

MONDAY, MAY 15, 2023
CITY COUNCIL MEETING
REGULAR MEETING 7:00 PM
COUNCIL CHAMBERS
33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056

Call to Order

Mayor Backus called the May 15, 2023 City Council meeting to order at 7:00 pm.

Pledge of Allegiance

Roll Call

Joseph A. Backus	Mayor	Alexandra Rains	City Manager
Megan Greisen	Council President	Isaac Butman	Assistant to City Manager
Pete McHugh	Councilor	Dave Sukau	Public Works Director
Jeannet Santiago	Councilor	Chris Negelspach	City Engineer
Kim Holmes	Councilor		

Peter Watts Legal Counsel

Excused: Councilor Tyler Miller; and City Recorder Susan M. Reeves.

Remote: Councilor Andrew Lafrenz; Legal Counsel Ashley Driscoll (joined at 7:08pm and left at 8:37pm); and Christine Turner (joined at 7:18pm).

Approval of the Agenda

<u>Council President Greisen moved, and Councilor McHugh seconded the motion to approve the</u> Agenda.

Councilor Holmes asked if there is a public comment on an agenda item, should it be moved up?

Could not hear the voting outcome, other than Mayor Backus, nay.

Councilor Holmes moved, and Councilor Santiago seconded the motion to approve the agenda with an amended order moving Ordinance 916 to the top of new business.

Councilor McHugh asked why are we doing this again, he is not opposed to it, just wondering why.

Councilor Holmes explained her reasoning is if we have people here to provide public comment and we have some items that could be lengthy in discussion that we don't have people fall off.

Council President Greisen explained the reason why she was opposed is this individual wants to speak on two things that are towards the bottom, so to her it didn't matter that we moved one up if we are not going to move both.

Mayor Backus explained his feeling is being that it is a public hearing, first and second reading he thought he would like to have it a little sooner to give everybody an opportunity to discuss and talk about it. He stated we have more people here in the beginning and it is a big item that he thought would be nice to get to earlier in the meeting.

Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Public Comment

Jeff Weiss, Scappoose Public Library, explained they are doing Movies in the Park again this year and gave an overview of the events.

Council thanked Jeff.

Legal Counsel Peter Watts explained to Mayor Backus that agenda item # 9 is not a public hearing.

Marisa Jacobs explained she has been a resident of Scappoose for about three years, and a Planning Commissioner for close to three years, and Library Budget Committee Member for about two years. She explained tonight she is speaking to Council as a citizen and as a professional human resources leader with over 20 years of experience in the field. She had the opportunity to listen to the May 1, 2023 Council meeting and she took note of the conversation regarding the city manager annual review and during the topic there was a discussion regarding 360 feedback and there was hesitation as it was potentially viewed negatively, and she would just like to offer a different perspective for Councils consideration. She explained during the course of her career personally and professionally leading people she found 360 performance reviews highly effective. In fact, all of the companies that she has worked for that are Fortune 500 require 360 feedback especially for leaders who operate in a cross-functional capacity with a small number of direct reports. She stated the roll of city manager fits this description and let's be honest to the average person the title city manager may not carry of express the full gravity of the role itself. She stated the city manager in her opinion is equal to the CEO of a 10,000-person business or an executive vice president managing several thousand employees. The city manager of Scappoose really is the town's CEO who leads our strategic direction

alongside County, State and Federal representatives and the City Council and the staff reporting directly to them. The city manager is a big role in our town, and it should be given the credit that it is. She thinks it is great that you are asking Manager Rains direct reports to participate this year. She would encourage Council to take a step further and complete a 360 review. She stated given the number of directs is small and given the scope of the role it would be beneficial to include a cross-functional individual to participate as well. Inviting County representatives, State officials or others who this role interacts with regularly would be helpful. By doing so you would accomplish a few things. One: more perspectives provide a more holistic unbiased view of performance; two: provides more anonymity for the directs providing feedback; three: it meets criteria number seven intergovernmental relationships in the evaluation; and four: will positively impact City Manager Rains. This tool will highlight strengths and performance as well as opportunities to focus on and hopefully you honed in on that word opportunities because the trend has moved away from using the word weakness and instead we focus on opportunities for leaders. She stated we are people, we are works in progress and a 360 tool really enables leaders to see where they can refine their skills and behaviors to better leaders and stewards for the people they work with and for. She highly encourages Council to treat the role of city manager similar to an executive VP in a corporate setting, utilize the tool to enable the city manager to do their best and be their best. Include a 360 evaluation for this year's performance review.

Council thanked Marisa.

Consent Agenda - May 1, 2023 City Council work session minutes; May 1, 2023 City Council meeting minutes; Reappointment of Scott Jensen and Bill Blank to the Planning Commission

Councilor Holmes moved, and Council President Greisen seconded the motion to approve the Consent Agenda - May 1, 2023 City Council work session minutes; May 1, 2023 City Council meeting minutes; Reappointment of Scott Jensen and Bill Blank to the Planning Commission.

Mayor Backus thanked Bill Blank for 24 years of service and this October will be his 25th year. The City is very grateful for his work. Thank you, Bill!

Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Proclamation - National Public Works Week

Mayor Backus read the National Public Works Week Proclamation. He presented the Proclamation to Public Works Director Dave Sukau.

Mayor Backus mentioned a comment from Councilor Miller that today is National Peace Officers Memorial Day, and we want to thank all the Police Officers, especially those that have given their life to help protect us.

Old Business

Ordinance No. 915: Stormwater Master Plan

Mayor Backus explained this is the second reading for Ordinance No. 915. He asked Public Works Director Dave Sukau if there are any updates.

Public Works Director Dave Sukau replied there are no updates on this.

Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Mayor Backus read the title for the second time ~ Ordinance No. 915: An Ordinance updating the City of Scappoose Stormwater Master Plan.

New Business

Ordinance No. 916: Camping ordinance

Assistant to City Manager Isaac Butman went over the staff report and reviewed the Ordinance. During the 2021 Oregon Legislative Session, HB 3115 was passed, requiring that municipal laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry outside on public property be "objectively reasonable" with regard to time, place and manner, and delayed implementation of HB 3115 until July 1, 2023. Staff reviewed HB 3115 in winter 2021 and spring 2022 and were advised that no action was needed. That assessment has changed. Before Council tonight is Ordinance 916 (Exhibit A of the staff report), a response to HB 3115, *Martin v. Boise*, and *Blake v. Grants Pass*, which staff and legal counsel believes should be passed before July 1, 2023, in the event that future interpretation of HB3115 preempts City regulation after this date. Failure to pass this Ordinance could see State Law preempt our ability to regulate on this subject, and allow for those experiencing temporary homelessness to sit, lie, sleep, and keep warm and dry on any Public Property, at whatever time they choose, in whatever manner they choose.

Analysis:

HB 3115, and the holdings in *Martin* and *Blake* are clear (see Exhibit B of the staff report—pages 6, 3, and 4, respectively— for an analysis and summary of these three documents):

- 1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go.
- 2. Cities can continue to impose the traditional sit, sleep, and lie prohibitions and regulations on persons who do have access to shelter.
- 3. Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person

experiencing homelessness, then the prohibition, regardless of its form, is unconstitutional.

- 4. Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping.
- 5. A person does not have access to shelter if:
 - a. They cannot access the shelter because of their gender, age, disability or familial status;
 - b. Accessing the shelter requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
 - c. They cannot access the shelter because the shelter has a durational limitation that has been met or exceeded; or
 - d. Accessing the shelter is prohibited because the person seeking access is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.
- 6. Cities regulating the acts of sitting, lying, sleeping, or keeping warm or dry outside on public property must be "objectively reasonable."
- 7. These regulations should be in place before July 1, 2023, in the event that future interpretation of HB3115 preempts City action after this date.

Staff consulted with our insurance carrier, legal counsel, and other municipalities to analyze a variety of responses to this situation. As a result, Staff were given a model ordinance approved by our insurance carrier (Exhibit C of the staff report) that addresses sitting, lying, sleeping, and keeping warm and dry on public property for those experiencing temporary homelessness, in what we believe to be a legal, and objectively reasonable manner. Staff reviewed and modified the model ordinance to align with our context and other parts of our municipal code, and added additional, objectively reasonable health and safety provisions. Staff believes that this ordinance is a lawful and objectively reasonable regulation of the time, place, and manner for those experiencing temporary homelessness to sit, lie, sleep, and keep warm and dry on public property, when there is nowhere else to go.

Ordinance 916:

- Restricts the places these activities can occur to areas where such activities will not fundamentally undermine the public's ability to use public properties for their intended purposes.
- Prevents the creation of unsafe and unsanitary living conditions which can threaten the general health, welfare, and safety of the City and all its inhabitants.
- Allows for legal sitting, lying, sleeping, and keeping warm and dry during reasonable time periods when there is nowhere else to go, while protecting sensitive areas of the City that are impacted by the negative effects of such activity.

In general, Ordinance 916 limits the locations such activities can occur to limit negative impacts, preserve

access to public properties, and ensure emergency services can access necessary areas. It limits the times that these activities can take place to instances when there is nowhere else to go. It limits the ways public property can be used to make sure that a safe, healthy environment is maintained, to preserve the general welfare for the City and all the inhabitants of Scappoose.

Ordinance 916 has been reviewed by all the Departments of the City of Scappoose, Legal Counsel, and is based on an ordinance that was approved by our insurance carrier. Ordinance 916 includes objectively reasonable restrictions on the time, place, and manner these activities can be engaged in, and is necessary for the preservation of the health, safety, and general welfare of the City and all its residents and visitors.

This Ordinance was specifically reviewed by:

- Steven Lougal, Chief of Police
- Laurie Oliver Joseph, Community Development Director
- Dave Sukau, Public Works Director
- Alexandra Rains, City Manager
- Jeff Pricher, Fire Chief, SRFPD
- Isaac Butman, Assistant to the City Manager
- Huell Whitehaus, Assistant to Public Works Director
- NJ Johnson, Associate Planner
- Chris Fluellen, Police Lieutenant
- CIS the City of Scappoose's insurance carrier
- Peter O. Watts, Legal Counsel

It is based on a widely accepted model ordinance that has been reviewed by many lawyers, municipalities, Councils, and community groups, and adopted by a wide range of municipalities, in whole or in part. Staff believes this is an objectively reasonable Ordinance, that, if passed will allow for local control, to the extent possible, of the activities discussed in this Staff Report and Ordinance 916. Staff recommends that Council declare an emergency, and adopt Ordinance 916, An Ordinance Amending the Scappoose Municipal Code, Creating Title 9, Chapter 9.24, Camping Activities on City-Owned Public Property for Those Experiencing Homelessness, as written.

Legal Counsel Peter Watts explained the perimeters that staff looked at was really all about health and public safety and they also looked at other jurisdictions to see what has worked and what hasn't worked.

Mayor Backus opened the public hearing.

Marisa Jacobs, Scappoose, explained she is in favor of this ordinance. She stated it is unfortunate that our Legislature passed House Bill 3115, but they did and now we're in this situation. She stated overall she read through the ordinance, and she is aligned with it, so thank you for putting this together. She asked about the fine, she asked where did the amount come from and why isn't it more? She stated given the history of it that this has been enacted this Legislation has been on the books we have to have a deadline by July to adhere to, why did it

take so long to get here? She stated it seems like we're kind of like rushing with intent, but she is just curious like why haven't we plugged in to the County earlier to start formulating this plan.

Mayor Backus closed the public hearing.

Legal Counsel Peter Watts explained the process of this and why it is just coming before Council.

Assistant to City Manager Isaac Butman explained the fine amount came from CIS.

Councilor Santiago explained she supports this but would like to see the ordinance updated to "The City will refer services". She would like the City to have a list of services in hand ready to hand out to individuals.

Assistant to City Manager Isaac Butman explained currently the Police Department does refer individuals to services.

Councilor Holmes explained having to take an emergency ordinance action here does make her uncomfortable, which does shorten the amount of time that the public has to provide public comment and review. She talked about discussing this at the Council Goal Setting Session. She thanked staff for putting together a well-constructed ordinance.

Assistant to City Manager Isaac Butman explained second readings don't usually come with public hearings.

Mayor Backus replied unless Council votes to open it up, but typically they do not.

Councilor Lafrenz stated he was surprised that there was only one public comment. He asked does the City feel like the public awareness is there and there's just not as much comment as he would think.

Assistant to City Manager Isaac Butman explained he is not sure, but maybe people looked at this and thought that the City doesn't really have a choice.

Mayor Backus explained he hasn't had a lot of people asking him about this in the last couple of weeks or month about it so he feels comfortable about where we are. He stated like Legal Counsel Peter Watts said this sets the groundwork and over time we can make adjustments to it as needed.

Councilor Santiago would like to update the ordinance from "If the City refers" to "When the City refers the service provider to an individual who is cited for a violation of this chapter and the individual demonstrates they meaningfully engaged with that or another similar service provider after receiving a citation before the hearing......"

Council President Greisen moved, and Councilor Santiago seconded the motion that Council declare an emergency and adopt Ordinance 916, An Ordinance Amending the Scappoose Municipal Code, Creating Title 9, Chapter 9.24, Camping Activities on City-Owned Public Property for Those Experiencing Homelessness, as amended. Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Mayor Backus read the title for the first and second time ~ Ordinance No. 916: An Ordinance amending the City of Scappoose Municipal Code, Creating Title 9, Chapter 9.24, Camping Activities on City-Owned Public Property for those Experiencing Homelessness and stated emergency ordinances go into effect immediately.

Discussion on Canceling July 3, 2023 City Council meeting

City Manager Alexandra Rains explained typically speaking in the last several years we have canceled the meeting right around the 4th of July. She explained right now we do have things scheduled in the way that would allow that meeting to be canceled.

Councilor Santiago moved, and Councilor McHugh seconded the motion to cancel the July 3, 2023 City Council meeting. Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Resolution No. 23-07: A Resolution Declaring Surplus Public Works Property

Public Works Director Dave Sukau explained the Public Works Department has identified surplus property that no longer reliably meets the Department's needs. Pursuant to Resolution 22-21, Section I., Disposal of Surplus Property, a declaration of surplus property made by the City Council is required before the City may auction, donate, or dispose of such property. Staff recommends that the property be disposed of via public auction.

Councilor McHugh moved, and Councilor Holmes seconded the motion that Council adopted Resolution No. 23-07: A Resolution Declaring Surplus Public Works Property. Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Utility Rates

Public Works Director Dave Sukau went over the presentation.



UTILITY RATE DISCUSSION

Agenda







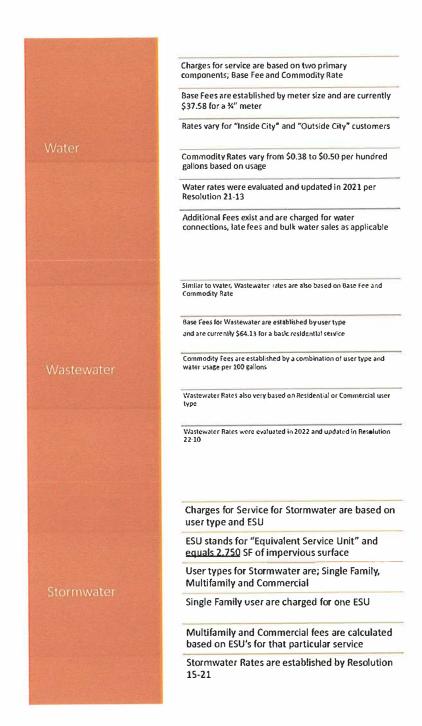




Water Fees and Rates Wastewater Fees and Rates Stormwater Fees and Rates Rate Increases

Questions





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Questions?

Public Works Director Dave Sukau stated he is not looking for anything formal, but asked if Council is seeing the same dynamic?

The general consensus of Council was yes, they are.

Councilor Lafrenz asked about the history of the lack of rate increases.

Public Works Director Dave Sukau gave an overview of that history.

City Manager Evaluation Revised Process

Legal Counsel Ashley Driscoll explained this is a follow up on the last meeting. At the City Council meeting on May 1, 2023 the Council requested to add input from direct reports to the annual city manager evaluation. Council requested she research and bring back options regarding the type of questions to ask of direct reports. She has attached a document outlining how various cities engage department heads/direct reports for city manager evaluations. Although all the examples will work (or many other combinations of questions), her recommendation would be to ask the city manager's direct report to submit written answers to the following questions:

- 1. What do you consider Alex's strengths?
- 2. How would you describe Alex's leadership style?
- 3. What can Alex do to be a more effective leader?
- 4. How is Alex doing representing the City in the broader community at large?
- 5. How is Alex as a supervisor?
- 6. Does Alex foster an environment for personal growth of employees? If so, how, if not, why not?
- 7. How is morale amongst City employees?
- 8. Do you feel that the City provides adequate support and opportunities to have your workplace concerns addressed?
- 9. How do you feel that the City's vision and core values are projected into your daily work?

She explained the Council may adopt these questions, or any other grouping of questions, for direct reports. Once approved, she will email the questions to direct reports this week and ask that they respond by Friday, May 26, 2023.

Councilor Santiago asked Legal Counsel Ashley Driscoll what is her interpretation of a 360 review?

Legal Counsel Ashley Driscoll explained some 360 review are internal and external and other 360's are where everybody that they report to and everybody that reports to them is also a 360. She explained none of the City's that she works directly with, and she thinks only one in their client group, does a 360 that involves individuals outside of the organization.

Councilor Holmes asked if we want to discuss if a 360 review is not appropriate for this year, do we wait until next year, so we have plenty of time to plan for that and Alex is prepared as well. She asked how much prep time do we need?

Legal Counsel Ashley Driscoll replied they would need more than she thinks one meeting but for next year if that is something that the Council is interested in, her recommendation is to hire a consultant to do it and yes, a heads up now that that is what Council is going to want to do that next year is great and then we can work on a small budget for that. She explained starting, probably January of next year we will look at hiring that consultant and getting the

details of that 360 narrowed down and then having that person do the evaluation. She explained there is a substantial amount of work that does go into it, including who's involved in that, who decides who is involved in that, and then what is the scope of that review.

Legal Counsel Ashley Driscoll stated she wants to correct something she previously said. She thinks their largest client does involve outside individuals in a 360-type review of their city manager every couple of years, so she wanted to correct her statement on that.

Councilor Santiago would like a little bit more elaboration on the questions because she wants more than just yes or no.

Legal Counsel Ashely Driscoll stated she can add please explain.

Council President Greisen stated it is her understanding that these questions are specifically to evaluate the city manager, so in her opinion she doesn't know if question 7, 8, or 9 reflects her directly.

Councilor Santiago replied she actually disagrees with that because as a leader of the organization you start the morale of the culture of where you work and the directions and the opportunities. So, she does think as a leader of the City that would fall on her.

Council President Greisen stated if that is the case then it is her recommends that the staff have the same questions to answer about Council. She thinks that Council creates a tone and an environment that effect their workplace environment and their morale. She feels that the morale amongst city employees is not solely determined by Alex, it is determined by Council.

Mayor Backus explained he is fine without the question altogether. He suggested on #8 ~ Do you feel that Alex provides adequate support and opportunities to have your workplace concerns addressed.

Councilor Holmes would like some opportunity to reword #7 because there is some merit in that because Alex is the CEO of the organization and the town. She stated there is a lot that is set by the tone of leadership. She explained there is validity in that question, but she can see what Council President Greisen is saying that it does not entirely rest on her so there may be a way to kind of tease that apart, so it is more appropriate and specific for a performance review.

Legal Counsel Ashley Driscoll replied how about amending the question to how does Alex's leadership impact morale among city employees?

Mayor Backus replied that would be good.

Legal Counsel Ashley Driscoll stated we could do something similar with questions 8 and 9. She suggested for number 8 ~ Does Alex provide adequate support to your departments and address your concerns? How? She asked does question 9 stay as is?

Mayor Backus stated that sounds good to him.

Action Items

Councilor Santiago moved, and Councilor Holmes seconded the motion to approve the recommended questions as amended for direct reports to be included in the city manager evaluation. Motion passed (6-0). Mayor Backus, aye; Council President Greisen, aye; Councilor McHugh, aye; Councilor Santiago, aye; Councilor Holmes, aye; and Councilor Lafrenz, aye.

Announcements – information only

Calendar ~ Mayor Backus went over the calendar.

Updates: City Manager; Councilors; and Mayor

Councilor Holmes explained she attended the quarterly League of Oregon Cities Small City meeting, and the League unveiled their new direction, vision and missions and how they will be putting together services for cities. She explained a lot more things will be offered for small cities. She also attended the OMIC Fab Lab unveiling which was fun. She stated just another great addition and hope to see more visibility for OMIC.

Councilor Lafrenz thanked the City staff for all the great work they do in preparing the packets and updating the Council.

Council President Greisen thanked Dave and Public Works. She stated she thinks that Public Works is one of the most vital departments that we have in the City. She explained it has been nice to have the nice weather and see that our parks are ready and in their best state to have visitors.

Mayor Backus stated he echo's Council President Greisen on Public Works. He stated Happy Belated Mother's Day. He explained that he wanted to give a shout out to Megan Greisen for her leadership at the Grant Watts auction, it was a great evening, and a lot of money was raised. He explained he was also at the OMIC Fab Lab grand opening and that was great to see. He explained this week there is a Destination Oregon meet and greet in addition to a session.

Adjournment ~ Mayor Backus adjourned the meeting at 8:42pm.

Mayor Joseph A. Backus

Minutes typed by

City Recorder Susan M. Reeves, MMC