Manager Linda Hall, City Recorder Leanne Steadman, Police Chief Doug Boedigheimer, Code Enforcement Officer Angie McColley and Public Works Superintendent Dave Bradshaw.

Citizens present were: Christine Boedigheimer, Mike Onstot, Catherine Anderson, Paul Seaquist, Dorothy Heard, Merle Sherman and Robert Guerro.

Press member Melanie Hall of the Valley Herald was present.

**CONSENT CALENDAR ITEMS:**

The consent calendar items consisted of minutes from the December 10, 2007 regular council meeting and January 7, 2008 special session emergency meeting, Accounts Payable from December 7 – January 7, 2008. Councilor Chesnut motioned to approve the consent calendar items. Councilor Irving seconded the motion which passed unanimously.

**BUSINESS ITEMS:**

**RESOLUTION NO. 2069 ACCEPTANCE OF REVENUES FROM SALE OF  
SURPLUS PROPERTY ON CHUCKHOLE LANE**

Public Works Superintendent Dave Bradshaw presented some background information on this resolution. He said in March 2007 staff requested Council to declare this property to be surplus, which Council did, by resolution #2039. These revenues would be applied to the streets maintenance budget since this property was originally purchased by the City through the Streets Storm Water Program. Councilor Humbert moved to adopt Resolution number 2069, Resolution Supplementing Fiscal year 2008 Budget by receipt of \$7,328.00 in funds for the sale of approximately 11,887 square feet of City-owned property declared as surplus to Bryan and Erin Johnson. Councilor Woods seconded the motion which passed unanimously.

**ORDINANCE NO. 946 AMENDING CITY CODE TITLE 8, CHAPTERS 4 & 5  
REGARDING ANIMAL CONTROL REGULATIONS**

Police Chief Doug Boedigheimer explained he and Code Enforcement Officer Angie McColley had implemented some changes that were mentioned in the last City Council meeting on December 10, 2007. He explained that Ms. McColley diverted the language back to how it was in the old ordinance regarding horses and pigs. Chief Boedigheimer understood there were more questions on the new ordinance being presented.

Council President Kelley asked if there were any questions from council.

Councilor Humbert stated he felt that this ordinance should be tabled until council had the chance to discuss the recommendation that Councilor Chesnut had with the process of passing ordinances, which was on the agenda for the meeting.

Councilor Woods recommended switching the order of the agenda items to address the discussion topic of passing ordinances.

Councilor Chesnut said he would have been suggesting to not adopt the animal control ordinance. He felt there were still several things to discuss.

Council consensus was to discuss Councilor Chesnut's suggestions on the process of passing ordinances before anymore discussion on the animal control ordinance.

**DISCUSSION ON CHANGING THE PROCEDURE FOR PASSING ORDINANCES**

Councilor Chesnut explained he has been concerned about the procedure for adopting ordinances. Currently an ordinance is introduced and read by title only, then council votes and the ordinance is read again by title only, then a vote to pass the ordinance. Councilor Chesnut said the charter plan originally was that there should be some kind of time frame between the first reading and the second reading so citizens that were not aware that was coming as a business item would get a chance to read about it in the newspaper and have a chance to voice their opinion at the second reading. Councilor Chesnut went on to explain in most cases the ordinances brought before council were not under a severe timeframe to be passed in a single meeting. Councilor Chesnut suggested changing the ordinance procedure to be that a reading is done at one meeting and the second reading is done at the next successive meeting and then have a vote for the passing of the ordinance. The City Charter does allow council to follow the procedure of passing an ordinance in a single meeting if an emergency dictated.

City Manager Hall said staff had no objections to the suggestion of changing the process of the passing of ordinances.

Councilor Humbert felt this was an excellent idea; he felt there should be a delay in-between introducing an ordinance and passing it. This gives the public one more chance to speak their opinion.

Council President Kelley clarified this would only affect ordinances and not resolutions.

Councilor Lyon said he had also thought about this in the past and he completely agrees with changing the procedure so long as the ability to still read the ordinance by title only

and not have to read the whole ordinance would still stand. Councilor Lyon said he would want to make sure the ordinance would be available for citizens to review.

Ms. Hall said if council changed the draft of the ordinance in-between the two readings then council would have to start over. She also stated that there is a council packet available at the library for anyone to check out. The agenda is posted to the city website and there are information packets and agendas available at the council meeting for anyone to review. Also, citizens are welcome to stop by city hall during regular business hours to get information on the meeting. Ms. Hall reviewed the current process of an ordinance which is after council adopts an ordinance it then gets advertised in the newspaper of record, the Valley Herald. The ordinance does not go into effect until 30 full days after it is published. This gives any citizen an appeal period, even after the ordinance is adopted.

Councilor Chesnut asked, with councils suggestion on changing the ordinance adoption procedure this would not take council action, (a resolution or an ordinance) to change this other than council consensus that it would now take two meetings to pass an ordinance unless an emergency dictated otherwise.

Ms. Hall concurred. She also stated that staff would inform council ahead of time if an ordinance needed to be addressed as an emergency due to public safety or welfare and it needed to be passed in the more accelerated manner.

Council consensus was to pass ordinances in two successive council meetings unless an emergency dictated otherwise.

**ORDINANCE NO. 946 AMENDING CITY CODE TITLE 8, CHAPTERS 4 & 5  
REGARDING ANIMAL CONTROL REGULATIONS**

Police Chief Doug Boedigheimer and Code Enforcement Officer Angie McColley took the podium.

Councilor Chesnut voiced his concern which was a continuation from Councilor Humbert's question from the December 10, 2007 meeting which was in regard to the definition of a kennel. His primary concern was the definition of a kennel and who a kennel operator was. He felt the language stated if you sell puppies then you are a kennel operator but the verbal response was no you are not an operator. He had done some research in the Oregon Revised Statue and it referred to an amount of \$250.00 annually and if that amount was exceeded then it would be considered an animal dealer which is not mentioned in the city ordinance. He stated he knew of a family that did raise puppies, several litters a year and they live in town. They do sell those puppies and exceed the \$250.00 total which could cause them to be in violation of the old ordinance.

Code Enforcement Officer Angie McColley replied that the changes she made were from the meeting of December 10, 2007 in that the old ordinance said "compensation" and her suggestion was to replace that with for "profit". Ms. McColley stated the intent of the "commercial kennel" section is to give the city the ability to say to someone that may have 10 dogs on their property and are a chronic source of complaint by the neighbors that they cannot operate a kennel inside city limits. She said most individuals that would classify as a "commercial kennel" would have 3 or more breeding female dogs which would produce

2, 3, 4 or 6 litters a year. This would be different than the family who has one female dog who is raising one maybe two litters a year.

Councilor Chesnut said Ms. McColley's explanation is different but the definition of "commercial kennel" doesn't seem to specify that. He stated his other concern is that citizens would take in dogs to be cared for and be making a profit from that. This type of service is one Councilor Chesnut does not want to see in the city.

Councilor Humbert agreed.

Ms. McColley said this type of "kennel" was defined and addressed already in the ordinance under "commercial kennels prohibited".

Ms. Hall asked Ms. McColley what the intent of the "commercial kennel" section was. She specifically asked if it was to avoid having "puppy mills" inside city limits.

Ms. McColley said the intent was to prevent puppy mills and unsanitary conditions on properties within the city limits.

Councilor Chesnut said the distinguishing word was "for profit" and referred back to the family he knew that was raising the puppies but was doing so as a hobby but making a profit too.

Ms. McColley replied the family that was raising the puppies for a hobby was not doing it to make a living.

Councilor Chesnut said the word "profit" seems to be the concern and the definition of "commercial kennel" seems to be describing something that needs to be controlled, which is not actually being controlled.

Councilor Humbert said the definition for "commercial kennel" also defines cats.

Ms. McColley said currently the city does not have an ordinance regulating cats.

Councilor Humbert and Councilor Chesnut felt the word "kennel" needs to be more defined and not based on "profit".

Councilor Woods suggested having a number assigned to the description of "commercial kennel" instead of the word "profit".

Ms. McColley said that Councilor Wood's idea may be something to think about. Assessing a dollar value to the definition of "commercial kennel" may work but she stated that would be very difficult to keep track of.

Council President Kelley stated there is a limit of 3 adult dogs per property and if there was a limit of dogs as part of the description then that could alleviate trying to keep track of their "profit".

Ms. McColley recommended striking the word “commercial” from the description and just leave the word “kennel”.

Council consensus was to strike the word “commercial” and specify 3 adult dogs in the definition of kennel.

Ms. Hall reminded the council that the animal control ordinance is complaint driven. The city does not have the staff to go door to door to make sure citizens are in compliance.

Councilor Lyon asked if there was something that could help with the cat population.

Ms. McColley stated there are some agencies that have taken a trap-kill approach to cat problems. She said studies in the past 10 years have shown that the trap-neuter program is the most feasible way to control cat populations. The PETS of Milton-Freewater and the Cat’s Meow have been working on the trap-neuter program and have shown their dedication to the program and Ms. McColley does believe this program has helped.

Councilor Woods asked Ms. McColley to explain why she had added “wolf hybrid dogs” to the definition of “Exotic, Wild or Dangerous Animal”. She said that a “wolf hybrid dog” would not be licensable within the City of Milton-Freewater. The reason for that is the Oregon State Department of Health maintains that a rabies vaccination given to a “wolf hybrid” has no legal standing. The vaccination drug companies have not done any studies on how their products work on a “wolf hybrid dog”.

Councilor Chesnut stated another concern of his was the statement of a “secure six (6) sided enclosure” which could mean an enclosure that could have six sides but still would not secure the animal. He requested the language to be changed to say “a secure closure” instead of specifying the number of sides.

Ms. McColley said the intent was for the enclosure to have a secure top and bottom so the animal could not climb over or dig out.

Council consensus was to change the language of a “secure six (6) sided enclosure to a “secure enclosure which includes a top and bottom” for clarification.

Councilor Chesnut had a concern with a dog that has been deemed potentially dangerous and to meet the ordinance requirement they gave the dog away to someone outside city limits. His concern is the original owner could “dog-sit” the dog on a daily basis. He said the language is not strong enough to eliminate the potential of that happening.

Ms. Hall said that paragraph could be easily fixed by adding, “permanently transferred” or “such dogs may not be allowed back in city limits”.

Ms. Hall stated if the city has deemed a dog to be potentially dangerous then neighbors and people who are nearby are going to notice that dog and call the police to report it. At that point then Ms. McColley would respond and make it clear to the dog owner that by allowing them to give their dog away to someone outside the city limits was to give their dog another chance. Ms. Hall said the dog owner at that point would be told that they were now putting the dog’s life at jeopardy by not following the agreement.

Ms. McColley said at that point then a contract would be made with the dog owner and failure to comply with the agreement would result in euthanasia of the dog.

Ms. Hall stated that Ms. McColley has done a lot of work on flyers and the contracts that were being referred to that would be presented to council at a later time.

Councilor Irving moved to table Ordinance No. 946 Amending City Code Title 8, Chapters 4 & 5 Regarding Animal Control Regulations. Council Humbert seconded the motion, which passed unanimously.

Council President Kelley noticed that a citizen had a question and asked her to please approach the podium.

Catherine Anderson – 315 S. Elizabeth, then approached council. She referred to the ordinance definition “minimum housing requirements”. She stated she had brought to Ms. McColley’s attention a situation where a dog was housed in what she considered a “cage” and not a “kennel”. She said the dog lives in a very small “cage” and she never sees the dog taken out for walks or exercise. She asked if there was something else in the ordinance that would help the situation of the dog she was referring to.

Ms. Hall said under the current ordinance there would not be, but under the new ordinance there would be.

Ms. McColley replied, she has responded to the situation that Ms. Anderson had brought to her attention and Ms. McColley said she has seen the dog out of the kennel and on walks with the owner.

Councilor Woods asked about the proof of liability insurance for personal injury of \$100,000. He stated that seemed to be a standard policy but asked if you must disclose that it was because of a dog issue.

Council President Kelley also had the same question of if that \$100,000 was for the dog or if someone just had to show proof of liability insurance.

Ms. Hall replied that the citizen must show that they have liability insurance through their home owner’s insurance policy.

Councilor Woods stated his concern was having a \$100,000 liability insurance policy but maybe it would not cover dog bites. He asked if then would the dog owner have to go back to the insurance carrier and show proof that it would include a dog under that policy.

Ms. McColley stated in the “Dangerous Dog Packet” that she has created it includes that the dog owner must go to their insurance company and show proof that their policy does cover the dog.

Councilor Lyon asked about those dog owners who do not own a home or may not have insurance.

Ms. McColley replied that the dog owner would have to go to an insurance company and explain what was going on and the reason for requesting a policy of liability insurance not less than \$100,000 to keep their dog.

Ms. Hall suggested renters insurance policies could also include coverage.

Youth Councilor Sandoval asked how this ordinance would be enforced, would it be enforced strictly by complaint.

Ms. Hall and Ms. McColley both replied yes, it's strictly customer complaint driven.

Mike Onstot, 112 NE 2<sup>nd</sup> – He stated he was concerned about if a dog had been declared a vicious dog and was given to someone in the country if that meant it couldn't come back into town in the back of a pickup. He felt that needed to be addressed.

Councilor Humbert said that issue would be addressed in the vicious dog packet once the ordinance was passed.

**RESOLUTION NO. 2070 AMENDING DOG LICENSE FEES**

Council agreed to table this resolution, as it is connected to changes to the ordinance which had been tabled.

**APPOINTMENT OF A REPRESENTATIVE TO SERVE ON THE GREATER EASTERN OREGON DEVELOPMENT CORPORATION**

City Manager Hall explained that GEODC is a non-profit agency made up of representatives from Umatilla County, the Tribes, the Port Districts and the cities of Milton-Freewater, Hermiston and Pendleton. The smaller cities of Adams, Athena, Echo, Helix, Pilot Rock, Standfield, Ukiah, Umatilla and Weston are collectively represented by one member. Ms. Hall said the mission of the agency is primarily economic development. Former City Manager Delphine Palmer was the representative prior to her retirement. The board meets annually.

Council President Kelley recommended continuing to have the City Manager be the representative. She felt that the City Manager Linda Hall has the ability to speak on the councils behalf and has regularly brought back information to council that they need from the meetings.

Councilor Chesnut moved to appoint City Manager Linda Hall to the GEODC Board of Directors. Councilor Humbert seconded the motion which passed unanimously.

**APPOINTMENT OF TWO COUNCIL REPRESENTATIVES TO ASSIST WITH DEVELOPING CITY COUNCIL'S BUDGET**

Ms. Hall explained that the council has a small portion of the budget and she felt it would be important for council to appoint two representatives to help design that budget.

Councilor Irving and Councilor Humbert both volunteered to assist with developing the City Council's budget for fiscal year 2009.

## **OPPORTUNITY FOR CITIZENS TO APPROACH THE COUNCIL WITH ISSUES NOT ON THE AGENDA**

Catherine Anderson, 315 S. Elizabeth – She wanted to thank all the public employees for the great job during the storm on January 4, 2008. Her concern was for a tree that was about to fall on her house. She felt she needed to go somewhere else for shelter. She explained she called the police department, library, city hall and the Oregon extension office and no one seemed to know where she could go. She decided to call the Red Cross in Walla Walla and they mentioned to her that there was a retirement facility in Milton-Freewater that probably could help her and her mother. The facility Red Cross was referring to was Evergreen. After the storm she looked on the City website and found that there was some information along with a map. She feels people should know about that information is available possibly putting something in the utility bills.

Ms. Hall told Ms. Anderson had she called her office she would have told her to shelter in place. Ms. Hall said it was probably safer staying inside then to be out in the storm. Ms. Hall talked about the CERT (Community Emergency Response Team) program that Teresa Dutcher is involved in and that she could get some information to her about it. CERT is a private organization that partners with the City. She stated the primary function of the city during an emergency is to keep governmental operations going. Citizens are asked to be prepared for an emergency which would include a 72 hour kit and somewhere safe to go. After the power was restored to the Community Building it was opened up and was used as a shelter with limited resources. She reminded all citizens that the City's electric utility does not guarantee power in all circumstances – no utility does.

Merle Sherman, 716 Pierce – He shared a situation he found himself in during the storm when his minister asked him to check on his church. As he was driving down the alley he noticed a full sheet of tin coming towards him. He said he stopped it with his pickup truck and then moved it to a safe place. He added the conditions of the storm made it very dangerous to be out.

## **MANAGER'S REPORT**

City Manager Hall stated there was a recruitment going for Library Board, Budget Committee, Recreation Committee and Planning Commission vacancies. There will also be a recruitment for youth representatives on many of these Boards. She reported that the election filings will begin on January 18, 2008 for city council positions. She also informed council that she would like the city crews to attend the January 28<sup>th</sup> council meeting so they can share some of their stories, plus it would give council a chance to also thank them for the great job they have done. Request for proposals have gone out for the Golf Course Restaurant. Also, the state is going to allow the City of Milton-Freewater to go forth with the local option tax for the senior and disabled transportation on the November 2008 ballot. By having this on the 2008 ballot and with the hope of passage, it would alleviate any gap in funds to match grants.

There being no further business, the meeting was adjourned at 8:17 p.m.

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Lewis S. Key, Mayor