



COUNCIL REGULAR SESSION

Wednesday, May 05, 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
Matt Brown, Assistant City Administrator
Kathy Payne, City Recorder
Mouhamad Zaher, Public Works Director

OTHERS

Brady Preheim	Chelsea Schulz	Heidi Oliver
Ginny Carlson	Casey Jolissaint	Tim Goodman
Autumn Oliver	Ken Beeler	Keith Locke
Erin Saulsbury		

CALL REGULAR SESSION TO ORDER – 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Scholl recited the Pledge of Allegiance.

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

- ◆ Casey Jolissaint. She is a St. Helens resident and is here to speak in support of the pool. They moved here 15 years ago when she was pregnant with her first son. One of the reasons they chose St. Helens was because of the pool. It is a treasure and is maintained very well. It is an asset in the community that she would hate to lose. The Recreation Program is one of the best things the City has done in the last few years. She realizes the pool is a separate district from the City, but their goals align. She would appreciate anything the City can do to keep it running.
- ◆ Ken Beeler, President of the Alano Club. He read a letter into the record that was given to the City the day before and was distributed by email to the Council, a copy is also included in the archive packet for this meeting. The Alano Club is requesting support to replace the failing HVAC system. They have a Board member who is a licensed contractor that can provide the system at cost and provide free installation.

Mayor Scholl declared that he sits on the Alano Club Board. It is very important to the community and meets the Council's mission statement.

Discussion ensued.

City Administrator John Walsh pointed out that the City owns the building. It is leased to the Alano Club, much like the lease with the Senior Center.

Councilor Chilton asked about the funding source. Assistant City Administrator Brown responded that Senior Center projects normally come out of the facilities major maintenance fund, which would likely be the same for this.

Councilor Birkle questioned the need to go out for bids since it is a City facility. Brown responded that they have solicited bids for the Senior Center. This situation is particularly unique because they have someone willing to do it at cost. Walsh added that the Council has the ability to waive the bid process and recognize the value to the community.

Motion: Motion made by Councilor Topaz and seconded by Councilor Chilton to accept the offer that the City buys the equipment, and they install it. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

- ◆ Brady Preheim. He was very disappointed with today's work session. He was hoping to see a unified front asking for the resignation of Councilor Topaz. It is City Council, not "City Counseling." Councilor Topaz has had many, many second chances. Ten minutes before they began deliberating his discipline, Topaz told them a bold face lie. Then he tried to disrupt deliberations by bringing up an entirely different piece of property that was not even in the discussion. Either Topaz is mentally incompetent, or he is deliberating trying to start chaos, which he has said that is his goal. The Ordinance that they draft on May 10 needs to include a mental evaluation. That would be the only way to remove him from his position. If someone from CCMH or the School Board behaved towards staff in the way Topaz has behaved, they would be terminated. Staff should be able to give an anonymous suggestion as to what should happen to him. Council has failed to protect their staff.
- ◆ Keith Locke. He has a few comments about the Councilor Topaz investigation. It is disgusting that the City has to go through this. He recommends Councilor Topaz resign. He also suggests the community form a recall for the November election. Topaz has cost the City several hundred thousand dollars. They are lucky that staff members have not sued the City as well. He thanked staff for being patient. The information needs to be released to the public, followed by a recall.
- ◆ Ginny Carlson. During her eight years on Council, she witnessed Councilor Topaz bully and badger staff in public meetings. Once he was elected, she watched him publicly harass people and create a hostile work environment. The two years she served on the Council with Topaz were the most stressful of her life in St. Helens. No one should have to work in that environment. These are not allegations; they have been substantiated. She personally knows of two staff members who have the grounds to sue and never work another day in their life. The Council cannot turn a blind eye. He is victimizing men, women, and minorities all in the name of the City of St. Helens. People have a right to work in a suitable and fair environment. If a manager at the City had behaved this way, they would already be unemployed. They had numerous conversations in executive session about his behavior and nothing changed. People should not find a scandal when they Google St. Helens.
- ◆ Matt Brown. He expressed the disappointment, anger, frustration, and lack of empathy that he and other employees are feeling towards the Council following this afternoon's meeting. Respectfully, they have failed the employees and community in their inability to make a collective decision based on actions that are factually true and have been substantiated. Brown thanked

Council President Morten for taking a stand and requesting his resignation. He also thanked Mayor Scholl for supporting that request. Following his public comments at the last meeting, he received support and outreach from employees who are not willing to be public about what has happened to them. Community members are apologizing to him for what he has been going through. Seeing today's work session agenda item brought hope that something would finally be done to protect himself and other employees. For the fourth time, he is pleading with the Council to do something. If Councilor Topaz were a City employee, he would be fired. If he were a schoolteacher, he would be fired. If he were a counselor at CCMH, he would be fired with no second chances. They have given him multiple chances to apologize, explain himself, and show he can change, and he has failed. You could see the smirk on his face during today's work session because he is winning. He continues to come into City Hall and badger employees, wasting their time, and berate them in public. Brown thanked Mayor Scholl for standing up for himself, Walsh, Mouhamad, and other employees who had to listen to that. Addressing the new councilors, he understands they came in during the middle of this and do not want to deal with it. It is not their problem or their fault. They did not start this, but neither did he. This is not why he works for the City, nor the other 70+ employees who work for the City. He had to make a lot of process, operation, and practice changes when he took his job. He did not hide behind the fact that it had been done differently in the past. He expects Councilors to do their job and protect their employees. They can show they care by acting tonight. The longer they wait to act, the larger the claims against the City will be. They have all read the full report, which he has not even had access to. He is requesting the Council suspend all interactions from Topaz with staff until the investigation is complete and there is a resolution. He should no longer be allowed to come into City Hall unannounced. He should make an appointment with one person who can answer his questions or get answers for him. He is pleading with the Council to protect and support their employees.

Mayor Scholl stated that Councilor Topaz had a lawsuit against the City in 2009. He blamed the City for his flooding basement. He lost in court. The City spent hundreds of thousands of dollars. It has been evidently clear throughout the investigation that Topaz has continued to get payback from the City. Scholl has witnessed his sexist comments against one of the employees involved in the lawsuit. This is not about him shaking things up and whistleblowing. Ask anyone who has worked for the City or been involved in the lawsuits. There is someone on the Zoom call that recently verbally assaulted him at the Safeway ATM. It was inappropriate at that time. He serves all citizens and will meet with them at any time.

- ◆ J. She is here to comment about the property at 367 N. Vernonia Road, which is next to hers. She has been in contact with the Police Department since October 2019 reporting her driveway being blocked and letting their Pitbull wander. There is a large family living on the property in an RV. They have 3-4 dogs that are not fenced or leashed. The dogs are in her yard more than their own and they are not friendly. Her kids are not able to play outside. She has been reporting that their dogs are bringing poop diapers into their yard and tearing them up. They have buckets of dirty diapers all over their yard. There is scrap metal all over their yard. She has done everything she can to be cordial about it. She no longer feels safe or heard. She has reported all sorts of things and she is at her wits end. Something really bad will have to happen before anything gets done. The Police Department has issued citations, he has been cited in court, and he does not show up. She is pleading for the Council to help.
- ◆ Erin Salisbury. She did not intend to comment today, but it feels important. Her comments were directed to Councilor Topaz. No one expects him to or believes he will resign. She has known people like him in her life, where feelings are not as valid as the facts he is pursuing. She understands that he believes he is doing good for the City and he is being the bulldog that many

of his constituents elected. None of us are the bad guy in our narrative. He is fond of reminding everyone that he has training as an engineer and that he has a brilliant mind. It is one thing to build and design a structure, like a bridge, and do all the engineering for it on paper. It is really hard to make a real bridge stand if you forget something like the sheer force of wind. How people feel about their work and how they feel about their city is the sheer force. She hopes he understands that the facts about how people feel and about how he treated people are not imaginary. He has not accounted for real-world variables, which are the people who make up the City. That is why people are upset. These are still valid facts, and they would like him to step down. She does not see any way he can repair this situation. She asked for the Council to move on and do something. Protect City employees who are working so hard.

ORDINANCES – Final Reading

- 1. Ordinance No. 3264:** An Ordinance Amending the St. Helens Municipal Code Chapters 17.16, 17.24, 17.32, 17.40, 17.56, 17.64, 17.68, 17.72, 17.80, 17.84, 17.88, 17.92, 17.96, 17.100, 17.104, 17.108, 17.124, 17.132, 17.136, 17.152, and 19.20, and Deleting Chapter 17.128, Focusing on Duplex Housing to Comply with Oregon House Bill 2001 and Other Matters

Mayor Scholl read Ordinance No. 3264 by title for the final time. **Motion:** Motion made by Councilor Topaz and seconded by Council President Morten to adopt Ordinance No. 3264.

Question. Council President Morten asked to receive a copy of the updated amendments. City Recorder Payne confirmed she can provide that.

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

ORDINANCES – First Reading

- 2. Ordinance No. 3265:** An Ordinance Correcting Ordinance No. 3260 Which Granted a Non-Exclusive Franchise and Right to Continue to Operate, Construct, and Maintain a Cable System in the City of St. Helens, Oregon to Comcast of Delaware II, Inc. to Revise the Name of the Franchise Holder to Comcast of Oregon II, Inc.

Mayor Scholl read Ordinance No. 3265 by title for the first time. The final reading will be held at the next meeting.

- 3. Ordinance No. 3266:** An Ordinance Amending the St. Helens Municipal Code to Create Chapter 13.30 Relating to a Public Safety Fee

Mayor Scholl read Ordinance No. 3266 by title for the first time. The final reading will be held at the next meeting.

RESOLUTIONS

- 4. Resolution No. 1916:** A Resolution Determining that a Nuisance Exists Upon Property Located at 367 N. Vernonia Road within the City of St. Helens and Directing that Notice to Abate the Nuisance be Posted on Said Premises

Mayor Scholl read Resolution No. 1916 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1916.

Question. Councilor Chilton asked what happens next. Mayor Scholl explained that a notice will be posted, and they have a deadline to clean it up. If it is not cleaned up, the City will hire a contractor to clean it up and put a lien on the house.

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

AWARD BID/CONTRACT

5. Award Water System Master Plan Update Project to Keller and Associates, Inc.
6. Award Contract for 2021 ADA Curb Ramp Improvements to Turney Excavating, Inc. for \$74,425

7. Award Contract for 2021 Annual Street Striping Project to Specialized Pavement Marking, Inc. for \$21,305

Motion: Motion made by Councilor Topaz and seconded by Councilor Chilton to approve '5' through '7' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

APPROVE AND/OR AUTHORIZE FOR SIGNATURE

8. Memorandum of Understanding with St. Helens Police Association Regarding Salary Schedule Effective Date
9. Memorandum of Understanding with AFSCME Regarding Salary Schedule Effective Date
10. Agreement with Steven Wabschall to be Direct Responsible Charge for Water Filtration Facility
11. Contract Payments

Motion: Motion made by Council President Morten and seconded by Councilor Chilton to approve '8' through '11' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

CONSENT AGENDA FOR ACCEPTANCE

12. Budget Committee Minutes dated April 2, 16, 23, and 30, 2020
13. Urban Renewal Agency Minutes dated April 30, 2020

Motion: Motion made by Council President Morten and seconded by Councilor Topaz to approve '12' and '13' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

CONSENT AGENDA FOR APPROVAL

14. RFQ for St. Helens Industrial Business Park
15. Council Open Hearing Minutes dated April 20 and Special Session Minutes dated April 27, 2021
16. OLCC Licenses
17. Accounts Payable Bill Lists

Motion: Motion made by Council President Morten and seconded by Councilor Topaz to approve '14' through '17' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

WORK SESSION ACTION ITEMS

Pool

Mayor Scholl summarized the discussion from the work session.

Motion: Motion made by Councilor Topaz and seconded by Council President Morten to adjust the water rate for the aquatic center to 50% until June 30, 2022.

Discussion. The district will come back to the Council if they need to extend the deadline.

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

MAYOR SCHOLL REPORTS

- A letter was submitted to the Governor from the County Commissioners and City leaders. He believes that impacted her decision to reduce the level from extreme to high. COVID is very difficult. Continue to wear a mask, wash your hands, and social distance.
- They are moving forward with plans for an Independence Day celebration.
- He would like to plan for Citizens Day in the Park. They normally have it on the second Saturday of August, but that is the 100-year celebration in Scappoose. He suggested holding it August 21 or 28. They will have to wait until it is closer to determine what that will look like.

Council President Morten would like to plan for it. It is good for the community.

Mayor Scholl will check with staff and come back to Council with a date.

- Council typically takes the first Wednesday of July off from meetings. Consensus of Council to do the same this year.
- Would like to resume in-person Council meetings.

Brown confirmed that the audio issue has been resolved. Consensus of the Council to hold the next meeting in the Council Chambers with the ability to Zoom into the meeting as well. Limited visitors would be allowed in and may need to wait in the lobby.

- Apologized to staff for the time it is taking to resolve the Council Topaz investigation. They are meeting on Monday to discuss it. It is complex. They are trying to protect staff. The investigation has worn on him personally. He does not like the drama. It costs nothing to be a decent human being. He has read comments about himself. He is not affiliated with anyone. He is more conservative than liberal. People should not assume anything about him, they need to come talk to him. The people making comments about him are no different than Topaz's behavior.

COUNCIL MEMBER REPORTS

Council President Morten reported...

- He talked about some of his core values and the reason he asked Councilor Topaz to resign. Topaz is a good person and does a lot for the community. But he has done a lot of horrible things to our staff. Morten is here to protect the staff. There is also an element of trust in teamwork at the City. He talked about learning trust and teamwork doing youth sports, farming, serving in Vietnam, coaching, teaching, and now serving on the Council. Along came an issue that began to divide the Council and community, which was discussion of bringing in toxic elements to fill the lagoon. The Council wanted to learn more so they met with Maul Foster in executive session and simply used the wrong ORS number. There was a disruption in the meeting. At the end of the meeting, he apologized to everyone in attendance, which included staff from the Governor's office and DEQ. That was the first time, since being on the Council, that he had a gut feeling about what happened. What happened after that is where there was the mistrust. Topaz went to the paper and suggested what happened in the executive session, which is illegal. He left himself out of it and turned the other four Council members into the Ethics Commission where they were all fined money out of their own pocket. He now has a violation of the Ethics Commission on his record, "Thank you, Mr. Topaz!" He has been harboring a lack of trust on the Council. It could be a great team with new, enthusiastic Council members, and a great mayor with enthusiasm and leadership qualities. He has a hard time moving past the mistrust. He is asking his friend, Topaz, to consider resigning. It would help him and everyone else.

Councilor Topaz reported...

- The virus is among us and the Governor is making adjustments.
- The Library is kind of open with restrictions. The best way to find out details is by calling them.

Councilor Chilton reported...

- She feels pretty attacked and wants to be transparent. Bullying is not okay. There are people listening who have personally bullied her. They have said things about her last name, about her career choice, and about people in the community who are recovering from addiction. It is not okay, and you need to practice what you preach.
- She feels blindsided by the rest of the Council. She had no idea they were going to come tonight and ask for someone's resignation. She was shocked that it was even on the table.

- She also signed the letter to Kate Brown to re-open businesses. She was really glad to see Columbia County move from Extreme to High. The pandemic is not going to go away. They have to find ways to support the community and businesses.
- She is really looking forward to the new playground in McCormick Park.

Councilor Birkle reported...

- He referred to Art Leskovich's comments at the work session concerning the creation of a commission or ad-hoc committee for advising on issues related to environmental impacts on City projects. He would like to see a goal to preserve as much of our native species as possible.
- He addressed the issue regarding Councilor Topaz. He also feels blindsided by statements that were made. He hears the pain and the urgency that Brown expressed. He was not aware that Topaz's behaviors were continuing. Birkle talked during the work session about not blaming or shaming but wonders if former Council members could have taken steps two years ago when this started. He understands the current members are responsible now to make decisions. The most important issue is having a safe workplace. He pleaded with Topaz to not continue with these behaviors that bring chaos and liability to the City, even if that means resigning. Action needs to be taken to not allow these same behaviors to continue. Is there anything they can do tonight to create a workplace that employees feel safe and productive?

Mayor Scholl responded that they do not have anything in place right now, which is why they are meeting on May 10. He wants legal advice.

Discussion of not being able to do anything until they receive legal advice. Councilor Topaz was asked if he would be willing to take administrative leave with limited access to staff. Topaz responded that his answer is the same, "my answer will come from my attorney." Councilor Birkle explained that his attorney does not need to provide him with legal counsel to have the decency to agree to not engage in the behaviors that have brought them to this point.

Mayor Scholl talked about the stress this has had on staff and Council. Life is hard enough and they should not make it more difficult. There was an example earlier where Councilor Topaz tried to make staff and the rest of the Council look like idiots. Watch the work session video just before and after the break. He will sensor Topaz and call him out every time he is misleading. Please be kind to one another. Scholl falls short sometimes and is not perfect. He apologized to staff. If the actions continue at the workplace, call the police to make a record of it. He recommends they build their own civil case. They are committed to finding something to lean on at the May 10 meeting.

OTHER BUSINESS

ADJOURN – 8:36 p.m.

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Kathy Payne
Kathy Payne, City Recorder

/s/ Rick Scholl
Rick Scholl, Mayor