

**CITY OF SCAPPOOSE  
REGULAR CITY COUNCIL MEETING  
NOVEMBER 2, 2009  
AT 7:00 P.M.  
SCAPPOOSE, OREGON**

**Call to Order**

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

**Flag Salute**

Mayor Burge asked for a moment of silence for former Council President George Fleck who passed away recently. His memorial service was on Friday.

**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
Jeff Bernhard	Council President
Larry P. Meres	Councilor
Art Heerwagen	Councilor
Jeff Erickson	Councilor

**Staff:**

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

**Press:**

None

Legal Counsel Cindy Phillips

**Excused:** Councilor Gedlich and Councilor Ingham

**Approval of Agenda**

Council President Bernhard moved and Councilor Erickson seconded the motion to approve the agenda. Motion passed (5-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

**Public Comments**

None

**Approval of Consent Agenda**

**October 5, 2009 and October 19, 2009 City Council Meeting minutes.**

Council President Bernhard moved and Councilor Erickson seconded the motion to approve the October 5, 2009 and October 19, 2009 City Council Meeting minutes. Motion passed (5-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

## **New Business**

### **Resolution 09-21: A Resolution Adopting a Supplemental Budget, Establishing Appropriations Within the 2009-2010 Budget Veterans Park Land.**

City Manager Hanken explained Council needs to adopt a supplemental budget in the Parks SDC fund to cover a loan payment for Veterans Park land that will be due in March of 2010. When the City refinanced the loan for the Veterans Park land, the City paid \$122,500.00 for the monthly payment due, monthly interest due and reduced the amount to be refinanced by over \$100,000.00. The new loan agreement calls for a loan payment to be made in March. Council needs to transfer \$20,000.00 from the Parks SDC fund to Park SDC Debt Service to make this payment. This transfer will reduce the Park SDC Contingency Fund by \$20,000.00 and leaving a balance of \$64,407.00.

Council President Bernhard moved and Councilor Meres seconded the motion that Council adopt Resolution 02-21: A Resolution Adopting a Supplemental Budget, Establishing Appropriations Within the 2009-2010 Budget as presented. Motion passed (5-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

### **View Terrace Place Storm Water Issue**

City Manager Hanken explained staff has completed the design of the storm water repair that needs to occur on View Terrace Place. The repair is needed because the current system, which carries storm water from Five Peaks Terrace (street) and the houses locate on that street. This subdivision's infrastructure construction started in 1993 and I can't answer the question as to why the storm line is not in the storm water utility easement or why it was buried. When the design for the repair was completed, staff contacted five local contractors and asked them to bid on the project. On October 28<sup>th</sup> all five of the contractors were brought up to the site as part of the mandatory pre-bid conference. The contractors will be submitting their bids on November 3<sup>rd</sup>. As City Manager, I have declared this project an emergency under Oregon's Public Contracting Law and Scappoose Resolution 05-02. The City will issue a Notice to proceed immediately after reviewing the bids. Under the emergency provision of the public contracting law, the City can and will dispense with the 7 day waiting period for contesting the bids. Once the contract has been awarded, the contractor will have 10 days to install the manholes and pipes, in addition to making the connections to the houses and existing catch basin. Staff will report back to Council at its next meeting with the bid results and an update of the project.

Council President Bernhard asked City Manager Hanken if communication is still staying open with neighbors in that particular area that are being directly impacted by this. City Manager Hanken replied they were all notified that we will be being work on the project. We will be working in our existing easements. They were notified that if they have items in the easement the items will need to be moved. Once the City gets the bids and knows what the contractors time is we will provide more information to them. Council President Bernhard replied this is a terrible situation all the way around. He thanked City Manager Hanken.

James Ford, Scappoose, explained if you are looking at the plot his home is on lot number 6. He handed out information to Council and staff. He explained he has lived in Scappoose for 11 years. He stated one of the things today that he would like to plead to Council about is their

homes. He explained when he purchased his home one of the things that he really pressed upon the developers, the real estate agent and the builder and everything was the draining of that hill. It was a major concern of his. He was assured that there was an entire drain system in that hill that came down along side his house that was connected to the City storm drain system; that he didn't have anything to worry about. Having been assured that and being shown on the maps, which shows drainage easement on the plot, on the easements on his title, on everything; only to find out 11 years later, that is not true. He explained the part that kind of bothers him a little bit too is that he contact City Manager Hanken and the conversation didn't go very well. He stated during the conversation Mr. Ford said he mentioned to City Manager Hanken he should probably contact an attorney and he explained he was directed by City Manager Hanken to get an attorney. Mr. Ford felt that was very inappropriate and he is fine with that if City Manager Hanken agrees to pay his bill. He explained he doesn't want to be that way; he wants to work with the City. He stated the next day he met with City Manager Hanken and City Manager Hanken explained to Mr. Ford what was going on. He explained City Manager Hanken assured him that he would do everything to make it right, putting everything back, doing everything. He stated then he sees the article from the Spotlight and the comments in there were Hanken says the area and the easements on both Prakash and Ford's land will have to stay clear for repairs and maintenance. He stated he guesses he is getting a mixed message here. He stated kind of the way he feels about it is, yes that is an easement, those easements are designed for repair and maintenance; they are not designed for new construction. He stated if that pipe doesn't exist today this is new construction. He stated unless he is wrong, that system was never completed.

Mayor Burge asked City Manager Hanken if the system was completed or what does it look like now what happened? City Manager Hanken replied well basically what he can determine by going through the files and the engineers report the system was completed in April of 1995. A representative from the Oregon Department of Environmental Quality inspected the system and was able to determine that the pipe was draining out to a rock field as designed which means at that time the system would have been open for the DEQ representative to look at and inspect. He stated what happened between 1995 and 1997 he can't answer, we would have been done inspecting at that time. He does have a letter in the file stating they inspected it and it was open at that time.

Mr. Ford stated he moved to his house in 1998 and he noticed on a real heavy rainy day it looked like a geyser bubbling up.

Mrs. Ford explained they are not opposed to the fix; they want their neighbor to have the gapping hole in their yard fixed, by all means. She stated it has been very fortunate so far that no one was injured that hole is huge. She stated we are wanting that to be fixed for our neighbors and we are wanting to cooperate with the City. We are just wanting to have some consideration in our home and our land and what we have already established on our home and land and the landscaping we have in place. She explained they just want the same consideration that the Council would want if they were in a similar situation.

Councilor Meres asked Mr. Ford to explain one of the pictures he handed out in the packet. Mr. Ford explained on picture one City Manager Hanken's proposal is taking all the items out along side of his house. He explained the retaining wall was put in under the recommendation that the City put on him.

Councilor Heerwagen asked if the fences get taken out do they get put back. City Manager Hanken the contractors have a bid both ways; one is for replacing in terms of landscaping and one is for not. He explained we need to compare the cost of the two to see how things come out. He stated realistically these are in easements and under our Municipal Code easements needs to be accessible to City Staff in order to do maintenance. He explained our first and top priority of this construction project is to get a pipe in the ground so we are taking care of the water issue. The discussion related to replacement and restoring, if that is indeed the case, comes afterwards; we have got to get the problem fixed.

Mr. Ford replied he partly agrees with City Manager Hanken; yes you need to get the problem fixed but you need to do it with respect to the property owners and the problem is a mistake, it is not a repair or maintenance. He thinks he could actually take that as a challenge and challenge the easement on it and have a third party on what that easement is really to be used for.

Legal Counsel Cindy Phillips replied the plat says that these are drainage easements. It is dedicated to the public forever as a drainage easement.

Council President Bernhard stated first of all I am sorry you are going through this. Second of all as elected officials none of us up here, he doesn't think, have the expertise to look at these plans and decide what is best on how and if it is going to be fixed. He has the up most confidence that the City will respect the property owner's property throughout the whole process. His recommendation is once we have a bid in place, plans in place, if there are still issues along with that come back to the City Council or work with our city manager and deal with it at that particular time. As elected officials he really doesn't believe we can look at the plans and really fully access what you are going through. He does have confidence that they City will work with you and respect your property. He did take notes about Mr. Ford's concerns with City Manager Hanken and that will be taken up in our next evaluation and discussed as a City Council. If you continue to have issues contact any of us. He stated tonight I do not believe we are going to fix or resolve anything until we have a set of plans in place and we know what we are dealing with, then we will go from there.

Mr. Ford stated he appreciates Council President Bernhard's comments. He stated just to sum it up, these are our homes and I am just looking for some flat out respect.

Councilor Heerwagen asked about the hole in the Prakash's yard. City Manager Hanken replied that hole will be filled and be reseeded.

Council President Bernhard stated after the plans and bids have been set out at that particular time he feels Mr. Ford wants to come back to City Council to discuss access to their property and landscaping issues, he thinks as a council they will have a little bit better input on a situation like that but until we have something to look at he thinks it is a little bit difficult. He does emphasize with them. He asked Mr. Ford to have a little bit of patience which is extremely difficult.

Mrs. Ford asked when the bid/contract happens can they be notified. City Manager Hanken replied that will be known tomorrow afternoon.

Council President Bernhard stated to City Manager Hanken you do a great job of communicating to us as a Council if you can continue to do so and keep Council involved of what is going on

with this project. He stated there is no reason why we can't find some type of resolution to all of this.

Mr. Ford stated Mr. Prakash had to actually going in to the hole and plumb it out, the City has done nothing.

Council President Bernhard stated to Mr. and Mrs. Ford we understand your concerns and he thanked them.

Alvin Prakash & Amendra Prakash are here this evening to discuss the issue occurring at their home in Scappoose.

Amendra Prakash explained when his builder was building his home the builder noticed the site was always wet. The builder was told by Don Sallee and the City Engineer that there was a natural spring. He explained the City told his builder to put the garage on the right side of the house instead of the left like he wanted it and the City also told his builder to put in a retaining wall in the front about 8 to 10 feet high, retaining walls on the side and the rear all on his cost. He explained he was told then by the City Engineer because of the natural spring the City can not help him. He explained this year on August 22 when it rained he saw water spraying up so he called the City. Don Sallee and Terry came over and said because there is a natural spring we can not do much. He explained then his wife was working in the yard and fell in to a big hole. He stated what he did when the City said they can not help he hired a backhoe and started digging. He explained they ended up digging about 25 feet. After digging 8 to 10 feet deep they found big boulder rocks, they also removed a big concrete slab and right underneath the slab was a broken pipe. He explained he called Don Sallee again and he came over and he showed Don the area. They did a dye test.

Alvin Prakash explained when they did the dye test it took no more than 15 seconds for that water to come down the pipe. He explained when they were pouring water up on the street you could actually hear their conversation coming through the pipe.

Amendra Prakash explained Don Sallee told him not too worry about it, the City will take care of it. He explained Don said he would talk to the City Manager on Monday and since then nothing has been done. It is raining every day and the soil is caving in. He is worried about his children falling in the hole. He explained he would like it fixed as soon as possible because the rain season is coming. He stated the soil is just caving in and he is afraid the house may collapse some day. He stated if you don't believe it pay a visit you are all invited to come and see it. He asked if there could be a temporary pipe placed. He stated the City did nothing. He went on his own expense and bought a pipe and ran it over to the road.

Mayor Burge explained the bid is being opened tomorrow and we are giving the contractor 10 days to complete it. Alvin Prakash replied the problem with that that we have is that you don't know what the plans are, we don't know what the designs are and the fact that the City is asking for bids already tells me that there is a plan established, a design established and the fact as a home owner this is effecting us and we don't know what the plans are, we don't know how the pipe are going to run, we don't know where the man hole on the property is going to be. He asked if a manhole is going to be on our property how much value does that diminish the property. Mayor Burge replied the manhole would be in the easement. Alvin Prakash replied we don't know that we haven't received any plans. Amendra Prakash replied there is communication

break down; we haven't been told what the plans are. We were just thinking that some one would come and give us the plans. He explained he is willing to cooperate with the City he is just wanting to know what the plans are. City Manager Hanken stated Mr. Prakash we have met with you every time we requested an idea to running the line whether it is through the property that is on the south of you or whether it is the property below you, we have met with those people trying to get the easement.

Council President Bernhard stated we are not getting anywhere so if we can please give them any copies of the plans that are available. He stated it is time to find out a fix. He said it sounds like we should have a fix in place within the next couple of weeks. He stated again I emphasize for what you have gone through. He is not trying to make excuses but he is the type of person that says how are we going to fix it and what are we going to do right now. He stated the best he thinks we can do for you at this particular point is give your proper communication from here forward, giving you proper plans from here forward and then go from there. He stated if you continue to have issues please contact us, please contact the City Manager, continue to keep good records and as the City Council we will do everything we possibly can to try to rectify whatever we can within our power.

Amendra Prakash stated he would like to be notified of what is going on and he would like to know before people come on his property. Council President Bernhard replied out of respect for you and your property you need to be notified ahead of time of what we are going to do to your property. He doesn't know if that is something that is mandated or not, he has no idea, but he thinks out of respect it is something that we need to be doing.

Council President Bernhard stated this Council tonight will make a directive to the City Manager that any communications that are going to Mr. Prakash Council is cc'd on that way we can at least over see communication that is happening.

There was discussion on Mr. Prakash moving his carport and flowers out of the easement area.

Council President Bernhard stated to Mr. Prakash, please continue to communicate with us. He stated lets continue to try to move forward.

John Kangas, Scappoose, explained he just built a house up on Peak Road. He stated he can very much sympathize with the water issues; there is a lot of water on that hill coming down. He is asking as a brand new property owner if he has a problem when he calls can you make sure City staff looks in to the issue quicker or be more responsive. He heard from the two families that are here they heard nothing back from the City. He asked maybe we can take action quicker. He asked Council to respond with visible action; stop by and visit, send the water department up their, so that we have people know what they are doing looking at the problem, maybe even helping them with a solution that mitigates the issues. He stated moving forward he asks for responsiveness.

**Announcements** ~ Mayor Burge went over the Calendar.

### **City Manager**

City Manager Hanken explained the City will have a holiday function on December 5, 2009. The Watts House lighting will be on November 30, 2009.

## **Police Chief**

Police Chief Greisen stated he spoke with Councilor Gedlich and she wanted to tell the Council hello and she is doing well. He stated after Thanksgiving he will start bugging Council about Scappoose Police “Doughnut Day” and the food bank will be doing their can food drive with doughnuts on December 19, 2009.

## **Council**

Councilor Meres thanked everyone for showing up and telling their stories and hopefully the City can help you get those problems fixed.

Council President Bernhard stated it is nice to see some of the work getting done on the City park, looks like it is moving along well and he looks forward to seeing that completed. He would also like to thank the neighbors of that particular area that came down and talked to us tonight. He stated your concerns are not left on deaf ears, we will do everything that we can once again as a Council and he is sure that together we can work out solutions; he is not saying that everyone is going to be happy about solutions but he is sure we can work out solutions. He stated you have my promise as a Councilmember to keep my ears open and willing to work with you.

Councilor Erickson concurs with Council President Bernhard.

Councilor Heerwagen stated it is good that you felt free enough to come down here and bring your concerns to us and that is what this form of Government and this Country is built on. He stated we will do everything that we can to see that you are treated as fairly as possible.

Mayor Burge agrees with Council President Bernhard, Councilor Erickson and Councilor Heerwagen. He stated sometimes we don’t hear everything unless people come down and tell us. He stated no offense to any side but we get filtered stories unless we hear it first hand. He thanked them and stated we want to solve this problem for you.

## **Adjournment**

Mayor Burge adjourned the meeting at 8:19 p.m.

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Scott Burge, Mayor

Attest: \_\_\_\_\_  
Susan M Reeves, CMC  
City Recorder