



COUNCIL REGULAR SESSION

Wednesday, May 19, 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
Jenny Dimsho, Associate Planner
Crystal King, Communications Officer

Mouhamad Zaher, Public Works Director
Margaret Jeffries, Library Director
Tina Curry, Event Coordinator
Bill Monahan, City Attorney

OTHERS

Autumn Oliver
Candy Miville
Sue
JW
JW
Christina Sullivan

Brady Preheim
Lynda
Howard Blumenthal
Serena McCurdy
Art Leskovich
Heidi Oliver

William Lain
Nicole, SH BSA 106
Sean Long
SH Resident
Tim Goodman, Comcast

CALL REGULAR SESSION TO ORDER VIA ZOOM – 7:13 p.m.

PLEDGE OF ALLEGIANCE

Mayor Scholl recited the Pledge of Allegiance.

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

- ◆ Brady Preheim. He reiterated that the Council should not be scared of the voters on the police station. He implores the Council to let the voters decide. They were wise enough to vote all of them into office. They should be given a voice and trust that they will support a police station. Even though he is opposed, the majority of people he talks to are in support of the police station. He thinks a levy would pass. He severely objects to the fact that they are going to spend over 27 million dollars and not allow the public to vote.
- ◆ Nicole, Scout Troop 106. She summarized what was presented during the work session. They are requesting financial assistance for Unit 106 to help bridge the funding gap as a vendor with Spirit of Halloweentown.

Mayor Scholl explained that the Council will be discussing this during action items later in the meeting.

- ◆ Dominique Vanella. Enjoys Scouting because of the activities they do. He has learned water skills, how to carve out certain things, how to use a pocketknife, and how to get water and make sure that it is filtered.

- ◆ Rowen Lain. He likes that they go on a lot of camping trips and outings. He has learned a lot about cutting wood, building safe fires, and doing a lot of safe things.
- ◆ Christina Sullivan. She is here as another Spirit of Halloweentown vendor. There is more than just one non-profit student group raising money during Spirit of Halloweentown for camps, dance things, 4H, little leagues, softball leagues, the School District, etc. This may set a precedent for other nonprofits to ask for help. They all have the same fee. It can be overwhelming, but the profits cover the vendor costs. She is excited to see the Scouts here sharing the need.

Mayor Scholl thanked Christina for making that point.

- ◆ Sean Long. He recently noticed a GoFundMe for the St. Helens municipal pool. How is the maintenance not covered in the budget?

Mayor Scholl explained that the Eisenschmidt Pool is its own district. The City is helping support them the best they can.

DELIBERATIONS

1. Annexation of 3.58-acre site located southwest of the intersection of Kavanaugh Avenue and Firway Lane (Comfort)

Mayor Scholl reiterated that the main reason for annexing is to connect to sewer.

Councilor Topaz is glad to see something opening on that side of the highway. Council President Morten agreed. That area needs something. It is a good place for RVs off the highway.

Councilor Birkle and Councilor Chilton are in support of the request.

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

ORDINANCES – Final 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 final time. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Ordinance No. 3265. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

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. **Motion:** Motion made by Councilor Chilton and seconded by Councilor Topaz to adopt Ordinance No. 3266.

Discussion.

Mayor Scholl stated that this is just one way of implementing the ability to add a fee. There has not been a decision. He agrees with Brady's comment in reference to talking to a number of citizens who want a new police station. Elected officials have the ability to make decisions. This is one of the cheapest, efficient, and effective ways to do it. They are moving forward with this option, but it is not a done deal.

Councilor Birkle also feels much better about establishing this ordinance given the information received at the work session. He had a very challenging conversation with a neighbor last week. He challenged him to think about why he might vote to go forward with this option. The three main concerns he has heard from people when talking about it are; the amount assessed, that the money would be used specifically for this dedicated service, and there would be a sunset.

Mayor Scholl said he hears those same concerns. There is no doubt about the need for a police station. They will spend over \$100,000 if it goes out for a vote to the public.

Council President Morten acknowledged Brady's concerns. He was leaning that way, especially when it was originally estimated to add \$15 to their utility bills. But the staff came through and did their due diligence to reduce it to \$2/month. They are elected officials and are responsible to make decisions. It is very much needed, and they have been hearing it for over 10 years.

Councilor Chilton was voted in for a reason and is here to do that job. She is on board.

Councilor Topaz said he is bias and needs the police station now.

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

RESOLUTIONS

4. **Resolution No. 1917:** A Resolution of the City Council of St. Helens, Oregon Reprimanding and Censuring Council member Stephen Topaz for Engaging in Behavior Violating the City Code of Ethics and Other City Policies, Negatively Affecting Members, the City Staff, and Bringing Discredit to the City

Mayor Scholl read Resolution No. 1917 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Birkle to adopt Resolution No. 1917.

Discussion.

Council President Morten is adamant about this because if they do nothing as a Council, they are liable for suit from staff.

Mayor Scholl sees it as a moral issue. People should feel safe at work. They should be encouraged and not criticized.

Councilor Topaz said that a number of charges have been said against him but there is no name connected. It makes it hearsay. The people who said that things were done wrong were then filtered through someone who then gave it to the Council. One of the charges was that Topaz wanted a storm drain installed on his own property. He argued that it cannot be on his property because he covers the whole property. Years ago, Walsh visited the neighborhood when it was flooded. They talked to a neighbor who had water going from his backyard into his basement. It is a neighborhood problem and pointing out that it is a Topaz problem is off the mark. There was another comment made that "he threw the Council under the bus reporting the illegal executive meeting outside City limits in Portland." As you read... Mayor Scholl argued that what he is saying is not part of the investigation. It was a comment made by Council President Morten. Scholl asked him to base his comments on the investigation.

Councilor Topaz talked about a comment that he used the "N-word." That was over 10 years ago in Court. The judge corrected that. Mayor Scholl clarified that was sustained in the investigation. It was said recently and not in the Courtroom. Topaz argued that it was not said by him. Topaz went on to talk about the comments made that he is a racist. He wants a name, date, and time of when that occurred. He works with people in many countries and states, and that is a lie. So far, this has been hearsay with no one's name. There are questions he has asked and has been cutoff, which is where he thinks the harassment occurs.

- How much rent has the marijuana grow operation paid? They should have paid about \$735,000. Mayor Scholl explained that the Petersen's filed a lawsuit and held up the lease agreement, which turned into a purchase agreement about a year later.
- Has the City required insurance? Mayor Scholl pointed out that this is not part of the investigation.
- The marijuana property has been subdivided into 10 different tax lots. When did the division take place?
- There have been discussions about the Engineering Department, including dumping water, not getting permits, and driving heavy pipes into rocks. He was accused of trying to influence them in a negative way. What they did was wrong.
- He keeps asking for a tourism audit, and it still has not happened.

Councilor Topaz confirmed that he has been harassing them with that list of questions.

Mayor Scholl requested the City Attorney address Councilor Topaz's comments. Topaz had multiple opportunities to respond, and he evaded the investigator. He was in and out of City Hall several days a week, but he never made the opportunity to speak with the investigator.

Attorney Monahan explained that tonight's action is a culmination of several meetings, relating to the investigation that began last November. Councilor Topaz had multiple opportunities to respond. The issue is not as much the questions Topaz has raised, but the way they were raised. Staff members perceived some of those interactions as a hostile work environment. Council has seen the investigator's report, it was made available to Topaz if he had attended the meeting, and he could have responded to the investigator about the issues raised. Tonight, is about the Council's request for a resolution.

Councilor Birkle expressed that the resolution is something that needs to be done. Section 3, beginning on Page 2 of the resolution, speaks about the limitations on Councilor Topaz. Does that section give City Administrator Walsh power over an elected official saying that visits need to be pre-authorized? Birkle agrees that controls need to be put in place to protect staff against Topaz. Monahan confirmed that Topaz must be given the ability to continue his elected duties. This is a workplace issue and there is a necessity for parameters to protect the employees by planning visits in advance. Walsh is not going to be given authority to restrict Topaz's ability to perform his job. Walsh will determine who Topaz needs to contact based on the subject. This is set up for a period of no less than six months to determine if the activities part of the investigation have been resolved and that Councilor Topaz has conformed his activities to a level that is satisfactory to the Council.

Councilor Topaz said it sounds like they are not going to let him do his job by choosing who he gets to talk to. He was elected to do his job because that is the way he does it. The voters are losing their lead on a number of projects. If they do not like the way he says it, "suck it up buttercup."

Mayor Scholl expressed that Councilor Topaz is trying to bring discredit and make it sound like he is doing the citizens a service. An investigation was done that has nothing to do with the Council trying to cover up or not answer the questions, which have been answered repeatedly. Topaz is bringing discredit and deception to the City. Scholl said it sounded like Topaz is telling people he is smarter than everyone and is not allowed to do his job. Councilor Topaz confirmed he said that. Mayor Scholl went on to say that Topaz's bullying methods are the way he works. He makes racist, bullying, and sexist comments in order to get the job done. Councilor Topaz argued that he never said that and wants someone to prove it in writing. Mayor Scholl confirmed a thorough investigation was done. He had multiple opportunities to speak with the investigator. He even approved moving forward with the investigation. Councilor Topaz agreed but said the investigator was hired by the City and would see anything he said in a negative light. That is why he did not communicate without the presence of his lawyer.

Councilor Birkle thanked Monahan for the explanation. He wanted to make it clear that he knows Walsh would not do anything other than represent the City well. He just wanted clarification about roles. They have no choice but to move forward. He trusts the integrity of the report by the investigator.

Councilor Chilton stated that the evidence is really stacked against Councilor Topaz. She has not seen anything else to go from. She did not think she would be here as a judge and jury three months into the position. She likes questions but it has to be done in a respectful, productive way.

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

Mayor Scholl stated for the record that Councilor Birkle and Councilor Chilton are new. They did not know a lot of the inner workings.

APPROVE AND/OR AUTHORIZE FOR SIGNATURE

5. Engagement Agreement with Hawkins Delafield & Wood LLP to Act as Bond Counsel for Public Safety Facility
6. [Ratify] Agreement with Western Display Fireworks Ltd. for 2021 4th of July Fireworks Display
7. Contract Payments

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

CONSENT AGENDA FOR ACCEPTANCE

8. Library Board Minutes dated April 12, 2021
9. Parks and Trails Commission Minutes dated April 12, 2021
10. Planning Commission Minutes dated March 9 and April 13, 2021

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

CONSENT AGENDA FOR APPROVAL

11. Council Special Session, Work Session, Executive Session, Public Forum, and Regular Session Minutes dated April 15, 21, May 5, and 10, 2021
12. Amended Library Assistant Job Description
13. Updated Utility Billing Administrative Rules
14. Accounts Payable Bill Lists

Motion: Motion made by Council President Morten and seconded by Councilor Topaz to approve '11' through '14' above.

Discussion.

Councilor Birkle recommended changes:

- April 15, Special Session
 - Page six, where he talks about Spirit of Halloweentown...change "long-liked" to "long-lived."
 - Page four, where he talks about a basalt rock festival...change it to read that it was suggested as an example by an advisory committee, it was not his suggestion.
- May 5, Work Session
 - Page six, in the seventh paragraph...change "conscious" to "conscience."

Motion amended.

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

WORK SESSION ACTION ITEMS

Public Safety Facility Fee

Motion: Motion made by Mayor Scholl and seconded by Councilor Birkle to move forward with a 30-year loan and shop it out to the public. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

Scout Assistance

Mayor Scholl summarized the request made by the Scouts. However, they are not the only nonprofit who participates.

Discussion of changing the process to grant funds to community programs once a year through an application process, like what was done in the past.

Assistant City Administrator Brown reported that there is about \$2,300 remaining in the Council's Community Support Funds. They began the fiscal year with \$10,000, \$4,000 was reallocated due to COVID expenses, and they have spent \$2,700.

Mayor Scholl wants to be sure there are funds for Citizens Day in the Park, which is scheduled for August 7. Depending on COVID restrictions, they may need additional assistance.

Council President Morten was impressed with the Scouts presentation but wants to discuss it further.

Discussion ensued about the Scouts request for \$1,800. Consensus to request more information about the cost of a Spirit of Halloweentown vendor booth.

Motion: Motion made by Councilor Chilton and seconded by Councilor Topaz to develop a form for nonprofits to apply for funds biannually. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz, Councilor Chilton

Columbia Learning Center Appointment

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

Library Liaison Role

Discussion ensued of whether Councilor Topaz should be removed from his Library liaison role.

Councilor Birkle pointed out that he previously served on the Library Board. Councilor Topaz's interaction with the Library Board was very different than with City employees. His assistance has been helpful to the Library during COVID changes.

Mayor Scholl personally thinks there needs to be something there since it is still part of the City. They have to be consistent. It is part of their mantra.

Councilor Chilton agreed with Councilor Birkle. She has not seen enough evidence that any of those behaviors have been passed on to the Library Board or the Library staff. His thoughts about the Library may be one of the most, or only, benefits he does bring to the Council.

Mayor Scholl concurred that nobody working at the Library was involved in the investigation. However, the allegations were sustained. As much as Councilor Topaz painted the deception, this was a thorough investigation. Scholl is trying to take care of business and move on.

Councilor Birkle agreed with the need to be consistent. However, that does not prohibit attendance at Library Board meetings. He firmly supports the application of the resolution in terms of communications with the employees but thinks he can still perform as a liaison with the Board.

Council President Morten pointed out that the Charter gives the Mayor the responsibility to appoint members of the Council to committees and commissions. In the past, they have had to remove councilors and reappoint.

Councilor Birkle supports Mayor Scholl's decision. He is giving a lot of the thought and concern to act in the best interest of the City. Council President Morten agreed.

Mayor Scholl asked for input on whether Councilor Topaz should be censured as a Library liaison, making it so he has to check with Walsh before visiting or contacting the Library staff or Board, or should he be removed. After discussion, Mayor Scholl decided to censure him and allow him to continue doing his good works with the Library.

MAYOR SCHOLL REPORTS

- 4th of July fireworks is happening! Thank you to Comcast for sponsoring! It will be handed over to a community group next year for organizing.
- Citizens Day in the Park will be held August 7. They will discuss it more at the June 16 meeting.

COUNCIL MEMBER REPORTS

Council President Morten reported...

- The Public Forum and comments made were really good. He could not help but comment about the need for artwork. It is culturally important for that area.
- There is a Columbia Botanical Gardens clean-up event this Saturday. It is sponsored by the Parks and Trails Commission.

Councilor Topaz reported...

- This afternoon, he found out that the County has 10 new tax parcels because the marijuana facility has been separated into 10 different tax groups. He did not know that there was a subdivision in town. Is there any information about that?

Walsh explained that the tax lot division is through the County. It is not a subdivision. It is for tax purposes and they are well within their right to do that.

- The Library Board gave a good report. He hopes they do not change the rules for libraries again.

Councilor Chilton reported...

- She just returned from vacation in South Carolina. She had a great time enjoying their beaches and southern hospitality.
- Her daughter's team won a softball tournament in Newberg. She is proud of the girls and how they represent St. Helens.
- Today's Public Forum was really good. She enjoys hearing what community members want to see.

Councilor Birkle reported...

- It was a good Public Forum and an exciting time to see things happening down there. There were good comments made by residents.
- There are only 20 more days of student contact this school year. He learned that he is not able to fully sustain full-time teaching in Hillsboro and serving on the Council. He is looking forward to returning as a substitute teacher to pick and choose his days. This will give him more time to meet with Walsh, visit City properties, and meet staff. He is excited for the new opportunity. The community has a bright future.

Mayor Scholl looks forward to in-person conferences again. The next League of Oregon Cities is scheduled for October 21-23 in Bend. He thanked Councilor Birkle and Councilor Chilton for taking the time to meet with Walsh to get informed.

OTHER BUSINESS - None

ADJOURNMENT – 8:47 p.m.

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Kathy Payne
Kathy Payne, City Recorder

/s/ Rick Scholl
Rick Scholl, Mayor