

AGENDA
 SCAPPOOSE CITY COUNCIL
 COUNCIL CHAMBERS
 33568 E. COLUMBIA AVE
 SCAPPOOSE, OREGON 97056
MONDAY, MAY 19, 2008
CITY OF SCAPPOOSE
REGULAR COUNCIL MEETING
AT 7:00 P.M.



ITEM	AGENDA TOPIC	
1.0	Call to Order	
2.0	Pledge of Allegiance	
3.0	Roll Call	
4.0	Approval of the Agenda	
5.0	Public Comments	
6.0	Approval of the Consent Agendas	
6.1	May 5, 2008 City Council Meeting Minutes	Action
7.0	New Business	
7.1	Sierra Pacific Communities, LLC Legislative Land Use Public Hearing	
a.	Continuation of 1/22/08 Public Hearing Staff: Varricchione	Public Hearing
b.	An Ordinance Relating to Planning and Zoning; Amending the Scappoose Comprehensive Plan to Add "Airport Land Use Goals and Policies" and Amending the Scappoose Municipal Code to Add A New Chapter 17.73 Regarding "AR Airport Related Uses" Staff: Varricchione	First Reading
8.0	Announcements	
8.1	Calendar	
8.2	Police Chief, City Manager, Councilors, and Mayor	
9.0	Adjournment	TTY 1-503-378-5938

This meeting will be conducted in a handicap accessible room. If special accommodations are needed, please contact City Recorder, Susan Pentecost, at (503) 543-7146 ext 224 in advance.

**`CITY OF SCAPPOOSE
REGULAR CITY COUNCIL MEETING
MAY 19, 2008
AT 7:00 P.M.
SCAPPOOSE, OREGON**

Call to Order

Mayor Burge called the meeting to order at 7:00 p.m.

Flag Salute

Roll Call

The meeting of the City of Scappoose City Council was held at 7:00 p.m. in the Council Chambers; 33568 East Columbia Avenue; Scappoose, Oregon with the following present:

City Council Members:

Scott Burge	Mayor
Judie Ingham	Council President
Donna Gedlich	Councilor
Jeff Bernhard	Councilor
Larry P. Meres	Councilor
Art Heerwagen	Councilor

Staff:

Jon Hanken	City Manager
Doug Greisen	Police Chief
Susan Pentecost	City Recorder

Press:

Cecilia Haack	Spotlight
Matthew Nash	The Chronicle

Andy Jordan Legal Counsel

Excused: Councilor Judd

Approval of Agenda

Mayor Burge amended the agenda to add 7.1 Appointment of Terry Morgan to the Ad-Hoc Skate Park Advisory Committee. He also added an Executive Session ORS 192.660 (1) (h) Litigation Likely to Occur.

Council President Ingham moved and Councilor Bernhard seconded the motion to approve the agenda as amended. Motion passed (6-0). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich; aye, Councilor Meres, aye and Councilor Heerwagen, aye.

Public Comments

John Brewington, Jr., St. Helens, explained he is the sports editor for the South County Spotlight. He explained he submitted a letter through Councilor Heerwagen. He explained the letter is a request to consider renaming High School Way to Derek Anderson Drive. He explained Derek has brought honor, pride and recognition to the City of Scappoose. He stated he could think of no one better to be honor. He also explained there are no houses on High School Way that would be affected by this street name change.

Councilor Gedlich asked if he thought about naming the football field after Derek Anderson. Mr. Brewington replied no but that is a consideration. He explained one of the reasons he thought about High School Way is because it is one of the first street signs that you see as you come to town and he feels that is publicity for Scappoose to recognize that he is a member of town.

Council President Ingham feels Council should talk to the High School and amongst themselves and make a decision at some future time. Mr. Brewington replied he appreciates Councils consideration.

Consent Agenda

Council President Ingham moved and Councilor Bernhard seconded the motion to approve the May 5, 2008 City Council Meeting Minutes. Motion passed (6-0). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich, aye, Councilor Meres, aye and Councilor Heerwagen, aye.

New Business

Appointment of Terry Morgan to the Ad-Hoc Skate Park Advisory Committee

Council President Ingham moved and Councilor Meres seconded the motion to appoint Terry Morgan to the Ad-Hoc Skate Park Advisory Committee. Motion passed (6-0). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich, aye, Councilor Meres, aye and Councilor Heerwagen, aye.

Sierra Pacific Communities, LLC Legislative Land Use Public Hearing

Continuation of 1/22/08 Public Hearing

An Ordinance Relating to Planning and Zoning; Amending the Scappoose Comprehensive Plan to add “Airport Land Use Goals and Policies” and Amending the Scappoose Municipal Code to add a New Chapter 17.73 regarding “AR Airport Related Uses”

Mayor Burge read the opening statement.

Mayor Burge opened the public hearing at 7:08 p.m.

City Planner Brian Varricchione went over the staff report. He explained the proposed application submitted by Sierra Pacific Communities is two fold: one would be to amend the comprehensive plan to add an airport designation and that could be applied to land near the airport. The second is to amend the development code to add an airport related zoning designation which could also be applied near the airport. He explained at the hearing in January Council directed staff to and the application to work together to make some amendments to the proposed text for the comprehensive plan and to the zoning code, as well to draft findings in support of the application. So staff has relied in the applicant to draft findings and has worked with the applicant to refine the proposed text. He explained all that information is included as exhibits to the ordinance. He explained at this point he would turn it over to the applicant for them to describe the changes that have been made and discuss the findings and answer any questions that Council may have.

Mayor Burge thanked City Planner Brian Varricchione.

Don Hansen, OTAK, explained they are the engineers and planners for the project for Sierra Pacific. He explained as staff mentioned they have put together a text amendment to the comp plan for the airport designation as directed at the last hearing. He explained they have also put together language for an airport related zone, a new ordinance to be added to the Cities ordinance and created findings for that. He made a few overview comments on those two documents and the process they have gone through to prepare them. He explained first of all they have worked closely with Brian on this whole process. He explained they prepared a draft and submitted it to the City and Brian with the help of Frank Angelo put together a commentary on that which had over 20 items that they were concerned about that they should refine and make revisions to. He explained they have done that and it was included in the May 9th staff report and reflected all those changes. He stated it is important to note two things on the new language that they put in there. He explained one is that they haven't selected a site for this and he thinks we are all aware of that. He explained these are new ordinances and new tools that they can use around the airport to diversify the development pattern that was there intent from the beginning. He explained it is also important to note that if they do choose a site and they choose to do any residential component as part of that they are required to go through a conditional use permit process. The Port would be notified. He explained we are mandated to retain an aviation expert to review any proposal that has a residential component to make sure it is sound and it doesn't impact the airport in any negative way. He explained they are required to go the Planning Commission with that application so it is certainly a public hearing process. He stated the City at the end of the day has the ability to judge whether they met the burden of proof in those applications so the City is very much in control of this entire process in that public venue. He stated it is also important to note that AO Zone, the POA overlay that relates to safety and compatibility rules in this situation, we need to demonstrate very clearly that what ever we propose will be safe adjacent to the airport so that is inherent in the new language that they put before Council. He stated he is reluctant to drag Council through the whole thing. He stated staff from their perspective has done a very thorough review of this and their input has been very constructive. He explained they intent to continue their dialog with the Port. They know the Port is resistant to any residential proposal that they put on the table as part of this new tool that they put in the ordinance and they welcome that continuing dialog with them.

Council President Ingham explained she tips her hat to Mr. Angelo and City Planner Brian Varricchione, it is very thorough and she appreciated all the hard work. Councilor Gedlich concurs. She stated it was very well written and everything was very understandable for those of us that aren't in the land use business and she looks forward to all the intergovernmental agencies and the private sector working together to make this economic development possible. Mr. Hansen replied they certainly welcome that, thank you.

Mike Wilson, Scappoose, explained they are at the north end of the Scappoose Airport. He explained they have been there for 34 years. They have watched the growth of the airport through this time and the airport is getting extremely busy and we defiantly do not need 75 more planes for the residences. He explained the pilot have no governing, he is not sure what words he wanted but there is no body that lays down exactly how these, where the center line is. They make an excessive amount of noise. He explained there is a fair amount of them and they don't pay any attention, they come right over the top of their house. He stated we just don't need more.

Mayor Burge thanked Mr. Wilson.

Mark Greenfield, Attorney for the Port of St. Helens, explained they have several people here who would like to speak on behalf of the Port on the proposed amends. He would like to say although they heard a very short presentation by the application they find that the application in terms of the policies and standards of the code are substantially different then what they were when we first reviewed this document. He for one has to say he is very disappointed that they basically gave Council a two minute statement saying “Here we are, we made changes” and that is all they had to say given the significant difference in what you are seeing today over what you saw before. He explained the people here to speak for the Port are Colleen DeShazer, who is a Port Commissioner, Gerry Meyer, the Port Executive Director, himself, he is here to deal with legal issues and also here is Joelle Briggs, she is the Regional Compliance Manager of the Airports Division of Safety and Standards section of the Federal Aviation Administration. Joelle will talk to you about FAA’s concerns about through the fence. He explained after all that is done he would like to make a few closing comments. He is going to ask Colleen to speak.

Colleen DeShazer, Warren, Port Commissioner for about 10 years now. She explained she has sat and thought about this and thought about this and thought about this and thought how does address basically her piers in another community and get them to understand how critical this is and not think this is just a planning tool. She explained there are a number of folks who are stating this is just a planning tool but it has some pretty long reaching arms. She stated after serving on the board as many years as she has and spending so much of her personal time and she means a lot of time and there is a number of Councilors that could vouch for that particularly Mayor Burge and all of the years that were spent stopping mining next to the airport because they wanted to preserve the ability to watch the airport grow with economic development, she doesn’t mean houses, she means jobs. She stated it is really difficult for her to sit here and tell the Council that she thinks residential development next to the airport with through the fence access is the key to all of this. She is just not sure we are there. She stated the airport was developed as an industrial airpark, we have roughly 84,000 operations and there are a number of issues. She stated to Councilor Bernhard she wasn’t here at the last meeting but she understands he did sort of a scenario where you felt the Port should take the risk with the FAA funding, that is was a risk that was worth taking. The \$400,000 dollars here and she can’t quote him exactly. Councilor Bernhard replied yes, he would say that is (too many people talking I couldn’t understand what else he said). Colleen DeShazer replied she would never sit here and tell him how to vote she just wants him to hear our side our perspective. She stated with that being said she stated she is not sure it his place to the Port they should take the risk, to put the residential development there. She stated it is more than \$400,000 a year. She stated if the Port actually had to pay back 20 years worth of grants they are looking at more like \$4 million dollars. She stated that is not money she is willing to say the district should have to pay back because if they did they would have to take out a loan and they would have to pay interest and by the time they were done it would be a heck of a lot more then \$4 million dollars. She wants to see economic development out at the airport just as much as anybody else does. She stated this has a lot of issues some that were created because of past staff issues that they had, some divisiveness on the Ports board, and number of different issues. She stated the Port is not there any more, the Ports board works well together and they have an incredible staff. She stated some of the keys concerns here are working with the applicant. She stated we need to have real coordination, that is part of the planning goals, we haven’t had that, we have had lots of conversations individually with Mr. Freeman and none of us want to through him out the window, we all want to work with him. She stated hence why we are getting ready to meet with a mediator on Wednesday and she

wishes this could be happening in reverse so we could have some of these conversations because this is decided. She stated there are too many unknowns. She stated Council can go ahead and decide this and Council can have the planning tool to put it in some nonspecific place, but we all know that fact of the matter is it is going to go next to the airport and one of the pieces the applicant is going to need is through the fence. She stated there is the other problem, we are developing this as an industrial airport and she needs somebody to tell her how we make an industrial airport work with residential users. She stated and she is not talking about a home owners association, because in the grand scheme of all the work that all of us have done including Mr. Burge that was never on the table. We never talked about residential, we talked about industrial development. She stated we get one shot at this, that is it, once the houses are there it is over, we don't get a second shot. She stated if we slow this train down just a little bit and have some more dialog she feels they might be able to work through some issues, will residential be on the table still, she doesn't know, because they haven't sorted through everything, they haven't had the opportunity to truly sit down and have real coordination with the applicant. She can't tell you whose fault that is, just know that it hasn't happened and they are still at an impasse. She stated we are being asked to fight one of our funding mechanisms and she doesn't think there is a board member, at least right now who would ever do that; we are not going to fight the FAA. She asked why would we do that, she doesn't feel any Councilors would do that if they were in their shoes. She stated she knows this looks like on the surface that this is the Port trying to chase economic development away but that is not what we are trying to do. We are trying to make smart choices for the first time in a long time and she feels they need to be given the opportunity to do that collectively but they can't do that if there is a planning tool that is put there with a door because once it is there it is there, that they may never ever want to open. She stated let me tell you right now the way it stands you are not going to get through the fence, it is not going to happen. She would really like Council to consider that. She stated she has poured a lot of her life in to this and not to build houses.

Council President Ingham thanked Colleen. She stated one comment she would like to make regarding Colleen's through the fence statement is that in one of our findings of fact, and it is stated in the staff report in the packet states "Since the proposed zoning designation is not being applied to a specific partial of land the Council finds that it is not necessary for the applicant to secure a through the fence agreement with the Port at this point in the process". She stated what we are doing here she thinks before we go any future and she knows every one understands that this is just the creation of a zone as a vehicle to allow as Colleen stated "for all of them to sit down and sort through it" there is no reason for, or maybe there is, but logically in her mind she sees a lack of want for Sierra to move forward and invest anymore money in this process if they don't have the vehicle that they need to sort through it all and see if want they want to do is even feasible and that is one of the finding of fact of this Council.

Councilor Gedlich had a quick comment. She stated she believed that when Council discussed this at the first meeting in January was that we were a looking for versatility and not just residential and or industrial. The economic opportunities that have become available with this possible zone change could be wide spread and be helpful to all South County. She doesn't think we need to just stop all of the discussions and she has to say she is sorry that the Port and Sierra Pacific haven't had a little more dialog and or cooperation in the past and it is too bad that it is waiting for the last minute. She certainly wishes both the Port and Sierra Pacific luck.

Gerry Meyer, Port of St. Helens Executive Director, Columbia City explained he wanted to thank the Council for giving him the opportunity to come and speak today. He wanted to talk a

little bit about the Ports mission and maybe he can address the comment that the Council member made. He explained the airport was established in 1942 as a National Defense airport and the Port took ownership for the County back in 1972. Since then from 1975 to 1985 we have produced a master plan, we have acquired land, we have made improvements, west side apron and access road improvements. In 1988 the Port built the first hangers and we housed 30 aircraft at that time. He explained currently we have 135 aircraft and they would like to get some more. We have 10 T-hanger buildings that the Port built. We are the second busiest non-tower general aviation airport with, as Commissioner DeShazer mentioned, 84,500 operations. He stated contrary to popular belief the airport has grown. It hasn't grown real fast but many airports don't grow fast and it is sometimes difficult for Ports to get financing for infrastructure. Not to say that can't be done there are certainly mechanisms where we can do that. He explained improvements to date the Port has acquired land and extended the runway from 4,000 feet to 5,100 feet. The Port would like to extend the runway further. We have constructed, as he said, access roads and aprons, they have updated the electrical lighting system, they have constructed new electrical buildings, the rotating beacon tower, they are working instrument approaches in there, so that will all help with development. He stated all said we have invested over 6.5 million in to the airport. \$4 million came from the FAA so they are a partner that we can't easily ignore in this deal and suggesting that we just walk away from the FAA is irresponsible. Those folks would have to be paid off. He believes it is a key economic resource to the area and we are not suggesting that we shouldn't go forward with Sierra Pacific and do development with them in the future. He stated that ultimately is what we would like to do however industrial development is what we are all about. He stated some of the folks that are out there now: Sport Copter brought in 1993, Oregon Aero 1993, Composites 2000, and Sherpa 1997. Those are all companies that were there before any developers where out there. Columbia Aviation 2003, Evergreen Aviation 2007. 161 full time jobs out there. Economic Development is certainly what we are interested in and going back to the comment about these folks coming in or wanting to bring their businesses in because they can build a residential house there, he would ask you what brought these folks there in the first place, was it because they could build a house or was it because the Port gave them a great deal on their rent and now they are successful and they love that. He explained they appreciate the fact that they are successful and they value them as tenants but he doesn't believe that is why a business locates at an airport. Let's keep it an industrial/commercial airport that is the highest and best use for it. He stated there are certainly airports that work for residential airparks where it is all housing and no industrial uses that conflict with each other but we are suggesting that we leave this an industrial airpark. He thanked that Council.

Councilor Heerwagen stated Mr. Meyer you said that somebody suggested that the Port walk away from the FAA what that Sierra Pacific? Mr. Meyer replied no he thinks it was this board that suggested that the developer is putting "x" amount of dollars in the FAA is only putting this much. Well we would rather go with the folks that are putting more dollars in and you just can't do that, you just can't walk away from folks that have been helping us all these years. Councilor Heerwagen replied I don't think we every suggested that you walk away from the Port (I believe he meant the FAA) Councilor Bernhard replied no and he thinks some of his comments are being misconstrued and he recommends that they actually read the minutes from that particular meeting. He believes his comments were more in line with the amount of money at that particular time that was discussed was \$400,000 if he remembers correctly. He doesn't remember the millions of dollars that Ms. DeShazer was talking about and when we were doing the math over that long period of time it didn't seem as \$400,000 was economically a moving factor as in what they contributing at that particular moment. As in the comments of saying you should walk away from your FAA partner he thinks is incorrect. He thinks you need to find away

to make it work with them. He thinks what they are seeing from this particular Council is that unfortunately this has been placed in our table were he doesn't think it should be in the first place and that by us maybe coming forth and saying hey we want to expand economic development beyond what the limitation the Port has done over the years. In fact the comments that have been made so far just in two past comments it hasn't grown very fast, past practices, past staff, this could be one smart choice that we have had in a very long time. When he hears comments like that it makes him feel that you're not doing what you are suppose to be doing out there and that now it's been placed in our table and we are saying we want you to do something. He stated in this day and age this time with economic development we need to be thinking outside the box. We need to be thinking that is just one particular strategy that obviously has failed the past 30 years. We need to be thinking more and he thinks that is what this Council is kind of looking at right now, we want to see more. We want you to work together, we want to force the issue that you two have to work together and try to come up with something else. So please don't take his comments and make it sound as if he thinks you should not work with the FAA and tell them that you do not want your funding. That is not his comments at all.

Councilor Gedlich stated to Councilor Bernhard the minutes of that meeting are in the packet that we got, at the end of the document and she reviewed them also and she thinks she was very misinterpreted tonight and maybe you should go back and read those minutes.

Mark Greenfield explained his is going to ask Joelle Briggs to come up and speak before he speaks but as she is coming up he wanted to indicate that he put some documents in to the record this evening. He explained one is the letter that he wrote that is dated today; the second is the talking points that Gerry Meyer just provided that indicated economic development at the airport. He also has minutes of the Port of St Helens Commission meeting of August 6, 2006 and minutes of the Port of St. Helens Commission meeting of September 14, 2007, he stated it might be November. Council President Ingham stated this is a lot of information to present at the last minute. Councilor Gedlich asked if Council is going to get an opportunity to review this. Mark Greenfield replied he is sorry but that was an awful lot of new information and he only had about a week to review it all, he only got all that last week. Councilor Gedlich asked if we could take a 10 minute recess. Mayor Burge replied why don't wait. Mark Greenfield stated there are also four City of Scappoose staff reports, one for the Steinfeld property on July 15, 2004, one for the Scharf property, these are all zone changes from industrial to residential on September 1, 2004, three of them not four and one for the Steinfeld west property on May 10, 2006 and decision show you now have a defecate in your amount of industrial land. So at this point he would like to have Joelle speak.

Joelle Briggs, Renton, WA, she stated yes she travel a little ways today to be here and she appreciates the opportunity to speak. She stated the FAA is opposed to residences adjacent to airports. She stated they have invested at least 1.8 billion dollars nationally to remove housing immediately adjacent to airports. She wanted to kind of give Council an overall picture so that they understand; she is not sure what they have heard in the past, about what the grant assurances are and the contract that the Port of St. Helens has entered in to with the Federal Aviation Administration. When an airport request federal funding they are obligated to follow numerous grant assurances, 36 she believes is the current number, they just recently added some. This Port has entered in to contracts in the amount of 4 million dollars, you have heard that number discussed in the past. Additionally the agency has purchased land for the airport for about \$950,000. Some of that included removal of homes and some of it was for the purpose of expanding aviation need. As part of that land purchase the Port in its agreement with the FAA

has entered in to perpetuity that they will abide by the grant assurances. One of the main ones that you have heard probably is grant assurance number 21 that is compatible land use. It is the requirement of the Port of St. Helens through there contract with the FAA to assure to the best of that land on and adjacent to the airport is compatible with aviation purposes. She stated one question that she has heard, the FAA has numerous requests for through the fence access and residential national through the fence access is a major issue at this point, one of the questions has been it doesn't say any where in that grant assurance or the enabling legislation that actually quotes that same grant assurance, that residential through the fence is not permitted and what she needs to tell Council is that the agency has been given the authority to interpret that law and those grant assurances and they have interpreted it through the most recent case "Carey v. Afton" in which the agency held Afton airport in noncompliance for allowing residential through the fence. She stated what she would also tell Council is that are numerous grant assurance, one of the grant assurances is that the sponsors, in this case it would be the Port of St. Helens, allow access to all aeronautical users regardless of type and class. It does not define in that instance what aeronautical users are. The agency has interpreted that and you will find that model airplanes are not considered an aeronautical use and can be prohibited on the airport. So just wanting you to hear that although it doesn't say in the law that residential airpark adjacent to the airport are not prohibited the agencies interpretation of that is that they are an incompatible land use. So as she mentioned they spent 1.8 billion dollars to eliminate incompatibility and so then introducing homes runs counter to that and undermines there investment. She explained what she has heard here today is a desire by the Council to kind of push the Port to discuss or work with the developer in this case Sierra Pacific and come up with something that works. What she would like to put back to Council is this airport is a community asset; it is not just the Ports asset. She explained when the FAA looks at how the community is taking care of that asset and protecting that asset and if they see that residential use will be permitted through the fence the FAA will take action to no longer provide a federal investment on that airport. She explained they have started doing that at several airports in our region. She explained Sand Point Idaho has been informed that they are in noncompliance with grant assurance 21 and are required to submit a corrected action plan to the FAA. They are coming to the FAA's office on Wednesday to discuss what they are going to be doing to not permit through the fence access. She stated what she has to say here is the City is in a good position as far as the FAA is concerned because in Sand Point Idaho through the fence access way an easement and it runs with the land the airport could not do much to control the ability for residential users to come on to the airport. However here it is her understanding that through the fence access is on a permit basis and that permit was granted for industrial uses. If Sierra Pacific decides to switch that use to residential use and has been permitted by the zoning authority and the Port has does not take action to terminate that through the fence agreement the FAA will do the same thing that they have done with Sand Point and notify you of noncompliance and the intent that the federal investment will not continue. So just kind of want to paint the picture of where the FAA is at this point. The airport layout plan that come in to our office that have through the fence access on them and in fact we have a newer advisory circular called Advisory Circular 5190-7 for minimum standards for airports that indicates that they should put that on their alp (airport layout plan) and provide a copy of through the fence agreement to us so they can ensure that the grant obligations are complied with. If one comes in, for instance one came in for the FAA from Mulino airport that indicated that was going to be residential through the fence, they notified that airport that was not acceptable and would not accept that alp, returned it to them and asked them to correct the situation. So they have done that at Mulino they have done that at Sand Point. Creswell airport has just been notified that they have two residences that have two through the fence access. In this case Creswell approached the FAA and asked their position. She stated she was not aware of it until

they approached them. She stated that is part of the problem of being in a seven State region is she doesn't get to know about all of them until they show up at her desk. So we informed them. She stated those house were already built and had access and we understood with those two individuals because they already had access, they had been led to believe that it was ok to have this access, that it would put the airport in to a legal situation. It would be a great expense to terminate that permit. She has notified them that yes they are in noncompliance however their correction action plan requirement is that as soon as those houses sell or transfer ownership they must terminate that permit or they will be in noncompliance and risk losing future federal funding. She also just wants to give Council some background on why the agency believes that residential use adjacent to the airport is an incompatible land use. She stated everybody knows and you hear it as there might be kids out running on the runway or dogs out on the runway, yes that is one of the potential issues. In fact she was on the internet at one point and found one airport manager that allowed new born babies and their mothers to walk on the run way for exercise. Just for humor she found that interesting, however that is an issue it is not necessarily the biggest issue. As residential use encroaches on to an airport it limits the ability to that airport to grow and be viable and the federal investment in that airport is to ensure that aviation needs are met for your community. So it prevents that from happening, it prevents expansion also it ends up being a private fee that benefit from federal public dollars. It is part of her job as well as part of the Port of St. Helens to protect that federal investment and not have it be one resident or several residents benefiting from that. It gets expensive if you end up having a very large amount of through the fence. It can start damaging payment, it increases noise and there will be noise complaints and we have had situations were the residential through the fencers do not want the nature of the airport to change and appose the growth of that airport. She stated those are in essences our main concerns. She just wanted to come out here and let Council know the FAA is concerned. They will act if residential through the fence is permitted at the Port of St. Helens.

Mayor Burge stated to Joelle Briggs you mention 1.8 billion for moving houses. How many of those houses were built airport related residential? Joelle Briggs replied she doesn't know, that is national number. Mayor Burge stated let's be honest here is that most of those homes based on everything he has read were homes residential neighborhoods that were built too close to an airport and the FAA had to go in remove them. Joelle Briggs replied they are residential homes not necessary that were built too close to an airport or the airport grew and residential use. However you can not change the fact that theses are still residences. She stated yes they have a hanger attached to them however they are residences and still are affected by noise. She stated yes they are airplane owners at this time but when that residence changes hands we don't know if it is necessarily going to be a hanger owner or somebody just wants to store their boat in there. She stated the airports that she has heard about that are and they had a regional conference just recently where they got together and had proponents and opponents just discussing. FAA was not stating a position at them and those airports that had residential through the fence or had even through the fence for a long period of time were saying (the tape changed at this time) how many of those have been residences or residential airpark.

Councilor Gedlich stated she either is missing the point or she is completely missed something because she was under the impression that this body was here this evening to make a comprehensive plan change amendment and also amending our develop code by adding airport related uses. She doesn't find anything in here that says we are talking about residential development, are we? She stated you are talking that. Joelle Briggs replied that is what she had understood that your zoning change would allow residential use. Council President Ingham replied conditional use. Mayor Burge replied it would be a conditional use. Councilor Gedlich

stated it would be a conditional use and she thinks that if you would have heard the gentleman's comments earlier with his presentation that we don't really at this point even know that there is such a plan but that plan is not even on the table this evening. She stated we are here tonight to make a decision to amend two documents and by adding a chapter in our development code, is that correct Andy? Legal Counsel replied that is correct but that includes residential uses as a conditional use. Councilor Gedlich replied right but she would rather get on to a little bit more information that just this one aspect of it if you don't mind.

Mark Greenfield stated if he could respond to her questions explained this plan amendment zone change creates an opportunity to locate or attempt to locate residential housing or residential uses next to the airport where that opportunity does not today exist. So what you are doing is saying we foresee an opportunity or a possibility of putting housing near the airport which then requires you to determine that that would be a compatible use because there are requirements in the airport planning rule and other requirements, other standards that show that the uses near an airport are compatible. The fact that it has to go through a conditional use permit may mean that you ultimately don't make the decision today but a decision even to open the opportunity today brings up these compatibility questions which make Joelle's comments relevant to your decision. In other words compatibility becomes an issue that is potentially appeal issue and you have to deal with it and you have to deal with it now and the fact that the zoning won't change today or you go through the conditional use permit process isn't sufficient protection to get around having to address those issues because this does open up an opportunity that didn't currently exist.

Councilor Gedlich stated basically you are asking us to flat out deny it just because of a possibility of a residential plan that we don't know anything about. Mark Greenfield replied yes that is what we are doing. We have seen a new ordinance and changes that he indicated are substantially different then what you saw the last time. They were made different because as staff indicated the original application was so grossly out of compliance with the State wide planning goals and with your own policy and there were a number of changes that they made and they changed it so differently that we had to take a fresh new look at this and see what it was like and we are responding to it. He will get in to more of that when he speaks.

Mayor Burge thanked Mark Greenfield.

Councilor Heerwagen stated the idea of pregnant women walking down the runway is kind of a humorous mental picture. He stated to Joelle that she mentioned several airports that have been sent letters of noncompliance but then she said something in the middle of all that that kind of caught his attention. He explained Joelle stated they risk losing future FAA funding, is that simply just a risk or is that a fact they will lose if they don't come in to compliance. Joelle Briggs replied if they do not create a corrective action plan that brings them back in to compliance yes the FAA will choose to spend their dollars else where.

Councilor Bernhard thanked Ms. Briggs. He stated at one point he was confused at the beginning was the federal investments that have already been in place and maybe he is mistaken on this but those monies would be due if you considered them out of compliance. He asked if the Port is considered to be out of compliance those monies are then due on those grants, those monies would have to be paid back? Joelle Briggs replied the FAA has not yet required an airport to pay back that money. Councilor Bernhard asked if that is a possibility. Joelle Briggs replied possibility but she would say extremely extremely remote. She explained it involves whether or not that airport would then choose to close the airport and need to repay the amount remaining

on development grants and return to the FAA the fair market value of the property that they invested in so when the FAA is speaking about the \$4 million probably not. If the airport closed there would be some monies that would be due. Councilor Bernhard stated that makes better sense to him because earlier it sounded as if they were out of compliance the money would have to be paid back. Joelle Briggs replied it is a future situation, future funding.

Councilor Bernhard asked Joelle Briggs the decision maker in the process of not receiving possible monies in the future, is that yourself, is that a board, who decides that they are out of compliance therefore they will not receive funding in the future. Joelle Briggs replied it is a combination right at the core. She explained Dave Roberts is from the Seattle Airports District Office and they make the decisions on who gets money right at the balance of it. However when an airport is in noncompliance that starts with his office if the airport does not come in to compliance then it raises up to her office then to the national level. She explained in your case it is non-primary entitlement funds that you receive and the way the Legislation is we can without the funds regional and not need to go national.

Councilor Bernhard asked if Joelle Briggs should shine the light also on, at the previous meeting he remembers the decision about Sierra Pacific was having a hard time with communications with the Seattle based office, he is sorry if his terminology is incorrect here he is defiantly not an expert in this area, but yet they were having positive communications with an office in Denver. He asked was he incorrect? Joelle Briggs replied there is a Seattle Airports District Office, because they have seven States and a Denver Airports District Office. She is not certain if Sierra Pacific is working with the Denver Airports District Office. They would have the same stance on residential, in fact “Carrie v. Afton” came right out of Denver so they are aware of that situation. She explained traditionally the way the agency operations is our communication is with the sponsor. She explained if a developer wishes to speak with us we make speak with them however we would also ask that the sponsor be present at that. She is not sure so when he is saying we are not getting communication at the Seattle office. Councilor Bernhard replied he thinks he felt the communication that was coming out of Seattle from the previous meeting was opposed of the through the fence issue. Where he felt if the Denver conversations, he doesn’t think they were Okaying but he didn’t feel as if, there was some miscommunication there and maybe he is wrong again on that. He is sure it is in the past notes of the meeting one that. Joelle Briggs explained she can’t speak to their experience. Joelle Briggs stated your question was can it relate to the nature of the airport whether it was private or public but their District offices would only be dealing with public airports so she is not certain. Councilor Bernhard stated one more thing on this one too: if the City takes a stance on the rezoning, which obviously we all know could have to do with airport residential, to be honest, we all know that, ultimately if the Port decides not do the through the fence this is all for not, he asked is he wrong, this is really all for not. He stated basically what we are doing then as a City is we are standing up saying we want development in our area, we want industrial, we airport residential, we want development, we want jobs for our community, that is our stance. He stated if the Port decides not to do through the fence because of FAA regulations that is their choice. He asked if he was incorrect here on this. City Manager Hanken replied no you are correct. The through the fence permits are issued by the Port District not the City. Councilor Bernhard replied again then he doesn’t see then why we are put in such a bad position to want to stand up as a community saying we want more and we expect more. He stated ultimately if the Port decides not to do this that is their choice. Actually the burden comes back on the Port. We are the ones standing on the soap box saying we want better for our community. Mayor Burge stated we have been saying it for 10 years at least. He has been saying it for 10 years since he has been on Council. He stated you

know we have gone through a lot and granted the Port is a different group right now but you know that Ports solution to stopping the mining was allowing mining, a dry mine through most of the Meir property on the top level and that wasn't a solution. At that point we were more protecting the airport then the Port was. He thinks that Jeff is exactly right that they are not actually out of compliance until a through the fence agreement is secured by the Port or agreed upon by the Port with the developer. He stated this could be sitting here on the books 20 years down the road before the Port or the FAA decides to be a little more flexible on things for what ever reason. We know that Government is slow at changing and we are already ahead of the ball and then say okay there is a little plot of land that a few houses can go on but they are not in violation until that agreement is signed with Sierra Pacific or who ever the developer is correct? Joelle Briggs replied correct, they are not in violation. She stated the reason why we came down is we see it as a slippery slope basically. Zoning adjacent to an airport we expect all of our sponsors to oppose any sort, through the fence or not through the fence, adjacent to the airport. So there is the slippery slope. She stated she will speak to is her understanding that this airport is a community asset. It is something also, not just residences, but it is also something that brings in money and economy and if you inhibit some of that growth or that ability or surround it by, or if you ended up, she goes to the big picture because she sees airports that are surrounded by residences and we can't grow and the airport is kind of dying in place and the community is saying we need more here there is an economic asset to the airport as well as residences and she is just here to just kind of raise Councils awareness but you are correct in the end we expect the sponsor if through the fence access is granted to residential use to correct that. When we are talking about growth, Hillsboro Airport started out as a small airport and has grown and they are getting noise complaints, aircraft noise complaints throughout the City and the City is hearing those complaints not just the sponsors. It is a partnership and she would really hope that our sponsors are working in partnership with the cities that have zoning and the Port of St. Helens is not unique in not having the zoning authority adjacent to their airport and it is a challenge that happens and residential use mixed in with industrial use, she doesn't know she has not seen any airports that have through the fence residential and industrial combined. She is not sure were that is heading.

Council President Ingham stated she has a couple questions. She stated she knows this is a seven State region you stated, is that usually the average for regions? Joelle Briggs replied it varies. Council President Ingham stated so there are probably 9 regions across the Country? Joelle Briggs replied yes. Council President Ingham asked what is the procedure of other regions in the Nation regarding this type of issue and her next question is has the FAA ever in it's history pulled funding from an airport because of residential through the fence development, ever? Joelle Briggs replied first in answer to your question, it is a National policy, residential through the fence being an incompatible land use. All of the regions are doing the same as we are. She is not in contact with them on a daily basis. There is only 9 of them and there are 50 States, so do the math where we find residential use and are able to notify those parties, obviously there are going to be some that adhere and as soon as we now about it we attempt to correct that. She stated have we withheld funding, no. Afton Airport was the first one. They would have withheld funding had they not entered in to a corrective action plan but to her knowledge, now again she is sitting over here in little north west mountain region and she doesn't have access to all the airports that they have withheld funding for airparks. They have put numerous airports in noncompliance. She would need to look at the most recent noncompliance list she believes western pacific may have some airports that they have started withholding funds, but she doesn't have that information here at her fingertips.

Council President Ingham stated in our findings of fact on page 6 and if she may read this and she will look to Brian or to Mr. Angelo or to who ever would like to expound on this. She stated last half of the paragraph on the bottom on page 6, it says: Compatible land use does not specifically say that residential airparks can not be built at a public airport especially if it can prove compliance with FAA noise and safety requirements. Further more as evidence in the record the City Council finds that the FAA has not referenced or presented a Federal Law that clearly prevents Oregon Airports funded under the National Program of Integrated Airport System (NPIAS) program from establishing residential airparks. These conclusions are supported by the testimony given by the Daniel Clem, Director of the Oregon Department of Aviation, (exhibit 12 of this packet) and the letter submitted to Dennis Roberts, Regional Administrator, FAA by Daniel Clem dated November 8, 2007 (Exhibit 13). She doesn't think that this information and this statement would be put in the findings and facts unless that statement and the evidence provided gives us the reason to state so.

Joelle Briggs replied there is a response, she is not sure if it is entered in to the record from our National Compliance manager that gives the authority. It is under 47107 A10 that she began this explanation with of incompatible land uses adjacent to the airport. So the response to Daniel Clem does give him the back ground and authority through which the FAA can hold and airport in noncompliance and with hold funding.

Council President Ingham explained the other question she has is regarding Joelle's last statements regarding the reasons and concerns why she felt residential airport was not compatible. Talking about mothers and babies and dogs, it is simplistic and not even worth mentioning. She stated the noise issue, we have airplanes at that airport right now that are at very high decibels and there probably for years to come with not be airports that provided that kind of noise especially from residential airpark airplane owners, they are smaller aircraft. In response to Joelle's comment about looking at the big picture that is what this Council is doing today is looking at the big picture and how residential airpark owners, home owners can add to the attractiveness of this community and can provide jobs and all of the other components that go along with that. We are defiantly looking at the big picture. Joelle Briggs replied the mothers, babies and dogs was just saying that is something that you have heard throughout that is not something she was saying is one of the FAA's main reasons. Council President Ingham replied but you included it as a concern she does think Joelle said. Joelle Briggs replied if she said that she misstated and would like to explain that what she was saying is that's traditionally what they hear, people who are opposed to. She is not saying the FAA's position is that. She stated we are concerned about safety. They wouldn't want mothers or dogs running out on the runway, but she thinks we are past that at this. Council President Ingham replied our rules and regulations would prohibit that kind of behavior and she thinks Joelle know that. She stated looking also back in the packet her question to the FAA, and if Joelle would respond on their behalf, she is a little confused and frustrated why the FAA would be adamant against residential airport when there are so many successful examples and their packet is full of them, of residential airparks across the Country and how they have complimented the communities that they are in. She has a real problem why you can sit down and try in this instance, maybe in the big picture it might really, really work in this community. Joelle Briggs replied she thinks if you look and she believes it is in the record, Charles Erhardt's response to the Port of St. Helens when you were initially considering zoning and yes we don't oppose it at private airparks. Private great, that is fine, here it is the public and Federal investment and the value that is given to a few that have residences adjacent to it and limiting of the growth is not allowing the best use of that Federal investment. It

is the use of public funds that they are concerned about. Council President Ingham thanked Joelle Briggs.

Councilor Meres stated he would like to say that some people on this Council that seem really be down on the Port. He believes there is a new Director and some new Commissioners and he thinks they are working hard and on the train trip he was able to talk the Commission and it is sort of like blaming Jon for our previous City Manager that you are doing a lousy job because of what happened previous. This is a new quorum and he thinks we should try to work with them and not chastise them as much as he has heard tonight. It is another government agency and thinks we should try to work with them. He stated one other comment he doesn't really care for the small aircraft and this Saturday, he may be wrong, but he was listening to his County radio and he believes there was a complaint to our 911 center about somebody that sits out there and sky rides and doing obnoxious noise and he doesn't really want to hear it. He wants planes that come in and do their business and leave, commercial. He doesn't want them over his house or over the field making that obnoxious noise, he is sorry.

Council President Ingham stated to Councilor Meres at no point does she think any Council member today or any other time has chastised the Port. Councilor Gedlich stated thank you. Council President Ingham stated she finds that kind of offensive that he would say that this Council has done that. Mayor Burge stated let's stay on focus on the issue. Council President Ingham stated thank you.

Councilor Heerwagen stated perusing a little bit what Councilor Bernhard comments with, if he understood right what he said and what Joelle's response was that if the Port granted a the through the fence for a residential home that you would give them a letter of noncompliance and if they didn't yank that through the fence permit you would pull their funding, is that correct. Joelle Briggs replied future funding. Councilor Heerwagen asked no doubt about it? Joelle Briggs replied you can talk to Sand Point Idaho they are currently in that process. Councilor Heerwagen replied that is pretty tough.

Councilor Bernhard stated this has been very enlightening and he appreciates Joelle coming in tonight. He would like her comment just a little bit more on she said she saw this as a slippery slope, what did she mean by that. Joelle Briggs replied residential access, not residential access she is sorry, zoning adjacent to an airport that allows residential in the FAA's mind any residential use adjacent to the airport is an incompatible land use. This creates in it a basically allows Sierra Pacific to say okay I am going to develop residences and then the only requirement is that they get the through the fence access. She stated what she would hope to see is the two Government agencies working together. So as she is looking at a slippery slope it is just one last barrier to preventing residential use adjacent to the airport.

Councilor Bernhard asked Joelle Briggs in a strange way do you feel as if you are at a meeting one step ahead? Doesn't it seem strange that you are sitting in front of a City Council that is possibly looking at a zoning change that could possibly effect a Ports decision on a through the fence issues? He stated you are the FAA. Doesn't it seem strange that you are here having this discussion with us little people on this particular issue? Joelle Briggs replied except that we have been asked on two occasions, one by Mr. Clem and another by it was either the Port or the City, that Mr. Erhardt responded to as to what the impact of the zoning would be and when we saw those two letters did not seem to be heard and the zoning continued there was a concern.

Councilor Bernhard stated to Joelle Briggs that she talked about obviously that through the fence was applied in this particular incidence, you talked about future grants, he asked Joelle Briggs if she could give him some history on recent past grants. He knows that we have talked about the \$4 million dollars over, he doesn't know how many years that is, but over the past 5 years, the past he doesn't know how many years has the FAA granted or we have had grants for the Port. So he can at least have a little bit of background on that. Joelle Briggs replied if you wish she has the grant history and we can enter that. Councilor Bernhard stated he appreciates that. Joelle Briggs replied this grant history report goes back to around 1977. So the most recent grant was 2006 to acquire land for development. The Ross Park property, parcel 26 including relocation assistance and revision of the ALP. That was for \$295,000.00. She explained that was the most recent and it goes back, there are 18 grants back to 1977. Councilor Bernhard would like to see that information that would be great. He asked has there been any other application for future grants. Joelle Briggs explained Dave works from the Seattle District office and can give that background. Dave Roberts stated removing trees (I didn't hear the question that was asked, too many people talking at once). Mayor Burge replied he knows that. Councilor Bernhard asked how much is that grant for. Dave Roberts replied that is just for \$94,000.00. Councilor Bernhard replied he is just trying to get a historical idea to where all the sudden if God forbid all the sudden you did grant funding from the Port what is the economic hardship that they could possibly go through. Joelle Briggs stated to Dave Roberts that he could probably provide some background.

Dave Roberts, from the Seattle FFA explained the impact at the current point there is non-primary entitlement monies which average about \$150,000 a year for the airport. The last couple of years he does believe the Port has been come what saving up some for some larger projects on there. He stated the bigger impact beyond the non-primary entitlement is if you look at the sheet Joelle has in there when you get to bigger projects such as a runway overlay or something like that where it takes a lot of money we will put in to what is called State apportionments and discretionary monies. Those can run in to millions of dollars for a project given the type of project. We haven't done one since approximately, he wants to say 2000 here because the pavements are in pretty good shape and there wasn't anything major that they needed it for. Other airports are getting the money in the State of Oregon to take care of those. So just to say \$150,000 is not exactly a very good overall. That is the minimum they are going to get per year as it is currently offered. He stated obviously Hillsboro only get \$150,000 a year as a non-primary but his year the FAA is putting \$2 million in to that airport out of their discretionary which is fortunate because they have a project that needs it. Councilor Bernhard asked most of the time when you talk about the discretionary pieces is that for runway overlays? Do you find it mainly has to do with the hard top? Dave Roberts replied that is their primary purpose but it also includes relocating, construction removal, items like land purchase for development or land purchase for approach protection. The amount that they cover is pretty much anything on the air field itself on there, they don't handle the non airfield stuff. Councilor Bernhard stated one more quick question that had to do with the hard top itself, you said back in 2000 was the last time. Dave Roberts replied he thinks that is approximately when we put, he wasn't here at the time. He stated we had some smaller one, the last big one was extending and rehab runway 1531, install lights, extend parallel taxi way, extend east side parallel taxi and since then we have done install beacon replacement, a master plan update, we pay for that and we put a \$187,000 in fencing around the parameter, he doesn't know if they have noticed that. Again that is to keep people and animals out of the airport and then we acquired land. Councilor Bernhard asked how often does a runway need to be paved. Dave Roberts replied included in here is some smaller amounts for maintenance, having to do with crack and stuff, it really depends on what part of the Country you

are in and how good it is on there, it is kind of hard to say. Councilor Bernhard asked any guess on? (not sure what he said) report, any idea. He is trying to think of this from an economic standpoint if funding was denied. Dave Roberts replied about every 20 years or so we end up doing something on there. He explained we just did Aurora about 2 years ago and it was about 25 years old and it took about 2.5 to 3 million dollars to do it on there to do a full grinding up a portion of it and then relaying the surface and of course the taxi ways and aprons all need to be done, your beacons need to be replaced on a 20 year basis. He stated that is our general life expectancy. Councilor Bernhard replied he appreciates that and thanked Dave Roberts.

Councilor Gedlich asked on the grant amount does the Port of St. Helens have to match those amounts and or certain percentage. She stated so tell me, it is probably in your record, how much money has the Port put forth on these grants? Dave Roberts replied I can't tell you exact figure because the percentages change over the years. He stated back when a lot of this stuff was done it was 90% Federal 10% local. It is currently at 95% Federal 5% local. Councilor Gedlich stated so what you are saying then is that the Port doesn't really expend a whole lot of their money on their airport. Dave Roberts replied we are only talking about the portions that are eligible for ours, we don't cover operating costs and we don't cover anything like hangers. Councilor Gedlich replied no I wasn't talking about that. She was talking about they are basically getting money from the FAA for just the overlay of the runway and the fence. Dave Roberts replied we are the primary funding for that purpose other than like Portland PDX. They have a lot of money themselves but for the smaller airports they are the primary capital improvement for the airfield side. Councilor Gedlich asked so if they were to lose that funding because of noncompliance due to through the fence residential they could save 2 or 3 years and have a major improvement fund and they could do it themselves. Dave Roberts replied well if you think it is a million dollars and they are only paying \$50,000 of it when the FAA pays for 95% how many years would they have to save up in order to do it themselves? Councilor Gedlich replied you just said for the projects they got \$150,000 a year. Dave Roberts replied right if their funds haven't been pulled. Councilor Gedlich replied she sees, thank you. Dave Roberts replied if the funds get pulled they get zero. Joelle Briggs replied the \$150,000 is a minimum amount. When they are having to do these larger projects there are State apportionments and discretionary funds that also go in to that. Dave Roberts explained they can only save up for so many years according to law and it is four years. So the maximum they can save up of entitlements is \$600,000 and in many times that is insufficient to do a major project so we will put in additional funding to help them do that. Councilor Gedlich thanked him and stated that was very informative. Dave Roberts wanted to mention that this is all local people, it is a bid out to the contractors and it is going in to the community for work.

Mayor Burge stated just to make a comment, things are settling in to his mind from some comments earlier and you guys could probably verify it. He stated whether it what the City is, the Council based on this document is envisioning, or the Port is envisioning, we both want development, we both want industrial. We want possibly a little bit of possibility of looking at mixed use. Either way though the number of planes that are going to be landing and taking off at the Scappoose airport in the future is going to increase, correct, he would assume. He stated if they have through the fence access as in industrial they are going to be using that airport. Council President Ingham stated it makes sense that there is going to be growth. Mayor Burge replied yes. Council President Ingham stated economic growth. Joelle Briggs replied it is a possibility. Mayor Burge stated just because there has been some comments about the number of planes and he just wants to make everyone clear that either way the number of planes taking off and landing at the airport is probably going to go up because at the end of the day we disagree on this

one little part but we all agree on we want businesses that are airport related around that airport and those businesses that are airport related are going to be using airplanes or helicopters to take off and land at that airport, correct? He stated that was more for everyone in the audience. There has been some comments and he just wanted to make sure that everyone knew that was clear as we move forward.

Councilor Bernhard and Mayor Burge thanked Joelle Briggs and Dave Roberts.

Mayor Burge recessed for a 5 minutes break to review the documents from Mark Greenfield at 8:28 pm and reconvened at 8:38 p.m.

Mark Greenfield thanked the Mayor and the Councilors. He stated there are often political components to proposed land use actions including Legislative text amendments but ultimately those decisions stand or fall based on compliance with legal criteria and that is what he wants to talk about but he wanted to make a response to a comment by one of you and he doesn't recall who it was that relates to what he just said. He stated the comment was made well gee the Port fought Glacier on mining but then when it came to dry mining they stopped fighting Glacier. Well he was the attorney who handled all those fights. He was the one who took that to LUBA. We challenged their effort to create open water impalements because they violated they created safety hazards with bird strikes and violated applicable standards so we had legs to stand on and we stood on those legs. He stated when it came to dry mining they didn't create safety hazards. What they did was they would have created a circumstance that people would have found unpleasant but was not legally invalid. So we couldn't challenge them legally on dry mining. What they tried to do instead was purchase the property and they tried that with negotiations with Glacier for 5 years, 6 years, longer. Mayor Burge asked what does this have to do with land use. Mark Greenfield replied well the point is he thinks it is unfair to say to the Port well you failed us because you supported dry mining when the fact of the matter is decisions are made based on legal standards and there is no legal standard that they could use to fight dry mining so all they could do is try to buy the property instead. They tried to do it and they failed. He stated the legal standards act as public safe guards recognizing that in a public arena there is often substantial political pressure on local governments to act one way or the other. We have provided several letters and much of it entry testimony to show that these proposed amendments violate numerous applicable State wide planning goals, Administrative Rules Provisions and City Plan Polices. He stated your independent planning consultant found numerous violations of applicable criteria, your Planning Commission unanimously voted to recommend denial of this application and we submit that the amendments remain in violation of numerous standards and those proposed findings you have are inadequate to withstand legal challenge, he doesn't think they come close. He stated again we note that the proponent of these text amendments is asking you to improve amendments that would ultimately if granted, if the end result is granted, would violate the Ports grant assurances with the FAA. We ask if this was your airport rather than the Ports airport would you be doing this in the face of opposing FAA testimony. If the answer is no you should reject these amendments because as land use decision makers doing the legally correct thing is the right thing to do. If the answer is yes then we would have to ask the question of were would you get the million dollars to replace your runway 20 years down the road when you need it and you don't have it. It is not too late to change your mind. We ask that you reverse your early tentative decision and deny this application. He indicated there were significant changes to this proposed plan ordinance and the comp plan policies over what you saw before but change doesn't mean it is better and we find that these proposed provisions are as bad or worse then the ones you saw before. He stated yes there are some corrections that were necessary like

authorizing the uses that must be allowed in an airport zone. He stated but generally speaking the defects that we identified especially in the Airport Planning Rule and the LCDC Goals have not been eliminated, those are substantive problems that relate to and result from the proposed use itself. He stated let me talk about a few of them. LCDC Goal 2 and the Airport Planning Rule: 6601303 are required coordination with the Port and the FAA. Coordination is defined by Statue. Under the definition of coordination by Statue: The needs of agencies, Federal and State, Local Governments, Special Districts and the citizens must be accommodated as much as possible. He stated these amendments do not accommodate Port or FAA needs as much as possible. What they do as Joelle Briggs said is they open up a slippery slope. This is the first step that allows the possibility of residential where it didn't earlier exist. That would be your decision to create an opportunity for residential presumably you wouldn't do that unless you expected that that possibility might come to fruition at some point because you thought it was a good idea. These amendments do not accommodate the needs of the Scappoose citizens for jobs and economic development as shown by the vote to annex industrial land to Scappoose near the airport and also indicated by the fact as Mr. Roberts just said when the FAA spends money here that is money that goes in to the local economy, hiring people here to do those jobs. He stated the only need shown here is an artificial need for specialty housing for pilots. That is a need that is not recognized by State Wide Planning Goals, as the kind of need that justifies removing needed industrial land from your inventory of industrial land. There are many cases for overturning this kind of decision reducing an industrial land inventory for a use that is needed. He would point out that you have a surplus of residential land within the City. There is a goal 2 consistency requirement. Goal 2 in the Airport Planning Rule require that there be consistency between local government plans and the plans of Special Districts. He stated the proposed code language relies on an Airport Master Plan as amended on August 9, 2006, that is when that language supporting an airport residential component was put in the master plan. On November 14, 2007 the Port Commission removed that language from the master plan. He explained they put the minutes from both of those meetings in to the record. (The tape was changed) He stated you need to go with the current master plan that is an inconsistency that violates code 2. Goal 9, LCDC's economics goal in goal 14 the urbanization goal. He stated in goal 9 requires an adequate required supply of site for industrial development and compatible land uses near those site. There is existing deficiency of buildable land for industrial development inside the Scappoose City limits; it was noted in the staff report. He stated you can't take more land out of the supply when the supply is deficient without concurrently replacing the land needed for industrial use. He cited the Orpus development case and Hummel case that he put in his letter. Here there is not demonstrated need to convert needed industrial land to un-needed airport related housing for pilots that warrants adding more land to the urban growth boundary for industrial use. In other words you can't convert this land to residential because that is exactly what this does, every acre of land that goes to residential through an airport related is an acre of land taken away from industrial in an area that has been identified as industrial. You can't do that then use the loss of those lands for some un-needed purpose to justify bringing more lands inside the urban growth boundary. The Airport Planning Rule 66013040 requires the City to demonstrate a need to put a new use next to the airport. Here that new use would be airport residential. You are making a decision here that creates that opportunity that didn't previously exist, but no need is shown for airport residential based on economic and use forecast, rather all you have is the market demand by some pilots who would find this desirable. Desirability is not a need. He stated there is a Department of Aviation through the fence rule OARS 738 Division 14. He stated one of those provisions is to assure that through the fence operations provide financial support to the pilot sites in compliance with FAA regulations. Well what has the FAA told you, it doesn't comply with FAA regulations and you are not going to providing financial support because they are going to cut it? How are

you going to make findings show incompliance with that? They have another provision to advance economic development through qualified customary and usually aviation related activities within the airport boundaries of pilot sites. Well the airport boundaries include all lands used for through the fence. How does this advance economic development through qualified customary and usually aviation related activities? This isn't a customary and usually aviation related activity and it doesn't advance economic development. There are numerous economic transportation and industrial land use policies that he has identified in his letter where there are violations because they support economic development and this is inconsistent with those policies. He won't go in to them now he will simply refer to them. He stated if airport residential is approved it has to be identified on the airport layout plan. Once it is identified on the airport layout plan it goes to the FAA and the FAA will object as Joelle Briggs told you. So why have people go through the cost of coming in for a rezoning application to airport or residential for coming in for an application for conditional use and when he is talking about people going through cost he is not just talking about the applicant. He is talking about the applicant; he is talking about the Port, talking about the City with its staff time, all of that. Why do that when what you have been told is after Afton and Mulino and these other airport that Joelle referred to the money is going to be cut and the Port is going to be told you can't do this, that can't approve that permit. You are not doing Sierra Pacific any favors by this and you are not yourself or the Port of St. Helens any favors by this either. They won't get the through the fence permits from the Port because the Port is not going to allow a violation of grant assurance number 21 to happen. The Port is not going to jeopardize its funding. Given the Ports objections to this proposal, given the staff recommendation and Planning Commission decisions against this which was based on legal standards not one whether or not Sierra Pacific might do more for the community than the Port has done, based on the need and desirability of having industrial land near the airport, based on the public support for industrial development near the airport and the Cities existing deficiency of its industrial lands inventory, based on the fact the rezoning will allow airport related uses to reduce the industrial land base and based on the numerous violations of applicable laws we have sited and the fact that the FAA in its own plain words won't let this happen it is neither a defensible legal action nor is it good public policy for you to approve these amendments. In terms of the slippery slope we heard someone say well lets think out side the box. Giving the thought out side the box is a good thing to do but when it is determined from that thought that the actions that are being proposed don't get you anywhere then acting on it to allow that type of action is not a good thing to do. We are concerned that what you are doing, if you approve this is residentially is passing the buck to the Port and we think that is an inappropriate thing to do. You can approve this as a first step, then you can approve the rezoning the airport related as the next step, saying they still have to come in for the conditional use, then you can approve conditional use saying well they still have to get the permit, then you pass the buck to the Port to deny the permit. We think that there is a more reasonable and better approach and that is simply deny theses terrible proposed amendments to your comprehensive plan and zoning ordinance and that is all he has got.

Mayor Burge, Councilor Bernhard and Councilor Gedlich thanked Mark Greenfield.

David LaCombe, Scappoose, explained he is Mr. Wilson's neighbor. He never knew it was going to become a residential area, according to what he just heard he is kind of baffled by a lot of it. Just a little bit of history he has only been here for 5 years in Scappoose. He moved out here, he is a farm boy to begin with, for the clarity of no noise and less hassle. He explained as a recent in the 5 years he has had a lot of low flying airplanes come by his house. He explained Mike has quite a few too. He has a three year daughter and eight year old daughter and when you talk

about the balls rolling out in the middle of the road next to the airport where the kids would be playing in the airpark, his main concern is his daughter is living in his house and those planes are low flying over his house and if something ever happened if a plane lost power and crashed and it has happened before and now he hears the industrial park. He is kind of for the industrial park, if it is more jobs for people in Scappoose he is all for that because he is a construction guy himself. When he heard the residential was going to be moving in to that area it baffled him because residential is for profit, building houses, industrial is helping the population of Scappoose. The Port has been very nice to him and Mike. They have even groomed some of their trees for flight approach. They have been in negotiations probably since he has been there for about a year. Mikes has been going on since the 90's. He just came here to speak up. He is all against your residential; it is for profit that is his personal opinion. If it is industrial he is all for it for jobs for everybody in this area. As for the planes and being out of compliance support, there are ways and conditions that they can accommodate us, like Mike and myself. They have worked with us and now we are in the same bullet because the airport is out compliance because of the trees. They want to cut our trees down or supersede or the FAA wants to help out with some of the projects and the funding so if the airport gets closed, by chance all of this goes side ways, he doesn't think it would be good for the community, to redirect the funding to the airport to support it. His only concern now is the airport traffic that comes in to this place is going to be heavier and more noise for them, more low flying planes and there are going to more complaints. He stated since me and Mike are the only two that live next to the airport we are the only ones who hear and see all these people that flying above our trees lines at 120 feet and barely touch 100 feet above them. He stated stunt planes, this last couple of days, less then 150 feet from our house, over our trees. Like he said he moved out here for the community, because it is a nice laid back community. To bring in all this traffic it is going to be more of a nuisance then anything else to him. He is just stating that as a neighbor he is not speaking for the community himself. His concern was like he said before and he will end on this point: the residential is only for profit, he hates to say that to you guys.

The Councilor thanked him.

Council President Ingham moved and Councilor Gedlich seconded the motion to extend the meeting until 10:00 p.m. Motion passed (6-0). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich; aye, Councilor Meres, aye and Councilor Heerwagen, aye.

Don Hansen stated he will just make a few comments based on what they have heard. He stated first Colleen with the Port Commission referenced economic development and through the fence agreement which has to happen. He stated earlier he talked about the rigger of a conditional use permit for what they may propose when they do choose a site that they may put some residential. The through the fence agreement is yet another approval process that they would need to go through where any application that they bring forward past creating this zone and comp plan designation would be scrutinize. He stated economic development there is no economic development right now. Mr. Freeman is the economic development at the airport so he thinks that is certainly worth acknowledging. He stated Larry I am glad you said a few things about Gerry Meyer as a Port Director, thank you. You know there are 161 jobs out there, there are 135 aircraft hangers, it is a good facility, it is a great facility. It is a community asset and he runs it. We don't want him to get in to a jam with the FAA and we are going to hopefully work towards not having that happen. He wants to keep it all industrial, we are not requesting any specific site for residential. When he was at this hearing before we are really not sure what kind of residential

we would even propose if we even do it. A lot of people work at home. The characteristic of residential is changing and our economy, we are looking for flexibility at this location. Joelle talked about a huge amount of funds that have been expended and he doesn't doubt her at all about removing the conflicts between residential and airports but he would propose that most of that is to basically remediate existing residential conditions that are next to airports that are expanding. He stated making that fix is entirely different. When you propose new residential some where near an airport you have anticipated the impacts of noise, not only in how you site the facility away from the runway but in how you construct the facility to attenuate for noise. There is also the ability to put CC & R's in place and other mechanisms that prevent the complaint factor. The complaint factor is a real deal for airports, he gets that and he understands why Joelle and others are concerned about is. If we propose any form of residential near the airport we will put those in place upfront because again we don't want to create a conflict we want to create we want the airport to flourish. He stated if we do propose residential near the airport he can tend that it wouldn't detour industrial development in the area if designed correctly he doesn't think it would. Their hope is it would be a catalyst and energize other types of development. Industrial development is not the way it use to be, it is modern and he thinks the two could peacefully coexist in that district if they are well designed and again the conditional use permit gives your Planning Commission the ability to make that judgment. He stated he hasn't seen a copy of what Mark Greenfield submitted tonight. He stated our staff report has been available since May 9, 10 days ago. He can really respond to anything Mark said in detail this evening so he is not going to. He will comment on one thing and that is his reference to the slippery slope. He stated I don't think there is a slope and he doesn't think it is slippery. He stated we have laid out very specific procedural points or procedural processes that the City will have in place to basically protect their view point and make sure that anything that happens out there is appropriate for the City of Scappoose. He doesn't get it, you have the conditional use permit and you have this through the fence agreement, they are definite thresh holds that we would have to pass through regardless of what we propose of it as a residential component. So there is no slope and it is not slippery. He doesn't see this as kind of pushing the ??? (not sure what Mr. Hansen said). If the process didn't have the clarity that it does he would have some doubt about that but he doesn't. That concludes his comments.

Ed Freeman, Sierra Pacific, Tigard, stated just a couple of brief comments and reply then we will let you get to your business. We appreciate you going through all this again and I appreciate the public testimony that has come from the Port and he thinks we have started the process of dialog and collaboration. He stated you have never had so many Port Representatives at a City Council meeting as have had at the last two meetings that we have had on this issue. He wishes they were here to support something maybe they will the next time we come before you. One comment he wanted to make and it has to do with the FAA. He wanted to thank Joelle Briggs for coming down from Seattle representing the FAA. He has the pleasure of meeting her two weeks ago at an FAA Regional Conference in Seattle and we sat through about three sessions about airparks and through the fence and he can kind of summarize his thoughts on her testimony in about one sentence. He stated Joelle is an attorney, she works for the FAA but she is trained as an attorney. If there was an FAA law or an FAA Order she would have just stepped up here and in one sentence read it to you and said here it is, here is the number, conversation over, instead they talked around it for about 45 minutes and they are doing the best they can. They are getting direction from Washington DC but the fact of the matter is they don't have one, there isn't one. We understand they are trying to take some other policy direction, they have concerns about airparks around the Country but we are here to open up that dialog and have an opportunity with your help to go meet with them and meet with the Port and see if we can work something out. It

is a new age in urban planning. Just like he mentioned at the last meeting, no one wants to live next to a train and yet we are developing light rail in Oregon and putting town homes and homes right next to these train stations and people are flocking to move in to them and the same things happening not just in the United States but around the Country with these airparks, around the World, excuse me. Also he might mention they referred to Afton a couple of times and in Afton there were some actions being taken by the FAA but the long short of it is the Afton airpark was developed and it is a mixed use airport. There is an airplane manufacture at the airport and maybe she forgot about that and other businesses there. Initially the FAA jumped on it because it was actually the airport sponsor, the airport operator, i.e. the Port that proposed the airpark development at Afton. He stated his own comments about slippery slope, he thinks what they are referring to with the slippery slope is that this action you are taking tonight puts the City and developer on an equal footing with the Port so they have to come to the table and discuss planning options and collaborate with the City and the Port, all of us as partners. It is a slippery slope they don't like, they like having control. It is the old FAA way but we're in the 21st century now and Oregon leading the way with a lot of these land use issues and it is not the same as it is in Washington State or Washington D.C. He stated that is about it.

Don Hansen stated Mark Greenfield referenced Goal 9 and the Cities ability to maintain adequate sites for industrial development that is a very real concern in any community to have the potential to generate jobs and have that land available within your city. We haven't talked about a specific site. We are talking about an idea right now so again there is no acreage or anything that he could even consider or talk to Council about yet that would bring in potential industrial land in to play, we are just not at that point. Again he knows Mark is resistant that we shouldn't create this tool, it starts the momentum but we are asking you to that do. We are asking you to do that but we are giving you a lot of authority over how it is done as a City.

Mayor Burge and Council President Ingham thanked Don Hansen.

Mayor Burge replied he doesn't get it either, if the Port is so dead set against that, it doesn't sound like there is a single Port Commissioner that is in favor of this idea on the Port, what is the point of going forward. Ed Freeman replied as was mentioned earlier we are starting the mediation process with the Port 4:30 p.m. Wednesday afternoon, day after tomorrow, we are going to start meeting with them and talking about all 700 acres around the airport and how we can move forward with the City and the Port in creating this economic development.

Council President Ingham asked Mr. Freeman how much does the 700 hundred acres does Sierra Pacific own? Ed Freeman replied well we own a better option all of it. Council President Ingham stated you own all 700 acres that you are talking about for economic development around the airport. Mr. Freeman replied correct. He doesn't think the Port will be needing too many more financial help from the FAA. We want to generate dollars for the Port. The airport the whole reason we are here, like he said in January and he wishes they could tell him what their budget are and how they make money and where they use money and he thinks that is one of the grant assurances they have with the FAA also is to be able to show fiscal responsibility and security around the airport, there are issues besides this through the fence issue.

Councilor Heerwagen stated Mr. Freeman mentioned that there is no rule or law that actually the FAA has that states they will not allow residential at an airport. Maybe Ms. Briggs.....

Ed Freeman stated like I said she would have sited it if there was, she would just come right out and site it, she will talk about paragraph 21 and compatibility, but compatibility goes back to sound, noise levels at certain distances and such. We are going to meet all compatibility standards if we come back and if we have the opportunity to come back to you it will be because we worked things out with the Port and the FAA; we have no choice in that matter.

Councilor Heerwagen asked if it is okay to ask Ms. Briggs if there is a written rule or Administrative Law or rule. He asked is there an administrative Rule or Law that says you will not allow residential homes at an airport.

Joelle Briggs explained the link to that is through the grant assurance 21 which is in 47107A10, which basically explains that the airport is required to assure compatible land uses on an adjacent to the airport. She explained as she stated earlier in her statement the agency has been given the authority and that is explained in Mr. Bennett's letter, to interpret that Law and determine what is in compatible land use and what is not and the agencies interpretation through the Administrative Record and through the "Carrie v. Afton" determination is where you find the Administrative Record for that. Councilor Heerwagen asked so your district has the ability to interpret it the way you would like to and district..... Joelle replied no the Federal Aviation Administrative in our National Headquarter makes the determinations through 14CFR part 16 which is the enforcement policy. Councilor Heerwagen stated so you are just following the National Headquarters set. Joelle replied she is just following the National Headquarter.

Ed Freeman wanted to address another point that was brought up. He believe Councilor Bernhard asked a question about Afton and some contact that someone from his office might have had with FAA in Seattle or in Colorado, he thinks what he was remembering was Dan Clem's correspondence. He hasn't been in direct communication with them at all other then to meet Joelle in Seattle and the Port was present at that meeting also.

Mayor Burge closed the public hearing at 9:10 p.m.

Council President Ingham explained in response to Mr. Greenfield's statements and just a couple of points that she feels fairly passionate about is his statement regarding the Planning Commissions unanimous vote denying because the felt the community voted based solely on the fact that is was going to be all industrial land. She stated she proposed and she thinks we all know that annexations very rarely fail and she thinks that if we had proposed to this community that the annexation would include industrial lands as well as residential lands she thinks the annexation would have happened any way, so she disagrees with that statement Mr. Greenfield. She asked City Planner Brian Varricchione what is our time frame to replace industrial lands when we rezone to residential from industrial? City Planner Brian Varricchione replied I am not sure I understand you question. Council President Ingham replied if we pull residential, if we have industrial land and we pull some of that land over to residential which depletes our industrial land inventory what is our time frame within the regulations or rules to replace those industrial lands in our inventory. City Planner Brian Varricchione replied the typical time when that is looked at is during periodic review which is a process that there is a City wide assessment of the land supply and the land needs for a 20 year time frame. He explained a couple of years ago the State amended the rules to say Cities with populations of less than 10,000 people are not subject to periodic review so that means it would be a the discretion of Council. City Manager Hanken explained one of the things that we are doing as part of our work plan is called economic analysis and we will be looking at the needs for commercial and industrial lands as part of a

future ugb expansion. This is just now starting to begin the process. We have a work plan that has been identified by the Department of Land Conservation and Development. We have a consultant on board to assist with this. We will be bringing to you a presentation at, he believes the second meeting in June, which would be June 20, he will double check that date, it is the second meeting in June, to kind of lay out the scope of work that is a part of this activity, not only looking at the entire community related to commercial and industrial land. He stated this again in terms of going through the public hearing process the entire thing is a slow process but again we need to do this as part of our process to be able to expand the ugb in the future so again the process may take 2 years but again we are starting to go down that road and at the second meeting in June we will have a presentation to Council.

Council President Ingham explained she would like to address the gentleman's comment regarding you living near the airport and you have lived here five years. Dave LaCombe replied that is me. Council President Ingham stated she doesn't mean to be disrespectful of his decision to move here because it is a wonderful community, but the airport has been here for a lot longer than you have and your complaint was that when, as time goes on you have more aircraft and more aircraft flying over your home. She stated and my question is do you feel industrial development, industrial economic development will bring less airport traffic than residential airport development? She stated her answer to that is she feels it is probably a toss up. She stated she would think as Mayor Burge stated earlier the growth is evident and enviable and with that will come more air traffic whether it be industrial based or residential based and her last comment to him is his comment being that residential is totally for person profit. She tends to disagree, the City acquires, will acquire, would acquire, could possibly acquire many, many, many dollars in property taxes and every time one of those residence drives his planes out on the runway he pays the Port a fee. So it is just a few comments she wanted to make based on some opinions and some ideas that people have about the residential part of this.

Mayor Burge opened the public hearing 9:19 p.m

Dave LaCombe, Scappoose, stated he is a small guy in the community but as you put industrial with it to him you bring in more planes and if he is just a little piece of the pie in this whole community his comments should adhere to here. If he come in to this community because it was a nice community that is what he would want it to be and that is what he would hope it to be. You are expanding everywhere else in Scappoose and of the pilots need to stay, these are his thoughts then he will shut up, if pilots were made to have a residential area to stay wouldn't there be a hotel right on the airport and as far as his comments those are his personal comments to his well being and his family and if it is industrial to expand to bring in more jobs to the community then he is all for it but not for residential. You have residential coming out everywhere here now. Our population has grown 2,000 in the past year. Those are his personal opinions.

Mayor Burge closed the hearing at 9:20 p.m.

Councilor Bernhard stated it has been a long evening and please bear with his as he is not an attorney and he doesn't speak nearly as eloquent as some people do in the audience. He explained he doesn't consider himself a career politician, he does this on a part time basis just because he cares for the community. He stated first of all he has no disrespect for our Port and he actually has a lot of believe in our Port as in what they could be doing. He sees every once in a while in the audience Colleen DeShazer at our meetings and he thinks by his count he owes her at least 4 or 5 different meetings that he needs to attend her meetings also but in saying that past

decisions are going to effect what we say today and what we think even though he believes that the Port has the best interest in our community right now. In the past he is sure they did but from their own words tonight they have had issues. Going on with that he was reading some of the information here that Mr. Greenfield gave us. He explained in one of the comments here in the second paragraph said over all the proposed amendments continue to ignore what best serves the needs of the Port and we believe the long term interest of the City of Scappoose and its citizens. They continue to place the Port in jeopardy with regard to continue airport funding from the Federal Agency FAA. He stated we have been elected by the citizens of this community to decide what is best long term interest of our City. He stated we are not placing the Port in jeopardy of losing their FAA funding. They have the power to decide if they want step up and have the courage to think out side the box along with us, we are giving them that opportunity. We are not placing them in any jeopardy, ultimately they have the decision. He doesn't feel we are passing the buck, as some one said earlier. He stated again he feels we are giving them the opportunity to talk to Sierra Pacific and the FAA to work out something else. This community needs more, more then what we have had in the past and if out side the box thinking in this particular incidence as Mr. Greenfield is irresponsible, he is not sure that is the exact word he used, let it be. He stated lets create motion, let's create possibility for our community and he thinks most of our citizens would agree that we need something else. No is the time and this is a good opportunity for us.

Councilor Gedlich stated she agrees with Councilor Bernhard and she wants to reiterate her earlier comment were she is really excited about the diversity of economic development that is possible in our community. She thinks that is what our citizens are looking for and they are expecting us to work very closely with Sierra Pacific and the Port to make this the best possibly opportunity that we can.

Mayor Burge explained his biggest concern is when you receive something at the late hour and the first page there are statements that are contradicted in testimony by Joelle Briggs with the FAA, it concerns him. It concerns him when yes the Port had to make considerations for the Mier Site but when a private developer came in that could stop all kinds of mining on that site the Port fought that as well. He stated people can shake their heads but that is how it happened at that time. He stated those are the truths and we are looking at this community and what are the best ways. He asked about the Airport Master Plan that was approved by the Port in November 2007 has that been incorporated in to our plan yet?

City Manager Hanken replied the first one we got we adopted in to our Transportation Master Plan. He explained they did a revision, we haven't revised the Master Plan that we have on file, how ever the application was filed at the time the information related to the airpark residential was incorporated to the master plan. Mayor Burge replied so therefore under land use planning it is under that master plan. City Manager Hanken replied it is his interpretation of that yes.

Mayor Burge explained again he thinks we have all pointed out that this doesn't reduce any land out of any inventories. He stated if we make further action it may but today this would not. He stated at the end of the day it amazes him that mediation is only starting Wednesday. To him that is sad. The first meeting we had was January 22, we are 4 or 5 months down the road and you are going to mediation on Wednesday. He stated it is embarrassing for all parties that it took this much time to get to that point. You knew where you were in January and nothing happened. There was a great opportunity during that time for things to happen. He is not convinced of Mr. Greenfield's statements here mostly because they get contradicted time after time through out

there not only by people on his side testify but by understanding of the rules and by what he has seen. So it is difficult to not vote in favor of this. He reads the letter and it is very good lawyer talk. He is always appreciative of anything that is very well done in the field that it is being done but it also has to be consistent. That is really all he is going to say tonight, he is done.

Councilor Gedlich moved and Council President Ingham seconded that the Scappoose City Council approve the application for the Comprehensive Plan Text Amendment DCTA1-07 and adopt findings dated May 9, 2008. Motion passed (5-1). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich; aye, and Councilor Heerwagen, aye. Councilor Meres, nay.

Council President Ingham moved and Councilor Gedlich seconded the motion that Council adopt Ordinance No. 799 as presented.

Mayor Burge read the title for the first time.

Announcements

Mayor Burge went over the calendar.

City Manager

City Manager Hanken explained the RFP for the Scappoose Municipal Park are due at 2:00 p.m. on June 4. They will be coming to the second meeting in June for Council approval

Mayor Burge went in to executive session at 9:36 p.m.

Executive Session

ORS 192.660 (1) (h) Litigation Likely to Occur

In attendance: Mayor Burge, Council President Ingham, Councilor Gedlich, Councilor Bernhard, Councilor Meres, Councilor Heerwagen, City Manager Hanken, City Counsel Andy Jordan, Police Chief Greisen, City Recorder Pentecost, Cecilia Haack and Matthew Nash.

Mayor Burge came out of executive session at 9:44 p.m.

Councilor Gedlich moved and Council President Ingham seconded the motion that the Scappoose City Council authorize the insurance legal representative and or the City Manger is here by authorized to sign off on any releases for the City, which would also include mutual releases in the settlement agreement. Motion passed (6-0). Mayor Burge, aye; Council President Ingham, aye; Councilor Bernhard, aye; Councilor Gedlich; aye, Councilor Meres, aye and Councilor Heerwagen, aye.

Adjournment

Mayor Burge adjourned the meeting at 9:45 p.m.

City of Scappoose, Oregon

Scott Burge, Mayor

Attest: _____
Susan M Pentecost, City Recorder