



SCAPPOOSE *Oregon*

MONDAY, MAY 16, 2022

CITY COUNCIL

WORK SESSION ~ FIREWORKS DISCUSSION, 6:30PM

Mayor Burge opened the work session at 6:30 p.m.

Present: Mayor Scott Burge; Council President Megan Greisen; Councilor Josh Poling; 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; and Interim Public Safety Director Brian Jensen.

Assistant to the City Manager Isaac Butman went over the staff report. On July 19, 2021 Council received public comment relating to fireworks being used in Scappoose, Exhibit A (in the staff report). Following this meeting, and over the last few months, Council expressed interest in discussing Fireworks in the City. ANALYSIS: The City of Scappoose Municipal Code does not prohibit Fireworks in the City of Scappoose. Section 9.12.030 adopts the State of Oregon Fireworks Law relating to the use and sale of fireworks but does not limit the use of fireworks in the city. The use of Fireworks is regulated by the State of Oregon and the State Fire Marshal, under ORS 480.111 through 480.165, Exhibit B (in the staff report). Firework displays for the benefit of the public require a permit from the State Fire Marshal and are ultimately under the supervision of the chief of police and local fire department. The sale, use, and discharge of fireworks may be regulated by either the City or a local Fire District, ORS 480.160. Fireworks are a complex topic. They are an American pastime, used to note some of our most important annual events namely July 4th and New Year's Eve. Fireworks are favored by a large portion of the population as a celebratory activity and are well loved and received by a large segment of the population. Alternatively, Fireworks are also extremely dangerous in dry conditions and are the cause of many fires, burns, and other hazards. Further, the noise and light from fireworks can unnerve animals, cause harm to those with light/noise sensitivity, and can also be damaging to those with PTSD. Exhibit C (in the staff report) is a table showing what other comparator cities do regarding Fireworks. The response is varied. Only one of the cities examined actually bans fireworks outright. Most limit fireworks consistent with state law, either explicitly or by adopting applicable ORS's. Fireworks are difficult to monitor and enforce. Often times, by the time law enforcement can arrive at a discharge site after a complaint is called in, the firework(s) has been used and those lighting the firework(s) are no longer present. Illegal Fireworks are illegal; however, they are still relatively easy to acquire and are used often. It is unclear what impact would be felt from banning fireworks in the City as this would not change the difficulties relating to enforcement. Even if the sale and use of fireworks were banned in Scappoose, they could easily be obtained from the surrounding area, and the issues with enforcement would remain. Fireworks are increasingly banned in Oregon by the State Fire Marshal and local Fire Marshals due to the necessary assessment of dry conditions on an

annual basis and, as the area continues to see more dry weather, it is likely that bans will continue to become more frequent. Staff have asked the Fire District and Legal Counsel to be present tonight while Council discusses this topic.

Council President Greisen thanked Isaac and the experts in the room for taking the time to address this concern of our citizen.

Councilor Miller explained he certainly doesn't know what the answer is to this because it is a complicated topic. He knows last year it was a concern especially because it was very dry.

Council President Greisen asked Fire Chief Pricher if it does come to a point where it is not safe weather-wise and conditions are too dry and we need to ban fireworks for the Fourth of July season does he personally make that decision? How does the City get its information on how to do that?

Fire Chief Pricher explained when it comes to banning fireworks the only organization that can do that for us is the State Fire Marshal's office, unless there is a city or other government entity that decides they are banning use and of sale of fireworks. He explained when they do have authority is through permitting processes, which occurs when somebody is going to do a fireworks show.

Councilor Miller stated as far as the enforcement side is concerned obviously that is probably where we are going to run into issues is being able to actually enforce these things for a variety of different reasons. He asked does the Fire District have the authority to cite for fireworks violations? He stated for example Council decides they want to do an ordinance or something like that, could we do something that gives the Fire District the authority to also assist our law enforcement to enforce the ordinance. His concern is the realistic part of being able to enforce it. He explained there is value in having these things just on the books also, because if something does happen you have that to fall back on in prosecuting somebody as well.

Fire Chief Pricher stated the Fire District has zero authority in enforcing anything related to fireworks. He stated he would say yes there is a way that the Fire District can work with the City, but he would have to direct that to the City Attorney, because the City would have to enter into an agreement with the Fire District to give them some code enforcement ability to be able to cite people into Municipal Court. He stated it is not unheard of, it does happen in other parts of the State, but that is something he would have to approach the Fire District Board and ask if they want to take on that liability along with extra training for some of their staff.

Legal Counsel Peter Watts explained how the process would be if Council wanted to move ahead with having the Fire District assist with the fireworks issues. He stated that would be the workaround unless the Legislature changes the law and makes the experts in fire in charge of fireworks.

Councilor McHugh stated this is a very difficult thing to monitor. He explained if we have an increased police force and deputize some of our Fire District staff, we might be able to have a visibility presence in the neighborhood.

Councilor Miller stated to some of the points being made tonight these are illegal fireworks that are causing the issues and the other piece is that it is reoccurring, it is happening year after year. He explained he and City Manager Rains talked about how they could be proactive. He thinks the answer, if anything here, we figure out a way to deal with that one individual, because it is a reoccurring issue.

Mayor Burge stated to follow up with what Councilor Miller said, if we know there's a problem there has got to be a way we can proactively take steps to patrol that area.

Councilor Poling stated if there is a way we can have more of a presence, maybe that is the best direction to go.

Council President Greisen would like the City to adopt information from ORS 480. She would like to see some sort of language about on what sort of property they can do this on and it is not the City's. She personally would want to have specific dates.

Councilor Miller stated what about something that states it has to be away from grass or something dry. He talked about trying to be proactive and contacting the individual who sets the fireworks off every year to try to set up a meeting with them, rather than taking the enforcement aspect of it.

Legal Counsel Peter Watts replied he thinks just saying that we have received several complaints from people who have observed you lighting and shooting off illegal fireworks which has happened on an ongoing basis and we want to let you know that if that happens this year, we are going to take enforcement action. He stated it really gives the person every opportunity to do the right thing. Then if enforcement actions need to occur, it is not like we were lying in wait, we have told them we have credible reports that you've engaged in the activity. He thinks that if we have given any individual that we are aware of that kind of warning, then at that point they know what will happen if they engage in the behavior.

Council President Greisen replied in her personal opinion there are so many more people than just that situation that light illegal fireworks every year during the 4th of July or any other point and time. She thinks in their best interest if they add some more detailed language that will help them with enforcement and also, like clearly stated here, that we have gone the extra step to make sure that this is written here.

Councilor Miller agrees with what Council President Greisen is saying. He is just saying in addition for this one problem that we know of that we try to be proactive in addressing that.

Legal Counsel Peter Watts stated the other thing is we can go on social media and let everyone know that we want people to have fun on 4th of July but they need to follow the law and the risk of wildfires and fires in the City continues to go up. He explained if we end up with going with an IGA with the Fire District, we could advertise that as well to let people know we are proactively going to try to stop people from setting off illegal fireworks.

Chief Pricher talked about a coordinated advertising campaign and it would be great to do it jointly between the Fire District and the City. He stated we could make it fun whether it be video or photos.

Councilor McHugh stated he agrees with what Councilor Miller and Council President Greisen have said. He is wondering if we can ask staff to take this information and come up with some language that we could put together as a plan to approach this and maybe look at it at our next meeting.

City Manager Rains replied yes, that would be the plan. She stated given the date we have very limited time to do this.

Councilor Poling likes the idea of the IGA with the Fire District.

City Manager Rains explained even if we thought something wasn't possible this year just because of timing we could do it for next year.

Council thanked staff and Chief Pricher.

Adjournment

Mayor Burge adjourned the work session at 6:56pm.


Mayor Scott Burge

Attest:


City Recorder Susan M. Reeves, MMC