



SCAPPOOSE *Oregon*

**MONDAY, MARCH 3, 2025
CITY COUNCIL MEETING
REGULAR MEETING 7:00 PM
COUNCIL CHAMBERS
33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056**

Disclaimer: These minutes are intended to summarize the conversations that took place in this meeting rather than provide a full transcript. Anyone wishing to view the full conversation can find a recording of this meeting on YouTube at www.youtube.com/watch?v=GnlhOIXNsrc.

Call to Order

Mayor Backus called the March 3, 2025 City Council meeting to order at 7:02 pm.

Pledge of Allegiance

Roll Call

Joseph A. Backus	Mayor	Benjamin Burgener	City Manager
Tyler Miller	Councilor President	Chris Fluellen	Police Chief
Jeanette Santiago	Councilor	Susan M. Reeves	City Recorder
Kim Holmes	Councilor	Laurie Oliver Joseph	Community Development Director
Marisa Jacobs	Councilor	NJ Johnson	Asst to City Manager/City Planner
Joel Haugen	Councilor	(Laurie & NJ left at 7:40pm)	

Excused: Councilor Andrew Lafrenz

Remote: One unknown caller (left at 7:17pm)

Approval of the Agenda

Councilor Haugen moved, and Council President Miller seconded the motion that Council approve the Agenda. Motion passed (6-0). Mayor Backus, aye; Councilor Miller, aye; Councilor Santiago, aye; Councilor Holmes, aye; Councilor Jacobs, aye; and Councilor Haugen, aye.

Council President Miller explained we just got out of the work session, and he doesn't think they came to a determination of how they want to proceed with the city manager review. He asked if they wanted to make any amendments to the agenda.

1. Expand the types of decisions that qualify as LLU decisions by adding replats, property line adjustments, and extensions, alterations, or expansions of nonconforming uses. The new definition for LLU decision in ORS 197.015(12) is as follows:
(a) "Limited land use decision" means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:
(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1). (B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.
(C) The approval or denial of an application for a replat.
(D) The approval or denial of an application for a property line adjustment.
(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

What this means for Scappoose: We already considered the above application types to be LLU decisions, with the exception of, "extensions, alterations, or expansions of nonconforming uses", which will be incorporated into our code as part of the 50 Year Plan code amendments. Any applications of this type that are submitted prior to the code amendments being adopted will follow the LLU decision procedures in conformance with SB 1537. From January 1, 2025, and onwards, however, the City will need to process and determine LLU applications in accordance with the process described in point 2 below.

2. Mandates the process for approval of LLU decisions. ORS 197.195 spells out the process by which a local government must process a LLU decision and that, *"A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process"*.

What this means for Scappoose: In evaluating the new mandatory approval process for LLU decisions, there are a number of factors that will need to be addressed for Scappoose to be compliant with the new legislation. Only those items that do not currently meet the new requirements are addressed below:

Noticing: The City currently provides notice to all affected agencies (PUD, Port, Columbia County, DLCD, etc.) and property owners within 200-feet of the site that is the subject of the LLU application. As of January 1, 2025, the City is only permitted to provide notice to properties within 100-feet (noticing to agencies is still acceptable). The

City has begun to only notice to 100-feet for LLU decisions since we must follow the new rules.

Hearings: Under the new legislation, no hearing can be held for initial LLU decisions (although the City must hold a hearing for local LLU decision appeals). Currently, the Scappoose Development Code (SDC) section 17.164.110 lists the Planning Commission as the approval authority for subdivisions, major partitions and site development review¹. Because the Planning Commission must meet in public and currently holds a public hearing in order to reach a final decision on all land use applications within its approval authority, this SDC requirement violates the new LLU legislation.

As part of the 50 Year Plan code amendments (and prior to the new legislation), the City proposed amendments to the SDC chapter on site development review and subdivisions to make some of these applications (below a certain threshold) staff decisions. The impetus for these proposed amendments was a desire to streamline land use approvals where there is little to no discretion involved. These amendments were vetted by the 50 Year Plan Stakeholder Advisory Committee, City Council and the Planning Commission over the course of the last year. LLU decisions must be made by applying established criteria and require limited discretionary interpretation of those criteria and very limited application of policy or legal judgement. If the application meets the criteria, then there is an obligation to approve the application. In many cities, subdivisions and site development review applications are already staff approved, so this is not unusual. In order to be compliant with the new legislation, the City plans to revise the already proposed amendments to the development code to specify that all LLU decisions would be staff approved, rather than some being approved by the Planning Commission and some being approved by staff.

This is being proposed for the following reasons:

- Holding a public meeting where the Planning Commission is the decision maker makes less sense now since the applicant will no longer be able to speak during the meeting (too adjacent to a public hearing process). Now, only the staff and Planning Commission would have an opportunity to speak during the meeting, which substantially reduces the benefit of making a LLU decision in a public setting.
- Staff would utilize the same process, standards, and due diligence to evaluate the LLU application and write findings for how the application meets the criteria as they do now, the only difference is it would be written as a decision instead of as a recommendation to the Planning Commission.

¹ Staff currently approves the following LLU decisions: Property line adjustments, replats and minor partitions.

- Noticing will still be provided to neighboring property owners within 100 feet of the application and interested parties will still have 14 days to submit written comments prior to the decision.
- By having staff approve all LLU applications, the applicant could receive a decision on their application 4 – 6 weeks sooner. This will help to streamline approval for certain developments where the use is outright permitted.

Interim situation: The City has an active LLU decision that is scheduled for Planning Commission on March 13, 2025 for the new Wauna Credit Union branch. In discussions with the City Attorney, it was decided that the best course of action is to allow the Planning Commission to continue as the review authority for LLU decisions until the development code has been amended. Because the City has not yet amended our code to comply exactly with SB 1537, this means the City must follow the statutory language where there is a direct conflict between it and the City's current code, but where the statute is silent or permits flexibility, our existing code will control. A public meeting is one of these areas. The statute (ORS 197.195) does not specify that a City cannot hold a public *meeting* to reach its LLU decision, although it does say you cannot hold a public *hearing* (except upon appeal). Further, the statute does not specify who the City's local decision-maker in land use decisions must be. In contrast, the existing development code provides that the Planning Commission is the City's designated decision-maker for LLU decisions. Because the Planning Commission cannot reach a decision without meeting in public, it follows that (until the City's development code is updated) it must hold public meetings for the Planning Commission to decide LLU decisions. For the timing and required contents of notices, however, staff will fully comply with the current requirements of ORS 197.195 instead of following the requirements set forth in the SDC.

End of memorandum

Council and staff had a discussion on this topic.

Mayor and Council thanked Community Development Director Laurie Oliver Joseph and Assistant to City Manager/City Planner NJ Johnson.

City Manager Burgener thanked Community Development Director Laurie Oliver Joseph and Assistant to City Manager/City Planner NJ Johnson for all they do.

Council President Miller thanked staff for these late nights and that Council appreciate staff being here in person to give updates.

Announcements – information only

Calendar

Mayor Backus went over the calendar.

Updates: City Manager; Police Chief; Councilors; and Mayor

City Manager Burgener explained in total we are applying for about seventeen grants. He explained he has been attending the monthly meetings at the Senior Center. He gave an update on local groups and entities that he has been reaching out to.

Mayor Backus asked about having the Senior Center come to Council to give an update.

Chief Fluellen gave an update on the Police Department.

Councilor Haugen stated it is nice to see all the initiatives afoot in Scappoose.

Councilor Santiago explained on February 20 she attended the EDC meeting and there were lots of great discussions and it was a very productive meeting. She explained at that meeting they decided on their goals ~ Downtown overlay and discussed parking; increase business outreach; provide a letter of support to development of the hotel; and then completing their strategic plan. She stated a reminder on April 26 is Earth Day cleanup.

Council President Miller explained he attended the County Commissioner meeting. He went over the County's meeting calendar. He explained all those meetings can impact the City of Scappoose, so he encourages the citizens to dial in, and City Councilors as well. He asked if we are looking at some sort of SMS capability on the City app that our residents can sign up for?

City Manager Burgener replied that is a discussion topic that we are looking into.

Mayor Backus explained the Annual Town Meeting is on April 5 at the Scappoose High School. He explained at the April 7 Council meeting Sheriff Pixley will be present and will be asking if Council is interested in a resolution supporting the levy and if so, they will have it ready for the April 7 meeting.

City Manager Burgener explained we are in the lobby season, and we are getting a lot of requests to lobby on behalf of our City for certain things that impact cities. One of those that came through was SB49-1 and they are asking us to go and testify against that. He stated if it is something that the Council has already discussed then it is very easy for him to jump on some of these, but some of these are very time sensitive and Council hasn't discussed what he is looking for direction or approval to advocate on behalf of the City if we don't have time to bring it to Council or do you want staff to stay out of those conversations.

There was a discussion on City Manager Burgener lobbying for the City and having him reach out to Council individually and if he receives four yeses' then he would move ahead and then he discuss it at the next meeting.

City Manager Burgener asked Council their thoughts on SB49-1 which would remove a lot of local control.

The consensus of the Council was to have City Manager Burgener move ahead with lobbying on SB49-1.

City Manager Review Process

Mayor Backus asked Council regarding the six-month review process draft from Council President Miller.

Council President Miller asked City Manager Burgener his thoughts on the draft review form.

City Manager Burgener replied if this was a six month or yearly review that would be fine, but he feels the quarterly shouldn't be so weighed down or repetitive.

There was discussion on the city manager review processes and the consensus was to use the draft provided by Council President Miller, after removing number 14 at the next meeting.


Adjournment

Mayor Backus adjourned the meeting at 8:35 pm.



Mayor Joseph A. Backus

Attest:



City Recorder Susan M. Reeves, MMC