

# City of St. Helens

## City Council

Public Hearing Minutes

December 20, 2017

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**Members Present:** Mayor Rick Scholl  
Council President Doug Morten  
Councilor Ginny Carlson  
Councilor Susan Conn  
Councilor Keith Locke

**Members Absent:** None

**Staff Present:** John Walsh, City Administrator  
Matt Brown, Finance Director  
Sue Nelson, Public Works Engineering Director  
Neal Sheppeard, Public Works Operations Director  
Margaret Jeffries, Library Director  
Kathy Payne, City Recorder  
Jacob Graichen, City Planner  
Jenny Dimsho, Associate Planner

**Others:** Andrew Niemi Carmin Dunn  
A.J. Allen Brad Hendrickson  
C. Allen Steve Topaz  
William Allen

1) **Open Public Hearing** – 6 p.m.

2) **Topic**  
2.A Street Vacation of Portions of N. 1st Street (St. Helens Marina LLC)

City Planner Jacob Graichen presented the staff report dated December 12, 2017.

### **Conflicts of Interest or Bias in this Matter**

Councilor Locke declared that he lives near there but doesn't have a conflict of interest.

A.J. Allen objects to a couple of Councilors that seemed to have a definite bias about this at the last public hearing. They were pointing out things that have nothing to do with the law; such as bird and deer trails.

Based upon the facts and findings, staff recommends denial of the request. The proposal harms public interest baselessly. There is no compelling argument to warrant this request in light of the complexity it adds to the City and utility companies if this vacation is granted in whole or in part.

## **Applicant Testimony**

- ◆ Andrew Niemi, Lower Columbia Engineering. He represents the applicant.
  1. This proposal does not harm the public interest. He argued that it will benefit the public. Using a map, Andrew pointed out the City infrastructure that is within the proposed vacation area. The sewer line is primarily on private property. He contacted Columbia River PUD about their power infrastructure and they told him the vacation would not harm the public. Columbia River PUD prefers their infrastructure be within an easement and not in public right-of-way.

A very similar street vacation to this was approved in 2012. He understands that the Municipal Code requirements and the Oregon Revised Statutes were essentially the same at that time. If they didn't harm the public's interest then, how do they five years later?

2. It complies with the City's Transportation System Plan (TSP). The TSP right-of-way width is 50 feet. This vacation would bring it into compliance.
3. It meets all the application criteria for a vacation. The criteria for a vacation does not require plans be submitted. The City did not voice any concerns about the vacation during the time signatures were being obtained.

Andrew went on to talk about other benefits.

- Parking is a potential use.
- Room to expand Thanksgiving House, an adult foster care facility.
- The 20 foot alley is important for circulation.

## **Testimony in Favor**

- ◆ William Allen. He owns property on N. 1st Street, along with his brother and sister.
  - This is not to his benefit. He would acquire more taxable property that he's been using for free since the 1940's.
  - He wants to see his neighbor's succeed.
  - He supported the vacation last time and supports it again.
  - Councilor Conn made a comment in the last hearing that the public would not benefit. That's what his brother was referring to earlier; public benefit is not a requirement of the ORS. He thinks that prejudiced the decision last time.
  - His grandfather purchased the property in the 1930's. The grade was improved when his sister built. He maintains the City's property there.
  - The sheds have been there for so long and are temporary if they need to be moved.
  - He paid for all the utilities to be put under ground to have a better view.
  - They know where all the utilities are located in the area.
- ◆ A.J. Allen. He's in favor of the application. The shed on his property is moveable. There are a lot of illegal buildings in the City and this is just one because it's partially in the right-of-way.

### **Testimony in Neutral**

None spoke in neutral.

### **Testimony in Opposition**

None spoke in opposition.

City Planner Graichen clarified some points made earlier:

- The maps showing utilities are not survey-accurate.
- Columbia River PUD responded in writing requesting a public utility easement.
- He did not say that the utility easement was the issue. The utility easement is not a big deal. The issue is needing the road easement, given the concerns from Public Works and Engineering.
- Compliance with the TSP is a guideline for new streets. We have extra wide right-of-ways that we use considerably. It would not be reduced due to the pump station because the building is close to the line. That is not a valid argument.

Councilor Carlson wants to make sure that the record shows that this street vacation was approved by City Council last time but was later overturned. Graichen explained that an attorney was hired by someone and they tacked the procedural aspects of the vacation. Our legal counsel said it was a null and void decision. It made it to the first reading and then was shut down. The application was for the full street. The City only granted 15 feet on each side with access easements. This time, there is no issue with the 15 foot vacation on each side and public utility easements. The issue is the road easement, which would defeat the purpose of vacation.

### **Rebuttal**

- ♦ **Andrew Niemi.** He argued that the roadway construction easement is really not necessary for approval. He is not arguing the utility easements. The TSP calls for a 50 foot right-of-way for local streets and that's what they plan on having.

Public Works Operations Director Neal Sheppeard questioned Andrew's statement about Columbia River PUD. If the power lines are in the easement and they have to be moved, then the PUD would not have to pay for them? But if they're in the street right-of-way, then PUD would pay for them? Niemi explained that he was told by the PUD that if their utilities are in the public right-of-way, which they currently are, and a proposal required modifications, the PUD would pay for the modifications. If they were in an easement on private property, the applicant proposing improvements would pay for it.

### **3) Close Public Hearing**

Deliberations will be held during the regular session following this hearing.

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

  
Kathy Payne, City Recorder

  
Rick Scholl, Mayor