



# **COUNCIL REGULAR SESSION**

Wednesday, May 18, 2022

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## **APPROVED MINUTES**

### **MEMBERS PRESENT**

Mayor Rick Scholl  
Council President Doug Morten  
Councilor Patrick Birkle  
Councilor Stephen R. Topaz  
Councilor Jessica Chilton

### **STAFF PRESENT**

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Crystal King, Communications Officer  
Tina Curry, Event Coordinator

### **OTHERS**

Jane Garcia	Steve Toschi
Brady Preheim	Brenda Herren-Kenaga
Stephanie Patterson	Erin Salisbury
Don Patterson	

### **CALL REGULAR SESSION TO ORDER – 7:13 p.m.**

### **PLEDGE OF ALLEGIANCE**

### **VISITOR COMMENTS – *Limited to five (5) minutes per speaker***

- ◆ Tina Curry. Clarification about the boat:
- Certification of Inspection (COI) has been done. It is good until 2023. It is just a verification that the business is insured.
- The boat they are buying is not really what they see. They have an expert making repairs, installing new engines, new seating, new wiring, hydraulic lift front load, replacing all the gears, and coating the pontoons for the sand landing. He contracts with public agencies all over the country.
- One criterion is that they must stay a mile from shore.
- A marine safety officer in Portland is working with the Oregon Coast Guard to make sure improvements meet local requirements.
- They wanted the front-loading hydraulic ramp because they realize the docks can and have been an issue. The boat will be stored at the St. Helens Marina, but it will mostly leave from the City docks. Parking will be on the Waterfront. If there is a parking issue in the future, they will address that.
- The boat is 40 feet long, flat deck with powder railing, a fixed canopy over the entire length, and it was formerly a tour boat for 30 passengers with twin Yamaha outboards.
- It has a custom-built triple axel trailer.

- The total cost would be similar to a new boat.
- Having the COI now expedites the time they can get the boat here. It will be here in time for the Sandcastle competition.
- The max they will spend is \$250,000, including shipping.
- She heard concerns about Sand Island. Brad Hendrickson is very supportive of moving tourism forward. They support him and his intentions.

Councilor Topaz asked who handled the inspection. Tina said it was the Department of Homeland security.

Council President Morten talked about the survey. It is done by an independent contractor, who is liable for their survey. That needs to be done once the boat arrives to determine if additional work needs to be done. He clarified that Brad Hendrickson does not own Sand Island. He manages the campground. The entirety of the Island is there for the public.

- ◆ Brady Preheim. The Council puts the fun in disfunction. They should ask Tina the questions instead of making assumptions. She is a professional and they need to treat her that way. This is not something she did without research. This is time sensitive. The police issue on Sand Island is not a tourism issue. The boat would help them get there and patrol the Island. Police said they would not go there routinely but would in an emergency. He is concerned about the Waterfront. Not having ownership of the land is a huge issue. They made a good decision. It is a good plan, and they will see what the developer comes back with. His other concern is about parking. In all the plans, there is no parking and that is needed for Spirit of Halloweentown. They need to think long-term.
- ◆ Steve Toschi. He thanked the Council for including himself and other members of the Planning Commission in the Riverfront RFQ discussions. It was a great process and discussion. As they move forward, analysis of the mix of development needs to be discussed. As a Planning Commission member, he hears about the economic revitalization of downtown and the Houlton District. How will the Riverfront development help with that? He agreed with Jim Coleman, there should be a survey on the boat. It could be done now and later. It would assure the City that they are getting what they paid for.
- ◆ Erin Salisbury. Thanked the Council for their work to improve the city. She is here to give a St. Helens Main Street Alliance update. They just released the posting for the new Executive Director position. She invited the Council to their next meeting, Tuesday, May 31, 2022, 6:30 p.m., at the Columbia Theater. They can come early at 6:00 p.m. for an opportunity to check out the new theater. They have completed the grant and received all the money.

Mayor Scholl asked City Recorder Payne to publish a public notice of a possible quorum that night. It is important to attend. They are getting a brand new old-fashion theater.

Erin reported that they have a permanent office space in the Houlton District, at Columbia Blvd. and 18<sup>th</sup> Street. They are sharing space with the LifeEmpowered Administrative offices.

- ◆ Wife of a Police Officer. (anonymous letter read into the record by City Recorder Payne)  
*"Mayor Scholl, I cannot be in person for tonight's meeting but wanted this letter to be read for the record. I watched this afternoon's work session and I found your comments of our police officers both offensive and appalling. Your comment of the St Helens Police Department "not stepping up" when it comes to responding to Sand Island is false and inflammatory. Might I remind you and the rest of council that our officers are underworked, understaffed and in my opinion underpaid for the work they do each and every day to keep us safe. Are you trying to*

*drive our officers away from our city? Our officers work in a substandard facility and have been for 30 years, yet show up for work everyday when they could easily go to another city and work. It is ironic that you and Councilor Morten blame past council members for not doing the right thing in regards to city planning and raising utility rates, yet continue to do the exact same thing failing to properly staff and fund our police department. A bit hypocritical if you ask me. Our officers need both the training and equipment to respond to sand island and the docks and you and the rest of council have opted to ignore their request, even after the police brought this in front of you at a past council meeting. You continue to place earning money from tourism over the safety of our officers and now want to buy a boat knowing our city does not have the means to respond to the island in case of an emergency. Maybe instead of blaming your failures on our cops, you can fix the problem they brought to you in the first place. If you can't, please resign you position so someone who can get the job done can be appointed."*

Mayor Scholl appreciates our officers. They work extensively. There were promises being made to police it. He is continuously worked on this project to get an IGA with the County, get a boat, and discuss training. The State is required to be at Sauvie Island even though their boats are moored here. That comment was not directed at our officers. He apologized if he was misunderstood and stuck his foot in his mouth. His hands are tied serving the citizens as well. He was misunderstood. It was not his intent to say they are not doing their job. He would love to sit down with the Chief, Sheriff, District Attorney, and City Prosecutor to work collaboratively on a solution. He has reached out to the State Police as well. The County used to have a Marine Division. He was not trying to attack any officers. He is pro-police and supports having more of them. They are overworked. Who wants to have that job? He apologized again to the wife of the officer.

Council President Morten apologized for blaming past Council members for not planning and raising rates. That has to be a miscommunication on his part or the wife of the officer. His priority is to live in a safe community with good, adequate police protection. He oversaw the Police Department for two years. During that time, they grew with department needs and more officers. Shortly after that, he moved back to Public Works and Parks. He apologized for the miscommunication and slighting the department.

Mayor Scholl is committed to finding a solution. He serves the citizens. He apologized again. He has exhausted all avenues and his frustration may have come out. There must be a way of collaborating. He will continue to support the officers.

### **Deliberations for Purchase of Boat**

Mayor Scholl reported that a public hearing was held. A survey needs to be conducted. Councilor Topaz pointed out that the rules in Florida are different than here. Councilor Chilton agreed that is why they need to do the inspection here. Is the insurance paid from the tourism fund? Tina said yes. City Administrator Walsh added that a Purchase and Sale Agreement will need to be signed.

**Motion:** Motion made by Council President Morten and seconded by Councilor Chilton to enter into an agreement with BargeWorx LLC in an amount not to exceed \$250,000.

Discussion.

Councilor Topaz does not think anything should be done until the Coast Guard hull inspector inspects it.

Councilor Birkle would like for a marine survey done prior to the purchase and again when it is in their possession. Councilor Chilton said they know the boat would not pass an inspection right now because of all the work being done. Council President Morten added that it is insured. Councilor Birkle is asking questions to understand. He does not understand why it becomes an issue when they talk about it. He appreciates the discussion and clarification. He is obligated to ask these things.

Councilor Topaz said the survey may determine that the boat is nonrepairable to the standards to transport passengers. Mayor Scholl agreed that a survey is needed. When it comes to aluminum and electrolysis, they need to make sure they do not have a wafer-thin hull. Electrolysis is not detectable from the outside. They do not want aluminum welded to the bottom. They should approve it with the condition that the survey be done before it is purchased and when it arrives. If something is overlooked, they are liable.

Tina repeated that it has a current COI, which means it is licensed to be in the water until 2023.

**Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Chilton; Nay: Councilor Topaz

### **ORDINANCES – First Reading**

- 1. Ordinance No. 3283:** An Ordinance Vacating a Portion of the 7th Street and South 16th Street Rights of Way

Mayor Scholl read Ordinance No. 3283 by title. The final reading will be held at the next meeting.

- 2. Ordinance No. 3284:** An Ordinance Amending St. Helens Municipal Code Title 13 Relating to Definitions of Equivalent Dwelling Units for Wastewater and Water Utilities Services

Mayor Scholl read Ordinance No. 3284 by title. The final reading will be held at the next meeting.

### **RESOLUTIONS**

- 3. Resolution No. 1954:** A Resolution Adopting a Universal Fee Schedule, and Superseding Resolution No. 1937

Mayor Scholl read Resolution No. 1954 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1954. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- 4. Resolution No. 1955:** A Resolution Authorizing a Designated Agent for the Application to the State of Oregon Office of Emergency Management for the Purpose of Obtaining Financial Assistance through the Hazard Mitigation Grant Program (HMGP)

Mayor Scholl read Resolution No. 1955 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1955. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

### **APPOINTMENTS TO CITY BOARDS & COMMISSIONS**

- 5. Appoint Scott Jacobson to Parks & Recreation Commission & Russ Low to Planning Commission**

**Motion:** Motion made by Councilor Birkle and seconded by Council President Morten to appoint Scott Jacobson to the Parks & Recreation Commission and Russ Low to the Planning Commission.

Discussion.

Council President Morten reported that there were two interviews conducted for Parks & Recreation. It was very close. He supports the recommendation.

Councilor Birkle talked about how qualified the applicants were for Planning Commission. Russ Low's background in waterfront development was particularly impressive.

**Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

### **CONSENT AGENDA FOR ACCEPTANCE**

6. Planning Commission Minutes dated April 12, 2022
7. Parks & Recreation Commission Minutes dated April 11, 2022

**Motion:** Motion made by Councilor Chilton and seconded by Council President Morten to approve '6' and '7' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **CONSENT AGENDA FOR APPROVAL**

8. Declare Surplus Property - Police Department
9. Request for Proposals for Audit Services
10. Accounts Payable Bill Lists

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '8' through '10' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **WORK SESSION ACTION ITEMS**

##### **Bench Donation from Jerry Allen to be Placed at McCormick Park**

Consensus of Council to approve the bench.

##### **Reappointment of Chris Iverson to Columbia Learning Center Board of Directors**

**Motion:** Motion made by Councilor Chilton and seconded by Council President Morten to reappoint Chris Iverson to the Columbia Learning Center Board of Directors. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

##### **Councilor Topaz Censure Expires Tomorrow**

Councilor Topaz presented a preliminary review from the Oregon Government Ethics Commission (OGE) regarding Case No. 22-027XSM. A copy is included in the archive packet for this meeting. He was the respondent and complainant. The recommended action was to move to investigate possible violations of ORS 192.660. Preliminary Review: "The Oregon Government Ethics Commission (Commission) received a self-reported complaint from Stephen Topaz on February 8, 2022 alleging that the members of the City Council for the City of St. Helens may have violated the executive session provisions of Oregon Public Meetings law by participating in an executive session when the Board discussed topics that did not correspond to the statutory authority cited. (#PR1). Receipt of the complaint was acknowledged in a letter..." Mayor Scholl asked if he is giving his report right now. They are talking about the censure right now. Councilor Topaz said the next paragraph addresses the censorship. Councilor Topaz went on to read, "...to Stephen Topaz. The Commission invited Mr. Topaz to provide any information that would assist the Commission in conducting its preliminary review. Background: In 2019, Complainant, Stephen Topaz, filed a complaint against himself and the other members of the St. Helens City Council (Case No. 19-188XSM). The investigation in that case indicated that the City Council violated ORS 192.600(2) by discussing matters in an executive session that were not authorized by and exceeded the scope permitted under the statutory provisions cited..."

Council President Morten asked why that was important. It was his accusation against the Council. Councilor Topaz disagreed. It states that Topaz filed a complaint in 2019 against himself and the other members. Mayor Scholl argued that this does not pertain to the censorship. Councilor Topaz said a point was made in his censorship that he threw the Council under the table by filing the Ethics Complaint in 2019. Mayor Scholl argued again that it was not part of his censorship. He failed to attend the meeting. Councilor Topaz reminded him that he had just gotten out of the hospital and could not attend. Mayor Scholl said the allegations were investigated and found to have merit. They gave Councilor Topaz and his attorney the opportunity to remedy it, but they still did not show up.

Councilor Topaz referred to the OGE Preliminary Review again. It said the attorney was present in downtown Portland. The attorney should have stopped them. Mayor Scholl repeated that it has nothing to do with the censorship. Councilor Topaz went on to say the City's attorney did not stop the executive

meeting. The attorney did not do their legal duty as required. The investigation attorney was probably not legally competent.

Councilor Chilton explained that the censorship is not just about the investigation. He continued to harass staff. He addressed the allegations by trying to clear the air about the nickname he used for a bluff in town. It was inappropriate and racist. Councilor Topaz corrected her that it is a historic thing having to do with a sewer system. He and his attorney have never been presented with the allegations on paper. Mayor Scholl said they tried for months.

Mayor Scholl called for point of order. He tried to give Councilor Topaz an opportunity to comment. The rest of the Council will discuss it now. They have already extended the censorship once in order to protect staff from a hostile work environment. It was indeed happening to multiple people and sustained. Topaz had every opportunity to participate. Councilor Topaz said he should ask staff that is in the audience now. Mayor Scholl called for point of order again. Councilor Topaz objected. Mayor Scholl went on to explain the attorney referenced at the executive session had nothing to do with the censorship. They have multiple attorneys. Councilor Topaz failed to show up. His comments were very misleading. He had five months to respond and never did.

Councilor Chilton said Walsh was assigned to oversee the censorship. Did Councilor Topaz stay in compliance with the censorship? Walsh said he does not comply with the part of checking in with him before coming into City Hall or speaking with staff. He comes and goes as he pleases and talks to whomever. Councilor Chilton asked what the point is of continuing it if he does not comply. Walsh added that he has not observed any harassment.

Councilor Topaz said he was allowed to speak with staff at the library. There is a staff member here now that they can ask if he has ever harassed or was impolite to other staff. Mayor Scholl is not going to ask them that. They were not even part of it. Councilor Topaz said there were no names listed and that is legally important. Mayor Scholl pointed out there were names, but they were redacted. He could have seen the original document if he showed up. Laughing, Councilor Topaz argued that witness names cannot be redacted. Mayor Scholl asked him why it is funny that people working here felt threatened by him. Councilor Topaz argued that he cannot control how people feel threatened. Mayor Scholl apologized to the police officer's wife. He must accept that he did that. Councilor Topaz said he never received any names to know who to apologize to. Mayor Scholl argued that he had five months to respond and never took the opportunity. Councilor Topaz spoke with the president of the union and asked if anyone came to them to report complaints, but there were none.

Mayor Scholl said he has never made the effort to apologize and acknowledge there are feelings. Councilor Topaz argued that he does not know who they are.

Councilor Chilton asked what the point of the censorship if he is not going to follow it. Mayor Scholl said it is not okay to do nothing. People felt bullied in the work environment. Councilor Topaz argued that there are no witnesses without names. Mayor Scholl said those four or five staff members he made feel that way...Councilor Topaz argued that he said 17 at another meeting...is it 17 or four or five?

Councilor Birkle is conflicted. He understands what Councilor Chilton is saying. If they are not enforcing it, what is the point. What is done when Councilor Topaz comes in? What can be done? No one has brought unacceptable behaviors to Walsh's attention. Whether or not it was intended, there has never been acknowledgement of any kind of responsibility or impact. He makes mistakes at school with his students, and he owns up to it. Councilor Topaz has never recognized that he has done anything wrong. He has authority over employees and needs to own up to it.

Councilor Topaz argued that he only has authority over Walsh and the Library Director. Everyone else, he just gets upset. He is sworn to uphold Federal, State, and City laws. If he reminds City employees that they are not performing to the law and they get upset, is it more important that they got upset or

more important that they do their job and follow the law. Councilor Chilton said it depends on how he does that. Harassing them, calling them names, and wasting their time while they try to work is inappropriate. Councilor Topaz agreed. Now tell him who he did that to? Councilor Birkle is afraid of what he would do if he had the names. Councilor Topaz said he cannot apologize without the names. Councilor Chilton does not think he wants to apologize. He just wants to attack the person. Council President Morten suggested he apologize to all those he offended right now. Councilor Topaz agreed that people have been afraid of him, and he is not worried about that. He did not harass anyone.

Mayor Scholl said Councilor Topaz is always about winning. He needs to be able to accept when people are offended and respond humbly. Councilor Topaz said no one ever came to him. Councilor Chilton pointed out that Matt Brown said it publicly. Councilor Topaz said that Matt Brown has done a number of things wrong.

Mayor Scholl called for point of order. Councilor Topaz objected.

Mayor Scholl is appalled at Councilor Topaz's combative response. He does not even acknowledge what he did. Can he ever apologize? Councilor Topaz said he can but not here. Mayor Scholl said if this were an employee, they would have let them go.

Councilor Birkle asked if they discussed what the response should be if Councilor Topaz came to staff without checking with Walsh and Payne first. Council President Morten said they cannot enforce it. Councilor Birkle is in favor of continuing the censure but there are no teeth to enforce it.

**Motion:** Motion made by Mayor Scholl and seconded by Council President Morten to continue Councilor Topaz's censure through the end of his term, December 31, 2022. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle; Nay: Councilor Chilton; Abstained: Councilor Topaz

Councilor Birkle thinks it is important that the censure stands since no action has been taken to remedy it.

Mayor Scholl offered for Attorney Hicks to revisit this with Councilor Topaz and his attorney. Councilor Topaz wants it done in public. Mayor Scholl said they cannot do that in order to protect staff members. Councilor Topaz said there was a meeting with such poor audio that you could not hear it.

Councilor Chilton does not condone his actions by voting no. She is just not sure the censorship is effective.

Council President Morten said he would have voted differently if Councilor Topaz publicly apologized. He did not even acknowledge what he has done.

Mayor Scholl just wants Councilor Topaz to acknowledge what he has done. They want to be a cohesive team. He needs constructive criticism too.

### **SPECIAL SESSION ACTION ITEM**

#### **Recommendation to Enter Negotiations with RKM for the Riverfront Development**

The Committee wants them to do the project but not own the entire project.

**Motion:** Motion made by Councilor Birkle and seconded by Councilor Topaz to accept the recommendation of the Riverfront Development Advisory Committee. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

### **COUNCIL MEMBER REPORTS**

Council President Morten reported...

- Received a request from Parks & Recreation Commission Member Brandon Sundeen. He will be doing cleanup at the McCormick Park Veterans Memorial Plaza at 9:00 a.m. on Saturday and invited Council members to come help.

Councilor Topaz reported...

- Going back to December 2020, they were informed by their attorneys that the City was being sued for power problems and payment by Boise Cascade. It was indicated that our attorneys would ask for a dismissal. In July 2021, the attorneys came back and said the judge did not allow for a dismissal. At that time, he gave a thumb drive to all the Council members showing that the judge declared the sale of the marijuana property null and void, and a recommendation that it was going to happen. He referred to report A176949, a copy of the case view is included in the archive packet for this meeting, between Cascades Holding and St. Helens. It is a notification that the City is appealing the problem. It is actually two appeals. One is that Boise Cascades says the City owes their attorneys \$131,000...the other whether it goes... On May 5, 2022 the Court motioned to extend the discussion. On April 6, 2022, there was another extension. On March 7, 2022, there was another extension. On February 8, 2022, there was another extension. They are blowing about \$20,000/month on lawyer fees for the extensions. Unless Council authorized the appeal, it should not have happened. That is about half a million in legal fees and it is still in Court. They have a lot of money for legal fees that they were told there would be no problems in December 2020. Mayor Scholl does not know there is a lot of truth there. Councilor Topaz said the paper came from the State. He is not lying. Mayor Scholl agreed that it is a State ruling from a judge, but they have been a tenant for a long time. There have been all kinds of issues with power. They are trying to work together. Councilor Topaz argued that it is related to the court case, not power.

Councilor Chilton reported...

- Thanked Mayor Scholl and Council President Morten for publicly apologizing regarding the letter. She regrets not saying something when it was being discussed. It was not the Council's intention to put blame on the police. The Council needs to fix the problem, not the police. They decided to develop the Island and they need to make sure it is safe. Their needs to be a plan for emergencies. She feels bad that they were discouraged. The police work hard, and they are appreciated. That is why they are increasing the number of officers and building a new station. Mayor Scholl said they need to work together. Councilor Chilton said they lead the police, so need to start that. The police did the research and brought back the options to Council. It is time to work on it again. Council President Morten suggested adding it to a work session agenda for discussion. City Recorder Payne acknowledged that it is on the agenda. Councilor Chilton talked about considering other options, such as a security guard. Councilor Topaz asked if there a line item for marine officer in the budget since it is additional training. Mayor Scholl said the Chief talked to them about the certification needed. They need insight to come up with a remedy.
- She is excited to sit on the interview panel for new officers. There were 14 applicants. Recruitment is moving forward.
- She is participating in a charity golf tournament at Crooked River for the Moose Lodge this weekend.

Councilor Birkle reported...

- He is anxious to hear about the CERT traffic safety training that his wife attended tonight.

### **MAYOR SCHOLL REPORTS**

- He apologized for his behavior earlier. They are committed to adding two new officers. They have given raises. He has respect for the officers and what they do. He appreciates their efforts and wishes they could pay more. It is a very complex issue. He was very concerned about what happened at the Island in the past. He encouraged everyone to be humble and listen to each other. There is a lot of controversy. Policing is very important.
- He recognized the "If I Were Mayor..." Student Contest State winners:
  - Presented Rosie Parsons with first place for her essay at Columbia County Christian School.

- Presented Ellie Luke with first place for her poster at Arthur Academy.
- Presented Hayden Stram with second place for his digital presentation in the Council Chambers since he is homeschooled.
- The first-place winners are invited to the Mayor's Conference in August to be honored.

**OTHER BUSINESS**

**ADJOURN – 8:50 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Kathy Payne  
Kathy Payne, City Recorder

/s/ Rick Scholl  
Rick Scholl, Mayor