



**SCAPPOOSE**  
*Oregon*

**TUESDAY, JANUARY 3, 2023  
CITY COUNCIL MEETING  
REGULAR MEETING 7:00 PM  
COUNCIL CHAMBERS  
33568 EAST COLUMBIA AVENUE  
SCAPPOOSE, OREGON 97056**

**Call to Order**

Mayor Elect Backus called the meeting to order.

**Pledge of Allegiance**

**Oath of Office of Councilor Holmes and Councilor Lafrenz ~ Administrated by Judge Todd**

Congratulations Councilor Holmes and Councilor Lafrenz!

**Oath of Office for Mayor ~ Administrated by Judge Todd**

Congratulations Mayor Backus!

**Roll Call**

Joe Backus	Mayor	Alexandra Rains	City Manager
Megan Greisen	Council President	Steven Lougal	Chief
Peter McHugh	Councilor	Chris Fluellen	Lieutenant
Tyler Miller	Councilor	Dave Sukau	Public Works Director
Kim Holmes	Councilor	Laurie Oliver Joseph	Community Development Director
Andrew Lafrenz	Councilor	Chris Negelspach	City Engineer
		Susan M. Reeves	City Recorder
Peter Watts	Legal Counsel	Isaac Butman	Assistant to City Manager
		Huell Whitehaus	Assistant to Public Works Director
		Anna Del Savio	South Columbia Spotlight

**Remote:** Paul Fidrych (left at 8:28pm); Beth Rajski; Lisa Hoffman (left at 7:54pm); Lauren L; RK (joined 7:21pm).

**Excused:** Councilor Santiago

## **Approval of the Agenda**

Council President Greisen moved, and Councilor Miller seconded the motion to approve the agenda. Motion passed (6-0). Mayor Backus, aye; Councilor Greisen, aye; Councilor McHugh, aye; Councilor Miller, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

## **Elect Council President**

Councilor Miller nominated Councilor Greisen for Council President.

There were no other nominations.

Councilor Miller moved, and Councilor McHugh seconded the motion to nominate Councilor Megan Greisen for Council President. Motion passed 6-0. Mayor Backus, aye; Councilor Greisen, aye; Councilor McHugh, aye; Councilor Miller, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

## **Public Comment**

Joel Haugen and Marisa Jacobs, Scappoose, handed out a document to Council and staff.

Joel Haugen stated good evening, Council and welcome to 2023. He has handed Council and letter from his Attorney Christopher P Koback, Hathaway Larson LLP. Mr. Koback has outlined numerous procedural errors and substantively flawed decision making at the Buxton Farm Subdivision local land use proceeding. They are listed in detail and Marisa will summarize for you not because he has a cold.

Marisa Jacobs did not give public comment, she was the voice for Joel Haugen as his voice was not well. She simply read the words within the document he prepared, the words she read were not and are not her opinions or her words.

There were two major procedural errors. One: Council violated Mr. Haugen's right to provide written evidence and testimony of the December 5th, 2022 hearing and during a required open record period. Scappoose Municipal Code, section 17.162.090 list the approval authority responsibilities. Section C discusses the Planning Commission's process and states that the Planning Commission shall conduct a public hearing in the manner prescribed by Chapter 126. Like chapter 162. Thus, every quasi-judicial hearing must comply with all of Chapter 162. This did not occur with this application. Two: Council improperly reopen the record to allow the developer to modify the application without allowing other participants to provide evidence and testimony on the new proposal. Staff allowed the applicant to modify the application during the December 12, 2022 Council meeting after the record was improperly closed. Staff did not permit any participant to testify or present evidence on the modification. To reopen the record for the applicant, the City is required to reopen the record to all other participants. Next, the decision is substantively flawed. One: Council failed to make findings that address the issues

opponents raised and evidence they submitted. LUBA has consistently held that when a party raises an issue over whether an application complies with relevant criteria, the decision maker must address those issues and findings. The Planning Commission never addressed any of the substantive issues raised by opponents that demonstrate a lack of compliance with criteria. They immediately adopted staff proposed findings that were completed before opponents raised those issues. Similarly, after opponents testified in detail to Council identifying criteria that was not satisfied, Council failed to adopt any findings of its own. Council simply adopted the same staff findings that never mentioned the opponent's testimony and evidence. There are eight findings of error to the criteria that I will briefly summarize: A. lot size requirements. The applicant was not able to meet the lot size requirements in R1 zone, thus requesting an exception to those standards. Because the application relied on requesting an exception or a waiver to the standards, the law allows you to apply discretion in deciding whether to approve the request. The question to ask is whether the proposal and the decision results in lots that are compatible to the surrounding area and consistent with the objectives for requiring larger lots in an area prone to flooding. There are no findings that address this critical issue. The staff report superficially mentions lot sizes, but never addresses the opponent's issue. The Planning Commission and Council adopted the same staff findings that never mentioned the opponent's testimony and evidence. B. The decision allows private development in the floodplain inconsistent with Scappoose code. The applicant's plan is to use the permitted development in phase one to generate fill that will be used to raise the floodplain level in areas subject to the more restrictive 20,000 lot size requirement. Because the private ponds are not permitted development in the floodplain, the applicant cannot demonstrate that the permitted development will allow it to raise the floodplain enough to obtain the formal and final FEMA revision. C. Council did not make any findings on critical flaws in the stormwater treatment proposal. Another issue is that raised at Council hearing is whether the private facilities can be properly maintained as the applicant proposed the detention ponds if they are not maintained and fail to function the default is that the untreated runoff is released directly into the Creek. HOA's are administratively dissolved on a regular basis, thus the City will need to take action against an unincorporated group of owners, most likely leaving the burden on the City as a whole. D. there are no findings addressing issues raised over the proposed phasing plan. The decision is relying on the development of private stormwater ponds in phase one to elevate the floodplain. However, the applicants plan to raise the floodplain is not allowed in Scappoose Code and therefore cannot be approved. But it was. So, what happens when phase two is not approved by FEMA because the developer was unable to raise the floodplain? What's Plan B? This was raised by opponents and not addressed. The three remaining decision flaws, see E. Council failed to even consider the more conservative analysis of flood risk factors presented by opponents and F. that application fails to satisfy block length and connectivity standards and G. the Council failed to make findings addressing the argument that Eagleston Lane will function as a cul-de-sac but fails to satisfy the standards for cul-de-sac. All three impact the health and safety of the existing and new inhabitants for this development, and the decision completely ignores fire code Table D 103.4. Mr. Kobach is an expert land use attorney. The letter outlines in detail the numerous procedural errors and flaw decision making in this process. Therefore, Council should withdraw the decision for reconsideration. Council does not need to live with an approved development and its inevitable negative impacts on the City. Council has the absolute

and unrestrictive right to withdraw the decision to reconsider it should it be approved. Refer to case Oregon Pipeline Company LLC versus Clatsop County of 2012.

Mayor Backus stated that has been five minutes and you'll have to stop.

Steve Collard, Scappoose, stated good evening and welcome new Councilors. He explained his comments are going to be brief. It's a continuation of Mr. Haugen's statement, which he happens to agree with. It's not much left to it, so. Council does not have to live with the approved development and its inevitable negative impacts on the City. Council has the absolute and unrestricted right to withdraw the decision to reconsider whether it should be approved. Refer to Case Oregon Pipeline Company LLC V Clatsop, County of 2012. In that case the Courts confirmed that at any time before this record is due to be delivered to LUBA, the governing body of the local jurisdiction may withdraw a final land use decision for reconsideration. In that case, the new Council withdrew the decision for the purpose of reconsidering and denying the application. Your city attorney can advise you that you do not have the right to withdraw the December 19th, 2022 decision, nor can he advise that such a decision exposes the city to mandamus action for violating the 120-day period in ORS 227.178.

This ends Mr. Koback's summary. The letter provides details for all points in his letter. I urge you to do the right thing, move to vote to withdraw the decision to reconsider tonight and instruct staff to pause all activities on this development, restore faith in our citizens and our process.

He thanked Council.

Pat Anderson, Scappoose, explained back in the December 12th City Council meeting, she brought up an issue that she found regarding this storm water facility that was over in the Steinfeld subdivision. So, for all the new Council members and for the mayor, she will briefly kind of recap what was because she would like to address that. First of all, the stormwater facility is taken over severely overgrown with blackberries, grass is 3 to 4 foot high, there's weeds and debris, both organic and trash that are there in the retaining pond. That the blackberries are so dense that you can't see through it. It's growing on retaining walls and on the fences. Just out of curiosity, she went and looked on the City of Scappoose website and she found a recorded document regarding the Steinfeld West Subdivision recorded agreement that was dated back from 2007. She stated remember that date 2007. Basically, to recap what that obligation is, there's a maintenance obligation that falls on that HOA, they're called the code declarants, and they'll maintain that facility. It stipulates three conditions that the storm water facility should be mowed regularly to be maintained a maximum grass height of six inches or less. Access to the storm water facility: access gate shall remain free of obstructions at all times, allowing access by the city of Scappoose Public Works Department for inspection, maintenance, and repair, and third, debris that accumulates along the fence within the stormwater facility shall be removed monthly. So that's the maintenance obligation. Under the second point there's facility inspections. HOA shall inspect the facilities for maintenance and

deficiencies in the above maintenance requirements and minimum of twice each year. Except once between September or October, and the second would be April to May. Third, there's city inspections. The City has the right to enter the property at any time to inspect the facility and to make determinations maintenance thereon as necessary or if deficiencies exist or need to be corrected. In any such case, the code clearance will be notified by the City in writing of said noted deficiencies directed to make corrections. So, the point of that was those three things have all failed. And so, the three points that she made in my statements on the 12-12 was that this recorded document sets the precedence of future HOA self-regulation. It seems that the recorded document does nothing to ensure that the HOA is acting responsibly and there is zero governance in place to enforce it. Since the stormwater system has a potential to affect more than just the HOA, it was very disconcerting that the City would relinquish control and accountability to an unelected entity, the HOA and then permitting the HOA to self-regulate and be responsible for infrastructure that potentially impacts the community outside the HOA's boundaries just didn't make sense. So, she was asking the City Council that time or the City to take some sort of action on that. So, she reached out to Ms. Rains in an e-mail, and asked just what what's the follow up on that? So, Ms. Rains was very quick in her response, which she appreciated, and she would like to just kind of address her response because she does still have some concerns. Ms. Rains indicated that the city engineer did conduct a site visit and did some research, she is just kind of recapping this and then in her e-mail, she also reiterated what was in the in the document that was recorded, which she has already gone over. So, Ms. Rains states in her last paragraph that since we were first made aware of this issue, which she assumes was on 12/12 when she brought it up, she states quote, we have discovered that the property was not transferred to the HOA in accordance to the land use decision and will be reaching out to the property owner to have them take corrective action as soon as possible. That's the end of the e-mail. So, it's been fifteen years that this stormwater facility went unmaintained. It was under the radar. It was very disappointing in the response that she got, that even though they have reached out to the owners to take corrective action, she felt that the City also has as co-owners of that facility that they should also take some, have some sort of steps in place for risk mitigation. Our governance process put in place by the City of Scappoose, that would not allow this to fall through the cracks. Again, the City seems to again have shifted the responsibility back to the HOA, who has failed.

Mayor Backus stated that is five minutes.

Pat Anderson stated thank you.

Councilor McHugh stated he has a statement to make. First of all, he did receive a copy of this report that you have, before this meeting and so he has had a chance to read it. He doesn't know if anybody else got a copy or not, but he does think there's enough substance in there that we need to deal with it in some manner. He is not sure what the manner is, but he does think we need to address it as a Council to see what we want to do with this information.

Council President Greisen asked Councilor McHugh, what is he referring to?

Councilor McHugh replied it is the report from Attorney Koback. He stated he is not an attorney. He doesn't know all of this information here, what merit there is to it, but there is enough there that he thinks we need to address it as a Council to see what we want to do with this information. His suggestion is maybe after Council has read this report and maybe looked at Joel's appeal to the Land Use Board of Appeals that we contact the Mayor or somebody and give them our suggestions on where we think we should go from here. Talk about it in a work session or talk about it as an agenda item, he doesn't know but he does think that we can't just receive this information and do nothing.

Councilor Miller explained in response to what Councilor McHugh just stated he thinks it would be prudent for City Legal Counsel to review the documents that were given to us this evening and then we basically need the City's Legal Counsel to do an analysis on that to see if they concur and then they can advise us on their legal opinion and then we can go from there.

Mayor Backus asked how would the process work, is this an executive session?

Legal Counsel Peter Watts explained we could do it in a variety of ways. He hasn't seen the letter. He stated if he believed that there had been any substantial error or omissions in the process, because this has been raised a number of times, he would have said so. He hasn't seen a LUBA appeal, so he doesn't know if the LUBA appeal has occurred or not.

Mayor Backus asked did he hand you either one of these?

Legal Counsel Peter Watts replied no, he doesn't have either of those materials.

Mayor Backus replied it is a letter and a notice of intent to appeal.

Legal Counsel Peter Watts explained the way that LUBA works is the petitioner has 21 days in order to file a notice of appeal, at which point the city is responsible for coming up with the record, which is every document that we've received in chronological order, beginning with the first document that we received. What he heard and doesn't have, and maybe the Koback letter is a part of this, is there is a process at LUBA where you can do what is referred to as a voluntary remand, which is not something that he would recommend at this point. He stated the record is what it is. We have had a lot of complications with the record because we had people trying to submit documents after the record was closed. We have people raising new arguments despite the fact that we had stated that it was raise it or waive it in front of the Planning Commission. He stated it is not just the rights of the City it is the rights of the opponents, who are apparently appealing. He stated usually he would have a stamped copy with the LUBA number on it, he guesses he is assuming that this have been filed with LUBA. He stated as complicated as this process was, legally speaking he is comfortable with where we are at. He stated the Land Use Board of Appeals handles these and the applicant has their rights, the City has their rights, and the opponents have their rights, and his preference would not further muddy the waters. He stated if he had been concerned with those errors or omissions or thought that staff hadn't addressed them, he would have said so at the time because he

hates losing. He thinks that this process will play out as it plays out and LUBA will decide what they decide.

Mayor Backus stated hearing Councilor McHugh's concerns and Councilor Millers recommendations he does agree that he thinks more needs to be done, at least looked into. He would just like to know more about this, our exposure, our rights, and what are our options.

Legal Counsel Peter Watts replied our options are going to be whatever the parties agree to. He explained it is possible to stay a LUBA appeal, it is not uncommon but that would require the consent of all parties. He explained he is happy to read the Koback letter, he will want to do that. He stated listening to it on the fly, it sounds like things that were already raised and things that were dealt with in the staff report. He stated we've tried to be as transparent as possible about this process and what people could and couldn't not consider and when they could and could not do things.

Council President Greisen stated she thinks we're in a pretty unique situation that half the people sitting up here are new. She asked Legal Counsel Peter Watts what is he able to communicate to us as a group, let's say via email in terms of facts, in terms of we received this on this date and it couldn't be accepted, etc., etc.

Legal Counsel Peter Watts replied we could do this in an executive session. He explained there is an executive session that deals with pending or threatened litigation and we are certainly within that. He explained throughout this process, his recommendation to staff has been that we be as transparent as possible. He stated it seems like there are a lot of people that... and again there is a difference between the City Council hearing something legislatively, which means you can consider anything within the known universe and really you don't have to make a decision based on the record through we always would hope that you would at least in part versus quasi-judicial as well as your ability to do things or not do things and this is very unique in that this was decided by the last City Council we had. We have a City Councilor, who has recused herself from the process so it would be fifty percent of the Council has not been through the process. He stated what he would say is he is comfortable with where we are and there is always some legal risk.

Council President Greisen stated she was part of the process before, so she is up to speed on all those things that have been written in this letter and came before that and everything. She would like to offer some space up to those that are new because they are getting roped into something that happened before and then we need to decide are they capable of.....

Legal Counsel Peter Watts replied this is a new City Council and he advised the City Council that he staffs. He thinks that the record is already..... He means there are people who simply didn't respect the rules of the quasi-judicial land use hearing as far as ex parte communication frankly as far as submitted documents. He stated based on what he has seen so far, his guess is that a lot of people had ex parte communication, both former Councilors and new Councilors and that all would need to be disclosed as part of this if we're doing a hearing. He explained the record is

already robust. These arguments have already been made, they were dealt with by the former City Council and in some respects in the event that there is an error or omission, and it would be remanded by LUBA that would be an easier and cleaner process to start over than trying to voluntarily remand something. That is his opinion at this time. Council can do what you'd like. He stated if we are going to do that, he thinks we would want for now. He would want to have a conversation with Chris Koback, and he would also want to have a conversation with Garrett.

Councilor Miller stated he is just going to offer a solution to Council, we have this letter dated December 29, 2022 from Mr. Haugen's Legal Counsel, which is Christopher Koback, as you said earlier. There's very clear basically allegations in this letter. He asked would it be wise and comforting to this Council for City legal counsel to go through and analyze these arguments and allegations and write us a legal opinion on whether or not these are likely to prevail in front of a LUBA appeal or not? He thinks we need to stick with specially what is alleged in this letter and determine whether or not this is likely or not likely, how it is going to play out in a LUBA appeal. Because what he doesn't want to have happen is this be kicked down the road and then find out, he is not ignorant to everybody making mistakes and he is open minded so, we have very specific allegations here, should we review these and make sure that we didn't have any oversights and this Council feel confident that there was no oversight because the last thing that he wants to have happen is the City staff waste their resources continuing down this road when perhaps there is something here. He is not saying that there is, but he is saying, his opinion is, that this may warrant a review on these specific allegations.

Legal Counsel Peter Watts replied he would be happy to do that.

Mayor Backus explained he does agree. He replied he agrees. He stated if this comes back then the new Council will be part of it. He stated without doing our due diligence and at least revisiting this and see if there's something there to look at. He stated by just quickly seeing this, we have a little bit of time to do that. He just doesn't know the process, the best way to the feels we should do our due diligence and at least visiting this and seeing if there's something there to look at. He would like to maybe get a feeling then from the rest of the Council of possibly going over each one of these, or what kind of meeting.....

Councilor McHugh stated he thinks our Attorney's advice, if he understood correctly, is if we were to have an executive session to review this, he thinks would be maybe the best way to go about it. That is his thought on it anyway.

Councilor Holmes asked if an executive session were to take place and we decided that there were some omissions or error in the process, which is obviously important for all parties in a quasi-judicial situation, what would be our next step? She asked is there a way to work with the parties relating to this LUBA appeal or has the train left the station once it is filed?

Legal Counsel Peter Watts replied LUBA actually has a seldom used mediation, a mediation program opportunity. He doesn't know whether that is something the parties would be interested in or not. He stated again they have 21 days to appeal, once we receive the notice of



appeal, we prepare the record. He stated he thinks staff has been aware that this is something where there was a threatened appeal throughout, so he thinks they have been doing that groundwork on the front end. At that point then the people appealing it have the opportunity to review the record and they have an opportunity to say that there's and so does the applicant, to say that something should be in the record or shouldn't be in the record. We can all either agree that it should or shouldn't be on the record in the record but if we don't then LUBA gets to decide at which point proceedings are prepared and then oral arguments occurs, and it's all designed to happen within less than a six-month period depending. He explained he certainly has been involved in cases where they remanded something. He has also had LUBA cases where seven errors and omission, in one case he is thinking of, were alleged and we won on all seven. He stated it is hard to know exactly, you know there is no certainty in the law but he thinks that if at any point in the process he had become uncomfortable with anything that was within our control, because a lot of things that happened were outside of our control and despite his best warnings there was nothing he could do about it, but if it was anything that was within our control he certainly would have flagged it. He thinks if the applicant would have been concerned about any of these things, they would have agreed to extend that 120 day clock which we were really coming up against and they did they weren't. So that was kind of his analysis to the time, and he hasn't seen anything change his analysis but he is happy to review the letter and happy to schedule an executive session so that we can have to the extent that we need to have a more frank conversation. He is happy to do that. Again, given everything with this applicant, his hope is to be as transparent as possible just as to what we can do and what we can't do and then as long as Council is aware of the legal risk associated with different course of action, whenever you decide is certainly something he respects.

Councilor Miller stated this letter basically tells us what they are going to appeal. He still goes back to he thinks it is important to go through each one of these and see if City Legal Counsel concurs with what they're alleging. He doesn't want to waste anybody's time going down a path if we read something or say yeah this is pretty black and white. He stated why would we continue down a path and waste people's time. He stated his comfort level is that we know specifically what the allegations are, they have written them out here very clearly for us, is that our Legal Counsel reviews that and determine if we complied with everything, if there's no issues here or if there is and then Council be briefed on that so that they would know what exactly we're looking at.

Council President Greisen stated during that time should would like Chris and Laurie to be a part of that process in educating and filling in the Council. She asked staff if they feel most comfortable responding to these allegations in a written form?

Legal Counsel Peter Watts replied if we want to get into this, he would like to schedule an executive session before the next City Council meeting. He explained he will confer with Laurie and Chris, and we can have the conversation. He stated again, there may or maybe be an appeal. We are discussing a decision that may or may not be appealed right now.

Mayor Backus stated if we were to schedule an executive session, he is sure this would have a stamp on it by the time we would meet. He stated it has dates on it as of today, so he is assuming it was filed today. He asked if it has been filed.

Joel Haugen explained Mr. Koback mailed this certified mail to LUBA today. He stated if you are willing, he has a simpler solution here.

Mayor Backus replied we are good, thank you.

Councilor Lafrenz stated it sounds like it is the first time most of us have seen this and he personally would like some time to look at this.

Mayor Backus stated he just feels doing our due diligence, we have a little bit of time, especially with some new Councilors. He would really like to make sure that we are very confident especially if we've been given this and we fail to act on it and some of these things are legitimate and we had the opportunity. He thinks by at least discussing it potentially within a week before our next meeting in executive session. If Legal Counsel in writing come back answering each one on your feeling of how we have covered ourselves. He asked Council is that what he is sensing?

Councilor Holmes stated she would say that is an important step. She stated if it has been filed and we go through that exercise of going through what has been claimed here in the appeal. She asked our recourse change course is what?

Legal Counsel Peter Watts replied we can voluntarily remand at a point prior to the record being submitted.

Councilor Holmes replied which would be?

Legal Counsel Peter Watts replied like a month. He explained once this appeal has happened there is a Statute as well as a LUBA rule that will allow us to do a remand. At that point we could open things back up. He would need to do a little bit of research as he has only used that once and would want to confer with Council that is an option that might be available to us but moving to reconsider it at this meeting is not. We do not have the applicant here, nobody received notice that this was going to occur tonight. He certainly wasn't able to prepare for it, staff wasn't able to prepare for it. He would have expected a courtesy copy of the LUBA appeal emailed to him, he didn't receive it. The more we have this conversation of a public meeting outside of the hearing process the more substantial the legal risk is of having issues.

Council President Greisen asked if staff will email Council about an available time and date for an executive session?

Legal Counsel Peter Watts replied yes.

Councilor Miller asked what are the rules as far as how long do we have? He stated that assumes we do a review and want to change something of course.

Legal Counsel Peter Watts replied you would have until the record is submitted and approved by LUBA so he can't give an exact date because if any party believed there was something that either was in the record and shouldn't be or wasn't in the record and should be then we don't have a confirmed record and that could go on for a while.

Mayor Backus stated you can find that out based on that date of the LUBA appeal, they will not even look at it for a certain amount of days and we can do something during that time frame.

Legal Counsel Peter Watts stated we could ask LUBA to voluntarily remand a decision for further consideration by Council.

Community Development Director Laurie Oliver Joseph stated we know that that is an option, but she thinks what Mayor Backus is getting at is what's our time frame to look at it before we would perhaps say that we wanted to do that. In other words, Legal Counsel Peter Watts mentioned 30 days...

Legal Counsel Peter Watts replied, again, are we talking about him answering questions in the executive session because we have a confirmed decision and it's been appealed so we're no longer in this venue, we are in a new venue.

Mayor Backus explained he is asking how much time does Council have to make a decision before LUBA starts working on it.

Legal Counsel Peter Watts replied LUBA won't do anything until they have a confirmed record. He stated it's no more than 45 days. He stated we have a record that is probably at least 1,000 pages at this point, but we've been identifying them as they came in and so it shouldn't take that long to put the record in

Mayor Backus stated he doesn't want to have a meeting and know that it was too late. He stated so if we meet within a week, you don't expect it to be final at that time?

Legal Counsel Peter Watts replied we're no where close to that. He stated because we have to label every page and because we have to do all these technical things in order to comply with LUBA's rules including the gauge of the paper we use and the color of the cover paper that we use and how it can be bound. There are all of these incredibly prescriptive rules about exactly how to present the record and then how much time people have to review the record and then how we correct the record and then it gets the pleadings. It is not going to happen next week.

Mayor Backus he would like to see that, as it is their name that will be put on it. We have a little bit of time to go through and make sure we feel comfortable and confident in our decisions especially with the new Council. He would like to see that.

Legal Counsel Peter Watts explained he is hearing Council say they want an executive session.

Community Development Director Laurie Oliver Joseph explained she doesn't think in a week we will have enough time to notice it and for Legal Counsel Peter Watts to prepare a response. She asked could we do it on the 17<sup>th</sup> after the regular meeting?

Legal Counsel Peter Watts replied yes.

Mayor Backus stated if the time doesn't open up next week, then the executive session will be on January 17.

**Consent Agenda ~ December 5, 2022 Council Work Session minutes; December 5, 2022 City Council meeting minutes; December 12, 2022 Council Work Session minutes; December 12, 2022 City Council meeting minutes; and December 19, 2022 City Council meeting minutes**

Councilor McHugh moved, and Council President Greisen seconded the motion to approve the Consent Agenda ~ December 5, 2022 Council Work Session minutes; December 5, 2022 City Council meeting minutes; December 12, 2022 Council Work Session minutes; December 12, 2022 City Council meeting minutes; and December 19, 2022 City Council meeting minutes. Motion passed 6-0. Mayor Backus, aye; Councilor Greisen, aye; Councilor McHugh, aye; Councilor Miller, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

## **New Business**

### **Review Goals**

### **Goal 3: Create a safe city with a visible public safety presence**

#### **3.1 - Operational Needs Analysis and Maintain Sufficient Staffing**

Council President Greisen asked Chief Lougal if he could just run us through some numbers on who we have and who we need and who's coming.

Chief Lougal explained Lieutenant Fluellen started a couple of weeks ago; Officer Alec Burglin is at the academy; Officer Frank Basso will be going to academy at the end of January; and then we have our three Veteran Officers that are maintaining the road. He explained we hired an evidence tech who has been doing a wonderful job and we will be conducting interviews for entry level at the end of this month. He stated hopefully that should get us close to full staffing; minus one position that is on hold.

Mayor Backus asked about if there was something about doing a needs analysis?

City Manager Rains replied we do have the Oregon Association of Chiefs coming in later this month to do an assessment of the department. She explained they will look at organizational

and management style and essentially policies and operating that are operating within the department and it's a pretty thorough report and they'll come back and let us know what they think of that. She explained beyond that report if there's additional information that you all want to see out of that we can always look at doing more but she feels like this is a really good opportunity because it's a really great association and program and it doesn't cost the City very much to have this done. We do have really well respected Chiefs from other cities that come in and do this assessment for us.

### **3.2 - Increase Transparency of Crime Data**

Mayor Backus asked if there is a way to track how many people are looking at that website.

Assistant to City Manager Isaac Butman replied we do have analytics on the website so we can see how many people travel every page. He hasn't looked yet, but he can certainly do that.

Council President Greisen talked about the Fire Districts posting of incidents on Facebook seem to be very like in the moment. She asked Chief Lougal to explain why maybe the Police Departments Facebook page doesn't function that way.

Chief Lougal explained the Police Department could post about some cases after the event, but we hardly want the citizens knowing what's going on currently as all incidents are active and we never know what they are going to get themselves into and they would be posing more of a safety risk by putting that information out to everyone. He explained it is not safe for the Officers to have to deal with crowds while they are doing with an active situation. He stated they try to get as much out there after the fact which is safer for everyone.

### **3.3 - Coordinate with Columbia County 911**

Councilor McHugh asked if the meeting on the 11<sup>th</sup> is open to the public.

City Manager Rains replied yes, it is.

### **3.4 - Maintain emergency response preparedness and update emergency operations plan to address all emergencies including a Cascadia earthquake event**

Council President Greisen explained she has spoken with the new Director Chris Carrie on the phone about some other things and she is very excited about this new turning point. This is something that she has been a little frustrated with and she is excited that there is leadership there, we are established here, we're ready to go, as this report says with the Fire District as well. She is really hopefully that an action plan will be put into place. She stated thank you Dave and Chief for being a part of that.

Councilor Holmes gave an overview of a program called NET Team which otherwise across the County it is refereed to as CERT. She believes there is a County CERT program that is ran out of St. Helens and she

hasn't seen a whole lot of community activity from the group within Scappoose. She doesn't know if there is a way to kind of strengthen that. She explained this might tie into the goal that was listed for a public academy or another way to kind of engage the citizens which she understands had to kind of take the back burner to the priority of staffing and all of that. She is wondering if those two priorities could be merged because it is a way to kind of engage the public, those who are interested in helping to prepare for and participate particularly in earthquake preparedness.

Councilor Miller explained 3.3 and 3.4 have a lot of overlap to them because as it stands right now our emergency communications system is very, to put it best, questionable on whether or not it would withstand. He explained it goes down during our typical weather events as it. He explained a lot of these things have a lot of overlap.

### **3.5 - Engage The School District to Enhance SRO program**

Mayor Backus asked if they were to build a new middle school by that was down on the same campus, having them right by each other would that help at all?

Chief Lougal explained they did quite a few walkthroughs during the summertime. Prior to the new Officers going to the academy, they had them walking the schools daily, and they were attending all the community events. He explained while we may not be able to get to a traditional SRO program within the next year or so, but once the two new Officers come back and they kind of figure out what the schedule will be like, that will be part of the regular duties.

Council President Greisen explained that this is a joint contract with the School District and that requires funds from both sides and at the time those funds were not available from the other side. She stated even if there is staffing on our end, the budget needs to come from both parties.

### **3.6 - Community Engagement**

Chief Lougal explained they are part of just about every event that occurs.

### **3.7 - Citizens Academy**

There was no further discussion.

## **Goal 4: Develop a diverse and accessible park system for people of all abilities within a 10-minute walk**

### **4.1 - Update the Parks and Recreation Master Plan**

Mayor Backus stated this is ongoing and has been going for a while. He would like to see more about people with disabilities being able to access the parks.

#### **4.2 - Peace Candle – protect and restore, update the Welcome sign**

Public Works Director Dave Sukau gave an update. He explained the expect to see it completed late spring/early summer.

#### **4.3 - Develop the Grabhorn property conceptual plan**

City Manager Rains explained by request of the Park & Rec Committee this is on hold; and with the Parks Master Plan in play that makes sense because you ultimately want this to be combined with the master plan and anything in a master plan is going to have a much better shot at a grant and it can be wrapped up into that process. Also, it can be part of the capital improvement plan.

#### **4.4 - Continue Friends of Scappoose Parks**

Councilor Holmes asked if this needs to continue to be a goal. She stated having been on the Park & Rec Committee for six and a half years, they certainly are aware of the existence of the Friends of Scappoose Parks. She doesn't think they have ever utilized it as an organization or a funding source or anything like that.

Assistant to City Manager Isaac Butman explained the Friends of Scappoose Parks us essentially the Park & Rec Committee. It was kind of formulated to be like a 501 c3 version of the Park & Rec Committee to help fundraise and do things and essentially during COVID that kind of stopped and fell by the wayside. The Park & Rec Committees normal scope of work has been doing most of what that group did.

Councilor Holmes explained her suggestion would be maybe we just look at reprioritizing that or changing the goal around that.

Mayor Backus would like to see the Bylaws to see what the job entails, what the Committee entails and see if it is something that as we grow with our parks it's something we can reestablish.

#### **4.5 - Support Public Art**

Public Works Director Dave Sukau explained we had a steel sculptor reach out to us this past month and they will be reaching out to meet with them just to see what they have to offer.

### **Goal 5: Address aging infrastructure**

#### **5.1 - City Facility Master Plan**

Councilor Holmes asked where do we potentially stand with the School District on any discussion to potentially acquire the middle school. She asked is that even addressed in the

School Districts long-term plan?

Council President Greisen explained the School District is putting together a bond that will go on an upcoming ballot. She explained the bond has to pass in order for a new middle school to be built. She stated if that does pass, that doesn't mean that the School District will be handing over the middle school or be willing to sell it. She explained there are a lot of what ifs in play.

City Manager Rains explained she thinks the middle school is a great idea but she doesn't know ultimately at the end of the day how realistic it is because of the cost associated with it.

## **5.2 - Wastewater Phase I improvements**

Public Works Director Dave Sukau gave an update on the improvements.

## **5.3 - Stormwater Master Plan**

City Engineer Chris Negelspach gave an overview of the Stormwater Master Plan.

## **5.4 – Update wastewater and transportation SDCs/fees**

Mayor Backus asked if the fees have been taken care of with the last update?

Public Works Director Dave Sukau explained yes, the wastewater has been reviewed and our numbers right now are right with the new numbers. We just haven't had time to bring them to Council for updates on that.

## **5.5 - Collections master plan implementation**

Public Works Director Dave Sukau explained Smith Road pump station is definitely on our horizon for the collection system. It is our next large capital project. He explained as far as the collection system and pipe work right now we are just doing spot repairs.

## **5.6 - Delivery of water and wastewater infrastructure projects**

Public Works Director Dave Sukau gave an overview of the two wells that are on the horizon.

## **Announcements – information only**

### **Calendar**

Mayor Backus went over the calendar.

## **Updates: City Manager, Police Chief, Councilors, and Mayor**



City Manager Rains stated congratulations to Mayor Backus; Councilor Holmes; and Councilor Lafrenz and welcome! She thanked staff for being here this evening to discuss goals.

Chief Lougal stated congratulations!

Councilor Holmes thanked staff for the help kind of getting geared up, answering all the questions and being really responsive. She stated this is an exciting opportunity to serve the community in this capacity but also certainly a somewhat intimidating one, but she is looking forward to getting through it with all of her fellow Councilor's support and the staff.

Councilor Miller stated welcome new Councilmembers. He is excited to have them on board. He welcomed Lieutenant Fluellen and said it is good to have him onboard. He explained 911 has their next meeting on January 11, and it was originally said at the December 1 presentation that it was going to be at the end of January, or sometime during the end of January, however it is going to be on the 11<sup>th</sup>. He explained it is kind of unclear what exactly they are doing. It sounds like there may or may not be an attempt to vote on a specific system. He explained he did send out a comparison sheet that he worked on with some professionals to basically do a side-by-side comparison between the presentations that were presented that was done at the end of November and then also Motorola and Tait presented again on December 1. He explained that was sent out to all of Council on December 9, and if you didn't get that please let him know. It very clearly shows the difference in columns between what we are looking at and basically the summary is that Tait's coverage that they proposed with 14 sites gave the County, the Public Safety responders extremely good coverage and there were no concerns that he heard whatsoever from anybody that saw that. He explained there is one thing that continues to bother him very much and that is the lack of desire from the 911 District specifically the Director to involve the schools in this project for school safety. He will not support any request for any system that does not enhance school safety. Specifically, what he means by that is there needs to be a school emergency talk group on the radio system and there needs to be radios in school where they can hit the emergency button and it instantly goes to 911. It is essentially a panic alarm that is free of failure and that is one thing that if they continue not to include that in their overall plans, which he will bring back to Council, but they will not have his support unless they include schools because of the school safety aspect. He stated so all of that to say, please come on the 11<sup>th</sup>. He thanked Councilor McHugh for being present at the presentations and he specifically brought up the school aspects too. He thinks it is extremely important and also allows the 911 District to qualify for school safety grants as well.

Council President Greisen explained their kids go back to school tomorrow so please be careful on the Highway again, and the kids will be out there on the side streets. She wanted to give a huge appreciation to the new Mayor. He reached out to Councilors. She knows she personally had a meeting with him. She is very excited at his willingness to learn, but also to do. She stated

congratulations to Councilor LaFrenz and Councilor Holmes for being here. She welcomed them and stated she appreciates them being here.

Councilor McHugh welcomed the new Councilors. He stated good job Mayor Backus with the meeting. He explained during the meeting with 911 he asked the presenter (Not Tait) regarding the schools and the response from the presenter was that they weren't asked to do that. He stated that was interesting that that wasn't part of the criteria that they were going to report on. He explained Tait included it in their presentation.

Councilor LaFrenz thanked City Staff for their assistance. He stated it is an honor to serve.

Mayor Backus thanked his mother and his favorite child for making it all the way through the meeting. He stated it has been a humbling last two or three months and he appreciates all the help and support he has been given and all the education he has learned as well. He stated truthfully it has always kind of been a dream of his to be in this kind of situation where he can try to help a lot of people and he thinks at this time this could really be it. He really appreciates that. He does really look forward to working with staff, it is going to be a lot of fun. He did want to give a shout out to our High School girls' basketball team. He stated we did just come back from Las Vegas last week where we did win a basketball tournament and won a trophy. He explained they went four and one and the varsity girls did really well. He stated good job to them. He wanted to thank Mayor Burge; Councilor Lesowske; and Councilor Poling for their dedication to the people of Scappoose. He truly believes we are a better City because of them.

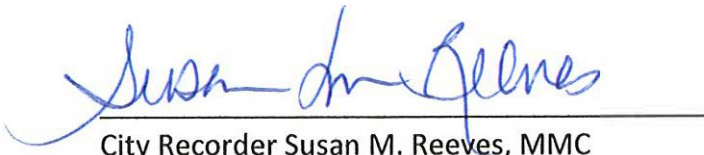
### **Adjournment**

Mayor Backus adjourned the meeting at 8:53 p.m.

A handwritten signature in black ink that reads "Joseph A. Backus". The signature is fluid and cursive, with a long horizontal line extending from the end.

Mayor Joseph A. Backus

Attest:

A handwritten signature in blue ink that reads "Susan M. Reeves". The signature is cursive and fluid, with a horizontal line underneath it.

City Recorder Susan M. Reeves, MMC