



SCAPPOOSE *Oregon*

**SPECIAL CITY COUNCIL MEETING AGENDA
WEDNESDAY, FEBRUARY 15, 2023, 6:00 PM
COUNCIL CHAMBERS
33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056**

Call to Order

Mayor Backus called the February 15, 2023 Special City Council meeting to order at 6:00pm.

Pledge of Allegiance

Present: Mayor Backus; Council President Greisen; Councilor McHugh; Councilor Miller; Councilor Holmes; City Manager Rains; Assistant to City Manager Butman; Legal Counsel Watts; and Lieutenant Chris Fluellen.

Remote: Councilor Lafrenz; Chief Steven Lougal; Jennifer Massey; Casey Heiges; Mercedes Massey; Bree (left at 6:24pm); Oram Al; and one unknown caller.

Excused: Councilor Santiago; and City Recorder Reeves

Approval of the Agenda

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

Public Comment

Sharrie Ryan explained she is speaking tonight as a resident. She explained she wasn't involved in politics and civic matters until the last few years. She has been going to the City Council meetings in every single City in our County for the last five months, actively engaging with the Mayors, the City Council Members, the City Administrators and the City Planners very much just finding out what your role is in our community, what our role as residents is also in the community and she has gone to all the School Board meetings, Planning Commissions, etc. She just wanted to ask Council how is it that our City Council, our City Planner, City Administrators, would like the public to engage with them and she asks this because she started coming to the Scappoose City Council meetings during the Buxton Hearings and there was a lot of people opposed to it. She didn't hear very many people for it except for the people building it. As a resident of coming into Scappoose and coming into this City Council and looking at this she was

like nobody wants this and that is what she hears and that is what she sees and that is what she observed and that did not do one thing. From her standpoint it didn't do one thing to tell anyone, engage with anyone to say this is not a good move for our City. From her personal perspective with being so engaged in these matters she has come up quite frustrated. It is an emotional thing when you spend your free time to go to different things like Council does. She thanked the Council for what they do and the thought and process they have to go through. She thinks her point that she wants to make to Council is there are people that want to be engaged and need to be heard, feel like they are heard and feel like what they say matters in the grand scheme of things. She stated when she comes to meetings and she is holding a sign it is because she is pretty dang passionate about it and she just wants to know from Council how to engage the best, how to be heard. She went on the website and tried to find the process of an ordinance passing and it wasn't very clear. She knows there are a lot of people who want to be engaged in their community, but they don't know what to do and then when they do it doesn't really make much of a difference. She just wanted to share this with Council because this is her hometown, and she just wants it to be the best it can be. When she engages, she wants it to feel like there is engagement and not empty words. She thanked Council.

Mayor Backus stated he wanted to speak on engagement. He stated he ran on that, looking for engagement in the community and he is trying to learn that as well. He is trying to find out what is the best way to engage our community. He does want to engage the community, the more information the better.

Councilor McHugh thanked Sharrie and said her thoughts represent what a lot of people are feeling, and it is not quite as simple as what it seems to be on the surface.

Councilor Miller thanked Sharrie. He wanted to point out that he appreciates the engagement, and that Council does hear everything that comes in front of them. He stated being engaged and impacting decisions is kind of two different things. He explained they have to first consider the law and the legal requirements that Council is faced with. He can understand that it may not always seem that Council is taking what the public has to say seriously but he knows that he is. Council takes an oath, and they have to first comply with the law and he knows that is not always clear to the public. He stated if there is ever a question about that he thinks any of them on Council would be willing to engage with the citizens to explain it better. He explained they certainly don't want anyone to feel that Council is not listening or not engaged.

Old Business

ORD 910: An Ordinance relating to massage businesses, creating Scappoose Municipal code chapter 5.20, Massage Facilities

Mayor Backus explained this is on second reading.

Assistant to City Manager Isaac Butman went over the staff report. On August 23, 2022, the Scappoose Police Department received an application for a business license from Pure

Massage. During an investigation it was discovered that the business was in violation of several State and Local statutes, lacked certification from the state massage board, and it was alleged that members of its staff were offering sexual services to customers. It became clear to the Police Department and City Staff that Scappoose Municipal Code lacks language sufficient to prevent the establishment of massage businesses that are used as a front for illicit activities. On January 17, 2023, Staff brought a first reading of Ordinance 910 to City Council. Council asked for some changes to be addressed. After the Council meeting a number of public comments were received. Staff presenting Ordinance 910 on first reading again on February 6, 2023 due to the number of changes asked for, and the public comments received. During the February 6, 2023 meeting, Council moved Ordinance 910 to a second reading, with a single change that is described below. Massage businesses have long been a front for illicit activities, including prostitution, human trafficking, and money laundering. Business licensing is controlled by local municipal governments and is one of the best ways to prevent illicit businesses from establishing themselves in a community. Staff reached out to the State Massage Board and were given a sample ordinance and guidance on best practices for preventing illicit massage businesses from establishing. Staff drafted an ordinance, Exhibit A in the staff report, to prevent illicit massage businesses from obtaining a business license in Scappoose, while balancing the needs of small businesses, by writing code that is not unnecessarily burdensome or costly. Legitimate businesses can meet the requirements of this Ordinance while realizing minor impacts to the time it takes to complete a business license application. The majority of additional burden amounts to submitting diagrams of the business and submitting to a background check to ensure no records indicating that applicants engage in illicit activities. Staff will be asking that applicants be required to pay a nominal fee of \$30 to process each background check; this is slightly less than the fee the Oregon State Police charge for a background check and is simply cost recovery for the additional costs to conduct the background check and write a report for the applicants' file. Staff will bring a Resolution before Council on this matter if this Ordinance is adopted. This language has been reviewed by the Police Department and Legal Counsel. If adopted, this ordinance would be one of the first, if not the first, preventative local ordinance of its kind in the State of Oregon. Changes: Council asked for one change and scrivener's error corrections to Ordinance 910 on February 6, 2023, see Exhibit B in the staff report. Based on public testimony, the State of Oregon Massage Board requires a basic background check for Licensed Massage Technicians to renew their license. This was not known to staff when drafting the ordinance. Council asked that Licensed Massage Technicians who have received their license or a renewal within three years be exempted from the ordinance's background check requirement. This change is reflected in exhibit B and the final draft of the proposed ordinance. The largest fiscal impact of this ordinance causes is the cost to complete background checks for applicants. Each background check and written report will take 10-20 minutes to complete. The City of Scappoose does not currently charge a business license fee that could help offset this additional cost. Without assessing a background check fee there are no cost recovery options for the additional time and costs associated with the enhanced review required by this licensing process. Staff recommends Council adopt Ordinance 910, an ordinance relating to massage businesses, creating Scappoose municipal code chapter 5.20, Massage Facilities.

Mayor Backus explained we had a first reading, then we had a second first reading and both had a public hearing and now we are on second reading and possible approval. He read the title for a second time ~ Ordinance 910: An ordinance relating to massage businesses, creating Scappoose Municipal Code Chapter 5.20, Massage Facilities.

Assistant to City Manager Isaac Butman explained staff did receive a number of public comments today, which Council has copies of before them.

Mayor Backus asked if Council has anymore discussion.

Legal Counsel Peter Watts explained Council could open the public hearing if they would like and want to receive additional information.

Mayor Backus reopened the public hearing and asked if anyone would like to speak on this matter.

Adam St. Pierre, Scappoose, explained Council received his letter. He stated there are already laws on the books and he thinks this is a predatory attack against the Asian business owners. He doesn't think this is anything we need as Chief has already said there is a pending investigation, they have stuff going on. He doesn't think this is anything we need. He stated we are opening up Pandora's box here of anything if we don't like anything we can have a law or an ordinance that goes into place that could make it a predatory thing. We, the State of Oregon, has just spent 150 years removing the predatory language, racist language from our Constitution and he doesn't think us as a community need to put that back in there. He stated the media has already painted Columbia County as a racist place. He stated look at the stuff they talk about on the tv when sports teams play here, they get called racist names and stuff like that. We're going to open that right back up when we pass an ordinance that could be seen as a racist against Asian or bigoted against Asian businesses. He stated they have a higher people in massage industry, they're 7.5% of the massage industry, they are only 4.5% of the population. They are overachievers. He stated there are already laws on the books, as Tyler Miller just stated, there's laws there, we can just follow them and pursue it that way. He stated does he want an illicit business in his community, no he does not, but he doesn't think we should deny anybody the opportunity to open a business. He thanked Council for their time.

Alicia Heiges, Scappoose, explained she thinks that something that should be noted that Mr. Adam St. Pierre is associated with Pure Massage. He did electrical work for them, on their behalf, on a personal level, not through his employer. He went to her business to do some of this work. He did not call, he just intruded. She feels very concerned that somebody is opposing this especially considering on a personal and professional level as an electrician, it does not affect him. He was over in Pure Massage a number of times prior to them getting their business license and he was very well aware of what was going on. She has been personally lied to by him about electrical work. He confirmed that she had been paying for other people's electricity and he told her that he was going to disconnect the power that goes upstairs to the residential tenants from her meter. It is not associated to her breaker box, and she had no way of turning it

off. He did not do that even though he told her he was going to. So, she finds his character very questionable, and she thinks his statement should be taken with a grain of salt.

Councilor Miller stated Alicia for the record and for the people that are listening that were not here last time, could you please establish what your relationship is to the area there.

Alicia Heiges replied she is a massage therapist of 18 years. She opened Scappoose Massage in July of 2021 and Pure Massage starting rented space in December 2021. There was a list of electrical problems that the County was involved in, and the massage business of Pure Massage was her next-door neighbor. They share the same landlord and the electrical was not really separated so he had to come over to her business to separate some of the outlets from Pure Massage's business and then he also, at that time, confirmed that she was also paying for tenants upstairs.

Council President Greisen stated just for the record Pure Massage was never given a business license in Scappoose.

Mayor Backus asked if there were any public comments? Seeing none he stated he feels he has heard enough to move onto Council discussion and a vote.

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

New Business

Denial of Business Registration for Lulu Massage, LLC

Legal Counsel Peter Watts explained the City received a business license in December for Pure Massage, and the license was denied. The applicant was provided information about appealing the decision, and they filed an appeal, and ultimately withdrew the appeal. Code 5.40.090, 6, f, if a license is applied for and denied, reapplication cannot happen until 90 days have passed. The City then received another license for Pure Massage, at the same address, offering the same services, and had the same name, but the applicant was different. The question was is this a new license or is this materially the same license. Peter's interpretation was that the new application was the same application, and that it was time barred. On January 2, 2023, the City received an application for Lulu Massage, it had the same address, same services, the same applicant that had applied the second time, as Pure Massage's 2nd application. As before, the factors were almost all the same, and his interpretation was the same, that it should be denied for being time barred. An appeal was filed against the most recent denial. His interpretation of the code is that each new application resets the 90-day waiting period.

Council President Greisen stated that her interpretation aligns with Peters, that the 90-day period begins with the most recent denial.

Legal Counsel Peter Watts stated that the applicant or their representative is online tonight, and we want to give them the opportunity to explain why his code interpretation is incorrect, as he assumes that is their position.

Councilor Miller asked what is the intent of the 90-day waiting period.

Legal Counsel Peter Watts replied probably because they don't want someone to get denied, then to continually be getting business licenses. We don't have a fee for business license and if staff is constantly having to process them, he thinks that might be an issue. He is speculating because he doesn't know because that has been in our code for a long time. He stated the 90 days is under that code that was in place at the time of the application.

Mayor Backus moved on to the applicant's statement. He asked if Al Oram would like to speak?

Al Oram stated he appreciated the opportunity to speak to the Council. He stated there is a slight discrepancy in the way that the appeal was presented according to whoever that was that was speaking. He explained they provided a business plan that detailed a totally different business, than just massage. He stated their business is not just about massage, it's about holistic approach. They employ licensed massage therapist as well as acupuncturist and mindfulness counselors to provide a whole person approach, and that business plan was presented in the appeal. So, the gentleman that was speaking before that said that the business was essentially the same was a little in error. He asked have you all received his wife's letter?

Mayor Backus replied they do have the letter.

Al Oram stated that they are in total support and agreement with the spirit and intent of Ordinance 910. He stated maybe the price on legitimate LMT's might be a little onerous but those are things sometimes that businesses have to endure. He explained he was involved with Hong Lu for three years before they got married. He has done intense background with her and spoken with many of her previous employers. This is a woman who has impeccable character. He stated that she was deceived when she purchased Pure Massage and in that regard applied under the same name and that was an error in judgement on their part for not looking deep into it. He stated as they dug deeper into it and they heard the discussions in the last meeting and the things that the Chief of Police offered they did a little bit more investigation. He explained their intent is not to take over the same business. Their intent is to occupy the space and provide a legitimate holistic therapeutic experience. Hong Lu, in her career, has heard second hand a lot of things that you are talking about and unfortunately most of it is centered in the Asian massage business. He will say, yes, there are some characters that play dirty, but there are a lot of honorable people, and his wife is one of them. She has been operating out of their home for the last year and a half and the business has continued to thrive but you know she's in the position where she wants her own business in her own building.

Mayor Backus thanked Mr. Oram.

Councilor Miller asked Mr. Oram on the City of Scappoose Business Registration that was submitted under full time employees, is states two. He explained you said earlier in the business plan you cited that there were going to be other services. Were those services going to be provided by only two people?

Mr. Oram stated at the beginning yes. He thinks he probably understands how business development grows with regards to customer based. The initial intent was to have two, one would be a massage therapist and the other an acupuncturist. He is a mindfulness counselor and so his services wouldn't be considered as an employee. They intended if their business model moves forward then of course the employee base would probably increase.

Councilor Miller said that Al Oram stated earlier that Ms. Lu was operating out of her residence. He is looking at the State of Oregon Massage Therapist and it has an address in Bend.

Mr. Oram stated that that is their residence.

Councilor Miller asked about his involvement with the business.

Mr. Oram explained he is essentially the business manager and his wife runs the business.

Councilor Miller asked if Mr. Oram knows Andy Huang.

Mr. Oram stated no, but he does remember that there was an Andy that was listed on the Police Chief's report.

Councilor Miller asked about his knowledge about Ms. Lu and Mr. Huang knowing each other. He then asked if Mr. Oram was familiar about a letter of concern that was sent to Ms. Lu about her massage therapist license in relation to a massage business owned by Andy Huang.

Mr. Oram stated that there was no letter associated with her massage therapist license.

Councilor Miller stated that the letter went on to state that Mr. Huang was fined.

Mr. Oram stated they had no idea about any fines or letters. He said that Ms. Lu worked in many massage businesses, and that he doesn't know if Andy owns businesses or where they might be, and that Ms. Lu has never received any complaints. He stated that she had worked in a facility that was known as Emerald Massage but she left there to come to work at home.

Councilor Miller stated that Ms. Lu was going to buy Pure Massage.

Mr. Oram stated let me clarify, as that was the way it was intended, she was going to buy the business, but she is to buy that name. We want a business license for her business and we've already spoken with the landlord and if we can get a business license approved then he will

terminate....by the way according to him there are already eviction orders in place for the current owner and the other massage therapist that spoke earlier.

Councilor Miller stated more to his point is the report says the owner or past Pure Massage owner is still in business; it says the owners are Tang and the male subject that he referenced earlier with the last name of Huang. He stated it is his understanding in reading everything in front of him that there's a lot of connection between Mr. Huang and your wife and the issue is the male subject has been fined multiple times to the extent of \$27,000.

Mr. Oram stated that that has nothing to do with the business that they are opening. He stated there is no association with Lulu Massage and any of those people.

Councilor Miller replied he understands that you are telling us, but the information that they are looking at shows that there are a lot of connections between his wife and the subject that has been fined over \$27,000.

Mr. Oram stated a lot of connections being one letter.

Councilor Miller replied no, he is looking at a report.

Mr. Oram asked if the report specifically states his wife in connection with whatever the guy's name is?

Councilor Miller replied yes sir it does.

Mr. Oram asked if he could be provided with a copy of that report.

Councilor Miller replied I am sure that you can get a copy sir. What he is trying to flush out here is what the connection is, if any, between your wife and Mr. Huang.

Mr. Oram stated he will jump in and say it is very well known that a number of Chinese people have taken advantage of a lot of different opportunities and loopholes in order to have businesses. He is not aware, and he keeps really current on her license with the Oregon Board and there is nothing of any complaints with the Oregon Board. He has three recent emails from them stating there has been no complaints lodged against her. If her license was posted in a business that ended up having a citation, he really can't speak to that.

Councilor Miller replied he understands and can appreciate that. He asked what is the attraction to Scappoose because he heard they live in Bend.

Mr. Oram stated his wife's dream has been to have her own business in a facility and they have been looking and looking for opportunities. They also have a company that does a lot of market surveys for them, and they saw great opportunity when they saw the potential to buy a business and occupy in Scappoose.

Chief Steven Lougal (remotely) apologized for a lack of presence at the meeting. He stated to answer Councilor Millers questions, it was OBMT Case 3137 in May 2020, her license was found posted at a facility owned by Andy in Bend, Oregon. She was not present at the time of the investigation but was given a letter of concern advising her that her license was observed in an illegal facility.

Mayor Backus asked if we know the name of the facility.

Mr. Oram stated he is also curious why the OBMT, if you research her license, comes up and it says there are no problems with the license, there are no issues.

Chief Steven Lougal replied that would be a question for the Massage Board. He would imagine because it was a letter of concern and not discipline, they might be two separate issues. He does not have which facility, but he knows Andy has several down in Bend.

Mayor Backus mentioned to Mr. Oram that he had mentioned Emerald Massage.

Mr. Oram replied no it is Elegant. He stated she wasn't there very long and then decided that she wanted to work on her own and that is why she opened the business at home.

Council President Greisen stated to Mr. Oram that Councilor Miller had asked you a couple of questions regarding your wife's knowing or relationship with this man Andy who seems to own quite a few businesses. It seems a red flag to her that his wife was working in an establishment that she didn't know was even permitted or even had a business license and then again the same thing here in Scappoose.

Mr. Oram replied she did not work in Scappoose.

Council President Greisen explained her connection to that is this man Andy and he is the previous owner of Pure Massage and she is taking over that. She stated there are multiple connections here in this report between the two of them and so she is just quite confused with the history between the two of them.

Mr. Oram replied the Chinese network is very broad and a lot of people own many different businesses. He can tell them that most, and they are nearly all women, who go to work at massage places don't take the opportunity to look and see what the license status is of the facility. He stated they are looking at providing a service for somebody and getting paid for that. That is what their direction is. He stated maybe in the United States we might want to dive that deep into things, but you understand there are different customs and different understandings. He stated the fact that she may have worked at a place that was owned by this Andy person and that got into trouble it is not surprising because there is a large network out there, but we are not a part of that network. He stated she is a complete individual, she is operating on her own for a year now, insisting on fully licensed therapists. She takes great pride in what she does. He stated you can try to connect any dots that you want to but somewhere along you

have to draw a line that separates an honest and persevering person from what may have been dotted lines in the past.

Council President Greisen replied thank you for that. She completely empathizes with his statement knowing that this industry can be quite difficult or that these assumptions would be put on or portrayed on to all individuals. She stated that Councilor Miller had asked about their residence in Bend. She asked what is the intentions of his wife to run this business? Would she be here every day, if not, that leaves it open to who would be overseeing this business daily.

Mr. Oram stated that is an awesome question and he is glad that we are getting back to the real point of where we should be. He stated he is retired, and they are ready to settle down somewhere, and they fully intend if this business license gets approved, they will relocate to the Scappoose area, and his wife would be managing the business, the therapeutic side and he would be the financial and business manager. He stated they would be in Scappoose.

Councilor Holmes stated to Mr. Oram thank you for showing up tonight and helping them understand some of this background. She wanted to look back around the comments around the purchase of Pure Massage. She asked Mr. Oram to revisit that.

Mr. Oram said that his wife saw an opportunity to get a business of her own, and at the time she was with negotiations with the owner, he doesn't know what her name is, to purchase the entire business. He stated that would be all the furnishings, all the supplies, and everything in the business. He stated being a little naïve in that area, and he will admit he didn't do his due diligence that he should have to support her, they were not aware of all the issues, and she just opted to say that she would buy Pure Massage. He stated when the first rejection came back, and what was interesting is their rejections came back with an email saying the Police Chief had rejected it. He specifically asked the City Manager for reasons, three times he asked for reasons, and three times she declined to answer, so they had no idea what the reasons were. He stated it wasn't until the 901 meeting that you had last time where they sat in and listened to everything then they started doing some digging and they had already then applied as Lulu Massage to separate themselves because they didn't want to be Pure Massage they wanted to be Lulu Massage and that is why she submitted the second application. Then that was just arbitrarily denied because as the gentleman earlier said he tried to put a bunch of sticks together and some of them stuck on the wall so they just denied it thinking that it was going to be illicit because it was Asian. He stated all that he can say is the original intent was to by a business and build that business to be a legitimate and therapeutic operation. So now we just need to draw a line on the Pure Massage issue or whatever relevance somebody can try to dig up showing that an Asian person happen to work at a building that was operated and owned by somebody else. They just don't look that deep into things, they were looking for work and so now the decision before us is we have been operating a legitimate business, we want to move that business to a permanent facility and that facility is in Scappoose and so they are looking for a little bit of.....You know it is interesting going back to the lady that testified earlier about how can the community interact with the Council and the other gentleman said you know we really can't take emotions in to account, we have to deal strictly with the law. Well sometimes you

have to just decide within yourself, are you willing to draw a line regardless of the persons past. He remembered the discussion last time where the Council was talking about the changes and the gentleman who was doing the readings, somebody asked him why can't we be more specific on some of the requirements about background checks and what is going to be rejected and so forth and this gentleman said it absolutely perfectly, why do we want to paint somebody into a corner. He stated there might be opportunities for people who may have been associated with unknowingly or even knowingly, but they decided to change direction and become a productive and honest member of the community. He guesses he gets a little frustrated that people do such deep dives on the stuff they can't separate the fog from the cloud.

Councilor Holmes stated to Mr. Oram what he is offering for a point of clarification isn't necessarily consistent with what was submitted to Council today by your wife who does say that she was and still is in negotiation to purchase the business operation known as Pure Massage, so it is a little bit difficult to tease apart.

Mr. Oram stated that that is true, that is true but that means that we want to be able to purchase everything that is in the building. He stated the business has a lot of assets and if they can purchase those things at a negotiable price then it is easier for them rather than having to spend \$25,000 to \$30,000 to furnish a massage business.

Legal Counsel Peter Watts stated he just wanted to clear up a couple of things, certainly things that have been said about him and about the application. He stated under the commercial business license it says to give a description of the business to be conducted in the building and it says massage therapy and reflexology. So, it is not mindfulness, it is the exact same services that were previously described in the Pure Massage application and that is why as he looked at the factors, he came to the conclusion that they were offering the same services. He stated if you look at the next section of Lulu Massage it says what was the previous occupancy classification and that's 304 group B. He stated under what is the proposed occupancy classification that says 304 group B and that is the exact same building code classification and the exact same description of the services provided. He remembers our contact over this application very differently and that is why it was rejected, it is the same business applying, it hasn't been 90 days. He stated the name changed, but nothing else changed, and it hasn't been 90 days. He stated if there had been no application since the first application and March came around and we got a completely different application then we wouldn't be in that 90-day threshold. He stated in his mind this isn't about whether anything that could happen is nefarious or not, it's not about any of that. It is about how are we going to interpret our code. He stated he gave it his best crack, he could be wrong, but this will help set the precedent for future applications. He stated ultimately you as a Council are the ones that get to interpret the code. He stated it wasn't throwing sticks against the wall, that is not how he viewed his interpretation of the law, but reasonable minds can differ. He explained just to sum up the incomitances that have already been pointed out, there is not affiliation with Pure Massage, there's no desire to buy Pure Massage, Pure Massage is done, That's a bright line, that is what we heard and then obviously we received something that says that there are ongoing negotiations to purchase the business operation. He stated a business operation isn't

equipment. That is just not how he would interpret it as business operation. He stated it is not we are buying a desk, it is we are buying a business operation. He stated there are things tonight of what constitutes a business, and they are buying a business operation, that business operation was rejected.

Mr. Oram asked Peter if he did in fact read the business plan that they submitted with the application.

Legal Counsel Peter Watts replied he looked at the license.

Mr. Oram replied he is talking about the business plan that they submitted with the application that goes into detail about what their services will provide.

Legal Counsel Peter Watts replied he hasn't seen one.

Mr. Oram stated interesting, it was provided to the City Manager.

City Manager Rains stated no it was not.

Council President Greisen stated she does want to go back to what is on the application, because that is what they are looking at tonight, and as our Legal Counsel just mentioned Number one says give a description of your business to be conducted in the building and it only says massage therapy and reflexology which can't be denied that that was in the previous application that had been submitted before the 90-days and now we are already seeing it again. She just wanted Mr. Oram to know that that is exactly what it says in the application that was submitted for this business and that the classifications for the business is the exact same as what was the previous to what you planned now even though you have said in this meeting that there's going to be some other elements. That is not captured in the application. She just wanted him to know that the application is what they are looking at. They are just trying to understand what Mr. Oram is saying versus what they are seeing and she appreciates his patience with all the questions that they have.

Councilor McHugh stated if we didn't get a copy of the business plan, maybe that information was included in that, and they just didn't get a chance to see it. He doesn't know what happened but there's some disconnect there with that. He didn't get the feeling when Mr. Oram spoke earlier that the mindfulness part of what he does was going to be part of this operation at all, he thinks he said that it probably wouldn't be, at least at the beginning. He asked Mr. Oram about not having any connection at all with any of the services that were being offered by Pure Massage when we identified all those problems. He asked that had nothing to do with you or your wife or any business connections that you had with any of that operation.

Mr. Oram stated that that statement is correct.

Chief Lougal stated that he is not questioning her honorableness, this is not discriminatory or anything. It is based on the facts and when you look over her letter to the Council tonight, she is doing massage in Florida, Texas, Oregon, New Mexico, and California. He stated that to him is a red flag. He stated she does in fact know Andy Huang.

Mr. Oram asked why is it a red flag if somebody is trying to improve their situation. He stated just because if somebody moves a lot then they're not going to hire them when you're looking at their resume. He stated that notion is passed, that is archaic.

Mayor Backus asked if she is licensed in those States, and does she practice in those States?

Mr. Oram stated that she practiced for a short term in Florida. By the way before she started practicing she applied for a license so that she would be licensed and the same thing was in Texas. Before she started practicing in Texas, while she was in massage school by the way paying it for herself by cleaning rooms, she had applied for and got a license. So the fact that somebody moved from one location to another to do the job that they are being compensated for just because it happens to have the preface of massage in front of it, we are going to arbitrarily say that that resume is going to be rejected? He hired and fired over 500 people over the last five years. He doesn't look at resumes for how many times people changed jobs. He looks at their qualifications.

Mayor Backus replied correct, and that's why we're looking at just this application at this time. He asked Mr. Oram if he had anything else before they closed the public testimony for Council discussion.

Mr. Oram replied no, the last thing he wanted to say is he wants to go back to the gentleman who spoke last session. When he was asked to narrow down the decision on background checks and to move for approval. He is not going to say that there was or was not any connection between his wife and the people that you are talking about, but even if, and he says even if that was the case, then he defers to the gentleman who spoke last week who said "Hey, we're not going to hold somebody accountable for everything that happened in the past". Some people draw a line in the sand and move forward and so all that he asks is that the Council give a little discretion to an opportunity for somebody to realize their dream that they have been searching for, for five years since they left communist China after being beaten numerous times.

Mayor Backus replied he can definitely appreciate that. He asked if there were any more staff comments or anything else online. He asked when looking at the application are we looking at the 90-day stamp when that went into effect, whether we are still within those 90 days.

Legal Counsel Peter Watts stated we are looking at whether this is the same that was rejected in late December, and if it is the same business, then how do we calculate the 90-day period to inform AI and anyone affiliated with the business when it would be appropriate to apply.

Councilor Miller asked Chief Lougal, and he wants to make sure he heard correctly and he wants to make sure it is clear why he is making the connection because if the applicant is connected to the other gentleman that we kept referring to, he thinks there is more of a nexus to deny on the 90-day clause part because it's basically the same person or service. He asked did he hear correctly that Lu Hang is associated in some way to the male subject with the \$27,000 worth of fines in other states.

Chief Lougal stated that is just his most recent fines. He has been disciplined by the Massage Board 13 times, and the \$27,000 fine being most recent. He stated her association with him is a result of OBMT Case 3137 May of 2021 and she received a letter of concern, which may be different and may not rise to the level of being posted on their website. That would be a Massage Board question.

Councilor Miller asked Chief Lougal if he did say there is connection in other states.

Chief Lougal stated no, not other connections, nothing illicit, just that she is licensed in numerous other states.

Mayor Backus stated just for clarification the December application was listed as Pure Massage, with very similar terminology all throughout other than a different person on the application.

Mayor Backus asked if he has any guidance here by Council on how we want to proceed, or a motion regarding the appeal process.

Councilor Miller stated the motion would be either to sustain the City decision to reject the license, or not to.

Legal Counsel Peter Watts stated yes, that if Council believes that this business is the same as the prior application, they Council would be sustaining the staff determination regarding the rejection. If Council were to come to that conclusion, then he would also ask that Council interpret the 90-days. He stated if Council does not believe that this is the same business as the one that applied in late December then Council would be overruling staff's determination and they would get a license. He stated if it is sustained then they can reapply at the end of the 90-days.

City Manager Rains stated the original license was on November 19 to reopen Pure Massage, and was time barred, and then there was another application in December. She explained this is not a denial, but about whether the application is time barred. She stated again there was some question about the interpretation of when that clock started.

Mr. Oram stated if the Council determines the new application is not the same business, then the initial rejection and denial was out of line because they denied it on an assumption that it was the same business. He stated really the decision is, is this a new business or the same

business. If you decide it is a new business, then the 90-day is out the window. He stated you can approve the license tonight.

Council President Greisen stated to Mr. Oram that she appreciates his interpretation of the license that they submitted but unfortunately, she is interpreting it as the same business due to it saying that it is massage therapy and reflexology under the same classification group, and same location. The only thing different from the previous application to this one is that you've chosen not to keep the name Pure Massage and changed it to Lulu Massage and for that reason she is not in favor of this.

Councilor Holmes stated she would just add to that in addition to everything that Council President Greisen pointed out there was confirmation that they are still in negotiations to purchase Pure Massage, so for that reason she also interprets this as the same application.

Councilor McHugh stated his main concern is they're really not ready to make this move at this time. He thinks they've got to nail down that they're the owners of the business and have all their ducks in a row, then come back to us. He does have concerns that we maybe have some misunderstanding between the original group that was there and Hong Lu. He stated in fairness to them and their family we need to acknowledge that these aren't the same people and so if they come back again, or whatever we decided to do, if they are what they say they are then they are certainly welcomed in Scappoose.

Councilor Miller moved, and Councilor Holmes seconded the motion that Council sustain the decision by staff to deny Lulu Massage. LLC, Hong Lu, a business license, based on the 90-day requirement as Council finds that there is too much of a nexus between Lulu Massage and Pure Massage LLC.

Councilor President Greisen stated that she just wants to echo what Councilor McHugh said, and that this evening there were a lot of additional questions that went beyond what the application actually was but it was Councilors opportunity to speak to the applicant and understand the whole situation, they don't get that opportunity very often. She stated they appreciated the applicant for being here this evening and taking Councils questions head on but as Council has mentioned they have to look at what the application is presenting and that it's the exact same application as before in their interpretation and that in an additional 90-days if this application looks different then they are obviously willing to look at that and that Council is not trying to push a certain demographic or a certain kind of people out of Scappoose. She stated it could look one way and that is not their intention.

Councilor Miller stated that he had a series of questions for the applicant, and what he was trying to establish there is if the business was the same or not. That is what the intent of those questions were.

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

Mayor Backus asked can we clarify the dates that 90-days begins.

City Manager Rains explained staff would like clarification from Council when that 90-days clock starts.

Councilor Miller asked Legal Counsel Peter Watts is there a standard or a common practice that he sees across different cities as far as it the time of application or date the application is received or at the time of denial?

Legal Counsel Peter Watts stated he thinks it would be when it is finally adjudicated, so his interpretation would be tonight, and that period would start tomorrow. He stated it doesn't specify business days, it just says days so usually in his mind that means calendar days to it would be 90-days either from tonight or from tomorrow. He thinks those would be the two most common ways to calculate it. Ultimately it is up to Council to determine it. He explained if Council had said that staff's interpretation was incorrect, they would be getting their business license tomorrow when business hours opened, and Council was the final decision maker and whether this had been rejected due to being time barred or not.

Councilor Miller asked what happens when timelines are imposed by courts, what do they usually go by?

Legal Counsel Peter Watts stated he had 21-days to prepare our record for LUBA, that 21-day period started the day after they mailed their notice of intent to appeal, and he mailed out the record to all parties 21 days later. He stated had the 21 days been on a weekend or a holiday, the expiration would be the next business day.

Council President Greisen stated her interpretation is that the business license was denied by staff, it was appealed and then the ultimate decision maker was Council this evening. In her personal opinion the 90-days would start from tonight.

Mayor Backus asked Legal Counsel Peter Watts how many days did they have to appeal?

City Manager Rains replied it is fifteen days that the Council has to hear the appeal.

Legal Counsel Peter Watts replied that he thinks they have to do that within two weeks. He stated they were a couple days early, he wants to say.

Council President Greisen asked Mayor Backus to tell Legal Counsel Peter Watts exactly what the decision is, and if there needs to be a vote.

Legal Counsel Peter Watts stated there does not need to be a vote as long as there is consensus.

Councilor Miller asked what the date would be.

Council President Greisen replied it would start on February 16.

Mayor Backus stated to reapply for a business license it will be 90-days from the final verdict or denial decision, which is tomorrow.

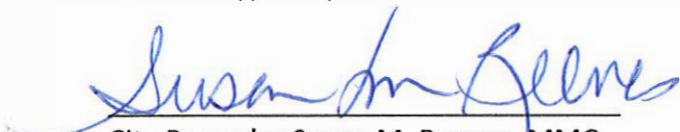
Adjournment

Mayor Backus adjourned the meeting at 7:33pm.

A handwritten signature in black ink, reading "Joseph A. Backus", written over a horizontal line.

Mayor Joseph A. Backus

Minutes typed by:

A handwritten signature in blue ink, reading "Susan M. Reeves", written over a horizontal line.
City Recorder Susan M. Reeves, MMC