

**CITY OF SCAPPOOSE  
REGULAR CITY COUNCIL MEETING  
JANUARY 20, 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**

**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  
**Judie Ingham** Councilor  
**Larry P. Meres** Councilor  
**Art Heerwagen** Councilor  
**Jeff Erickson** Councilor

**Andy Jordan** Legal Counsel

**Staff:**

**Jon Hanken** City Manager  
**Doug Greisen** Police Chief  
**Susan Reeves** City Recorder  
**Brian Varricchione** City Planner

**Press:**

None present

**Excused:** Councilor Gedlich

**Also present:** Budget Committee member Teresa Keller.

**Approval of Agenda**

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

**Public Comments**

Karen Ladd, Public Health Administrator and Gary Heide, Vice Chair Board Columbia Health District presented pictures to the Council of what the future hospital will look like. He explained Legacy will be managing the hospital but the hospital will be owned by the people of the Columbia Health District. He stated if everything comes together as planned the hospital will open late spring, early summer of 2010. He explained the hospital will be built on Millard Road approx ¼ mile from Highway 30.

Council President Bernhard asked where will the funding come from. Gary Heide replied the funding will come from user pay and tax money.

Council thanked Karen and Gary for their presentation and all their hard work.

Jean Lewis, St. Helens, gave an update on teen court. She thinks they are going to be on the road here pretty quick. She explained Fred Meyer just gave them a donation of \$2,000.00 and so far she has raised \$8,250.00. She explained she does have a board of directors. She explained St. Helens High School is providing them with a room, a computer and a phone, so that helps with their budget. She explained they are going to concentrate with Scappoose and St. Helens and then once they get it up and running smoothly they can start bringing in the other areas.

Council thanked her for her update.

Jean Lewis explained she has seven out of eight students for the Mayors Youth Advisory Board and she is hoping to get one more so they can start this.

Council thanked Jean for her hard work on this.

### **Approval of Consent Agenda**

Councilor Ingham moved and Council President Bernhard seconded the motion to approve the January 5, 2009 City Council Meeting Minutes. Motion passed (6-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Ingham, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

### **Old Business**

#### **Underground Injection Control (UIC) Requirements**

City Manager Hanken went over the staff report. He explained there are two representatives from DEQ here this evening.

Nina DeConcini is the Administrator for the Northwest Region of the State with the Department of Environmental Quality. She explained the underground injection control program has been around for a long time and there is a very long history that you can hear from Rodney about. The program was essentially a program that was almost without any funding at the State level and we were on the verge of giving it back to the Environmental Protection Agency because we had one person running it State wide. She explained part of the reason they are before Council tonight is because Rodney was involved during the 2007 Legislative Session in getting the resources minimally for DEQ to have a State wide presence for uic's. She wanted to indicate their commitment to working with the City of Scappoose and to seeking a cooperative and solution oriented outcome in this whole thing because there are many communities they are working with on this not just Scappoose.

Rodney Weick is the Storm Water Manager for Northwest Region with the Department of Environmental Quality. He explained they are here this evening to talk to Council and explain more about the program. He explained he has been involved in this program even at the staff level probably for the last nearly 9 years, of and on. He explained the program is part of the Safe Drinking Water Act, not the Clean Water Act. He gave an overview of how this came about. He explained their new rules went in to effect in Sept 2001 at that time the Cities, Counties and uic owners were notified of the uic program and the new requirements to register, obtain authorization to operate uic's, or obtain a permit, or close the systems out. He stated the City of Scappoose responded very favorably to that with the efforts of Gene Smith who did an assessment of what the City had in the way of underground injection systems. There was a total

of 47 at that time that he identified and in 2006 there were some more that the City added. He explained in 2003 DEQ received the application from the City for registration. He stated at that time there were a number of issues that cities across the board were unable to address in a number of ways so they weren't able to fully meet the requirements for rural authorization. He explained Scappoose and other cities were in a limbo state of having registered but not authorized uic's. He stated because there was only one person handling the program State wide DEQ was on the verge of handing the program back to the EPA. He explained during the 2007 Legislative Session DEQ ended up with a fee based program and that lead them to the point of where they are today. He stated DEQ tried to notify everybody who did not have the uic's already registered to come in and get them registered. They had a September 17 dead line for that to happen without fees, after that the fees would take place. He explained the City of Scappoose since then hired a consultant, worked with your City Engineer Gordon Monro, looked at just what your whole total picture is on the underground injection control program for managing storm water and the consulting firm proofed that assessment and is working to reduce the total number of underground injection systems you have. He explained there are two categories with the program. If you have 49 or less underground injection system that puts you in a small municipality category and with that there is no monitoring requirements and no fees associated at that point but if you have underground injection systems that are in road ways that have a 1,000 or more trips a day that kicks in a monitoring requirement. He would encourage the City to continue of the path to trying to get under 49 underground injection systems. He stated the City is getting a refund in the amount of \$19,700.00 because we already had 47 UIC's registered so they are only charging us for 9 that haven't been registered yet.

City Manager Hanken explained when we registered the 47 we weren't sure if it was or wasn't due to how it was designed.

Rodney Weick stated their goal is to assist the City with compliance and to work with the City in developing reasonable time frames because of the economic conditions we face on getting in to compliance. He stated the City of Scappoose has been doing a remarkable job with working with DEQ and they are looking forward to continuing that relationship. He stated their goal it to solve the problems and not create barriers.

Mayor Burge he feels the first year fee is kind of high.

Rodney Weick explained how DEQ is working on the enforcement issue right now. He stated at the moment they are so inundated with applications that have come in and they are in the process of sorting through all the applications. He is anticipated it will take until mid February to do a complete assessment of who responded and who didn't respond. From that he will set down with other staff and look at strategy, prioritize which are the most egregious violations they are seeing out there and pursue those. He stated for most of the people their goal is to work with municipalities, work with community to get in compliance. He stated their fundamental goal is to protect the ground water which is our drinking water sources for many areas of the State. He stated it is better in his opinion to work with communities. He explained if the owners of uic's are making good faith efforts to move forward and work with DEQ he has absolutely no intension of taking any form of enforcement actions. He looks at partnership and cooperation.

City Manager Hanken explained the City needs to have the conversation of having some sort of a storm water fee.

Rodney Weick stated again he wants to reiterate in working out a plan, the first things is to lay out how are we going to do that, a schedule in getting that accomplished and recognizing it is going to take time and probably a number of years to accomplish that. He stated it would be up to the City on how fast you would want to expedite on getting down below that number. He said his goal is to let us know that DEQ is willing to work with the City and look at this as a partnership.

Councilor Meres stated if we get under 49 how are we going to stay there as a growing community. City Manager Hanken replied we would look at more bioswales and other methods to use treatment. Nina DeConcini stated the City could look at low impact development, looking at how you develop can have a dramatic impact on what kind of treatment you might use.

Council President Bernhard thanked Nina and Rodney for attending the meeting tonight.

Council President Bernhard asked what are the fees associated with having more than 50 uic's. Rodney Weick replied there are two sets of fees: initial registration fee for a new uic and that is \$300.00 if you have 50 or more. He explained then what you are looking at is an annual compliance fee and that fee goes for covering the cost of reviewing and working with municipalities on your annual monitoring reports because at 50 and above you have to do storm water monitoring; that in itself can be very costly and the cost if you are above 50 is \$100.00 for each individual uic, in additional to monitoring costs.

Council President Bernhard asked what was the time frame that DEQ said that the September 17 date was the cut off and when were the municipalities actually notified. Rodney Weick replied the Legislation became effective when the Governor signed it July 1, 2007. Council President Bernhard asked if there was notification that went out to municipalities. Rodney Weick replied he doesn't think DEQ had mass mailing that went out to everyone. He knows that Oregon Association of Clean Water Agencies had a very extensive outreach program for that. The Home Builders Association had a very extensive outreach going to the builders. He apologizes he cannot say that they reached out and were able to connect with the local communities. Council President Bernhard stated if this particular agency came out saying September 17, 2007 is your cut off to register the UIC's without a fee but really didn't say that to municipalities in the first place, they didn't really come out and say this is the cit off date, we have areas that you could have gone on to see this. How does your agencies then charge municipalities like ourselves if we didn't know the information; one, if we didn't go on your web site, two, if weren't involved with the Home Builders Association. He asked is that really fair to municipalities that you are charging for something that they weren't aware of. He said in our particular case from what he is gathering right now the letter came out after your cut off time, we brought in our consultant to check out the uic's and then we came up with additional UIC's and now we are paying additional \$2,700.00. He doesn't mean to squabble over \$2,700.00 but it is \$2,700.00 of tax money that he feels the agency maybe if they would have communicated correctly to the municipalities what is happening, could have saved tax dollar money.

Nina DeConcini replied that is a completely fair question.

Mayor Burge replied once we found out we made a good faith effort. Rodney replied yes.

City Manager Hanken explained even reading the letter it wasn't clear that registering it before hand exempted the fees.

Council President Bernhard asked if Rodney Weick could work with City Manager Hanken on this. He stated we are a municipality who is willing to work with DEQ, we are making steps, we are not hiding uic's, but at the same time we are being fined on something that we weren't notified about clearly and therefore we could have done something about it, we could have saved our tax payers money.

Rodney Weick replied if you self report DEQ is not going to enforce a fine.

Council President Bernhard would like to figure out what the cost would be to take a uic and make it a bioswale for next year's budget.

Councilor Ingham asked about the monitoring fees. Rodney replied it depends on what lab you use. He has a call in to Janet Gillespie from AQUA and he will ask her what it has been costing AQUA and get back to City Manager Hanken regarding that information.

Council thanked Nina DeConcini and Rodney Weick.

**Resolution 09-01: A Resolution Regarding Continuing Membership in the City County insurance Services Trust for Purposes of Participating in the CIS Retro Liability Program**

City Manager Hanken went over the staff report.

Councilor Ingham moved and Council President Bernhard seconded the motion that Council adopt Resolution 09-01: A Resolution Regarding Continuing Membership in the City County insurance Services Trust for Purposes of Participating in the CIS Retro Liability Program. Motion passed (6-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Ingham, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

**Transportation Stimulus Projects**

City Manager Hanken went over the staff report.

Councilor Ingham thanked City Manager Hanken.

City Manager Hanken explained not only is the Federal Government looking at a stimulus package the State is also.

**Ordinance No. 804: An Ordinance Modifying Commercial Construction Periods to Prohibit Work on Sundays and Specified Holidays within the City of Scappoose**

Mayor Burge opened the public hearing at 8:23 p.m.

City Manager Hanken went over the staff report.

Jeff Spang, Portrait Homes NW, explained Don Sallee asked him to attend tonight. He asked if residential construction includes commercial. Mayor Burge replied yes. Mayor Burge explained the theory is no construction on Sunday gives residents a break and the holidays would be the same. Jeff Spang stated if there is emergency repair needed how would that work.

City Manager Hanken replied in this ordinance they are looking at construction of new facilities on a commercial basis. He stated a home owner doing repair doesn't fall under that.

Council President Bernhard replied Mr. Spang brings up some very good concerns.

Police Chief Greisen explained staff wants to look out for what is in the best interest of the citizens.

Council President Bernhard explained he truly believes in small town values and he stated his personal gut feeling is that he doesn't feel people should be working on these days.

Councilor Ingham stated there are neighbors all around her that had the same issues but she is the one who stepped forward.

Councilor Erickson explained it seems like we are knocking out a person's income.

Councilor Meres stated some people might not be able to take time off so they might need to have the work done on the weekend.

Legal Counsel Andy Jordan stated if Council's goal here is to simply add the Holidays to the Sundays then he thinks this ordinance exactly that, however he thinks there has been some other things brought up and things Council might consider. He stated first in responding to some these issues you have to read the first sentence in paragraph A, keep in mind that this is a list of 10 examples of noisy things. He read paragraph A. He stated what that says is what is illegal is not necessarily construction, what is illegal is noise, which is loud and unnecessary. He stated you need to concentrate on the first sentence that is what you are prohibiting, is noise, not just construction. He explained after reading the second line of the first sentence of this ordinance he would like to suggest placing unnecessary before the word loud.

Councilor Ingham moved and Council President Bernhard seconded the motion that Council approve Ordinance No. 804: An Ordinance Modifying Commercial Construction Periods to Prohibit Work on Sundays and Specified Holidays within the City of Scappoose.

Mayor Burge read the title for the first time.

### **Veterans Park Picnic Shelter Bids**

City Manager Hanken went over the staff.

Council President Bernhard moved and Councilor Ingham seconded the motion that Council award the Veterans Park Picnic Shelter bid to Greg Welter Construction in the amount of \$12,080.

Councilor Ingham asked what is the width of the structure. City Manager Hanken explained it is 10 feet wide.

Councilor Ingham isn't sure if 10 foot wide is wide enough.

Mayor Burge asked how much space is going to be where these will be placed.

Councilor Heerwagen explained the purpose of these shelters is to have a small picnic. He would think 10 feet should serve the purpose.

Councilor Ingham would like to look at a larger one where there is more space available.

City Manager Hanken asked if he gets another bid for a larger size and it comes in under \$10,000.00 is council fine with him approving it.

Councilor Ingham asked what size of structure is he thinking of. City Manager Hanken replied 12 X 14 X 14.

Councilor Meres replied he agrees with expanding one shelter.

Council President Bernhard amended his motion and Councilor Ingham seconded the amendment to approve 1 shelter for \$6,040.00 and bring the other one back to Council. Motion passed (6-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Ingham, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

Councilor Ingham moved and Councilor Heerwagen seconded the motion to extend the meeting past 9:20 p.m. Motion passed (4-2). Mayor Burge, aye; Councilor Ingham, aye; Councilor Heerwagen, aye; Councilor Erickson, aye; Council President Bernhard, nay and Councilor Meres, nay.

## **New Business**

### **Water Management and Conservation Planning Commission**

City Manager Hanken went over the staff.

### **Veterans Park Opening**

Mayor Burge explained went over some of the ideas.

Councilor Ingham would like to be on the committee.

City Manager Hanken explained what he is looking for.

Mayor Burge talked to Bart Hafeman about music.

Councilor Ingham moved and Council President Bernhard seconded that Council establish a Veterans Park Ceremony Committee. Motion passed (6-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Ingham, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

Councilor Ingham, Mayor Burge and Councilor Meres will be on the committee.

Councilor Heerwagen volunteered to help if needed.

## **Announcements**

Mayor Burge went over the calendar.

## **Councilors**

Councilor Ingham asked about a Charter Review Committee. Councilor Ingham and Councilor Meres will be on the committee.

Councilor Ingham and Council President Bernhard won't be here at the February 17, 2009 City Council meeting.

Mayor Burge will be at the Capitol on January 28, 2009 for Mayor's Day at the Capitol.

Mayor Burge went in to Executive Session at 9:08 p.m.

## **Executive Session**

### **ORS 192.660 (1) (e) Real Property Transactions**

**In attendance:** Mayor Burge, Council President Bernhard, Councilor Ingham, Councilor Meres, Councilor Heerwagen, Councilor Erickson, City Manager Hanken, Legal Counsel Andy Jordan, and City Recorder Reeves.

Mayor Burge came back in to open session at 9:10 p.m.

## **Real Estate Purchase**

Councilor Ingham moved and Councilor Heerwagen Bernhard seconded the motion that the Council authorize the City Manager to sign applicable documents for the purchase of 0.37 areas adjacent to the Dutch Canyon well from Charles F. Nakvasil in the amount of \$77, 500.00. Motion passed (6-0). Mayor Burge, aye; Council President Bernhard, aye; Councilor Ingham, aye; Councilor Meres, aye; Councilor Heerwagen, aye and Councilor Erickson, aye.

## **Adjournment**

Mayor Burge adjourned the meeting at 9:12 p.m.

**City of Scappoose, Oregon**

\_\_\_\_\_  
Scott Burge, Mayor

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