



# **COUNCIL REGULAR SESSION**

Wednesday, June 02, 2021

## **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	Jenny Dimsho, Associate Planner
Matt Brown, Deputy City Administrator	Joe Hogue, Police Lieutenant
Kathy Payne, City Recorder	Tina Curry, Event Coordinator
Jacob Graichen, City Planner	Bill Monahan, City Attorney

### **OTHERS**

Damien Hall	Andrew Schlumpberger	Daniel Kearns
James Hill	Tracey Hill	Kathleen Ward
Radhika Shah	Robin Nunn	Jerry Belcher
Holly Nunn	Laurie Brownlow	Hunter Blashill
Jeanne Sorenson	Lynn	

### **CALL REGULAR SESSION TO ORDER – 10:03 p.m.**

### **PLEDGE OF ALLEGIANCE**

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

No visitor comments.

### **DELIBERATIONS**

#### **Appeal of the Planning Commission's Denial of a Proposal to Divide Property into Two Parcels at 160 Belton Road (Schlumpberger)**

Councilor Topaz is in favor of following City Planner Graichen's recommendation of having the improvements done on the road to approve the partition.

Councilor Chilton applauds the testimony and point of view of the neighbors who obviously love their neighborhood and want to preserve it. However, she does not see enough of a threat with the building of the home. Depreciation of a view is not enough in her opinion. This is a hardworking, public serving, young family, who have nothing but good intentions for the property. They have the right as owners of the land to do so. She understands improvements need to happen, which is why she supports approval of the request with the hybrid option provided by the applicant's attorney.

Council President Morten acknowledged the tremendous testimonials heard tonight. For the most part, they heard an objective side and an emotional plea. He has a lot of respect for some of the neighbors pleading for it to remain as it is. A lot of history was revealed. This is tough for the Council. They are

caught between objectives and emotions. The Council's job is to be objective; therefore, he supports the Schlumpberger's and the approval of the partition.

Councilor Birkle expressed the difficulty of the decision and not being happy with it. He agreed with Council President Morten and the need to be objective to comply with City Code. His decision may rupture long-time relationships he has had with members of this community. As a liaison to the Planning Commission, he is very reluctant to overturn their decision that was made with deliberation and thought. As Councilor Chilton said, individuals own the property and it is their right to do what they will with their property, even though he is saddened by the impact it will have on their neighbors. The partition approval criteria were met, although barely in regard to the road, but he would vote in support of the partition with the conditions.

Mayor Scholl expressed that it is tough when you are hearing people who are very emotional, such as the previous hearings for Emerald Meadows and the Zahl property near Elk Ridge. He suggested the Planning Commission have a City Attorney present during sensitive land use hearings. It may not make sense to the people in opposition, but he hopes they can see from past developments that it works out. This is a strong and loving community. He heard that from people testifying. He hopes they can continue to enjoy the beautiful neighborhood. The Planning Commission and Council have to follow policy and code. They can only impose so much on the property owner.

Graichen clarified that the Council is determining that the improvements will offset the impacts of the additional parcel. Mayor Scholl said yes. Graichen referred to Councilor Chilton's mention about the hybrid option. There are a few options: the turnout itself, the 20 feet, or a combination of the two. Mayor Scholl heard there is a constitutional right; option one is the minimal but would clear out the line of site and would satisfy Planning. He would recommend following staff's original recommendation of the little area above that is not as impactful. The City knows they have a problem with a city street.

Graichen wants to be clear on the Council's decision. If the motion is made for the turnout as originally proposed by staff, then they would approve it via the conditions in the staff report to the Planning Commission. Graichen reviewed those conditions.

Councilor Topaz stated that the only change he sees is having the hybrid for both the option and the widening at the corner. Graichen responded that if the Council wants more than just the turnout, they will modify a couple conditions.

Councilor Chilton clarified that the hybrid, the widening of the road and the turnout, were proposed by the applicant. Graichen agreed that the applicant's legal counsel did acknowledge that the applicant would accept it. Mayor Scholl pointed out that they also recognized that it was unconstitutional. Councilor Birkle added that he called it a safe harbor and he interpreted it as they would not go that route. It looked like the hybrid, or second option would take out a lot more trees. He is in favor of the turnout to have less impact. Councilor Topaz asked if the widening would take out trees or just come up to the rock. Graichen pointed out on a map that widening the street will take away some of the trees.

Mayor Scholl asked Monahan if this is unconstitutional for the Council to do this. Monahan responded that there is a requirement under the US Constitution that the Council can only require improvements that are related proportionality to the impact of the development. However, their attorney referenced that they were willing to consider the combination of the two alternatives and make them into one condition. He did use the term safe harbor, which he interprets as the City not imposing the condition but accepting the offer of the safe harbor condition. If Council imposes it, it will probably not meet rough proportionality because they have not done an analysis to show the justification based on the impact of the partition, but because the applicant made that offer, that precludes their opportunity to challenge it constitutionally.

Councilor Topaz asked how that would be worded since they offered to do it. Monahan pointed out that the offer is in the record. They have to make the decision. It does not sound like Councilor Birkle is in favor of the widening to combine the two because of the potential tree cutting. They need to discuss the preferred alternatives. If they choose a combination, then direct staff to come back with that language. It may require the City Engineer to look at those two. The Engineer has not had a chance to look at this and give feedback.

Discussion ensued as the Council reviewed photos of the area.

Councilor Chilton is fine with option one. She reminded the Council that extending and fixing roads is something they will have to do as part of the new housing laws they passed. Mayor Scholl pointed out that the application was submitted prior to the new standards being adopted. The 20-foot-wide road did apply at the time of application.

**Motion:** Motion made by Council President Morten and seconded by Council Topaz to approve the proposal to divide the property into two parcels at 160 Belton Road with the 12 conditions read by the City Planner, and adding the condition of a hybrid road alignment. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **Annexation of 35111 Six Dees Lane (McCullough)**

**Motion:** Motion made by Councilor Chilton and seconded by Councilor Topaz to approve the annexation of 35111 Six Dees Lane. **Vote:** Favor: Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **Annexation of 505 N. Vernonia Road (Weber)**

**Moton:** Motion made by Council President Morten and seconded by Councilor Topaz to approve the annexation of 505 N. Vernonia Road. **Vote:** Favor: Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **ORDINANCES – First Reading**

- 1. Ordinance No. 3267:** An Ordinance to Annex and Designate the Zone of Certain Property at 58551 Kavanagh Avenue

Mayor Scholl read Ordinance No. 3267 by title for the first time. The final reading will be held at the next meeting.

#### **RESOLUTIONS**

- 2. Resolution No. 1918:** A Resolution of the City of St. Helens Declaring the City's Election to Receive State Revenues

Mayor Scholl read Resolution No. 1918 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1918. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- 3. Resolution No. 1919:** A Resolution of the Common Council of the City of St. Helens, Oregon Adopting Budget, Making Appropriations, and Levying Taxes for the Fiscal Year Beginning July 1, 2021

Mayor Scholl read Resolution No. 1919 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1919. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- 4. Resolution No. 1920:** A Resolution of the Common Council of the City of St. Helens, Oregon, Amending the City Employee Compensation Plans for Fiscal Year 2021-2022

Mayor Scholl read Resolution No. 1920 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1920. **Vote:** Voting Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- 5. Resolution No. 1921:** A Resolution of the Common Council of the City of St. Helens, Oregon, Adopting an Agreement regarding Benefits with Unrepresented Employees of the City of St. Helens

Mayor Scholl read Resolution No. 1921 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Chilton to adopt Resolution No. 1921. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- 6. Resolution No. 1922:** A Resolution to Amend the City of St. Helens Personnel Policies and Procedures Handbook and the Technology and Telework Policies and Procedures Handbook

Mayor Scholl read Resolution No. 1922 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1922. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

#### **APPROVE AND/OR AUTHORIZE FOR SIGNATURE**

7. Memorandum of Understanding with St. Helens Police Association

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

#### **AWARD BID/CONTRACT**

8. Salmonberry ("Smith") Timber Sale to Interfor US Timber Inc. at \$652.36 per 1,000 BF

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

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

9. Council Work Session, Executive Session, Public Forum, Public Hearing, and Regular Session Minutes dated May 19, 2021  
10. OLCC Licenses  
11. Accounts Payable Bill Lists

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '9' through '11' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

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

No work session action items.

#### **MAYOR SCHOLL REPORTS**

- Nothing to report.

#### **COUNCIL MEMBER REPORTS**

Council President Morten reported...

- Nothing to report.

Councilor Topaz reported...

- The State has been working on Millard Road. They spent a lot of money investigating what they would do. Somehow, they found something that was not supposed to be there and now he does not see anyone working. He is concerned that those are the same people that will one day get people under or over the railroad. He hopes the City's Engineer has a copy of the drawings of what his going on under Millard Road. If this happens again, at least the City would have a

record, even though we are not responsible for what is happening out there. Some of these State agencies are missing the ball. DEQ did not tell us a whole lot about the contaminated waterfront when the City was buying the white mill. How can they protect themselves from their mismanagement? Mayor Scholl will ask if Public Works Director Zaher can ask the State for an update and report back to Council.

Councilor Birkle reported...

- He has 11 days left with students before summer break. He is looking forward to spending more time getting together with City staff and learning more about things.

Councilor Chilton reported...

- Nothing to report.

**OTHER BUSINESS – None**

**ADJOURN – 10:45 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Kathy Payne

Kathy Payne, City Recorder

/s/ Rick Scholl

Rick Scholl, Mayor