

# LA PINE CITY COUNCIL SPECIAL MEETING AGENDA

Public Hearing  
Wednesday, October 30, 2013  
6:00 pm  
16345 Sixth Street  
La Pine, Or 97739

1. Call to Order
2. Roll Call
3. Pledge of Allegiance.
4. Public Hearing on Appeal to County Land Use Decision DR13-19
  - a. Open Hearing – Explanation of proceedings
  - b. Staff Report
  - c. Appellant's (Urbanc) Comments
  - d. Proponents Comments
  - e. Opponents Comments
  - f. Final Staff Comments
  - g. Appellant's (Urbanc) Rebuttal
  - h. Close Public Hearing
  - i. Council Deliberations
5. Adjourn

Pursuant to ORS 192.640, this notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meetings. This notice does not limit the ability of the City Council to consider or discuss additional subjects. These meetings are subject to cancellation without notice. These meetings are open to the public and interested citizens are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Patti Morgan at (541) 536-1432

# LA PINE CITY COUNCIL SPECIAL MEETING MINUTES

Public Hearing  
Wednesday, October 30, 2013  
6:00 pm  
16345 Sixth Street  
La Pine, Or 97739

1. Call to Order

Mayor Mulenex called the meeting to order.

2. Roll Call

Interim City Manager Rick Allen  
Mayor Ken Mulenex  
Councilor Stu Martinez  
Councilor Greg Jones  
Councilor Kathy Agan  
Councilor Karen Ward  
Public Works Manager Scott Perkins – absent by prior arrangement  
Office Utility Specialist Ashley Williams  
Admin Ass't Patricia Morgan – absent by prior arrangement  
**Quorum established.**

Also in attendance were the Planning Director, Deborah McMahon and Sharon Smith, legal counsel, and Garrett Chrostek also legal counsel.

3. Pledge of Allegiance.

Mayor Mulenex led the Pledge of Allegiance.

4. Public Hearing on Appeal to County Land Use Decision DR13-19

a. Open Hearing – Explanation of proceedings

Mayor Mulenex read an introductory statement and also gave guidelines for the meeting. He asked the Council if they had any pre-hearing contacts. Councilor Martinez said he had some phone conversations before he was made aware of the appeal. The following Councilors had no contact: Karen Ward, Greg Jones, Mayor Mulenex and Kathy Agan.

b. Staff Report

Planning Director Deborah McMahon stated that the Council will be the ones to decide if the County applied the correct criteria. She said that staff had met with Deschutes County Planning

Dept to see if this application met the home occupation guidelines. Ms. McMahon said she also had phone calls regarding the matter and in addition discussed the application with the Health Department. She then reviewed the criteria that was used by Deschutes County in their decision making process. Ms. McMahon said that Deschutes County determined that the business used more than 25% of the combined floor area of the dwelling including the attached garage and one accessory structure. She said that the business also had more than five trips in a day which was over the County's criteria. The County staff found that there was more smoke than expected for a home occupation so it did not pass that requirement. Ms. McMahon said that the smoker was outside the structure and therefore did not meet that criteria. It was also found that there was noncompliance with all requirements of the Deschutes County Building Safety Division and Environmental Division because the building did not have any permits. The County, in addition, found that the occupation did not match up with the residential character.

Deborah McMahon stated that staff supports the denial. She said that the appeal document did not address any of the land use criteria. Ms. McMahon said that all the criteria would need to be met. She said she recommended that the denial be upheld. Ms. McMahon stated that the County extended the time limit to January 31, 2014 in case the City needed more time to deal with the issue.

c. Appellant's (Urbanc) Comments

Kevin Urbanc, owner of the Smokehouse business, then discussed his appeal. He said that the smoker is under a carport. Mr. Urbanc said most of the smoke stays in the smoker. Mr. Urbanc said the accessory structure of his property is 35x60 which is 2100 square feet. The house is 1140 square feet, combined is 3240 square feet. A quarter of that is 810 square feet and the shop is only 618 square feet. Mr. Urbanc said that Ms. McMahon, when she toured the smokehouse, said she did not smell anything as she walked around the area, when the smoker was going. He also said there was no outside storage. Mr. Urbanc then showed photos of his business property. Mr. Urbanc said that there are only one or two cars during the week visiting the business and maybe five to six people visiting on the weekend. He said a delivery truck only comes onto the property once a week.

Deborah McMahon stated that the accessory structure is the one under review and not an additional garage. She said that the City supported the interpretation of the County's criteria for the no more than 25% of the combined floor area including an attached garage and one accessory structure. Mr. Urbanc stated that the shop is a new structure and should not be used when calculating the combined floor area.

d. Proponents Comments

No one came forward in support.

e. Opponents Comments

No one came forward to support their opposition.

f. Final Staff Comments

Ms. McMahon stated that the information that was before the County showed that the occupation did not meet the criteria because not all of the criteria could be met. She said the trips were too high, the size was unacceptable and the smoke was another problem. It did not meet the Type 1 home occupation. She said there is no data to show that the County made a wrong decision.

g. Appellant's (Urbanc) Rebuttal

None was given.

h. Close Public Hearing

Mayor Mullenex closed the Public Hearing.

i. Council Deliberations

Councilor Martinez asked what it would take to be able to reverse the appeal. Deborah McMahon stated that Mr. Urbanc would need to meet all the requirements for a home occupation. She said that there were four requirements that the business did not meet. Ms. McMahon stated that the landuse compliance must occur before one can get all the other permits.

Sharon Smith stated that since the business does not qualify for a Type 1 home occupation there are some other options. She said Mr. Urbanc could request a Type 2 application and have that landuse action available to him. Councilor Jones said he did not see anything that would differ from the decision that Deschutes County had made. Mayor Mullenex stated that this is not a Type 1 home occupation and does not meet the criteria. He said he supported the decision rendered by the County staff. Mayor Mullenex said he also supported the City's staff recommendation that they deny the appeal.

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|---|------------|------------|
| <b>A motion was made by Councilor Ward and seconded by Councilor Martinez that the Council deny the appeal.</b> |            |            |
| <i>Vote as follows:</i>   | <i>AYE</i> | <i>NAY</i> |
| <i>Councilor Greg Jones</i>   | <i>X</i>   |            |
| <i>Councilor Stu Martinez</i>   | <i>X</i>   |            |
| <i>Councilor Kathy Agan</i>   | <i>X</i>   |            |
| <i>Councilor Karen Ward</i>   | <i>X</i>   |            |
| <b>Motion passed unanimously.</b>   |            |            |

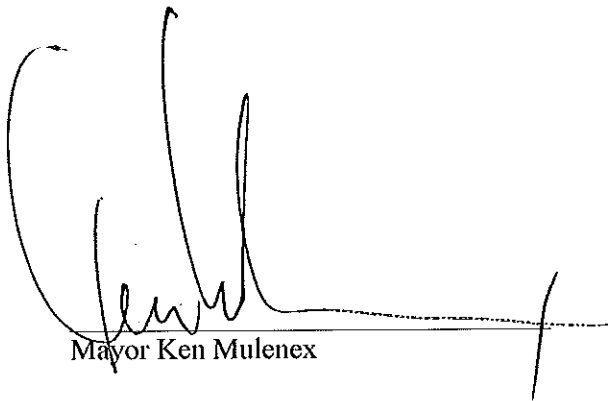
5. Adjourn

A motion was made by Councilor Jones and seconded by Councilor Martinez that the meeting be adjourned.

|                               |            |            |
|-------------------------------|------------|------------|
| <i>Vote as follows:</i>       | <i>AYE</i> | <i>NAY</i> |
| <i>Councilor Greg Jones</i>   | <i>X</i>   |            |
| <i>Councilor Stu Martinez</i> | <i>X</i>   |            |
| <i>Councilor Kathy Agan</i>   | <i>X</i>   |            |
| <i>Councilor Karen Ward</i>   | <i>X</i>   |            |

**Motion passed unanimously.**

Mayor Mulenex adjourned the meeting.



Mayor Ken Mulenex

Attest



Rick Allen, City Recorder