

City of St. Helens

City Council

Regular Session Minutes

September 19, 2018

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

Members Absent: None

Staff Present: John Walsh, City Administrator
Crystal Farnsworth, Communications Officer
Matt Brown, Finance Director
Margaret Jeffries, Library Director
Neal Sheppard, Public Works Operations Director
Sue Nelson, Public Works Engineering Director
Brian Greenway, Police Chief
Tim Ramis, City Attorney

Others:

Bill Amos	Rick Scholl	Ron Schlumpberger
Cheryl Young	Nancy Whitney	Agnes Petersen
Mike Sacry	Cindy Sacry	Lane Weber
David Belden	Sherry Belden	F. Brandon
Al Petersen	Shauna Harrison	Bob Lucas
Jason Resch	Shirley Rod	Joan Shump
Steve Topaz	Dave Innocenti	

1) **Call Regular Session to Order - 7:25 p.m.**

2) **Pledge of Allegiance**

3) **Visitor Comments - Limited to five (5) minutes per speaker**

- ◆ Agnes Petersen. Congratulated everyone for participating in the public hearing tonight. This is the base form of government in the United States and a way for citizens to voice their wishes. She was impressed by the fact that one of the speakers quoted from the City's Code book. She has been disappointed that the City has not had their legal counsel present during meetings when things comes up. She thinks the Council is violating its own rules if proceeding with item number six.

4) **Proclamation**

4.a Kiwanis Children's Cancer Cure Month - September 2018

Mayor Scholl read the proclamation into the record. Councilor Locke declared that he is a Kiwanian and a cancer patient.

5) ~~Deliberations - Street Vacation - Portions of N. 8th, N. 9th, and Wyeth Streets (Schell/Schlumpberger)~~

6) **Continued Deliberations - Appeal of a Denial of a Conditional Use Permit (Lee/Lucas)**

6.a Continued Deliberations - Appeal of a Denial of a Conditional Use Permit (Lee/Lucas)

Council President Morten pointed out Agnes's statement about being in violation of our own practices. He asked Attorney Tim Ramis if Agnes could come up and explain why she said that. Ramis said the hearing would need to be reopened if they do that.

City Planner Graichen reported that Council requested continued deliberations based on legal considerations resulting from a tie vote. St. Helens Municipal Code (SHMC) 17.24.220(5), reads "In event of a tie, the decision which is the subject of appeal or review shall stand." The Code says a tie vote has no merit, so all that is left is the Planning Commission's decision. In discussion with legal counsel, that Code does not preclude the ability of further votes. The intent of the Code seems to be if there are no other options and you are at a tie vote, that is what stands. There is an option for another motion to be made since another Councilor is in attendance. Both Al Petersen and Van Natta & Petersen Attorneys at Law provided written objections on September 13. Because the record was closed and after checking with legal counsel, copies were not provided to the Council. Councilor Locke was not at the public hearing last time. SHMC 17.24.220(4) says, "Only those qualified members who have reviewed the entire record shall vote." Graichen asked Locke to state his review of the record.

Councilor Locke declared that he read the entire staff report, read the application, read the finding and facts from the Planning Commission decision, looked at the emails and photos, and watched the video of testimony and deliberations of Council. He also attended the Planning Commission hearing where this was first reviewed.

There was no exparte contact, conflict of interest, or bias in this matter. However, Council President Morten declared he did have contact with Agnes Petersen when he was being sworn in as a Kiwanian. They just said "hello." Councilor Carlson stated that Agnes Petersen submitted a memo to the Council at the last meeting. Council did not review it and turned it over to legal counsel.

Agnes Petersen objected to Councilor Locke's ability to make a fair decision with anything she objects to. She has sued him personally and sued the City because of their failure to follow their own laws concerning the Boise Cascade property. They think Locke is biased and should not be part of this hearing. Agnes has hired a court recorder. It's impossible that Locke has reviewed the entire record because part of it is inaudible so he could not have reviewed the entire record.

Ramis asked Locke if there were gaps or glitches that were so severe that he couldn't get the gist of what the speaker was saying. Locke said no. He used to own St. Helens Computer Center, so is tech savvy and knows how to pull sound out. There were some parts that the sound was lower but he could hear it.

Ramis explained that if an objection of bias is made, the accused has an opportunity to respond. Following that, the remaining members of the body vote on whether or not that member can participate. Locke can respond to the allegation and then the Council will vote on whether or not he should continue.

Locke said that the lawsuit was against the entire city, not just him. He was also not served properly. He does not feel that any of the reasons discussed would prevent him from making a decision objectively.

Motion: Upon Morten's motion and Conn's second, the Council unanimously allowed Locke to participate in deliberations and vote.

Graichen gave Council a brief overview of the past presentation and hearing.

Councilor Locke said he lives less than two blocks and works a block from the proposed facility. He is very familiar with the area. There are events down here with a mixture of children and adults. That location has been primarily vacant off and on for almost 30 years. Almost as soon as someone moves in, they move out. Council has discussed losing all the businesses down here and service organizations and churches moving in instead. Is that what they want for the community? In the last 10 years, there has been a brewery and several pubs, with no objections about those. Some of the child care facilities under discussion might not even happen. One isn't even a legal child care facility. He understands people being concerned about marijuana. There are several types of cannabis. CBD is a medical portion that comes out of a cannabis plant. A lot of people use it on a daily basis, including himself. Cancer has left him disabled and in a lot of pain. Taking the CBD's has allowed him to cut back on the opioids he was prescribed by his doctor for the pain. He welcomes the new business down here. As police commissioner, he watches these facilities very closely due to the illegal things that occur. One thing he was interested in is the applicant's statement to limit the quantity on site. He isn't concerned about hours of operation. He isn't concerned about odors. He hasn't heard any complaints about the other locations. However, he would like to review all the facilities for smells, and if there is an issue, they take care of it. He was instrumental in bringing a grow facility to the Boise property. However, he is adamant about youth education. The growers will be donating money to a safety and education fund. He would like to see the dispensaries included in that as well. He is in favor with conditions added.

Councilor Conn pointed out that the State of Oregon has determined this is a legal business and it fits the legal criteria. She would approve it.

Councilor Carlson asked what the Council thought about additional conditions of approval. Councilor Conn thinks some conditions would be good; such as time restrictions, limiting quantities, and restricting odor. Mayor Scholl said a restriction on Sunday would be good with people and kids going to church nearby. He has heard a lot of testimony from people in the community who use CBDs for medical purposes and that it works.

Councilor Carlson said she would rather see retail, but conditions that would make it more tolerable for her would include restricting cannabis sales prior to noon on a Sunday. Resonate Church is known for its recovery and this would be right next to them. What conditions are they legally allowed to make? Graichen said time, place, and manner conditions are allowed.

Council President Morten feels very strongly about the direction this Council is going to try and make this a family-friendly area. He talked with Graichen about the legality of businesses and what constitutes being legally established. Since the two childcare facilities had already held public hearings, he took that as the establishment of a legal business. Graichen clarified that the permits must be in place. The applications have been received, but permits were not issued. That was his concern when he voted no. Those questions are answered now. He does not want

to see this go to LUBA. He believes that would be a horrendous waste of time and money. He thinks he is going to change his position. He feels the same way as Councilor Carlson. He would like to be sensitive to the children being at the church down there on Sunday. He was down there on Sunday and saw many kids. Morten stated for the record that he does not want downtown to turn into a primarily over 21 area. That is not in his vision.

Discussion ensued on the conditions. Mayor Scholl stated for the record that kids are not getting their marijuana from these stores. They are getting it from the neighbor's backyard or a parent. Councilor Locke added that students are getting it at school. Sixth graders are being offered it at school. Scholl added that it starts with education and the parents being active in their children's life.

Motion: Upon Conn's motion and Locke's second, the Council unanimously approved the Conditional Use Permit, pending written findings of staff, with the seven conditions as recommended by staff, adding the restriction of hours for no sales before noon on Sunday, no sales exceeding half an ounce at any time, and the smell would not have off-site impacts beyond the boundaries of the property.

Graichen will have findings for approval at the next meeting.

7) **Ordinances - Final Reading**

7.a Ordinance No. 3229: An Ordinance Creating the Parks and Trails Commission, Adopting Regulations Therefore and Repealing St. Helens Municipal Code Chapters 2.16 and 2.64

Mayor Scholl read Ordinance No. 3229 by title for the final time. **Motion:** Upon Locke's motion and Conn's second, the Council unanimously adopted Ordinance No. 3229. [AYES: Scholl, Carlson, Conn, Locke, Morten; Nays: None]

7.b Ordinance No. 3231: An Ordinance to Amend the City of St. Helens Comprehensive Plan Map for Certain Property from the Suburban Residential (SR) Designation to the Highway Commercial (HC) Designation and the Zoning District Map from the Moderate Residential (R7) Zone to the Highway Commercial (HC) Zone

Mayor Scholl read Ordinance No. 3231 by title for the final time. **Motion:** Upon Locke's motion and Carlson's second, the Council unanimously adopted Ordinance No. 3231. [AYES: Scholl, Carlson, Conn, Locke, Morten; Nays: None]

7.c Ordinance No. 3232: An Ordinance Amending the St. Helens Municipal Code Chapters 17.16, 17.24, 17.32, 17.96, 17.108, 17.120, and 17.128

Mayor Scholl read Ordinance No. 3232 by title for the final time. **Motion:** Upon Conn's motion and Carlson's second, the Council unanimously adopted Ordinance No. 3232. [AYES: Scholl, Carlson, Conn, Locke, Morten; Nays: None]

8) **Ordinances - First Reading**

8.a Ordinance No. 3233: An Ordinance Establishing a Comprehensive Sewer Use Ordinance for Users of the City of St. Helens' Publicly Owned Treatment Works (POTW) to Comply with Federal and State Environmental Regulations

Mayor Scholl read Ordinance No. 3233 by title for the first time. The final reading will be held at the next regular session.

9) **Resolutions**

- 9.a Resolution No. 1828: A Resolution Establishing Drop Box Rates and Superseding Resolution No. 1799

Public comments – proposed increase in drop box rates

- ♦ Al Petersen. His comments are related to trash rates in general. He has talked to people who live seven miles up Tide Creek Road who pay less for their garbage than inside St. Helens city limits. Why are city residents paying more when it is so much closer here than seven miles outside the city? Many people drive their trash to Longview because it's cheaper.

Councilor Carlson said she would like to hear why the price is so different. Council concurred.

Motion: Upon Conn's motion and Locke's second, the Council unanimously adopted Resolution No. 1828. [AYES: Scholl, Carlson, Conn, Locke, Morten; Nays: None]

10) **Approve and/or Authorize for Signature**

- 10.a Quote from Wheless Construction for New Roof for "FARA" Building
10.b Request for Proposal for Towing Services
10.c Agreement with Scappoose Public Library for a Shared Library Catalog

Motion: Upon Conn's motion and Carlson's second, the Council unanimously approve '10a' through '10c' above.

11) **Appointments to Boards/Commissions**

- 11.a Appointments to City Boards & Commissions

None at this time.

12) **Consent Agenda for Acceptance**

- 12.a Planning Commission Minutes dated August 14, 2018

Motion: Upon Carlson's motion and Conn's second, the Council unanimously accepted '12a' above.

13) **Consent Agenda for Approval**

- 13.a Council Work Session, Executive Session, Public Hearings, and Regular Session Minutes dated August 15, 2018
13.b Accounts Payable Bill Lists
13.c Street Closure Request

Motion: Upon Conn's motion and Carlson's second, the Council unanimously approved '13a' through '13c' above.

14) **Mayor Scholl Reports**

- Attending the League of Oregon Cities Conference (LOC) in Eugene next week. Good opportunity to network and learn from other mayors.
- He would like to review how their goals are updated.
- They are hoping for a record number of participants at Friday's Cruising the Gut. It will be held at Dari Delish and Eaton's Tires. It's a family fun event. Bring any car and obey traffic laws.

15) **Council Member Reports**

Council President Morten reported...

- Attending the LOC conference as well. He will be attending an all-day intensive urban renewal workshop.

Councilor Conn reported..

- The Out of Darkness Walk for suicide prevention is at Scappoose Middle School on Saturday.
- The Senior Center open house is on Saturday.
- Suzanne Bonamici will be having a town hall at Scappoose Middle Scholl on Saturday.

Councilor Carlson reported...

- Will be attending the Rural Community Summit in Eugene in October. She was invited by Ford Family Foundation and they are paying the cost.

Councilor Locke reported...

- Lots of merchants get upset because they think the City doesn't advertise their businesses enough. It's really not the City's job. The City does put on a lot of events to attract people to town. He brings this up because he goes to the U of O Duck games. During the walk to the stadium, he passes the owner of Track Town Pizza handing out coupons for his pizza business. He takes initiative and has a very successful business.
- Over the years, he's been accused of doing things unethically and cheating the town. He's a 20-year cancer survivor. He isn't supposed to be alive today. He did a lot of soul searching in that time and he takes offense that people don't think he is ethical. If you looked through the records, you'll see a resolution that came to the Council about being ethical with his name on it.

16) **Department Reports**

Police Chief Greenway reported...

- Reminder Thursday, October 4 is the First Thursday meeting. It's being held at St. Helens Public Library from 7-8 p.m. The first topic is Halloween safety and then it will be open for general questions.

Public Works Engineering Director Nelson reported...

- Acknowledged Communications Officer Farnsworth. She thanked her for stepping into City Recorder Payne's role. She sees that it's a lot of work. Mayor Scholl agreed.

Public Works Operations Director Sheppard reported...

- Nothing to report.

Library Director Jeffries reported...

- Invited everyone to the Library tomorrow for the fourth installment of Civics for Adults. The topic is Beyond Voting, Election, and Campaign Financing.

Finance Director Brown reported...

- Thanks for approving the FARA building roof improvements. Someone should be working on it in the next week or so. Watch for improvements to that building.
- Council should ponder what they want to name the FARA building.

Communications Officer Farnsworth reported...

- Nothing to report.

City Administrator Walsh reported...

- A Waterfront Redevelopment Project Public Forum will be held October 17. The prospective developer will be there to talk about where they are at in the project and other projects in Oregon they are working on.

17) **Other Business**

18) **Adjourn** – 8:47 p.m.

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:



Crystal Farnsworth, Communications Officer



Rick Scholl, Mayor