

Opinion

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EDITORIAL

Council violated state law

The Baker City Council violated Oregon's Public Meetings Law Tuesday night when it elected a mayor by means of secret ballots.

The law requires that all votes by public bodies with fewer than 26 members — the Baker City Council has seven members — be conducted in public, and that each member's vote be announced.

The use of secret ballots was the subject of the first state Attorney General's opinion regarding the Public Meetings Law. That opinion was issued on Oct. 11, 1974, the year after the law took effect. The opinion expressly prohibits the use of secret ballots.

Tuesday night the Council elected Loran Joseph as mayor by a 5-2 vote. Each councilor handed a paper ballot to City Recorder Julie Smith. She tallied the ballots and announced that Joseph had received four votes, and Mike Downing three votes. She later corrected the result, to 5-2, after noticing that she had tallied the wrong ballot from Councilor Arvid Andersen. The vote violated the law not because councilors used ballots — that's allowed — but because Smith didn't say how each councilor had voted.

Smith called the Herald Thursday afternoon with that information, and it's included in a story on Page 1A of today's issue.

The Council should, however, also make its choice of Joseph official by conducting a legal, public vote. That's what councilors did in January 2007 when they mistakenly relied on the advice of interim city manager David Fine and elected both the mayor and acting mayor by secret ballot.

The purpose of the Public Meetings Law could hardly be more clear — to ensure that the public knows what its elected officials are doing. Casting secret ballots is about as blatant as a violation can be.

Oregon's Attorney General publishes a guide to both the public meetings and the public records law. The city, if it doesn't have one, should procure a copy.

— Jayson Jacoby, Baker City Herald editor



GUEST EDITORIAL

Editorial from The Chicago Tribune:

Political compromises in Washington aren't easy to find these days, but for how long can an obvious solution to a standoff be ignored? As he reiterated in his address to the nation Tuesday night, President Donald Trump wants \$5.7 billion to begin building a wall on the southern border; congressional Democrats refuse. You know the surround: Without a budget agreement, the government went into partial shutdown mode — roughly 25 percent of federal operations — last month.

Trump described the chasm that separates him from Democratic leaders: He asserted that the government “remains shut down for one reason and one reason only — because Democrats will not fund border security.” Trump spoke of what he sees as the dangers Americans face because of inadequate border controls, and he challenged his political opponents to help end what he called a “growing humanitarian and security crisis” at the border.

If only there was a way out of this mess that would give both sides a chance to claim a victory on immigration, or at least provide viable cover stories. There is, and the nice part is it's already been the subject of negotiations. Trump wants the wall because he wants to be seen as tough on immigration.

Democrats want to protect the status of young immigrants known as the Dreamers. Some version of wall money in exchange for an agreement to maintain the Deferred Action for Childhood Arrivals program makes sense.

Did we lose you at “makes sense”? Let's not give in to the current national mania for poisonous atmospherics. Granted, Trump is playing hardball at a puzzling time: Democrats have just taken control of the House and are itching for big-stakes political wins. Trump doesn't want to look weak. That's why the partial shutdown is in Week 3. Meanwhile, thousands of federal workers and contractors' employees are on layoff or potentially working without pay. A few more days and this shutdown becomes the longest on record, with uncertain, potentially serious consequences for the government but also the booming U.S. economy.

In Trump's first Oval Office address of his presidency Tuesday night, he tried to draw a national television audience into his pro-wall camp. His arguments for building an expensive, imposing barrier on the border with Mexico never struck as realistic. Theatrical? Yes. Compelling? Not so much. The cost would be prohibitive and the logistics likely impossible. Trump doesn't help his credibility by having claimed Mexico would pay or

by exaggerating the national security implications.

The fact is many people from Mexico and Central America, including those in last year's caravans, continue to make their way to the border. It's a dangerous journey. Anyone without legal permission to enter the United States shouldn't try. For those seeking asylum, there is a process. Tighter security is needed in the form of well-staffed border patrol operations, high-tech surveillance and, in certain locations, improved barriers. So give the president the money he wants to spend on concrete or steel fencing as part of a budget agreement that reopens the government.

In exchange, let's see a deal on DACA. There are about 800,000 protected immigrants in the U.S. who arrived as children. They didn't choose to break the law, their parents did. Many have no memory of their native country. Their status is now tied up in the courts, but Congress can solve this humanitarian problem. Even Trump has said that he'd like to do right by them.

Democrats, be sure to take a long bow for protecting the Dreamers, because you know Trump won't miss his curtain call when construction crews expand the current system of barriers. The two parties can take turns declaring victories. It will be a refreshing change of pace.

City's conundrum on property maintenance

Among the many things I cherish about America is that we value so highly the sanctity of private property that one neighborhood might contain both a yard that mimics an English garden, and a place where the outdoor decor runs more to engine blocks and rusty lawnmower blades.

Most of us prefer to see the former as we walk or drive past.

But as a society we tolerate the latter.

Up to a point, anyway.

Just where that threshold lies — the line separating the merely squalid properties and those that warrant attention from the government to protect the public — is a vexing sort of calculus.

I suspect most cities wrestle occasionally with this conundrum. Baker City has done so several times over the past couple decades with various proposals about rules and their enforcement.

In the fall of 2017 then-Police Chief Wyn Lohner urged the City Council to approve an ordinance allowing the city to seek a court order banning access, including by the owner, to properties where certain crimes or property maintenance violations were rampant.

Although Lohner's idea was prompted more by the prevalence of crimes, the proposed ordinance could have been triggered by recurring issues involving, say, the storage of decrepit vehicles or heaps of trash.

The City Council, after hearing from residents who were leery of giving the government so much au-



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thority over private property, tabled the matter.

But little more than a year later, during their Dec. 11, 2018, meeting, councilors had a similar discussion.

The main topic was the property at 1975 Birch St., in east Baker City. The city has cited the resident, Lucas Gwin, for violating the city's property maintenance ordinance three times since 2015.

The parcel was cleaned up enough to comply with the ordinance but relatively quickly reverted to its formerly filthy state.

In June 2017 the city spent \$2,000 to clean up the property — the cost attached as a lien on the property — but by December of that year the city had again cited Gwin.

This time the estimated clean up tab is \$5,600.

Mark Powell, the code enforcement officer for Baker City Police, told councilors he thinks the city should adopt a stricter property maintenance ordinance.

Set against the dismal backdrop of Gwin's property — which according to a report to city councilors was “infested with mice and other rodents” — Powell's idea hardly seems unreasonable.

(Although the lack of specificity, when it comes to the “other rodents,” troubles me. The order Rodentia includes, among the familiar mice

and rats, such beasts as scaly-tailed squirrels, springhares and the Laotian rock rat.)

I doubt any great number of people would argue that the government doesn't have an obligation to try to deal with situations such as the Birch Street property.

These aren't merely eyesores — a clichéd but impossibly subjective description. Places like the Birch Street parcel pose potential health hazards to the public.

The trash might be confined within the property boundaries but I'm pretty sure mice, which are rather more mobile than mounds of garbage, don't heed such legal borders.

(Nor, I suspect, do Laotian rock rats, although I admit being unfamiliar with the species' physical attributes.)

The current ordinance allows the city to clean up the mess, as Powell explained — but the taxpayers pick up the tab.

As a deterrent the tax lien is ineffectual at best, since the bill doesn't come due unless the property sells.

Worse, the city has no mechanism to prevent residents from starting to replenish these unauthorized landfills as soon as the last dump truck drives away with its noxious (and possibly toxic) cargo.

The proposed ordinance the Council tabled in theory could have stopped these perpetual problems, at least temporarily, by making the property off limits.

In pitching the ordinance to councilors, Lohner insisted that his intention was to focus only on the

“worst of the worst” properties — and again, he was worried more about homes where crime, not trash, was the recurring issue.

There is little reason to believe that the ordinance, had it passed, would have resulted in a rash of properties being locked up.

For one thing, the ordinance would not have given the city unilateral authority; rather, officials would have had to obtain a court order.

For another, the city of Springfield, whose ordinance was the model for Baker City's proposed rule, had in three years sought, and received, just two court orders banning access to properties. Springfield's population is about 61,000, more than six times Baker City's.

Still and all, Baker City's proposed ordinance, whatever the police chief's intention, would not have been limited to those “worst of the worst” cases — a description impossible to capture in a legally enforceable ordinance, in any case.

In theory the city could use such an ordinance to punish a property owner who runs afoul, repeatedly, of any section of the property maintenance or animal codes.

The former, last updated in 2009, deals with matters that strike me as having little in common with the kind of blight exemplified by the Birch Street property.

You can, for instance, violate the property maintenance ordinance if you own firewood that “is not safely stacked and usable.”

The ordinance defines “usable” firewood as that which contains “more wood than rot.”

Notwithstanding that woodstove owners, as a rule, prefer sound wood to rotten, I don't think the government needs to codify the issue, especially in an ordinance with punitive provisions.

The City Council didn't take any action following its Dec. 11 discussion about the Birch Street property, and councilors didn't take up the matter in its most recent meeting, on Tuesday.

In a report included with the Dec. 11 agenda, City Manager Fred Warner Jr. suggested councilors consider appointing a committee, whose members would include residents, to ponder the issue and potentially draft recommendations for an ordinance that, as Warner put it, “protects the rights of homeowners while still keeping our neighborhoods safe and relatively nuisance free.”

That's a concise summary of the goal. But it also in effect restates, without offering a concrete solution, the conundrum I mentioned earlier.

Nonetheless I endorse Warner's idea about creating a committee.

I'm not convinced it's possible to write an ordinance that strikes a balance between giving the city a meaningful way to deal with debacles such as 1975 Birch Street, without potentially snaring much less egregious “offenders” in the same regulatory net.

But I expect the odds of reaching that precarious position are improved if we look outside City Hall for ideas.

Jayson Jacoby is editor of the Baker City Herald.