

# City of St. Helens

## *Consent Agenda for Approval*

### CITY COUNCIL MINUTES

Presented for approval on this 7<sup>th</sup> day of September, 2022 are the following Council minutes:

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2022

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- Work Session, Executive Session, Public Hearing, and Regular Session Minutes dated August 3, 2022
- Work Session, Executive Session, Public Hearing, and Regular Session Minutes dated August 17, 2022

#### **After Approval of Council Minutes:**

- ☐ Scan as PDF Searchable
- ☐ Make one double-sided, hole-punched copy and send to Library Reference
- ☐ Minutes related to hearings and deliberations get copied to working file
- ☐ Save PDF in Minutes folder
- ☐ Update file name & signature block on Word document & copy Word document into Council minutes folder in Shared Drive
- ☐ Upload & publish in MuniCode
- ☐ Email minutes link to distribution list
- ☐ Add minutes to HPRMS
- ☐ Add packet and exhibits to HPRMS
- ☐ File original in Vault
- ☐ Update minutes spreadsheet



# COUNCIL WORK SESSION

Wednesday, August 03, 2022

## DRAFT MINUTES

### MEMBERS PRESENT

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

### MEMBERS ABSENT

Councilor Jessica Chilton

### STAFF PRESENT

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Suzanne Bishop, Library Director  
Mouhamad Zaher, Public Works Director  
Brian Greenway, Police Chief

Crystal King, Communications Officer  
Rachael Barry, Government Affairs Specialist  
Jacob Graichen, City Planner  
Bill Monahan, City Attorney  
Tina Curry, Event Coordinator

### OTHERS

Justin Watson                      Brady Preheim  
Amara Liebelt                      Robert Brawand  
Lynne Pettit

### CALL WORK SESSION TO ORDER – 1:00 p.m.

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

- ◆ Justin Watson, Executive Director of St. Helens Senior Center. He is pleased to step into Kathy Innocenti's role and continue her legacy. He looks forward to reporting to Council next month. He has a background serving in the community. He graduated from Portland State University, is a liaison with the City of Tigard Town Center Advisory Commission, and is the Board of Director's Secretary for the Community Partners for Affordable Housing. He has a passion for seniors, housing, and community development. He is looking forward to working with Government Affairs Specialist Rachael Barry and the new Executive Director of Mainstreet Alliance, Amara Liebelt. His goal for the building is to bridge the gap with funding and delineate it to serve equitable measures. He is excited to serve both St. Helens and Scappoose.
- ◆ Amara Liebelt, Executive Director of Mainstreet Alliance. She just finished her first month. It's been very busy meeting business owners. She is also coordinating with Event Coordinator Tina Curry on Spirit of Halloweentown and Communications Officer Crystal King on bringing back the scarecrow contest. She will be meeting with Parks & Recreation Manager Shanna Duggan to discuss ways to get kids more involved in creating scarecrows for display.

**DISCUSSION TOPICS** - *The Council will take a break around 3:00 p.m.***1. Employee Length of Service Recognition - John Walsh, City Administrator (10 Years)**

Mayor Scholl recognized City Administrator Walsh for his years of service. He appreciates his quiet voice of reason in an atmosphere that can sometimes be chaotic. He is a huge asset.

Walsh thanked Council. It's a privilege and honor to serve. They have a great team.

City Recorder Payne said it has been a pleasure working with Walsh. She appreciates his leadership.

Public Works Director Zaher recognized Walsh's leadership. He appreciates his support and vision.

Mayor Scholl appreciates his vision with the community's interest at heart.

Councilor Birkle talked about not having the needed financial resources through the tax base, so they have had to look at alternative funding sources. With that shared vision, he has enabled staff to find funding through State and Federal resources. That has been especially helpful to meet goals.

**2. Semi-Annual Library Department Report - Suzanne Bishop, Library Director**

Library Director Bishop reviewed her PowerPoint presentation. A copy is included in the archive packet for his meeting.

- Have transitioned to fine free, which has resulted in an increase in patrons returning
- US Representative Suzanne Bonamici visited the Library
- Received a lot of community support to retain the Youth Librarian position
- Summer Library Challenge currently taking place
- Two new Library Board members
- Will begin Strategic Plan soon
- Friends of the Library update
- 17 active volunteers
- Community engagement
- 1,671 books, DVDs, and CDs have been added
- They have over 100 items in the Library of Things to check out
- Thanked Library staff
- Will be hiring a Youth Librarian
- Will be working on the five-year plan
- Looking for permanent funding for the Makerspace Technician position
- Planning the 2023 Genealogy Conference
- Returning to youth and other in-person programming

Councilor Topaz is amazed at what has been done.

- The Cooling Center at the Library brings a feeling of belonging.
- The Makerspace continually adds new things as the budget allows. They have discussed requesting donations from the community for things people have but are no longer using.
- Reference Librarian Brenda Herren-Kenaga was able to get people from the Library of Congress for the Genealogy Conference.

Councilor Birkle talked about books he is reading right now about the Russia Ukraine conflict. They have a good selection. He recommends people go check out what they have.

Council President Morten recently viewed a documentary about the revolution of libraries. It's so much more than just checking out books. He is encouraged to see St. Helens is keeping up. Bishop added that they are trend setting with it. Things have changed dramatically.

**3. Review Proposed New Librarian 1 (Youth Librarian) Job Description**

City Administrator Walsh reviewed the job description. Every time a position is vacant, they review the job description and bring it to Council for updates. Library Director Bishop pointed out that former Youth Librarian Gretchen Kolderup made changes to it prior to leaving.

There were no concerns from Council. It is on tonight's agenda for approval.

**4. Review Proposed Psilocybin Moratorium Resolution & Notice of Measure Election**

City Administrator Walsh pointed out the resolution and notice of measure election on tonight's agenda. Based on Council's direction, it is for a moratorium.

Councilor Topaz said there are a number of communities saying 'no' right now. There needs to be good rules and a good medical backup, which does not exist at this point. Walsh agreed that there are no rules at this time. Councilor Birkle added that the State does not have everything ready to even be able to implement this.

**5. City Administrator John Walsh Report**

- The adopted budget includes the acquisition of two new leased police vehicles. The colors of the existing vehicle are no longer available. Chief Greenway showed pictures of a proposed police car. It goes from a dark blue to black. They want police vehicles to be consistent. The proposed decal would go from blue to gray for the word "POLICE." The officers like the Dodge Durango. There will be a mix of Ford and Dodge, but they want them all to be same color scheme. They would all be wrapped the same, but the blue would stay until they are phased out. There was no objection from Council.
- Sand Island Sandcastle Festival this week. The new boat will not be here. They do have a contracted boat that will be here. There are no concerns with the new boat, it's just taking time.
- Reached out to the auditors about the extension of their contract. They should have something next month.
- Their region recently received quite a few federal funding awards
  - \$814,000 to Columbia Economic Team for the Small Business Incubator, which includes the Library
  - \$500,000 to Riverside Training Centers for empowerment to people with intellectual developmental disabilities
  - \$340,000 to City of St. Helens for law enforcement technology
  - Scappoose received funding as well
  - Having Barry to work on this is invaluable
- Docks
  - Making progress with the Harbor Master Agreement
  - The boat under enforcement was moved
  - Most people are paying to stay
  - Hope to roll the 3-5 day stays to October
  - Behavior has much improved
- Working on wastewater funding for challenges with growth
- Investigating the best long-term solutions for the reservoir
- First Street is moving along
- Riverwalk is on schedule to go out for bid next spring
- The scope of work for the Central Waterfront federal funding is moving along. He passed Councilor Topaz's comments along to the contractor.
- Partnering with Growing Rural Oregon to discuss ways to support entrepreneurs
- Met the new Senior Center Director Justin Watson
- Met the new Mainstreet Alliance Director Amara Liebelt

Councilor Topaz heard they were going to close the bridge to Longview for a few days. Will they monitor how that will impact St. Helens? Will fewer people pass through here?

Discussion about the timing and impact. It is slated to take place in Spring or Summer 2023.

**ADJOURN – 1:57 p.m.**

**EXECUTIVE SESSION**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor

# City of St. Helens

## CITY COUNCIL

### Executive Session Summary

August 3, 2022

**Members Present:** Rick Scholl, Mayor  
Doug Morten, Council President  
Patrick Birkle, Councilor  
Stephen R. Topaz, Councilor

**Members Absent:** Jessica Chilton, Councilor

**Staff Present:** John Walsh, City Administrator  
Kathy Payne, City Recorder  
William Monahan, City Attorney with Jordan Ramis PC



At 1:59 p.m., Mayor Scholl opened the Executive Session pursuant to the ORS numbers listed below and then gave Council roll call. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media were specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. Any person in attendance, including the news media, who has a recording device is directed to turn it off.

- **Consult with Counsel**, under **ORS 192.660(2)(h)**
  - Update on litigation with Cascades Tissue.
  - Update on potential litigation with City employee.
- **Real Property Transactions**, under **ORS 192.660(2)(e)**
  - Update on property at 291 S. 12<sup>th</sup> Street.

The Executive Session was adjourned at 2:12 p.m.



ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor



# **COUNCIL PUBLIC HEARING**

Wednesday, August 03, 2022

## **DRAFT MINUTES**

### **MEMBERS PRESENT**

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

### **MEMBERS ABSENT**

Councilor Jessica Chilton

### **STAFF PRESENT**

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Jacob Graichen, City Planner  
Jenny Dimsho, Associate Planner  
Tina Curry, Event Coordinator

### **OTHERS**

Keith Locke	Howard Blumenthal	Brad Hendrickson	Tracy Brown
Steve Toschi	Jerry Belcher	Audrey Webster	Art Leskovich
Jim Coleman	Brenda Herren-Kenaga	Darren Boe	Scott Jacobson
David Williamson	Robyn Toschi	Gina Harrington	Brady Preheim

### **OPEN PUBLIC HEARING – 6:00 p.m.**

### **TOPIC**

#### **1. Street Vacation of Sections of Right-of-Way along N. River Street, N. 1st Street, Columbia Blvd. and S. River Street (Keith Locke, et. al.)**

City Planner Graichen reviewed preliminary matters. Council President Morten was advised by legal counsel to say that he knows Keith Locke well from serving on Council together. It's up for debate if he should recuse himself from the vote but would like to deliberate. Graichen asked Council President Morten if he feels indifferent in the decision. Council President Morten said yes. Councilor Topaz declared that he also has a relationship with Keith Locke from time serving on the Council together. He does not feel indifferent in his decision making on this matter. Mayor Scholl declared that he has a relationship with Keith Locke and an abutting property owner, Steve Toschi. He does not feel that he has a favoritism. He will listen to the facts and be able to move forward. Councilor Birkle declared that knows Keith Locke as an acquaintance but feels he can make an objective decision. Graichen asked if anyone wants to challenge the ability of Council to make a fair decision on this matter. There was no objection from the audience for the Council to make a fair decision.

Associate Planner Dimsho reviewed the staff report. A copy is included in the archive packet for this meeting. Planning Commission reviewed the proposal and recommended denial of the street vacation request. Park & Recreation Commission also reviewed the proposal, based on the relation to surrounding

trails, and recommended denial. Council must determine if the public interest will be prejudiced by this street vacation. Dimsho referred to the Connector Plan and showed what it proposes for that area. The plan protects that area for its great view of the river. Staff is not comfortable recommending approval of any right-of-way in that area because they don't know what is planned for the future. Dimsho talked about utilities that would be impacted by the street vacation. Columbia River PUD objects to the proposed street vacation.

Councilor Topaz talked about the original street from Columbia Blvd. to N. River Street being very steep. Are there pictures of it? Staff did not have any. Mayor Scholl said it was very steep and a sharp corner. It was used for the boat launch. Councilor Topaz asked if the launch and dock at Grey Cliffs Park is included in the Master Plan. Dimsho said no. Councilor Topaz asked that because they have vacated the sidewalk near Nob Hill and now people must walk in the street.

### TESTIMONY IN FAVOR

- ◆ Brad Hendrickson. (Mayor Scholl allowed him to go first because he needed to leave.) He received a street vacation on his end of 1<sup>st</sup> Street, so doesn't see why Keith would not be approved. There will never be a street by the City's pump station because of the cliff. Columbia River PUD opposed the street vacation because of utilities. However, there will still be setbacks for building even with an easement. The plan is for the developer to make a stairway down to River Street.

Mayor Scholl recalls Brad's street vacation. They were only asking for 15 feet and left 50 feet of right-of-way. Graichen confirmed that is correct.

### APPLICANT TESTIMONY

- ◆ Keith Locke. Looking at the map on the screen, he pointed out the water and gas lines. The water line is 21 feet from his property line. The gas line only serves his property so would have to be relocated. Part of the plan is to move the power poles, which costs just under \$15,000. They can add a condition that if the poles don't get moved and the stairway isn't put in, the vacation doesn't happen. He talked about the bike path. He killed it once when he was on Council because it is unsafe. Keith reviewed his PowerPoint presentation. A copy is included in the archive packet for this meeting. It's a 70-degree slope where the bike path would be. The recommended slope for a bike path is between two and 10-degrees. With enough money anything can be built. About 30 years ago, he was on the Riverfront Committee. They met for several months and recommended to remove the road at the end of his street and make a two-way street at the bottom. Their recommendation was to make another one-way road with a bike path to access the marina. From what he hears that recommendation is gone now. The stairway is the only safe way to get down that hill. He is offering to put in a safe bike path. He pointed out the trail above Grey Cliffs Park, which is not safe.
- ◆ Tracy Brown, Land Use Planning Consultant. He continued to review the PowerPoint presentation. He pointed out the trail from Keith's house down to the street. The 80-foot right-of-way on Columbia Blvd. is probably about six inches from the front of Keith's house. The big oak tree is in the right-of-way and will need to be compromised for development. Tracy pointed out the right-of-way on Columbia Blvd. There are historic driveways and stairs encroaching into the right-of-way. The request is to not only support future development, but also clean up what is existing. He went on to review what is proposed. Most of the applicants are proposing to just increase lot size. Keith is proposing to develop his property with condos. Tracy addressed concerns in the staff report.
  - The 80-foot right-of-way on Columbia Blvd. is not needed
  - Development will increase value and create a significant revenue for the Urban Renewal District



- They propose to construct a viewing platform on Columbia Blvd. and pedestrian stairway down to River Street
- Frontage improvements on Columbia Blvd. and N. 1<sup>st</sup> Street would be completed
- Reviewed other options that would leave more right-of-way

Keith pointed out his property and the surrounding properties that do not meet setback requirements and encroach into the right-of-way. His house is historic but it's a money pit. It's been remodeled multiple times, there was a fire in the 1930's, and it's been a rental for 60-70 years. It was built before plumbing and electricity. If someone wants to buy it, they can move it. There are no views with all the trees around there. The whole thing needs to be cleaned up. He is proposing high end condos there. Each unit would bring in about \$8,000/year to the Urban Renewal District. This is a good project for the City. He'll be putting in \$300,000 - 400,000 in improvements. His request is to leave this meeting open until the first meeting in September. He will provide more information at that time.

### TESTIMONY IN FAVOR CONTINUED

- ◆ David Williamson. He is a trustee of the small piece of property on the corner. The lot is about 60x60. It's a corner lot with larger setbacks. It's in a location with a view of the river. They don't see a downside. An easement for the utilities or moving them should be adequate.
- ◆ Darren Boe. The location for the proposed bike path is a drop-off. The view he has of the marina is amazing. It would be a benefit for more people to be able to experience that view. He has worked on the path that goes down to River Street. It needs to be improved or removed and replaced with stairs.

### TESTIMONY IN NEUTRAL - None

### TESTIMONY IN OPPOSITION

- ◆ Brady Preheim. He is in opposition. The house is worth saving. They don't need 15 condos in that area. It would not be beneficial to the City. He finds it troublesome that Keith admitted to eliminating the possible trail that was going to be funded by another citizen. He used his position on the Council to kill that project. Now he wants the property given to him because it wasn't developed. That is an ethical concern and should not be given to him.
- ◆ Brenda Herren-Kenaga. She is very concerned about the views. She understands the argument for sharing the views, which is why she wants to preserve them. She referred to the "Green and Blue Spaces and Mental Health, New Evidence and Perspectives for Action" copyrighted in 2021 by the World Health Organization. It found that, "...Across blue space categories, the most pronounced effects were found for affect and affective disorders...Qualitative studies pointed towards unique and beneficial characteristics of blue spaces, including the visual openness of the space and fluidity of the water." The University of Washington found that being near water can benefit mental health. The symptoms of depression and anxiety have doubled during the pandemic, especially for teenagers and young adults, which represents about 13.5% of the current population. They also need to consider people with disabilities and affect sound has on them. She fails to see how a stairway is in the best interest of the public. If the gravel pathway is unsafe, how can she trust him to build another pathway?
- ◆ Jerry Belcher and Scott Jacobson, Parks & Recreation Commission members. Jerry is not opposed to people making money. Keith has every right to develop his property. He is here about the property on both sides of Columbia Blvd. The rest of it does not concern him. The property belongs to citizens and it's the Council's responsibility to oversee it. What is in the public's best interest? He's concerned about the viewpoint. The Urban Trail runs along the east side of River

Street. He would like to have a crosswalk there going up to it. There is only viewpoint that has ADA access. Parks & Recreation Manager Shanna Duggan made the Urban Trail a priority this year and it's included in the Master Plan. If you take 50 feet away, it only leaves 30 feet and would shrink the area of the overlook. The Urban Trail will add a lot to St. Helens and the overlook is a vital part of it. It's not all about money. He hopes Keith makes a lot of money developing the property, but they should not be giving the public property away. He showed pictures to Council of the Urban Trail, a copy of which is included in the archive packet for this meeting. It will draw people and help citizens. Scott hopes to get more details in September. There was a lot of speculation. When you buy a piece of property it has boundaries, and you know what they are. He agreed with Jerry's testimony. Jerry repeated that the property belongs to the citizens of St. Helens and has future value.

- ◆ Howard Blumenthal. That viewpoint is a great place. Vacating it would limit access to people with disabilities. It's a lot easier to go down a trail than steep stairs. St. Helens is full of steep trails. Even if he builds fewer units, he would still be putting a sizable amount of money into the Urban Renewal District. There is a lot of rock there that will impact the development. Oak trees and view corridors are very precious in this area. He hates to see the right-of-way be given away.
- ◆ Steve and Robyn Toschi. He is abutting, affected, and at large. He reviewed a PowerPoint presentation. A copy is included in the archive packet for this meeting. This is a horrible deal for the City and the public. It's priceless view property that they are asking to take away from the public forever. He is asking that Council not turn their back on the community. He showed a picture from the end of 1<sup>st</sup> Street. It is a steep hill but has an 80-foot right-of-way that could be used to create a path. It's first-class property that should have wide streets with public improvements. In 2016, the public said access to the river and public views were priorities. Now they are looking at giving them away. If they give it away, there will be buildings blocking the view. He pleaded with the Council to not give it away. Steve went on to show pictures of junk on the property. He disagreed that Keith is a developer. The historic building sign is covered with a no trespassing and camera sign, with four pot plants below it. Wayne Weigandt was going to put in a path and pay for it, and Keith killed it when he was on Council. Now Keith wants it for himself. When Keith was a public official, he failed to declare a bias. His private interest was never exposed. Is it in the public interest? Keith says he wants to develop. If an abutting property doesn't give consent, you cannot go through with it. He and Robyn did not consent, as well as others. The City is interpreting abutting different than he is. He pointed out how his property abuts the subject property. If there is a building there, it will be in his front yard. The property is right next to his. He agreed with Brenda. As the world gets more crowded, they need these open spaces. Council should find that this is prejudicial and reject this application. They should also find that his property abuts per the Development Code.

Graichen said there was a request to continue the Street Vacation. There is a question of whether they want to save the rebuttal.

The applicant requested the opportunity to rebut what was said tonight.

Graichen said Council needs to continue to a date and time certain. The applicant wants to submit additional testimony. It's a continuation of tonight's meeting and allows anyone to submit additional testimony.

Jerry asked if he could make a statement tonight after the applicant. Graichen said normally the applicant has the opportunity to rebut as the last say. Does Council want to give additional time tonight? Mayor Scholl agreed to allow the applicant to rebut tonight and then allow for questions.

Jerry Belcher asked if the property could be sold after the Street Vacation is granted. Mayor Scholl said yes.

**REBUTTAL**

Tracy Brown said that Keith has never represented himself as a developer. He is preparing the property for development. Staff contacted their attorney about Steve Toschi's property, and it was determined that the property is not abutting per State statute for street vacations. Steve mentioned the definition of abutting in the Development Code, but this is not a Development Code item. Once they get to a land use application, then the Development Code is applicable. Right now, it is just a concept. Mayor Scholl pointed out that Keith has given testimony tonight about the development and how it would benefit the City. They will investigate the definition of abutting further. Tracy repeated that the Development Code does not apply until there is a land use application. A lot of the pictures submitted were incorrect. The vision of where the buildings were shown will stay in the right-of-way. Some of the testimony is trying to kill development on that property. It's unfair to say Keith can't develop. He has development rights on his property.

Keith Locke distributed information to the Council, a copy of which is included in the archive packet for this meeting. He will provide more information for the next meeting.

Steve Toschi stated that there is no ruling of whether Council will continue the hearing.

Mayor Scholl requested staff further investigate the definition of abutting as it relates to street vacation.

Steve will be providing additional information for the record to City Recorder Payne.

**MOTION:** Motion made by Council President Morten and seconded by Councilor Topaz to continue the public hearing to September 7, 2022, at 5:30 p.m. in the Council Chambers. Voting Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

**RECESS PUBLIC HEARING – 8:07 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor



# COUNCIL REGULAR SESSION

Wednesday, August 03, 2022

## DRAFT MINUTES

### MEMBERS PRESENT

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

### MEMBERS ABSENT

Councilor Jessica Chilton

### STAFF PRESENT

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Jacob Graichen, City Planner  
Jenny Dimsho, Associate Planner  
Tina Curry, Event Coordinator

### OTHERS

Keith Locke	Howard Blumenthal	Brady Preheim	Tracy Brown
Steve Toschi	Jerry Belcher	Audrey Webster	Art Leskovich
Jim Coleman	Brenda Herren-Kenaga	Darren Boe	Scott Jacobson
David Williamson	Robyn Toschi	Gina Harrington	

### CALL REGULAR SESSION TO ORDER – 8:18 p.m.

### PLEDGE OF ALLEGIANCE

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

None

### DELIBERATIONS

- 1. Street Vacation of Sections of right-of-way along N. River Street, N. 1st Street, Columbia Blvd. and S. River Street (Keith Locke, et. al.)**

The Street Vacation has been recessed until September 7, 2022, at 5:30 p.m.

### ORDINANCES – *First Reading*

- 2. Ordinance No. 3286:** An Ordinance to Amend the City of St. Helens Zoning District Map to Add a Planned Development Overlay Zone for Certain Property Located at the Southeast Corner of the Pittsburg Road and Meadowview Drive Intersection

Mayor Scholl read Ordinance No.3286 by title. The final reading will be at the next meeting.

**RESOLUTIONS**

- 3. Resolution No. 1961:** A Resolution Approving Referral to the Electors of the City of St. Helens at the November 8, 2022 General Election, the Question of Whether to Prohibit Psilocybin Service Centers and the Manufacture of Psilocybin Products within the City

Mayor Scholl read Resolution No. 1961 by title. **Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to adopt Resolution No. 1961.

Mayor Scholl reported that this is to put the moratorium on the ballot for a vote.

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

Mayor Scholl reported that Councilor Chilton is on maternity leave.

**AWARD BID/CONTRACT**

4. Award Bid and Authorize Mayor to Execute Contract for 2022 Annual Striping Project to Specialized Pavement Marking, LLC in the amount of \$38,002

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '4' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

**APPROVE AND/OR AUTHORIZE FOR SIGNATURE**

5. Extension of Agreement with Columbia County for Community Corrections Work Crews
6. First Amendment to Agreement with Keller Associates, Inc. for the Water Master Plan Update
7. Contract with Duke's Root Control, Inc. for Services to Eliminate Roots from Sanitary Sewer System
8. Second Amendment to Agreement with David Evans & Associates, Inc. for Columbia Blvd. Sidewalk and Safety Improvements Project
9. Notice of Measure Election - Psilocybin Moratorium

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '5' through '9' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

**CONSENT AGENDA FOR APPROVAL**

10. Council Work Session, Public Hearings, and Regular Session Minutes dated June 15, 2022
11. Proposed New Librarian 1 (Youth Librarian) Job Description
12. Accounts Payable Bill Lists

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '10' through '12' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

**WORK SESSION ACTION ITEMS**

None

**COUNCIL MEMBER REPORTS**

Council President Morten reported...

- Parks & Recreation Commission
  - Recommended denial of Keith Locke's Street Vacation
  - Recommended City staff create a budget for the Urban Trail
  - Recommended investigating murals at Campbell Park, which has proven to reduce graffiti and vandalism. He talked about it how it has come up to the Arts & Cultural Commission in the past. The Arts & Cultural Commission has been on hiatus, but this gives them something to do. It will be a collaborative effort between the two commissions. Councilor Topaz acknowledged this is a great idea and added that Government Affairs Specialist

Rachael Barry is working on reactivating the Arts & Cultural Commission. Discussion about other murals that have impacted communities.

Councilor Topaz reported...

- Read the Maul Foster proposal for measurements of the lagoon waste disposal area. Have they had an opportunity for the community to provide input for a waste dump there?
- Talked about the cooling center opening per standards set by the National Weather Service. City Administrator Walsh added that the City is just a service provider. Columbia County Emergency Management is using tiers determined by the National Weather Service.

Councilor Birkle reported...

- Attended the Sheriff's National Night Out. He had the opportunity to speak with Sgt. Eggers and observe a demonstration with K9 Officer Ryder and the County's new K9 officer.
- Visiting the reservoir tomorrow. If anyone else is interested in going, they are meeting at City Hall at 9 a.m.
- Can people still file to run for mayor and council. City Recorder Payne confirmed that the filing deadline is August 15.
- Researched hazardous waste between meetings today. In response to Councilor Topaz, there have not been any public forums for it, but they are planning to have them. Public input is important. The exclusive negotiating agreement with US Ecology gives them resources to provide information and engage the public. Contrary to a published article in the Chronicle last week, the Council has not made any decisions to bring toxic waste to the lagoon. He encouraged people to continue to educate themselves and be engaged in discussions about waste. They are discussing hazardous waste. They are not discussing toxic waste. He encouraged the Council to be careful about terms used when they are speaking and writing as City representatives. They need to rely on the best information possible, which includes heavy public engagement. The decision will have a long-lasting impact. He promises to learn as much as he can. Council can set the tone in discussions by addressing real science and real information and addressing people's concerns with scientific information.

Mayor Scholl said there were informative meetings early on with the public about the concept. There are many layers, including citizen input. The article really upset him as well. They are not back door dealing with anyone. He would appreciate trust from councilors and a phone call before a letter is submitted to the paper. Council President Morten said there are no plans. They are just studying the issue. Councilor Birkle went on to say that they are not simply talking about dredging Portland Harbor, putting it on a barge, and bringing it to the lagoon. There's so much more to the process, which is why they entered into the agreement and will continue to do their due diligence and determine if it is in their best interest.

Councilor Topaz said the article pointed out that the agreement is with a company that manages, not studies. There is another operation for studying but that was not mentioned in the article. The article is about a company that manages waste systems. When you do that, you will have a system that handles waste, and this company will manage it. DEQ talked about a particular compound that is acceptable up to one part per million. Two parts per million are not acceptable. There is another compound that is acceptable at half a part per million but if you go to one part per million it's not acceptable. DEQ does not say what happens when the two compounds are together. They could neutralize each other, or they could add to it, which makes it toxic, or they could make it multiply. The way the law is written now, they look at each individual compound, without anything else being around it, and they declare it a problem or a toxic condition. That should be cleared up, especially with a waste plant that has the possibility of bringing in stuff from all over. Some of the stuff that comes in may be innocuous but when you mix it with other stuff it's not.

Councilor Birkle said that is all part of the conversation. The fact is they have entered into negotiations and may or may not enter into an agreement. Council has not in fact agreed to move ahead with a waste treatment facility. Councilor Topaz said they agreed with a surveyor. Mayor Scholl said that is his opinion and not fact. Councilor Topaz pointed out that his is a well-educated opinion. Mayor Scholl does not want to argue with nonsense. They are going to learn together. Councilor Birkle expressed that his opinion is different than Councilor Topaz's. Councilor Topaz asked if he is aware that he has worked with the artificial kidney. He has dialyzed people who have gotten poisoned and had some of these toxic problems that are in the microbusiness because they interact. He has worked on people with this. Mayor Scholl is trying to find out how it's relevant to a hazardous waste dump on a 39-acre lagoon. Councilor Topaz said it's hazardous waste because the compound...Mayor Scholl called out of order and moved on to his report.

**MAYOR SCHOLL REPORTS**

- Congratulations to Councilor Chilton and her family on their new baby.
- Attended the National Night Out and was able to see the K9 officers' presentation.
- Sandcastle competition is this weekend. He will be a judge. The weather will be perfect.
- Oregon Mayor's Association Conference is coming up. He is most looking forward to presenting first place awards to Ellie Luke and Rosie Parsons for the "If I Were Mayor..." Student Contest.
- 13 Nights on the River has been rocking. Thank you, E2C for all your efforts.

**OTHER BUSINESS**

Walsh clarified that the work being done with US Ecology is aimed towards a subtitle Class D permitting process. Class C is hazardous waste facilities, but Class Ds are not. They have never talked about receiving hazardous waste. Class D is limited waste. They are not interested if it can't be done safely.

**ADJOURN – 8:53 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor



# COUNCIL WORK SESSION

Wednesday, August 17, 2022

## DRAFT MINUTES

### MEMBERS PRESENT

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

### STAFF PRESENT

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Mouhamad Zaher, Public Works Director  
Sharon Darroux, Engineering Manager  
Jacob Graichen, City Planner

Crystal King, Communications Officer  
Aaron Kunders, Water Quality Manager  
Jenny Dimsho, Associate Planner  
Mike De Roia, Building Official  
Bill Monahan, City Attorney  
Tina Curry, Event Coordinator

### OTHERS

Paul Vogel  
Jason Moos  
Jak Massey

### CALL WORK SESSION TO ORDER – 1:00 p.m.

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

None

### DISCUSSION TOPICS - *The Council will take a break around 3:00 p.m.*

#### **1. Employee Length of Service Recognition - Jose Castilleja (15 years), Curt LeMont (15 years), and Jacob Graichen (15 years)**

Mayor Scholl and Council members congratulated and thanked Police Sergeant Jose Castilleja, Public Works Utility Worker II Curt LeMont, and City Planner Jacob Graichen. Graichen was the only one able to attend in person.

#### **3. Semi-Annual Report from Columbia Economic Team - *Paul Vogel, Executive Director***

Paul Vogel reviewed his report. A copy is included in the archive packet for this meeting.

- Thanked Council for their consistent support and participation
- Reviewed collaborative initiatives with the County and St. Helens
- Provided grant application assistance
- Reviewed recruitment projects
- Reviewed retention, expansion, and recovery
- Keep it Local provides digital marketing
- Reviewed tourism efforts and partnerships
- Focusing on membership
- Reviewed primary objectives



Paul introduced Small Business Development Center Director Jason Moos. Jason will be meeting with each City in the County to find out how the Center can best serve them. He will also be bringing training to small businesses. City Administrator Walsh will coordinate a time for Jason to come back to a Council meeting. Jason agreed to provide questions for Council to review in advance.

Councilor Topaz asked if they are focused on any particular industries, such as aircraft, farm instruments, medical, etc. to help with build systems at OMIC. Paul responded that it's agnostic. It's up to OMIC, and their members, what they do. CET is only a partner. They're not driving their strategy or Board of Directors. Paul can connect him to the OMIC members.

## **2. Semi-Annual Report from South Columbia County Chamber of Commerce - *Jak Massey, Member Relationship Manager***

Jak Massey reviewed her report. A copy is included in the archive packet for this meeting.

- 114 active members
- Networking events are well attended
- Reviewed marketing improvements and community outreach
- *Trips to Discover* magazine listed St. Helens as one of the top 18 best small towns to visit during Halloween
- She was contacted by American Pickers asking for assistance with promoting their visit in October. The Chamber is not able to help them because they specifically stated they do not want to work with businesses, and that is what the Chamber supports. She can pass contact information on to the City if they want to follow-up.
- Reviewed support available to members
- Welcomed new Board members
- Return of the Ambassador Program
- Bringing back the Awards Banquet
- Reviewed community involvement and legislative updates
- Candidate forum September 29
- No longer pursuing funds to act as a Visitor Center. Their responsibility is to businesses. They will continue to provide visitor information during their open hours.

Councilor Birkle attended the Food Bank ribbon cutting and evening event. It was good to see the presence of the Chamber ambassadors and hear that businesses feel supported by the Chamber.

Council President Morten thanked Jak for her report. Kiwanis is redoing their sign to pay tribute to all civic organizations.

Walsh told Jak that the City can remove and store the visitor sign if they decide to do that.

Mayor Scholl looks forward to the banquet returning.

Councilor Topaz talked about the train depot memorabilia in the attic that American Pickers may be interested in. Jak is interested in looking at it and possibly displaying it. Councilor Topaz explained how to access the attic. Mayor Scholl is willing to help Jak if she needs it.

## **4. Citizen's Day Debriefing - *Lisa and Crystal***

Communications Officer Crystal King and Deputy City Recorder Lisa Scholl reviewed their presentation. A copy is included in the archive packet for this meeting.

- Free barbecue lunch
- Live music
- Car show
- 48 Vendors with activities
- Approximately 1,000 attendees
- Received positive feedback from attendees

- Selecting a date early is very helpful
- Recognized staff that took lead positions, helped leading up to the event, and the day of the event
- CERT controlled traffic and parking
- Event cost approximately \$7,512.65. They received \$5,919.45 in donations, thanks to local businesses.
- Staff and volunteer hours totaled approximately 404.25 hours
- More assistance is needed for the event in the future
- Staff recommends hosting the event June 24, 2023
  - July and August have higher potential for extreme heat and smoke from fires
  - Unfortunately, that does mean three weekends in a row for staff and volunteers with the Kiwanis Community Parade the week prior and 4<sup>th</sup> of July the week after
- Needs for the future
  - Electricity for vendors
  - Additional parking
    - CERT can't help people cross at Old Portland Road and S. 18<sup>th</sup> Street because of the absence of crosswalks and sidewalks
  - Move to Columbia View Park after construction

Mayor Scholl talked about this being his idea and it started small. He did all the planning and did not ask for assistance until the day of the event. It has since grown to what it is now. They can work with Public Works Director Zaher to get additional power sources. He emphasized starting now to have it ready in time. June serves citizens the best.

Councilor Topaz suggested cleaning up gravel piles to allow for more parking. He is not in favor of making the event smaller. They can increase power and water to be ready for next year. There are plans to upgrade Old Portland Road, so they can start early by installing sidewalks and painting crosswalks. He recognized the work done by staff. The attendees were happy.

Council President Morten appreciated the thorough debrief. There is potential to combine events. This will only get bigger and better. He suggested it be facilitated by the Event Coordinator. That would reduce staff demand.

Councilor Birkle acknowledged that it was a great event. He would like to set a date prior to January.

Mayor Scholl talked about this being an opportunity for the public to meet the elected officials, department heads, and all staff. This is the best park and may just need some infrastructure improvements. He suggests putting in a ferris wheel. He spoke with almost every vendor, and they were having fun. It was a great event, which staff has helped grow. He suggests they keep it how it is now and not making it bigger.

Council agreed to June 24, 2023 for next year's event. Staff will return to the October 5, 2022 meeting for follow-up.

## **5. Review City's Mercury TMDL Implementation Plan for Willamette River Watershed - *Mouhamad & Sharon***

Public Works Director Mouhamad Zaher and Engineering Manager Sharon Darroux reviewed their presentation. A copy is included in the archive packet for this meeting.

- Necessary reduction of pollutants into the Willamette River
- Reviewed stormwater measures
  - Pollution prevention and good housekeeping for municipal operations
  - Public education and outreach
  - Public involvement and participation

- Illicit discharge detection and elimination
  - Construction site run-off control
  - Post construction site runoff for new developments and redevelopments
- Monitor and report to DEQ
- Implementation needs to begin by September 3, 2022
- Reviewed planned strategies
- Reviewed next steps
- Will require funding
  - Additional Public Works Operations
  - TMDL program coordination
  - Public programs and training

Councilor Topaz asked if there is really a mercury load problem in town or is this just bureaucratic. Zaher said that they are required by DEQ to implement the program. He believes DEQ did extensive research prior to requiring it. The pollutants are not necessarily coming from St. Helens but could be coming from upstream.

Mayor Scholl appreciates the education piece and the increased protection of fish. He sees the need for additional staffing.

Councilor Birkle talked about public education including painted signs at storm drains to remind people about the need to protect waterways. Zaher and Darroux agreed. Public education is very important. It will help with all pollutants.

Mayor Scholl asked if there would be a fee. Darroux said a small fee and a plan will need to be submitted. City Administrator Walsh pointed out that the stormwater fund is lacking. Councilor Topaz asked if there is any funding assistance from the State. Darroux said they could apply for a loan and could also seek grants.

Council President Morten talked about staff being more effective and efficient. Darroux agreed they have a good team and work well with Public Works.

Mayor Scholl thanked staff. There are a lot of big projects, and they need help. Zaher acknowledged they are overwhelmed but try not to ask for help until they really need it.

## **6. Review Annual Recommendation to Adjust Cascades Reserve Allocation - *Mouhamad & Aaron***

Public Works Director Mouhamad Zaher and Water Quality Manager Aaron Kunders reviewed the recommendation. A copy is included in the archive packet for this meeting. Recommended adjusting the rate to 83.3%.

Councilor Topaz asked if there are any problems if DEQ changes their rules. Kunders responded that this doesn't have anything to do with DEQ directly. Loading from the mill can affect what DEQ limits.

### **Break - 3:09 p.m.**

## **7. Comstock Planned Development Overlay Final Decision Considerations - *Jacob***

City Planner Jacob Graichen reviewed his report. A copy is included in the archive packet for this meeting. The ordinance on tonight's agenda is silent about the sewer. The second reading is tonight. If they decide they don't agree with something about the public hearing, they can choose not to adopt the ordinance. Based on the subdivision public hearing tonight, it will help them make a decision.

Mayor Scholl is going to recuse himself from tonight's subdivision hearing. He does want to know if tonight's hearing is mute. Graichen explained that the sewer concerns will come up tonight and will bring up more things to think about.

Mayor Scholl pointed out that this will come up again. Are they going to deny everyone? Rumor has it that Stimson property does not have adequate sewer. Councilor Topaz asked if he wants to build and there's not adequate sewer, can they just say there's not adequate sewer. Graichen does not want to have this discussion prior to tonight's hearing.

Mayor Scholl is confused about the Planned Community Development showing a different zone than tonight's subdivision hearing. Graichen will bring that up tonight.

#### **8. Review Proposed Amendments to Public Works Director Job Description - John**

City Administrator Walsh reviewed the job description. A copy is included in the archive packet for this meeting.

- Updates language
- Updates supervision component

Councilor Topaz pointed out under minimum qualifications that it lists an undergraduate degree in civil engineering. He wants to make sure that a civil engineer has a Professional Engineer (P.E.) license. It also says that a master's degree is preferred but does not say what field it should be in. He wants it to be more specific.

Walsh said that it's a manager position and not meant for technical review. City Recorder Payne added that the master's would be the same as listed as a bachelors. Councilor Topaz repeated that the position must have a P.E. Mayor Scholl pointed out that Councilor Topaz is micromanaging because of his engineering background. The Public Works Director is overseeing an entire operation. They are not managing projects. Councilor Topaz continues to waste their time. Councilor Topaz disagreed. He wants that position to have a technical master's degree. Council President Morten does not want to limit applicants with that requirement. Zaher said it's likely that whoever applies will have an educational background in engineering. Councilor Topaz wants it to be a master's degree in technical science. Councilor Birkle said they shouldn't require it if it's not required in a bachelor's degree.

Councilor Topaz said this position is political. Mayor Scholl disagreed. He treats everyone fairly. Councilor Birkle agreed, employees are not political.

Walsh said there is additional language in the job description referencing the Public Works Director as an emergency responder. This position is exempt and on-call 24/7.

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

- Tonight's agenda highlights
  - Agreement with Pauly Rogers for auditing services
  - Agreement with Scappoose Bay Watershed Council for Nob Hill Nature Park, McCormick Park, and Godfrey Park
  - Amendment to 1<sup>st</sup> and Strand Street project
  - IGA for judicial services
- Oregon Government Ethics Commission (OGE) training here at 5:30 p.m. on September 21
- There is new legislation called the Oregon Paid Leave Program
  - 1% employment tax to fund a State program that creates 12 weeks of paid leave
  - Managed through the State, through the City as self-funded, or a third-party option they can look at
  - Based on income
  - 60% split for employee and 40% for employer
  - There is an administrative component of how it benefits that needs to be figured out
- Docks
  - Going well
  - Don't have an IGA for the Harbor Master yet

- People are paying
- Kids are jumping in the water there. There is underground electricity and very dangerous. Mayor Scholl suggested additional signage for no swimming.

**ADJOURN – 3:53 p.m.**

**EXECUTIVE SESSION**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor

# City of St. Helens

## CITY COUNCIL

### Executive Session Summary

August 17, 2022

**Members Present:** Rick Scholl, Mayor  
Doug Morten, Council President  
Patrick Birkle, Councilor  
Stephen R. Topaz, Councilor  
Jessica Chilton, Councilor

**Staff Present:** John Walsh, City Administrator  
Kathy Payne, City Recorder  
William Monahan, City Attorney with Jordan Ramis PC



At 3:56 p.m., Mayor Scholl opened the Executive Session pursuant to the ORS numbers listed below and then gave Council roll call. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media were specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. Any person in attendance, including the news media, who has a recording device is directed to turn it off.

- **Consult with Counsel/Potential Litigation**, under **ORS 192.660(2)(h)**
  - Update on litigation with Cascades Tissue.
  - Update on legal ownership of property by specific parties.
  - Update on potential litigation with City employee.
- **Real Property Transactions**, under **ORS 192.660(2)(e)**
  - There was no discussion under this ORS.

The Executive Session was adjourned at 4:36 p.m.



ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor



# **COUNCIL PUBLIC HEARING**

Wednesday, August 17, 2022

## **DRAFT MINUTES**

### **MEMBERS PRESENT**

Council President Doug Morten  
Councilor Patrick Birkle  
Councilor Stephen R. Topaz

### **MEMBERS ABSENT**

Mayor Rick Scholl  
Councilor Jessica Chilton

### **STAFF PRESENT**

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Jacob Graichen, City Planner  
Mouhamad Zaher, Public Works Director  
Sharon Darroux, Engineering Manager  
Tina Curry, Event Coordinator

### **OTHERS**

Ken Sandblast	Shannon	Steve Toschi
Jeanne Morain	Matt Snook	Rhonda Kirtland
Abigail Dawson	John Brewington	Nancy
Jacob Holder	Cyndi Furseth	Caroline Skinner
Brady Preheim	Heidi Oliver	A. Rose
Steve Osmon	Mick Harris	David Petersen
Robert Johnston	Beth Johnston	Vicky Njust
Val O'Farrell	James Shober	Howard Blumenthal
Clark Warren	Amanda Furnish	

### **OPEN PUBLIC HEARING – 6:01 p.m.**

### **TOPIC**

#### **1. Appeal of Planning Commission's Denial of a 46-Lot Planned Development Subdivision Preliminary Plat located SE of the Intersection of Pittsburg Road and Meadowview Drive (Comstock)**

City Planner Jacob Graichen reviewed preliminary matters. The mayor recused himself, based on the previous Planned Development Overlay. There were no other ex-parte contact, conflicts of interest, or bias in this matter. There were no objections from the audience for the Council to make a fair decision.

Graichen reviewed the staff report. A copy is included in the archive packet for this meeting. Additional written testimony was distributed to Council, which is also included in the archive packet. The applicant has amended their subdivision to 34 lots. Graichen went on to review the Planned Development Overlay

and proposed phasing. He reviewed the sanitary sewer lines that are at capacity. The applicant proposes a fair share fee in lieu to address the sewer issue.

Council President Morten asked if the developer would pay a fair share of upgrading the sewer lines marked in red that Graichen pointed out. Graichen said the system is at capacity. That creates the potential of surcharges and possible DEQ fines. In order for the sewer to not be in red, it will take millions to upgrade the system. The applicant is willing to pay their fair share, which is estimated at approximately \$6,600 per dwelling unit.

Graichen reported that the new proposal from the applicant reduces the lots by 26% and maintains a 7,000 sq. ft. minimum.

Graichen talked about moratorium law. When there is a pattern or practice of restricting or denying permits based on utility issues, there is supposed to be a moratorium or public facility plan. There is currently no pattern or practice. If this was denied based on that, that may not constitute a pattern or practice. As they review other development proposals, they may have to create a moratorium. It creates a sensitivity with the applicant.

### **APPLICANT TESTIMONY**

#### ◆ Ken Sandblast, Clark Warren, and Mick Harris

Ken listed the two issues that were the basis of appeal.

1. The layout did not comply with the 7,000 sq. ft. minimum. The updated plan, as reviewed by Graichen, now complies with that. This is a 26% reduction in density.
2. Sanitary sewer

Clark heard the concerns and is open to moving forward cooperatively.

Mick reviewed the letter submitted to the record, a copy of which is included in the archive packet for this meeting. The Planning Commission denied the application with respect to St. Helens Municipal Code (SHMC) Ch. 17.152.090(4), which allows developments to be restricted if there are sewer system deficiencies. They find that improper for a number of reasons. City Council adopted Ordinance No. 3281 three months prior to the denial of the applicant's proposal. When Council approved the annexation application, the Council found no concerns with sanitary sewer and any uses on the property could be accommodated by the City's sanitary sewer system, and there was substantial capacity available. Because the Planning Commission did not point to any changed circumstances between the annexation finding and then subdivision denial, they argue that there is not substantial evidence in the record to justify the statement that there is insufficient sewer capacity. If there is inadequate sewer capacity, there are considerations to encourage the Council to approve the application.

1. In denying the application, it would have imposed a de facto moratorium. For a moratorium to be established, there are certain statutes the City must follow. The imposition would be unlawful and qualify as a taking under state and constitutional law.
2. A subdivision is not a development permit. It is a plat to draw lines on the map to create new legal lots. The SHMC, which raises concerns about sewer system deficiencies, speaks specifically to development permits.
3. The standards of SHMC 17.52.090(4) are not clear and objective, as it relates to ORS 197.307(4). With respect to the needed housing law, the order to deny the application violates the housing statute by not allowing them to build needed housing in the community. Based on inconsistencies with land use regulations and the Comprehensive Plan, it would be prohibited to deny this new housing.
4. There were concerns raised about there not being a proportional calculation for the applicant to pay their fair share of a new sewer system. The applicant is willing to accept a fair share fee of \$6,600 per dwelling unit.



Ken added that one of the primary concerns was the applicant paying their fair share of the sewer system. It is a system-wide issue for the community. It is not specific to this application. He appreciates the opportunity to present tonight. They have complied with the concerns for 7,000 sq. ft. minimum lots and support the conditions of approval. They are seeking support to reverse the appeal.

- ◆ Jeanne Morain. She thanked Council for their consideration. Although there are people opposed to building on or selling the land, it was decided by the City in 1991 that this land was residential, not farmland nor a meadow. Her mother-in-law has constitutional rights to sell and develop the property. Those rights have been overlooked because the meetings have been very caustic. They have been threatened physically, their name has been publicly smudged, and people have tried to adversely possess the land. They are trying to do the right thing. They selected Noyes because they are a five-star developer who will bring quality to the area. Either way, the land will be developed.

### TESTIMONY IN FAVOR

None

### TESTIMONY IN NEUTRAL

- ◆ Steve Toschi. He is here as an individual and not a Planning Commission member. He commends the property owner and developer for respecting the decision of the Planning Commission and creating a plan for 7,000 sq. ft. lots. He urges the Council to prioritize the sewer issue. They need to explore revenue streams to get it done. People should be able to develop their property.
- ◆ Rhonda Kirtland. She thanked the developer and owner for the revision. She is very happy to see 7,000 sq. ft. lots will be honored. She addressed the Wastewater Master Plan. It looks like they are in basin six, which is priority three, phase four and five for the pipes. The Master Plan shows that would not be addressed until 2032-2041. Will Council prioritize this development to an earlier phase?
- ◆ Cyndi Furseth, President of Meadowbrook HOA. Initially, there were misconceptions about the Planned Development. That may be a moot point now. The family and developers are considering fire safety, maintenance of wetlands, and a trail. She is hearing a lot of positive responses from neighbors. Maintaining a wetland is almost impossible now but must be done properly. She appreciates the thought and time put into this.
- ◆ John Brewington. He is pleased to see they are 7,000 sq. ft. lots. He would like to see the sewer problem solved without it costing him anything. He suggests leaving the streets the way they are now. Connecting to Meadowview Drive is dangerous. It's steep and difficult to see turning onto Pittsburg Road.

Council President Morten asked if he is proposing access to Pittsburg Road from their property. John said no, access would be to Barr Avenue.

### TESTIMONY IN OPPOSITION

- ◆ Robert Johnston. He is seeking clarification of the applicant's proposal of \$6,600 for 34 lots. That is only \$224,200 out of a \$10 million cost for the sewer. Growth should pay for growth. This will create additional traffic on Barr Avenue, which is already overloaded. He agrees with the Planning Commission's decision to deny the application unless they can come up with money to improve the sewer.

- ◆ Matt Snook. He is adamantly opposed to the proposal. Meadowview Drive is already a hazard. There would need to be a lot of improvements to make it safe. Barr Avenue is already overloaded. You must pull to the side to let cars go by. It's not their fault that the sewer is at capacity. Someone has to pay for it, but it shouldn't be the current owners. The wildlife has already been run off by the mayor. His wife bought the house to raise kids. People who live up there want a country setting. She has a right to develop, but not at the detriment of adjacent owners. The original owner wanted just a single-family residence. At the end of the day, it's the neighbors who will still be here.

Councilor Birkle reminded people not to make personal attacks. It's not appropriate and does not help the argument on either side.

- ◆ Vicky Njust. She is confused. She thought the overlay was denied. Shouldn't it be approved before they can consider the subdivision?

Graichen explained that this is a nonstandard subdivision. It creates lots that are narrower than what would normally be allowed. Vicky said she never saw the 34-lot proposal. Graichen said it was submitted on August 15. It is now part of the record and was displayed on the screens earlier in the meeting. Vicky asked if they still meet the 7,000 sq. ft. lot size. Graichen said yes.

Vicky agreed that the developer is not entirely responsible for the sewer system. If they're at critical mass, they should not be adding more. They need to consider a moratorium until it's upgraded.

- ◆ Abigail Dawson. Her property backs up against the subject property. She has concerns about adding 34 lots to the sewer. She is surprised that this hasn't been brought to the public. Traffic is a big issue. Sykes Road does not have sidewalks or bike lanes. You can't pass someone on the side without going to the other lane. This will increase the chances of someone getting hurt. It needs significant improvements to infrastructure. There are privately owned tracks with wetlands. Her lot is 15,000 sq. ft., but half is wetlands that she is unable to put a fence around. There is no way for her to delineate between the public wetlands and the private wetlands. She needs to be able to secure her property. The sewer issue is the number one priority. A moratorium is a good idea until they can sustain long-term growth.

- ◆ James Shober. Aren't there people on Firlok who are unable to connect to sewer?

Graichen said yes. James asked why that's not being brought up to the public? Graichen said that is a different problem. Engineering Manager Darroux added that there is not a public sewer available for Firlok, so would have to be all new construction. James agreed with concerns brought up about traffic.

- ◆ Amanda Furnish. Her house backs up against wetlands. They talked about having walk-throughs in the area. She is concerned about liability because it would include her property. Meadowview Drive is a very small road. It's hard to see both ways when turning onto Pittsburg Road. She can't imagine more cars on Barr Avenue and Meadowview Drive.
- ◆ Stevie Osmon. The sewer problem is a huge thing. She is not understanding the discussion about people paying the fair share. There are people along the red line who are not even on the sewer system. Meadowview Drive is not a safe place for more traffic. The development will be detrimental to the nature.
- ◆ Heidi Oliver. She is concerned about Barr Avenue. She already has to deal with Rich Bailey's subdivision. She had to get Public Works Director Zaher to install a stop sign. She is opposed due to concerns about safety and the lack of schools to accommodate the growth. They are not ready for this. If St. Helens agreed to Comstock's development in 1991, that would have been done by

Skip Baker and was messed up. She is opposed to this. They don't have an adequate grocery store to take on more, infrastructure is hurting, they can't afford to pay more taxes to support this, and the City is overstepping their bounds. They are not ready for it.

- ◆ Jacob Holder. He is mainly opposed because of the sewer infrastructure system and using Meadowview Drive. Pulling out onto Pittsburg Road is already difficult. This will also add a lot of traffic to Sykes Road and Barr Avenue.
- ◆ Robert Johnston. He requested to view the sewer map shown earlier. If someone requested to put a single-family home east of the 'X,' would they be allowed to connect to the sewer?

Graichen said they have talked about it, but he is not sure. The Council's decision tonight will help shape that for the future. Robert asked if they have a plan to cure the problem. Darroux responded that the only way is to increase the pipe size. It's more expensive to run a parallel line. Robert asked why they would want 34 lots when a single-family home could not connect.

### REBUTTAL

- ◆ Ken Sandblast. Connectivity to Meadowview Drive and Barr Avenue was a concern. The Code requires it. The property has a lot of street stubs. A traffic study was done on the initial subdivision application, which was based on a higher density. It found that the infrastructure was adequate. It should be even more adequate now with a reduction in lots. The applicant is not proposing the \$6,600. They were happy to get that from the City to pay their fair share of the sewer.

Councilor Birkle clarified that the \$6,600 was only for new development. Graichen confirmed that is correct. It would be a condition of land use approval. Darroux added that the amount is for all new growth within the Urban Growth Boundary (UGB). Ken said there is already a sewer SDC fee, which this is in addition to.

- ◆ Mick Harris. He spoke to concerns about the sewer system. All three of the trunk lines affected are categorized as priority three in the Wastewater Master Plan. The Plan reported infrequent or no observations of historical overflows or surcharge in priority three.

Council President Morten pointed out that he opened the hearing as a 46-lot subdivision. Graichen confirmed that was the original application, which was appealed. The applicant submitted a revised plan reducing it down to 34 lots, by 26%. The reduction in lot size was a result of meeting the 7,000 sq. ft. minimum lot size. Council President Morten asked if the Council is liable since he opened the hearing as a 46-lot subdivision, which has changed. Graichen does not suspect there to be a liability but does not have legal counsel here to confirm.

Councilor Topaz asked if the Planning Commission has seen the new proposal. Graichen said no. They just received it on August 15.

Council President Morten asked what staff recommends for deliberations. Graichen said there are no significant changes other than the number of lots. They do have a suggested approval with conditions, including what was discussed tonight.

Council President Morten expressed concerns about voting on the 34-lot plan that he has not seen. Councilor Birkle clarified that they received it in an email from Graichen earlier today. They can deliberate but not vote tonight. Graichen pointed out the 120-day rule, which is September 17. There is some time to continue the public hearing or deliberate and continue deliberations to another meeting date. They are not compelled to make a decision tonight. Council President Morten is inclined to continue deliberations.

**REBUTTAL CONTINUED...**

- ◆ Jeanne Morain. She asked them to consider that they did not have time to reduce the lots sizes between the Planning Commission hearing and City Council hearing for the Planned Development Overlay. The new plan meets the conditions added. Her in-laws want something that is nice for the community. They need to consider plans in place for sewer development. This is an opportunity to address hot spots in the sewer lines. They are committed to doing what is best for St. Helens. The great grandparents were some of the town founders.

**CLOSE PUBLIC HEARING – 7:32 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Doug Morten, Council President



# COUNCIL REGULAR SESSION

Wednesday, August 17, 2022

## DRAFT MINUTES

### MEMBERS PRESENT

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

### MEMBERS ABSENT

Councilor Jessica Chilton

### STAFF PRESENT

John Walsh, City Administrator  
Kathy Payne, City Recorder  
Lisa Scholl, Deputy City Recorder  
Jacob Graichen, City Planner  
Mouhamad Zaher, Public Works Director  
Sharon Darroux, Engineering Manager  
Tina Curry, Event Coordinator

### OTHERS

Ken Sandblast	Shannon	Steve Toschi
Jeanne Morain	Matt Snook	Rhonda Kirtland
Abigail Dawson	John Brewington	Nancy
Jacob Holder	Cyndi Furseth	Caroline Skinner
Brady Preheim	Heidi Oliver	A. Rose
Steve Osmon	Mick Harris	David Petersen
Robert Johnston	Beth Johnston	Vicky Njust
Val O'Farrell	James Shober	Howard Blumenthal
Clark Warren	Amanda Furnish	

### CALL REGULAR SESSION TO ORDER – 7:40 p.m.

### PLEDGE OF ALLEGIANCE

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

None

### DELIBERATIONS

#### 1. Appeal of Planning Commission's Denial of a 46-Lot Planned Development Subdivision Preliminary Plat located SE of the Intersection of Pittsburg Road and Meadowview Drive (Comstock)

Mayor Scholl recused himself from deliberations and stepped out of the meeting.

Council President Morten turned the deliberations over to City Planner Graichen. Graichen explained that the series of denials that resulted in the City having to do a moratorium is their dilemma. If they challenge

it to LUBA, they can challenge that it is not a de facto moratorium. It's not necessary a literal moratorium. It starts the pattern of practice, which is why they are looking at this cautiously. Staff recommendations include the revised preliminary plat and addresses the sanitary sewer issue with the Equivalent Dwelling Unit (EDU) fee, which is in addition to Systems Development Charges (SDC) and utility fees. This is complicated with a lot of conditions. The applicant is in favor of the draft conditions. He suggests Council approve it, based on the amended conditions as reviewed. Because of some of the late submittals, they can continue deliberations to the next meeting. Does Council want time to digest, study, and contemplate or are they prepared to make a decision tonight?

Council President Morten is not prepared. He has not seen the 32-lot plot map. Graichen pointed out the map.

Councilor Topaz asked if the \$6,600 for the sewer will increase the pipe size now. Graichen said it incrementally increases the fund for a future capital project. Councilor Topaz asked if he builds a house now, can he flush the toilet. They have a legal problem and physical problem. The physical problem seems to override the legal. Engineering Manager Darroux said the physical problem won't change. The \$6,600 per EDU would put over \$200,000 in a fund to help pay for the \$8 million repair. Councilor Topaz asked how long the project will take. Public Works Director Zaher said it will take between one and three years. Darroux added that it takes time to design and build. The total could be three to five years by the time they secure a loan.

Council President Morten took notes during the testimonies. Would audience members have testified the same if they had known it was reduced to 32 lots? The developers shot themselves in the foot by not making that clear. Graichen said they could reopen the hearing and specify a date, time, and place here. The street connections have not changed. The only change is less density. There was a lot of testimony and smack talk about lots, and the applicant provided a revised plan based on that.

Councilor Birkle agreed with the Planning Commission's decision. They gave it serious thought. As liaison, he is reluctant to move ahead with approval of a new plat. The major issue is the sewer system. Is there any way in this process that it can be brought back to Planning Commission for their input? Or is that considered new testimony? Graichen said it would be a new public hearing and new public notice. The applicant would also have to agree to an extension of the 120-day rule.

Councilor Birkle is in favor of reviewing this more and making a decision at the next meeting. The decision must be made based on what was said and presented tonight. The approval of the plat is not a green-light for building. Graichen confirmed that is correct. Councilor Birkle is not in favor of making a decision tonight either.

Council President Morten wants to consider people's testimony that may be different based on the map change. They may need to have another public hearing to make sure that it's clear. Graichen said the applicant can consider extending the 120-day rule. The applicant needs time to consider it.

The applicant's attorney, David Petersen, asked what the extension is for? Graichen said the predominant concern is the new information being unavailable for citizens to review in advance. David asked why the Council would not be able to conduct another public hearing and render a decision within 31 days. Graichen said they would not need to worry about the 120-days if they continued it tonight. David said they would prefer that. Graichen said they could come back on September 7. Councilor Birkle pointed out that they already have a Street Vacation public hearing that night at 5:30 p.m.

Matt Snook reported that his testimony, and likely most of the other neighbor's testimonies, would not change based on the changes presented during the public hearing.

David pointed out that no one from the public requested to hold the public hearing open. Does the City have the ability to reopen the hearing on its own? He would like Council to meet during a normal time.

Graichen said the safest would be to continue deliberations. The City's legal counsel was asked to be here, but they are not. Everything stayed the same. It's just fewer lots. It's not a substantial change to the layout. David said they are willing to grant an extension for deliberations to be continued to September 21.

**Motion:** Motion made by Councilor Topaz and seconded by Councilor Birkle to accept the applicant's oral extension of the 120-day rule to allow deliberations to be made at the September 21 regular session.

**Vote:** Yea: Council President Morten, Councilor Birkle, Councilor Topaz

### **ORDINANCES – Final Reading**

2. **Ordinance No. 3286:** An Ordinance to Amend the City of St. Helens Zoning District Map to Add a Planned Development Overlay Zone for Certain Property Located at the Southeast Corner of the Pittsburg Road and Meadowview Drive Intersection

Council President Morten read Ordinance No. 3286 by title. **Motion:** Motion made by Councilor Birkle and seconded by Councilor Topaz to adopt Ordinance No. 3286. **Vote:** Voting Yea: Council President Morten, Councilor Birkle, Councilor Topaz

Mayor Scholl rejoined the meeting.

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

3. Agreement with Pauly Rogers & Co PC for Auditing Services
4. Agreement with Scappoose Bay Watershed Council for Maintenance and Improvement of Natural Areas on City-owned Property
5. Amendment No. 3 to Agreement with Otak, Inc. for S. 1st Street & Strand Streets, Road & Utility Extensions Project
6. Intergovernmental Agreement with the Cities of Oregon City and Gladstone for Judicial Services
7. Agreement with ABC Transcription Services, LLC to Transcribe Council Meeting Minutes

**Motion:** Motion made by Council President Morten and seconded by Councilor Birkle to approve '3' through '7' above.

Discussion.

Councilor Topaz wants to have a very special audit covering all City services. There were things brought up during executive session that he is not able to discuss.

Mayor Scholl pointed out that Pauly Rogers is the only one available to do audit services for us at this time. Councilor Topaz said new information has been brought to light. Mayor Scholl said that's a whole other subject in addition to this.

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

### **CONSENT AGENDA FOR ACCEPTANCE**

8. Library Board Minutes dated July 11, 2022
9. Planning Commission Minutes dated July 12, 2022

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '8' and '9' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

### **CONSENT AGENDA FOR APPROVAL**

10. Council Work Session, Executive Session, Public Hearings, and Regular Session Minutes dated July 20, 2022
11. Cascades Reserve Allocation Annual Adjustment from 79.2% to 83.3%
12. Amended Public Works Director Job Description
13. Accounts Payable Bill Lists

**Motion:** Motion made by Council President Morten and seconded by Councilor Topaz to approve '10' through '13' above. **Vote:** Yea: Mayor Scholl, Council President Morten, Councilor Birkle, Councilor Topaz

### WORK SESSION ACTION ITEMS

None

### COUNCIL MEMBER REPORTS

Council President Morten reported...

- Nothing to report.

Councilor Topaz reported...

- He and Councilor Birkle went into the reservoir, and it was eye opening. There were several things obvious to them that weren't done. They owe an apology to the neighbor, Ron Trommlitz, who has been trying to bring to their attention how bad it was. They need a new reservoir. If they have already paid more than 30% of the cost to build a new one to fix what they have, then they should build a new one.
- ODOT considers a traffic circle to have 120 degrees with four lanes.
- It was a nice report about Citizens Day in the Park. Judy Thompson and veterans cleaned up the park a couple weekends ago. They should be given a pat on the back.
- They had a tour with Business Oregon recently. They discussed a location to hold a public meeting. One consideration was the Library auditorium, but it doesn't have a TV. They need to upgrade it to have similar abilities as the Council Chambers.
- The Food Bank recently reopened in a new building. The building plans were accepted and then the City changed its mind about halfway through. They spent over \$100,000 redoing things. The City was paid \$50,000 to oversee it plus permit costs. There were similar permit costs for the high school. He would like to see the City not charge for these permits.
- Boise and DEQ are having discussions about the contaminated waterfront in front of the mill. Portland Harbor had a similar situation. They recently found out that everything must come out and they're not able to cover up stuff. He hopes that's a precedent to have Boise clean it up and not cover it over.

Council President Morten asked if the Food Bank is accepting donations at the new building. Councilor Topaz said yes. Mayor Scholl requested they give donations under his name for the current Mayor "Getting Sloppy" competition.

Councilor Birkle reported...

- Planning Commission update
  - Proposing to change their meeting time to 6:00 p.m. beginning in January.
  - Requested having quarterly joint meetings with Council. They would like to add it to the calendar for next year. They think it would be helpful to maintain consistency.
- Thanked Public Works staff for helping them access the reservoir. They had to be harnessed, hooked, and sign a release. They also did a trip to the 5,000-gallon reservoir in Elk Ridge Estates.
- Recently sat in on a court session. It was eye-opening. It affirms the Council's decision to maintain a Municipal Court. The judge and staff do a great job. He encouraged Council to sit in during a session.
- Attended the Food Bank ribbon cutting and evening event. It's a great facility.
- Visited the Makerspace and was very impressed. It provides opportunities for all ages. Now they need funding to expand the facility. Council should be proud. Councilor Topaz added that Allen Hansen is helping teach at OMIC.
- The beginning of the school year brings schedule challenges related to the fulfillment of his duties. He proposes to change work sessions from a 1 p.m. to 2 p.m. start time. The School District has been very accommodating with this schedule, but the students are still in class for another 30



minutes and requires another staff member to cover his class. Council President Morten pointed out that it would be difficult on long meeting days. Councilor Birkle suggested they be more efficient and give time limits to presentations. Mayor Scholl agreed with the later time. He would benefit from the additional time to work. Work sessions should be done by 5 p.m.

### **MAYOR SCHOLL REPORTS**

- He spoke with other mayors at the Oregon Mayor Association (OMA) Conference about the length of their meetings and how much they have going on. They were very surprised. He agreed with changing the start time and suggested they start the regular session at 7:30 p.m. if it creates a time constraint for public hearings. It's important for Council to do their homework and talk to staff in advance of the meetings.
  - Effective September 21, work sessions will begin at 2 p.m.
  - The work session will include suggested time limits
  - Staff will return with an amendment to the Governing Policy
  - Reduce visitor comments to three minutes
- Attended the OMA Conference in Newport. Newport has done a lot with their Urban Renewal. He learned a lot about tourism and confirmed that St. Helens has a really good program. St. Helens is known for Spirit of Halloweentown. Mayors he spoke to were impressed with all the events St. Helens offers.
- They need to discuss moratoriums and the sewer problem more during a work session. He wishes someone would have said it needs to be addressed a long time ago. They owe it to the citizens and local developers to fast track the upgrades. He wants to see it as a priority on agendas. Other cities are struggling with aging infrastructures as well. Councilor Topaz said he has talked to developers who worry about coming here because of the sewer. Mayor Scholl went on to say that they need to be ready to build anywhere.
- The best part about the OMA Conference was having lunch with the two "If I Were Mayor..." Student Contest State winners from St. Helens and their families.
- He reminded the Council that they can do a public hearing any time. It does not necessarily have to be on a Council meeting day.
- Congratulations to the Columbia Pacific Food Bank
  - The City helped acquire the \$1.5 million Community Development Block Grant. There was a small compensation of \$50,000 to manage it. He hears Councilor Topaz, but they can't waive fees for anyone. Even the City must pay them. He understands it's frustrating when it can hold things up.
  - He encouraged everyone to donate to the Food Bank before August 23, so he doesn't get "slopped" as part of their current fundraiser.
  - He looks forward to touring the new building.

### **OTHER BUSINESS**

### **ADJOURN – 8:55 p.m.**

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

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Kathy Payne, City Recorder

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Rick Scholl, Mayor