



# SCAPPOOSE *Oregon*

MONDAY, APRIL 18, 2022

## CITY COUNCIL MEETING AGENDA

### WORK SESSION ~ Wastewater Rates Update, 6pm

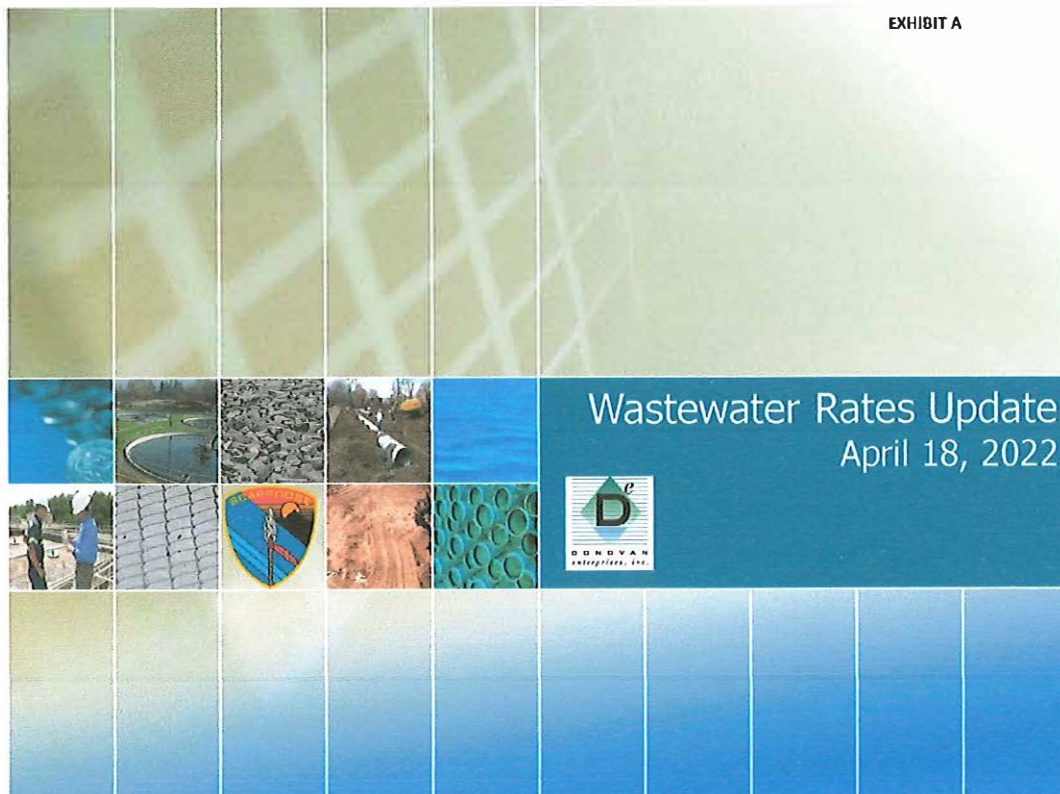
Mayor Burge opened the work session at 6:00 p.m.

**Present:** Mayor Scott Burge; Council President Megan Greisen; Councilor Josh Poling (arrived at 6:19pm); Councilor Brandon Lesowske; Councilor Pete McHugh; Councilor Tyler Miller; City Manager Alexandra Rains; Legal Counsel Peter Watts; Assistant to the City Manager Isaac Butman; City Recorder Susan M. Reeves; Assistant to Public Works Director Huell Whitehaus; Treatment Plant Operator Kevin Turner; and Consultant Steve Donovan.

**Remote:** Councilor Josh Poling (in person at 6:19pm) and Holden Tudix (joined at 6:33pm).

Treatment Plant Supervisor Kevin Turner stated we are here this evening to go over the wastewater rates update.

Consultant Steve Donovan went over the presentation.



## Agenda



- Wastewater rate projections and profiles:
  - ✓ What has happened since last fall
  - ✓ Latest rate forecast
- Next steps
- Conclusions

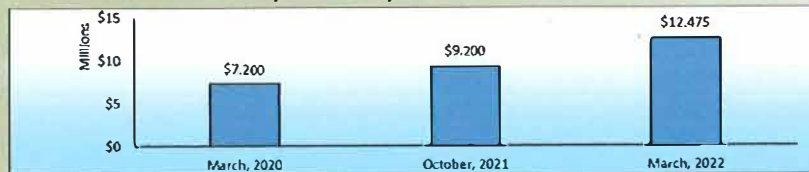


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## What has changed since last year



- Phase 1 WWTP Capital Improvement Plan cost trends:



- ARPA\* funding support for the WWTP Capital Improvement Plan:

✓ Headworks and Grit Chamber	\$2,200,000
✓ Smith Road Pump Station	900,000
✓ Class A Biosolids Dryer	<u>1,800,000</u>
❖ Total	\$4,900,000

\* These funds are from the State of Oregon's ARPA allocation, appropriated by the Oregon Legislature to the City of Scappoose via HB5006.

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## Latest Sewer Rate Forecast



- With ARPA grant support, we are forecasting the need to continue 7% per year sewer rate increases over the 10-year forecast horizon based on the following assumptions:
  - ✓ Start year forecast based on draft FY 2022-2023 budget.
  - ✓ First 7% increase starts on July 1, 2022.
  - ✓ Spend ARPA money first (\$4.9 million).
  - ✓ Borrow ~\$8.5 million under the already approved DEQ CWSRF loan for the phase 1 improvements; 20-year term; first draws start in 2024.
  - ✓ Borrow ~\$10 million in 2030 to fund the Phase 2 improvements; 20-year term.
  - ✓ Sewer fund balance never goes below \$1.5 million during the forecast.



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## Next Steps



- Staff works with Business Oregon on ARPA grant contracts.
- City Council approves the FY 2022-2023 wastewater department budget.
- Start engineering design for the ARPA grant-funded projects.
- Coordinate with Oregon DEQ on City's plans to borrow under the approved Clean Water State Revolving loan approved in 2019.
- City Council approves and adopts the updated WWTP Facility Plan Amendment dated March 11, 2022.



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## Conclusions



- ARPA grants from the Legislature are crucial.
- Borrowing is an integral part of the business plan to fund future sewer system improvements.
- Adoption of Facility Plan Amendment is necessary.

## Questions





Council President Greisen asked what was so important from Phase II that it needed to move to Phase I?

Treatment Plant Supervisor Kevin Turner replied if you remember a while back we discovered that there was failure of the liner of our aeration basin. This past summer they had a project to switch ponds around and it took longer than they thought but as of March they were 100% flowing into a new aeration basin, and they are about a third of the size. He explained they can see where they had the failure.

Councilor Lesowske asked would this be the same loan or would we be going out for a secondary loan from DEQ?

Steve Donovan replied it will be a new loan and explained how the loan works. He explained it is like a secured line of credit and then when you are done with the project then it turns into a 20-year loan. He stated there will be a second loan for the Phase II project.

Councilor Lesowske asked are there any red flags along the way that we should be mindful of so that we can prepare for any changes?

Treatment Plant Supervisor Kevin Turner replied the plant now is 30 years old, which we have had some upgrades. The equipment is old and we are replacing a lot of things. He stated if a certain pump needs to be replaced and it is in the first phase, time is of the essence. He stated we don't waste money just to replace it again in a few years.

Mayor Burge explained the decision that Council will have to make is whether to accept the 20 year loan versus 15. He stated that is something for the Council to think about.

Steve Donovan explained in order for the City to stay on the 7% per year rate profile that we've talked about for a while, you have to go to a 20 year, if not it will go to 9.5 - 10%. He explained a 20 year loan is a standard that DEQ offers.

Mayor Burge asked if there will be more action coming before the Council on the change of the loan?

City Manager Rains replied she wants to double check because what she doesn't recall correctly is whether or not we actually formalize the loan as a 15 year amortization through DEQ's paperwork or if it is 20 years on their end but we actually decided simply to make payments to bill 15 years. She stated it may actually be in place that it is 20 years, but we were going to pay it off in 15 years.

Council thanked Steve, Kevin, and Huell.

## WORK SESSION ~ Construction Excise Tax

Assistant to the City Manager Isaac Butman went over the staff report. The Scappoose School District (District) is asking for changes to the current Construction Excise Tax (CET) they assess, Council asked that Staff put together a work session to help Council understand the genesis of the current CET and CET's in general. ANALYSIS: Oregon Revised Statutes (ORS) Chapter 320, sections 320.170 through 320.195 are the legal foundation for CET's and can be seen in Exhibit A of the staff report. CET funds can only be used for capital improvements or repayment of capital improvement debt; see ORS 320.183 (1). Assessment: CET's are assessed by school districts and collected through local municipalities. In our case this is achieved through the construction permit process. There are a number of restrictions on what sorts of construction improvements the tax can be assessed against, and there are also a large number of exemptions from this kind of tax. CET's are applied on improvements to real property that result in a new structure or additional square footage in an existing structure, and are assessed on residential and nonresidential construction. Rate: CET rates are limited by ORS as follows and are annually adjusted to changes in construction costs by the Oregon Department of Revenue (the most recent schedule can be seen in Exhibit B of the staff report).

<b>Fiscal Year</b>	<b>2021-2022</b>	<b>2022-2023</b>
Residential Rate Limit*	\$1.41	\$1.45
Non-Residential Rate Limit*	\$0.70	\$0.72
Non-Residential Max	\$35,200	\$36,100

\*Dollars per square foot

Collections: CET rates are set by a resolution of the School District board, which states the rates of the tax. Districts then enter into an Intergovernmental Agreement with the municipality collecting the CET. An administrative fee of no more than 4% can be withheld by the collecting municipality for expenses incurred in the collection of the CET. The municipality then adopts an ordinance or resolution imposing the CET on behalf of the school district. Scappoose's resolution to do this, Resolution No. 16-17, can be seen in Exhibit C in the staff report. This exhibit also includes the Districts Long-Term Facility Plan from 2008. Uses and requirements: CET's can only be used for capital improvements or to repay capital improvement debt. ORS 320.183 requires that School District administering CET's adopt a long-term facilities plan. The District submitted a Long-Term Facility Plan with the original implementation of the CET, dated April 14, 2008. Long-range facility plans are required to cover a period of 10-years, the original plan considered years from 2008-2018. There has been some movement made to review the plan. In 2017 the District released a draft of a Facility Plan, seen in Exhibit D of the staff report. The District indicated in email that this was an update to the Plan, however, the executive summary deals with ORS compliance, and the last two pages of the Plan are labeled "DRAFT Plan". It is not abundantly clear if this draft was ever finalized, or if the draft is indeed the current Plan. In May 2021 the District released an RFP to update the Long-Range Facility Plan, Exhibit E of the staff report. Subsequent to this Staff received communication from the District indicating that an update of the Long-Range Facilities Plan will begin on April 13, 2022, coinciding with a School District board meeting.

#### History of monies collected:

Below is a summary of the amount of money collected and sent to the District since the CET was implemented in 2016. A full accounting of the CET can be seen in Exhibit F in the staff report.

Year ~ 2016-March 2022

Number of Permits ~ 221

Total Collected ~ \$653,254.50

4% to City – Administrative fees ~ \$26,130.18

96% to District ~ \$627,124.32

Analysis: The District has indicated that they wish to increase the CET. The City Attorney has voiced concern about the apparent lack of a current Long-Range Facilities Plan, the amount by which the District has proposed to increase the rate, and the lack of an accounting of how CET funds have been spent to-date.

Legal Counsel Peter Watts explained after getting the request, which seemed like a significant increase, he went to the Department of Revenue's website in order to determine what the maximum amount was and saw that it exceeded the maximum amount. He explained the Statute specifies how they can go past the maximum amount, which they hadn't done that and so he reached back out to the School District and let them know it exceeds the maximum amount allowed under State Law. He explained he asked for the School District to provide some accounting, since City Council likes to verify things for themselves and likes to explain to the public, particularly when monies are going to go somewhere, what the benefit of that is to the public. The response Peter got was it was part of the audit and said it was pass-through funds and suggested filing a public records request. He explained he just wants it to be as transparent as possible for Council. He stated he thinks there is an acknowledgement and it is part of this packet that the facilities improvement plan hasn't changed since 2008, which they are only good for ten years. So he thinks there are two ways to look at it. He stated a more aggressive approach would be should we even be collecting this at all if the facility plan is more than ten years old. He stated the other piece would be should we change the material terms such as an increase if we don't have a long-term facilities improvement plan that is still valid. He stated if you look at this program part of the intent was conversations between the jurisdiction and the School District because they think there's a realization between that School District facilities don't just benefit the school district, they also benefit the City and they kind of wanted people to be on the same page. He explained in the staff report is a copy of a request for proposal to do a new facility improvement plan. He stated this issue was flagged in 2018 so it would have been great if at that point the School District went out for the RFP and if the City would have been able to participate in it at that time, but it didn't happen. He explained he has let the School District know that he is really uncomfortable doing a significant increase in our CET without a long-term facilities improvement plan that is in place. He suspects that you as a Council would want a full accounting of all the funds that have been collected, similar to what

we could do with our fuel tax. He stated he wished this could have gone smoother. He explained he thinks we are kind of at a decision point because the School District really wants the City to increase the CET and they are saying that they are about to go out for RFP.

Mayor Burge asked is there anything in the IGA or State Law that requires the School District to provide accounting for those funds?

Legal Counsel Peter Watts replied he thinks that the problem with these Statutes is they are very ambiguous. He stated there are multiple possible ways of interpreting them. He would say that since the City is collecting it, he thinks that implicit in that would be that we know it is being used for the proper purpose just like our fuel tax. He would hope that the School District would just provide that to us on an annual basis frankly then everybody could go to the community and explain how the funds are being utilized and explain how this is helping our kids and helping our schools. He stated we are not talking about an insignificant amount of money.

Mayor Burge stated for transparency's sake it's odd that the School District is putting up barriers to seeing how this money's being spent. He stated if they are going to want to increase to him it feels like that has to go into the agreement, so there is an annual accounting of the money that is exchanged.

Legal Counsel Peter Watts replied at the very least we need a new agreement.

Council President Greisen explained she doesn't know if this needs to be in writing, but at the very least if there is a request by the City to see these at any point and time that those are freely handed over to the City. She explained not only is there an expectation that on a yearly basis they are submitting something, but if there is some sort of question that those documents would be readily available at all times to the City.

Councilor McHugh explained it seems to him this would be something they would want to be open to the City about and share with us.

Legal Counsel Peter Watts explained he is not suggesting at all that anything untoward has happened and he did not make the request in that spirit at all. He made the request just having worked with you as a Council and knowing the level of information you like to see when making a decision and he errs on the side of more. He explained staff is kind of looking for some guidance to make sure we were walking down the right path.

Councilor Lesowske asked if we need to create a resolution or an amendment to the IGA, which would request an up-to-date facilities plan for when the School District wants to come and ask for an increase moving forward.



Legal Counsel Peter Watts replied when we revisit this agreement it is going to be really prescriptive as far as what everyone's expectations are and what everyone's going to provide because the Statutes are so ambiguous, we really need all our agreements to be super clear and prescriptive.

Council President Greisen stated moving forward she would be very interested to have some more detailed language in our agreement, so on our end we are making sure that our expectations are being met at the minimum. She will share the link to this with the School Board because it obviously involves them and the business that they do.

Councilor Miller talked about working with the School District and getting them any help that we can offer them and he hopes we can get an IGA that sets forth clear expectations.

Councilor Poling stated transparency is going to be key.

Council President Greisen stated we are both in the business of serving people and that is the root of it all, we are not trying to micromanage.

Council thanked staff.

Mayor Burge adjourned the work session at 6:50pm.

  
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Mayor Scott Burge

Attest:

  
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City Recorder Susan M. Reeves, MMC