

**CITY OF SCAPPOOSE
REGULAR CITY COUNCIL MEETING
MARCH 18, 2013 AT 7:00 P.M.
33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON**

Call to Order

Mayor Burge called the City Council Meeting to order at 7:00 p.m.

Flag Salute

Attendance:

City Council Members:

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| Scott Burge | Mayor |
| Larry P. Meres | Council President |
| Donna Gedlich | Councilor |
| Jeff Erickson | Councilor |
| Jason Meshell | Councilor |
| Barbara Hayden | Councilor |

Staff:

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

Press:

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| Jeff Bennett | Legal Counsel | Katie Wilson | South County Spotlight |
|--------------|---------------|--------------|------------------------|

Excused: Councilor Mark Reed

Approval of the Agenda

Mayor Burge amended the agenda to move 9.1 Skate Park Contractor Presentation to 9.8 due to the skate park contractor not being present yet.

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

Public Comments

None

Council Report/Committee Reports

None

Consent Agenda ~ March 4, 2013 City Council meeting minutes & Scappoose Historical Society Annual Car Show ~ August 10, 2013

Councilor Gedlich moved and Councilor Meshell seconded the motion to approve the Consent Agenda ~ February 19, 2013 City Council Meeting minutes & Scappoose Historical Society Annual Car Show ~ August 10, 2013. Motion passed (6-0). Mayor Burge, aye; Council President Meres, aye; Councilor Gedlich, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye.

Old Business

Ordinance No. 826: An Ordinance creating a Crime Property Nuisance and Amending the Scappoose Municipal Code

Councilor Hayden explained last week she spoke up about some issues that she had regarding a junior officer having the same powers as the police chief and she still is feeling pretty strong about that. She explained on page 3 number 5 she feels it should be the police chief instead of an officer, she thinks he needs to be the lead on this instead of just an officer.

Police Chief Greisen replied that makes sense and he agrees. He explained it may be better to change it also under 8.22.010 Definitions of Enforcement Officer could be City of Scappoose Police Chief or designee. He thinks would correspond better.

Councilor Hayden stated then we would have to track it through on page 3 under 8.22.050 under the Emergency Closure, she feels where it states an enforcement officer, that should be chief and the city manager. She explained she respects the fact the Police Chief Greisen and City Manager Hanken talk all the time but if Chief Greisen is no longer with the City and we have somebody different.

Legal Counsel Jeff Bennett asked is it intended that the designee be another police officer and if it is intended that the designee be another police officer we need to be clear about.

Police Chief Greisen replied his designee would be one of his command staff.

Mayor Burge stated he wouldn't want the designee to go any further down then the lieutenant or sergeant, personally he thinks it should just be the lieutenant.

Councilor Gedlich thinks we are almost micromanaging this and she doesn't really like that. She thinks between the police chief and the city manager they can certainly figure out who the next person is going to be without making it harder than what it really is.

Legal Counsel Jeff Bennett replied he is not trying to put micromanagement into this, all he wants to do is have some insurance that the right people are doing it.

Police Chief Greisen asked how about something like The Police Chief and or his/her designee from the police command staff.

Mayor Burge, Councilor Gedlich and Councilor Hayden liked how that was worded.

Councilor Meshell explained the way it reads now he wouldn't vote for it but he supports it and the piece that he has the most issue with having researched it and listened and watched over the last couple of weeks is the line we have drawn on it is a little low on what he would call on a lot of the ORS's here or misdemeanors. He would really like it to be defined as any class of felony but that we specially list out in the ORS's somewhere in here that any felony in under the following section that way we don't run afoul of what he would call the minor crimes. We really get the police focused on the felonies because he thinks it is important that they arm the police with these but at the same time if we can clean up the felony portions of this he would feel a lot more comfortable that we struck the right balance.

Police Chief Greisen explained since August 2012 to February 2013 there have been 7 sexual offense, 20 drug controlled substances offense and 7 weapon charges in our area. He explained out of the sexual offences and weapons they each had one incidence where it was a repeated offence at the same location in a 60 day time period.

Councilor Gedlich thanked Chief Greisen about this, it is really kind of nice to know what is going on in our community. She asked if he has run this ordinance by Judge Wood and if you have what were his comments.

Chief Greisen replied Judge Wood wanted to be here but he wasn't able to and he supports this ordinance

Mayor Burge reopened the public hearing at 7:17 p.m.

Lisa Smith, Scappoose, explained she wanted to apologize to the Council because she thought tonight was a public hearing. She explained some people expressed concern to her so she thought she would take a look at this. She explained what she was hearing was kind of scary, things about closing your property and third party enforcement and a creation of kind of a new crime. She explained went through and did some research and look at other cities that have similar ordinances. She went over her proposed changes to the draft ordinance that she presented to Council.

Mayor Burge asked if anyone else wanted to comment on the public hearing, there was no one else. He closed the public hearing at 7:25 p.m.

Councilor Meshell asked Legal Counsel Jeff Bennett if there is any place in the ordinance where the City actually takes possession, like ownership property.

Legal Counsel Jeff Bennett replied no.

Councilor Hayden asked Legal Counsel Jeff Bennett to explained page 4, under C, she asked what does that exactly mean if we are not taking it.

Legal Counsel Jeff Bennett replied it empowers the City to do what is necessary to secure the property because the court would issue a closure order that basically means the occupants cannot occupy it.

Councilor Meshell asked Chief Greisen if we were able to include the Class A Misdemeanors but not the ones below it do we feel like we have enough teeth, because he is really try to strike the balance without keeping the entire ORS's of these in there.

Police Chief Greisen read what constitutes a Class A Misdemeanor under sexual crimes.

Councilor Meshell explained he is okay supporting this with the changes they have mentioned. If we can give the Chief the power but take that away so we are not out there prosecuting that type of crime and also if we strike entirely number 4, unless Chief Greisen can give him a real good answer why number should stay because he would think under ORS 166.220 that you have a lot of ability to do this already. He doesn't know if he wants to empower a body to take away somebody's property that maybe in the future designated even for ownership. So he wants to

make sure that we tread very lightly on number 4.

Police Chief Greisen read ORS 166.220.

Councilor Meshell asked Chief Greisen is the ORS and the ability to arrest those people preventing us from dealing with those crimes.

Police Chief Greisen replied no.

Councilor Meshell asked do we really need to designate those as crime properties to deal with it effectively.

Chief Greisen replied in his personal professional opinion yes.

Mayor Burge asked Chief Greisen of those multiple crime properties that he spoke of are there any of them that he would use this ordinance if it was in effect today to go after.

Chief Greisen replied not at this current time.

Council President Meres stated we are back to 2 & 3 again, gambling and prostitution. He explained he doesn't know of any cases in Columbia County of gambling and prostitution, he hasn't lived here that long, but never saw it. He explained we had a conversation today that if we felt there was an issue that you could come back and we could discuss that at that time. He explained the other thing they had some discussion about is if this proceeding was starting to happen that the Council be notified in writing.

Police Greisen explained there was some cases in the past where there was a big gambling ring right outside the City of Scappoose, so they do happen. He explained as far as prostitution you just never know. He explained we are just trying to be proactive.

Mayor Burge stated the more he reads this and the more he thinks about it he tends to lean more toward Councilor Meshell's thoughts on felonies. He stated maybe it can be Felonies and Class A Misdemeanors he thinks we can go that far.

Legal Counsel Jeff Bennett replied you could probably classify it as a Felony or Class A Misdemeanor.

Mayor Burge replied he feels he would be much more comfortable with that than just the open ended on all of these.

Legal Counsel Jeff Bennett went over the changes ~

Enforcement Officer means City of Scappoose Police Chief and or a designee from his or her command staff.

Change in the specified crime property ~ the change would be in the third sentence and it would read ~ behaviors occurring under state law or municipal code classified as a Felony or Class A Misdemeanor, and that have been independently investigated by any law enforcement agency.

There are two place where Councilor Hayden suggest enforcement office be changed to Chief of Police only. The first one is on page 3 paragraph number 5 ~ it will read ~ The chief of police shall send a copy of the notice to the city attorney, as well as any other documentation supporting closure and imposition of civil penalties.

The other one is under 8.22.050 Emergency Closures A ~ it will read ~ If the chief of police determines real property is an immediate threat to the public safety and welfare by virtue of activity which would establish a violation of this chapter, the city may apply to the court for a preliminary injunction ordering closure of the real property. In such event, no preliminary notice required under Section 8.22.030 need be given.

Councilor Meshell asked if there was another one that was mentioned about notice to the City Council.

Councilor Meres stated he knows it was mentioned.

Councilor Gedlich replied she thinks we took it off because of the city manager and the police chief.

Chief Greisen replied because we had our checks and balances.

Councilor Gedlich moved and Councilor Erickson seconded the motion that the Scappoose City Council to approve the amendments. Motion passed (6-0). Mayor Burge, aye; Council President Meres, aye; Councilor Gedlich, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye.

Mayor Burge asked Council if they would like to make any of the proposed changes by Lisa Smith.

Mayor Burge asked Legal Counsel Jeff Bennett if he can comment on Lisa Smith's proposed changes.

Legal Counsel Jeff Bennett explained based upon her testimony he will respond. He explained as far as the City closing properties, the City does not close properties, it just starts the process. He explained on the definition of occupant Lisa Smith used the term occupant and there are times when properties are occupied with no right to be an occupant, such as swatters. He went over the burden of proof and explained this is a civil procedure. He stated in regards to whether or not the City Manager should act as a gate keeper, that is up to Council. He went over Lisa's handout on page 4 under E and page 5 under 8.22.060. He explained in regards to this ordinance, what we don't want is landlords to not know what is going on with their property. He went over Lisa Smith's proposed ordinance regarding the penalties under 8.22.060.

Council President Meres stated he does agree that the penalties should be turned down a little bit and he would be more comfortable with \$250 and \$500.

Council President Meres moved and Councilor Hayden seconded the motion that Scappoose City Council reduce the penalties under 8.22.060 to \$250 and \$500 maximum per incident. Motion fails (2-4). Mayor Burge, nay; Council President Meres, aye; Councilor Gedlich, nay; Councilor Erickson, nay; Councilor Meshell, nay and Councilor Hayden, aye.

Councilor Hayden stated she does believe if this is an emergency closure under 8.22.050 that the city manager should be involved in this emergency closure.

Legal Counsel Jeff Bennett explained remember this happens after the law proceeding has started and there is a sense that there is the need for immediate closure. He explained what this is, is that the enforcement officer determines that there is an emergency the City can go to court to apply to the court for a preliminary injunction and it would allow for the closure. He explained it is not the enforcement officer that is presiding; the enforcement officer is just saying we need to take this to court to ask the judge for an injunction.

Mayor Burge read the title for the second time.

Motion passed (6-0). Mayor Burge, aye; Council President Meres, aye; Councilor Gedlich, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye.

New Business

Columbia County Rider Program Presentation

Janet Wright, Columbia County Rider, explained she is here tonight to tell Council about the service reductions they are going through now with CC Rider and what that might mean for the residents of Scappoose and their public transit program in Columbia County. She went over her handout that she provided to Council and staff.

Councilor Meshell asked just on a general basis how much are you planning on receiving from the County General fund.

Janet Wright replied \$30,000 is cash match, but the other part that can be considered cash match is the staff time that is put toward that and her position is part of the staff time.

City Manager Hanken asked if there are any discussions on creating a transit district.

Janet Wright replied she is one of the first people that would be for that. She explained she has talked with the Board about getting things in a position so that they can actually take it out to a vote. She explained the Board has not seen fit to do that right now, but that is something that they are continuing to look at.

Council President Meres asked when you talk about the Board are you talking about the County Commissioners.

Janet Wright replied yes.

Council President Meres stated he also would be in support of a transit district.

Unofficial Results of Fluoride Measure

City Manager Hanken went over the staff report. He explained on March 12 voters in Scappoose approved the continuation of fluoridating the City's water. He explained the unofficial results the

measure had 847 “Yes” votes to 551 “No” votes. At the next meeting, Council will have the Official Election Results and will need to pass a resolution accepting those results.

Harvesting 30 Acres of Merchantable Timber in the Gourlay Creek Watershed

City Manager Hanken went over the staff report. He explained the City of Scappoose owns approximately 400 acres of timber lands. He explained we have with us tonight as our City Forester Jay Worley and he has been working with the City in terms of forest management for many years. He explained Mr. Worley recently visited the Gourlay Creek site and he submitted a memo to him, which he included in the staff report. He explained Mr. Worley identified approximately 90 acres of merchantable timbers that we have in the Gourlay Creek. The trees in this area range in age from 45 years to 100 years. There is approximately 2.8 million board feet of time that could be harvested. He explained Mr. Worley has identified indicators of fungal disease that could start to decay the tree trunks. He explained staff is recommending that Council authorize a 30 acre timber harvest to address the size issue and to provide the City with approximately \$440,000 in revenues for the water fund. He explained if the timer sale was approved, those funds would be placed in the upcoming budget as revenues and expended to rehab the Dutch Canyon well, repair the diversion pipe on the South Fork dam and to clean the water impoundment areas behind Gourlay and South Fork Dams. He explained he would like to be able to get, with those 90 acres, 30, 30 and 30 for the next three years as a source of revenue.

Councilor Meshell asked if he feels like we are maximizing the revenue out of this renewable resource.

Jay Worley replied yes, the prices are actually quite high.

Councilor Gedlich asked if all the money has to go into the water fund or could part of it go into the general fund.

City Manager Hanken replied that is a policy question for Council to answer. He explained his staff report basically indicated what Councils past practice has been.

Councilor Gedlich stated she doesn't want it to go to salary, wages or benefits.

City Manager Hanken replied if it is going in the budget you are going to have repairs to the dams and the system or you are going to have repairs to your current system here. He explained City's issue is not wages and salary, there are loan payments, infrastructure, etc.

Councilor Gedlich explained she's hoping this will help instead of having to raise rates.

Mayor Burge stated he thinks what it does is saves the SDC loans, it kind of pays for those.

Councilor Meshell asked so is the issue before us today not where are we going to put the money it's just permission to go ahead and harvest the timber.

City Manager Hanken replied it is just for permission to go forward and harvest.

Councilor Meshell stated he likes Councilor Gedlich's question on making sure we spend the money right and we'll have the whole budget process coming up. He stated we can get this moving and then figure out the best place to do it.

Councilor Gedlich moved and Councilor Erickson seconded the motion that Scappoose City Council authorize a 30 acre Timber Sale in the Gourlay Creek Watershed area as recommended.

Council President Meres asked Jay Worley when you say you are going to log 30 acres, does that mean you are just going to clear it.

Jay Worley replied this area in the past has been thinned but now this particular area because of the fungal disease if you thin it you are still leaving a host there to re-infect and that fungus attacks the bigger older trees. He explained we did a 35 acre clear-cut up there in 1999 and it is total successfully reforested and it has 350 trees on it.

Mayor Burge stated he remembers the 1999 cut, that was his first year on Council and he remembers the budget discussions about the revenue from that.

Councilor Hayden asked does this go out to bid for different logging companies.

Jay Worley replied explained what we have done in the past we've sold a lump sum sealed bid because that is cheapest way to administer it. He wanted to point out all these things in the woods are estimates.

Motion passed (6-0). Mayor Burge, aye; Council President Meres, aye; Councilor Gedlich, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye.

City's Alcohol Policy

City Manager Hanken went over the staff report. He explained at the last meeting Council asked to view to the City's alcohol policy. He went over what the current municipal states about the alcohol policy. He explained Council has allowed organizations to ask for a variance from the ordinance and those have been granted to allow liquor during certain events. He explained many communities do this process the same that we do. He explained our standard practice is that the organization comes before Council and makes the request and if Council approves they provide us with insurance information which states we are covered under their policy. He explained if Council wants to allow for alcohol in the City parks without Council approval, then the ordinance needs to be modified to reflect what that process would look like. He explained one of the things he would recommend with the possibility of allowing alcohol he would limit it to beer, wine or champagne and stay away from the hard liquor.

Councilor Gedlich explained she read this and she really appreciates the staff report. She explained she really kind of likes the way they are doing now where anyone that wants to have alcohol has to come before Council. She thinks we should keep it the way it is and then if we get more groups coming forward this body has a better control over what is happening.

Councilor Hayden has no problem with the way it is now either. She explained they would like to do some events at the Watts House this summer and they don't have a problem coming before Council.

Council President Meres asked if there was an insurance issue, did we get a figure of that if we just get a blanket policy.

City Manager Hanken replied you can get a blanket policy but that will probably add close to \$5,000 or \$6,000 to your insurance premiums but from his standpoint he is not sure why we would want to take on somebody's liability in terms of serving alcohol.

Discussion on Senate Bill 408 ~ Access Highway Management

City Manager Hanken went over the staff report. He explained Mayor Burge asked for this to be on the agenda. He explained it is related to highway access management SB 408. He gave an example of the difficulties a local person had with highway access. He explained what Senator Johnson's bill does is basically says under certain circumstances if there is a local unpermitted driveway on the highway it is permitted. He explained the area where businesses get trapped is if you have a business and it closes and something else wants to move there and your trip count is higher than the original and the State comes in and says no we are not going to allow that.

Mayor Burge explained that was the specific one that Senator Johnson talked to him about at the LOC City Hall Day was that right after the recession hit a lot of Safeway's and Fred Meyer's wanted to put in garden centers in their stores well that increases their trip count and the foot print of their building. He explained ODOT got in the way of all this investment that was probably really needed in the communities and so Senator Johnson has been working on this Bill for several years and so he wanted to bring it to Council.

City Manager Hanken explained he called Senator Johnson to see what progress has been made on this Bill and the day it had passed the Senate and Senator Johnson had walked it over to the House floor for reading, introduction and moving through that process. He is not sure where it is right now in the House side but there seems to be a lot of support.

Councilor Gedlich asked City Manager Hanken if he could write a letter from the Council stating they certainly appreciate getting the information about this and they are real proponent of the Bill.

Councilor Gedlich moved and Councilor Erickson second the motion that the Scappoose City Council support Senate Bill 408 and directs City Manager Hanken to inform our Legislative Legislators and the Legislature of our support of the measure as well as the Government. Motion passed (6-0). Mayor Burge, aye; Council President Meres, aye; Councilor Gedlich, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye.

2013 League of Oregon Cities Legislative Agenda

City Manager Hanken went over the staff report. He explained Council asked for this to be place on the Council agenda. He explained before each Legislative session the League of Oregon Cities puts together their agenda. He explained as part of their process the send out goals and objections for each community to kind of weigh in on and then they send out a list of the top five priorities. From there the LOC through their lobbyist promote legislation to try to get as many of these approved as possible. He explained there is a sticking point in terms of the issues the LOC top five, every City might not be in support of them.

Mayor Burge asked if there is any direction that Council might want to take in the future.

Councilor Gedlich stated one of her biggest pet peeves is the municipal court fund because every city is going broke. She feels we need to be discussing things that really effect all of our jurisdictions across Oregon.

Council President Meres moved and Councilor Meshell seconded the motion to extend the Council meeting 15 minutes. Motion passed (5-1). Mayor Burge, aye; Council President Meres, aye; Councilor Erickson, aye; Councilor Meshell, aye and Councilor Hayden, aye. Councilor Gedlich, nay.

City Manager Hanken explained one of the things that he heard at the Council Goal Setting was more conversation with our elected officials. He explained we do have annual Legislative Sessions but it may be one of those tasks that Council decides to do is our own local priorities we sit down with our elected officials, maybe we do it once every two months, invite them in and talk about what are the issues that are specially important to the City of Scappoose. He explained the Chamber of Commerce does a phone conference with Representative Witt and Senator Johnson and any topic that a City wishes to bring up can be discussed.

Mayor Burge explained he was on the committee for the jobs and economic development issue and the frustrating this for him was the point he was trying to make on the committee was look why don't we find an issue that the business community supports that corresponds with economic development. He feels what is good for business is good for cities since they are kind of joined by the hip so it made sense to him to work together. He explained the other one is Council governance that they talked about at the goal setting session that way there is a local, county wide, local agenda going to the Legislature that more focuses on the need of the cities of Columbia County. He explained what he doesn't want is the city manager sending emails to the Legislature taking position for the City on Bills, but that is not their role.

Councilor Meshell would like to see this on the next agenda and have Council vote on each one.

Skate Park Contractor Presentation

The contractor never showed up.

Announcements

Mayor Burge went over the calendar.

City Manager

City Manager Hanken explained the Leadership Group provided the City with a couple of extra banners. He explained the SEI forms are due April 15.

Police Chief

Chief Greisen thanked Council for the ordinance.

Council

Councilor Gedlich thanked staff for all their hard work and even though it was a long meeting it was very informative.

Councilor Hayden thanked Police Chief Greisen for being so cooperative and understanding regarding their concerns, she really appreciates it.

Council President Meres stated Saturday they had a conversation again about Havlik Drive. He explained either City Manager Hanken needs to contact the State or Council needs to get involved, but we need to solve that problem, if there is a problem.

Police Chief Greisen explained he has dealt with Senator Johnson, ODOT, and ODOT Rail about that intersection. He explained he is now doing a formal letter to ODOT to try to get us some resolution. He explained the issue is when you come up to the railroad tracks and see you a red light you have to stop you cannot proceed over the railroad tracks and make a right hand turn. He explained if they don't change it hopefully they will put a sign up that states stop here on red.


Councilor Meshell thanked City Manager Hanken for the great goal setting session, he appreciates him facilitating that. He looks forward to codifying those, working through them this year, getting them to the Legislator and he appreciates the Council as well and all the good feedback they had.

Mayor Burge thanked City Manager Hanken for everything.

Adjournment

Mayor Burge adjourned the meeting at 9:14 p.m.


Scott Burge, Mayor

Attest: 
Susan M. Reeves, MMC
City Recorder