



# COUNCIL WORK SESSION

Wednesday, September 20, 2023

## APPROVED MINUTES

### MEMBERS PRESENT

Mayor Rick Scholl  
Council President Jessica Chilton  
Councilor Mark Gundersen  
Councilor Russell Hubbard  
Councilor Brandon Sundeen

### STAFF PRESENT

John Walsh, City Administrator  
Crystal King, Communications Officer  
Jenny Dimsho, Associate Planner  
Mouhamad Zaher, Public Works Director

Sharon Darroux, Engineering Manager  
Jacob Graichen, City Planner  
Bill Monahan, Contracted City Attorney  
Tina Curry, Contracted Event Coordinator

### OTHERS

Steve Topaz	Daniel Grant	Ron Trommlitz
Michael Benjamin	Christina Benjamin	Eddie Dunton
Steve Toschi	Stephanie Patterson	

### CALL WORK SESSION TO ORDER – 2:00 pm

#### VISITOR COMMENTS - *Limited to three (3) minutes per speaker*

- ◆ Daniel Grant. Mr. Grant, Pastor, Resonate Jesus Church, spoke about requesting passes for parking for church services during Halloweentown. The church rents the Columbia Theater on Sunday mornings and space in the Aggie Petersen building all year long. The event team denied their request and the building owner's request on their behalf, noting no one was getting passes this year. The City told him that people with disabilities can pay for parking. Their request for passes for volunteers serving at the church was also denied. He reached out to the County and was given permission by them to park in their lot for no charge. He recounted going to the lot to park, being told they needed parking passes, and he and his church members were shouted at. They simply want access to their parking lot without having to pay.

Mayor Scholl asked for Mr. Grant's phone number, which he provided, and said City Staff will be sure to follow up.

- ◆ Ron Trommlitz. Mr. Trommlitz expressed concern that the 2M Gallon Reservoir rehabilitation failed, and his property sits across the road. He contacted the City and Sue Nelson told him there were no leaks in the reservoir. He contacted the City in April 2020 when he and his neighbors received a water bill that included a storm drain fixed fee. He was told the City surveyed its properties, and their water was affecting its storm drains. He told the City that was not true, and that the City would have to prove it. He received an email stating because he has a site-specific storm drain system, and he has to drive on City streets to access his property, so it was not about

water but a street fee. The City administration shows no transparency, operating in secrecy and silence. He said he will continue next week.

- ◆ Michael and Christina Benjamin. Mr. and Ms. Benjamin expressed concern with the crossing at Gable Road and Highway 30. They have almost been hit multiple times. They asked the Council for any information about the crossing. They had talked to the City who referred them to the local police department and Oregon Department of Transportation (ODOT); Ben with ODOT Astoria referred them back to the City Administrator. They confirmed the last time they were almost hit; it was someone turning right coming out of Gable Road, but a lot of times it is people turning from Highway 30 onto Gable Road.

Engineering Manager Sharon Darroux clarified the crossing is ODOT right-of-way with respect to putting yellow flashers as a warning.

Public Works Director Mouhamad Zaher asked for ODOT Ben's contact info to follow up with them because if it is a City thing, the City will take care of it immediately. Mr. Benjamin replied he did not have a last name for Ben. Staff questioned whether it could be Ken and will follow up on the matter.

- ◆ Steve Topaz. Mr. Topaz said his comments at the September 6 Work Session were not accurately reflected in the meeting minutes. The result of the new Councilor selection at last Friday's Council meeting should be thrown out. The Council President did not like one of the candidate's presentations and announced the person should be ineligible as a candidate based on the words used in their presentation before all candidates had had a chance to present. No indication was made prior to the replacement process that certain viewpoints, etc., would make a candidate ineligible for the Council. The Council President's action removed the candidate's right to free speech. The selection process should be redone where all of the requirements and restrictions are publicly noted. The contracts to be signed by Mayor Scholl having US Ecology handle the details of having toxic waste placed in what is now the cooling pump/sewer treatment plant were a product of work done in an executive session and the details of which have not been discussed in a public meeting nor has the community been asked if it wants a toxic waste dump in town. When asked at last Friday's Council meeting, the Mayor replied they were looking into the feasibility of placing a toxic waste dump in the cooling lagoon. A contract to operate is not a feasibility study. He entered his hardcopy document into the record.

Mayor Scholl corrected Mr. Topaz's comment. The Council did not specifically say it was going to be a toxic waste dump. They said they were looking into the feasibility of whether it can be filled without liquification. He added Mr. Topaz knows this as he sat on the City Council at that time, noting the discussion was not done in executive session.

- ◆ Tina Curry. Ms. Curry stated that the parking situation recounted earlier by Mr. Grant was likely emotional and not fully accurate. She was told by Mark Pacheco at the County that their upper lot would now be public parking on weekends but was not reserved for anyone in particular. Due to construction, passes were provided for businesses' employees to park in 2C's lot which is also the City lot for free during the month. If it is full, the employees have to go up to the Recreation Center and take one of the three buses to come down. ADA parking is available but treated no differently. People could also park at the corner of S. 1st Street and St. Helens Street for drop off. Most of the time the ADA spaces are not even taken in the 2C's lot. She explained why Cowlitz Street and S. 1st Street/St. Helens Street in the future will be closed to through traffic (as done with the Fourth of July) except for people who live there, their guests, and boat owners.

- ◆ Steve Toschi. Mr. Toschi said a quick Google search of allowed uses in downtown riverfront property showed that churches do not appear to be allowed. The process of City Councilor selection, in which he participated, was lawful and followed the letter and spirit of the law. He welcomed Councilor Hubbard. The normal processes of planning were circumvented with regard to the new police station and did not include the Planning Department. He was not sure why. Staff pointed out in their report the question of whether the facility should be built where the access to the station would be cut off in the event of a flood. The use was not legally allowed at this location according to the staff report. He urged the Council to abandon the current spot and move forward with other locations as identified by the ad hoc committee.

Mayor Scholl stopped Mr. Toschi's comment due to ex parte contact and asked him to refrain from continuing because doing so could be an issue.

City Attorney Bill Monahan said the entire Council should declare the comment given by Mr. Toschi if an appeal occurs. He did consider the comment to be an ex parte contact.

Mr. Toschi stated he will cease additional context on the subject at this time at the request of Mayor Scholl on the advice of counsel. Mayor Scholl replied he did not stop the comment due to the City Attorney. He had screenshots of ex parte contact that he had been researching on his phone which is why he asked Mr. Toschi to stop.

## DISCUSSION TOPICS

### 1. **Public Works Department Semi-Annual Report - *Public Works Director Mouhamad Zaher***

Public Works Director Zaher presented his department's report which focused mostly on day-to-day operations and major projects and highlighted the achievements of working with a contractor on the special Design-Build project for the 2M Gallon Reservoir which was in good standing to move forward and finalizing the Transportation Systems Plan for which an application was put in for a \$300,000 grant.

- He described staff's visit to the Vancouver waterfront a few weeks ago as they continue their vision for the City. Public Works had over 60 meetings last month just for Engineering. They had a successful public event for the TMDL, a new requirement from DEQ. Over seven projects were currently in development: two in the sewer department, three in storm, and three in the water department.
- A lot of roadway projects were underway including the S. 1st and Strand Street intersection which he emphasized was on budget and on schedule. The project pause was simply due to an additional scope the City added to the project of undergrounding the utilities and trying to accommodate all the telecommunication stakeholders.
- Future projects include continuing to work on APWA accreditation, researching and implementing speed deterrents and traffic calming options, and updating the Project Development Standards Handbook and best practices for Engineering.
- He noted the City appreciates the Public Works team who had been volunteering to help the City with janitorial services right now.
- He clarified if a person had a complaint about the speed on their street or getting speed bumps or crosswalks, they may contact him via phone, text, or email 24/7. Another option is to use the email [engineering@sthelensoregon.gov](mailto:engineering@sthelensoregon.gov) which is a simple system for questions, concerns, and requests.

Engineering Manager Darroux clarified that speed bumps would not be installed on collector streets or arterials, and Public Works would have to coordinate with Fire and Police when considering speed bumps.

Mayor Scholl thanked Zaher for his hard work dedicated to the City.

### 2. **Discuss Next Steps for Police Station Project**

City Attorney Bill Monahan updated on the status of the police station project issue and reviewed the options available. His understanding was the Planning Commission had denied the land use application.

The City is the applicant for the facility. The City has the right to apply for permits under the City's land use regulations. All applicable standards must be met for approval. One of the options available to Council under the Municipal Code is that the matter can be appealed to the City Council. He urged extreme caution as an appeal filed to the City Council would be a de novo public hearing where the Council would have to apply the pertinent standards and base the decision totally on the evidence given, testimony, etc. Another option available under the Code says the Council on its own motion can seek review by a majority vote prior to the final date of an appeal period in a public meeting. The appeal period is 14 days.

He cautioned the Council not to talk about the merits of the application. Discussion should only occur at a public hearing at a future date. He acknowledged the Council could talk to staff about the matter since it is not an ex parte contact. He cautioned against conversations with Walsh about the merits of the case since he is the person who has to decide whether to file an appeal. The Council could certainly talk to Jacob Graichen and his staff.

Mayor Scholl said he had asked City Planner Graichen how many Planning Commissioners came in to ask questions about the matter prior to the meeting. Graichen confirmed there were no contacts from the date the application became effective to the hearing. Mayor Scholl stated he went in because he wanted to know more personally from the City Planner what was going on.

City Attorney Monahan explained that ex parte contact could be an individual who contacts a member of the decision-making body; he presumed the decision would come to the Council. Any contact made by an individual with the Mayor or a Councilor, speaking or sending an email or letter that provides information to them outside of the hearing that would be conducted would need to be brought into view of the public.

He explained how staff would assist the Council if someone challenged a Councilor for ex parte contact. Before public testimony at the beginning of the hearing, the Councilors would be asked to declare any ex parte contacts. The public would then be given the opportunity to challenge a comment by a Councilor or should a member of the public feel an ex parte contact was made but not declared, they could raise the concern. A decision could then be made whether there is an issue with a member of the Council continuing to participate in the process. He explained how a Councilor should handle an attempt at ex parte contact.

City Planner Graichen mentioned the notice of decision was issued on September 15, making the appeal deadline September 29. The quickest an appeal could be reviewed would be October 18. If an appeal was received on September 29, it would be insufficient time for October 18 which would require it to be reviewed in November. He clarified the writ of mandamus. Mayor Scholl noted the Council and other quasi-judicial boards are also subject to public records requests.

Monahan clarified the ex parte contact caution applies to the merits of the land use application and the Planning Commission's decision on the application.

### **3. Report from City Administrator John Walsh**

City Administrator Walsh welcomed new Councilor Hubbard. He reviewed the regular session agenda items for tonight and reported the following:

- Earlier this week bids were opened for the Columbia View park improvements. Three bids were received, and staff was looking at the options.
- Staff is working with the County and the consultant conducting financial analysis of the Urban Renewal Agency to understand where the City is on the heels of Cascades leaving.
- While it will be challenging this year not to have the Waterfront for parking for the Spirit of Halloweentown event, coordinating the shuttle solution with Cascades is the most the City can do.
- The City's partnership with the School District and Recreation Program secured a \$1 million grant to extend the after-school program over the next five years to support additional child care. Mayor

Scholl gave kudos to Parks & Recreation Manager Shanna Duggan and St. Helens School District Superintendent Scott Stockwell for looking at such avenues.

- The tourism audit had been completed. The question of an RFP for tourism comes up yearly as part of the contract renewal, and if the Council wants to do the RFP, they need to make the decision. The audit report looked great to him. The Council indicated they would like to discuss the audit at the next meeting.
- A lot of time has been spent on development interest in Cascades and some new interest in the Armstrong site.

Council President Chilton asked if there were any updates on funding the vacant police officer position. Walsh and Finance Director Gloria Butsch had been looking at ways to stabilize the reserve fund and bring it back up to 20 percent. Council President Chilton said a question on everybody's minds is if the Council had the money to possibly meet the needs of the Columbia River Fire and Rescue for an emergency loan, why has the police position not been filled. Mayor Scholl noted the Fire and Rescue District item was taken off the agenda at their request. John added that the loan to the District would have been repaid by November. Council President Chilton spoke about how she did not want the public to think the Council had forgotten about the police officer position. Filling the position is a high priority for her.

#### **ADJOURN – 3:28 pm**

#### **EXECUTIVE SESSION**

- Real Property Transactions, under ORS 192.660(2)(e)
- Consult with Counsel/Potential Litigation, under ORS 192.660(2)(h).

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Crystal King  
Crystal King, Communications Officer

/s/ Rick Scholl  
Rick Scholl, Mayor