



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
November 5, 2013**

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 5:05 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Robyn Folsom, Bill Butterfield and Krisanna Clark. Councilor Matt Langer was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manger Joseph Gall, Assistant City Manager Tom Pessemier, Community Development Director Julia Hajduk, Police Captain Ty Hanlon, City Recorder Sylvia Murphy and City Attorney Pam Beery.
4. **TOPICS:**
 - A. Legal Counsel pursuant to ORS 192.660 (2)(h) and 192.660 (2)(f) Exempt Public Records.
5. **ADJOURN:**

Mayor Middleton adjourned the executive session at 5:25 pm and convened to a work session.

WORK SESSION

1. **CALL TO ORDER:** Mayor Bill Middleton called the meeting to order at 5:26 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Bill Butterfield, Dave Grant, Krisanna Clark and Robyn Folsom. Councilor Matt Langer was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Craig Sheldon Public Works Director, Julie Blums Finance Director, Julia Hajduk Community Development Director, Kristen Switzer Community Services Director, Ty Hanlon Police Captain, Colleen Resch Administrative Assistant and Sylvia Murphy City Recorder. City Attorney Pam Beery.
4. **TOPICS DISCUSSED:**
 - A. **City Council Rules:** City Attorney Pam Beery facilitated the discussion of reviewing City Council Rules and explained the purpose of the review is to allow the Council to discuss concerns with the rules

and concerns with each other and to discuss how things should be in terms of the City government. She stated review of the rules has typically been done in January and this was not done this year. A copy of the rules was provided to the Council (see record, Exhibit A). She stated she has noted a few things as has staff in terms of agenda setting and things on how to make the system move smoothly. Ms. Beery referred to a document previously provided to elected officials (not provided at the meeting), *New Councilor Orientation Regarding Personal Conduct* and it being more detailed than the Council Rules, she said this document was from 2012 and said not all the Council members may have seen it. Staff explained that prior City Manager Jim Patterson provided the materials when he did new Councilor orientations and not everyone went through the orientations. Council President Henderson stated it was never adopted by the Council.

Ms. Beery asked if there were headings in the rules the Council wanted to discuss and said she would like to address a few areas. Discussion was held that the previous review of the rules ended on page 6 and Ms. Beery asked to go back and re-review some areas. She stated rules are adopted as dictated by the City Charter and the rules are those of the Council. She addressed the Council Meeting section and referred to things that other cities have done and mentioned Emergency Meetings, she said the Council has this authority under state law to hold emergency meetings and the rules don't have to refer to them but the Council can have the reference if they choose. She gave the example of a Council member going out of town and notifying staff so they know how to reach the elected official. She said she is not aware of a problem with this in Sherwood and it is helpful for the Council and staff to know a Council member is not attending a meeting and it's helpful for staff to be able to reach the elected in case of an emergency. Comments were received regarding current communications with staff and language in the rules may not be needed.

Ms. Beery referred to page 2 and attendance being expected and said there is nothing about paying attention during Council meetings or actively participating. She stated a lot of rules indicate no texting, no checking of email. She said she advocates for this language as it give the public a bad impression. She referred to the use of a tablet and this being ok and letting the public know. She said another concern is it appears disrespectful to the public and other Council members and said if people are suspicious and they see more than one elected texting they could have the impression the elected officials are texting to each other and not conducting business. She said if the Council feels there's an issue with this, there are language examples they can refer to. Discussion occurred regarding being against the language and needing to communicating with children and family members and leaving the room to do so would be more disruptive to the meeting. City Manager Gall referred to examples of language referring to not communicating via texting regarding meeting business and family communications being allowed. Council comments were received regarding having some simple language referring to this. Mr. Gall offered to review sample language. Council discussion occurred regarding Council members using their phones for business during a meeting to schedule events as information is being provided at the meeting. Further discussion occurred regarding dealing with complaints or comments towards use of phones and the Council conceded to delay moving forward with adding any language for now until it becomes an issue.

Ms. Beery referred to Section D-Agenda and said it's confusing and referred to the language of who sets the agenda and this falling to the Mayor. She stated what she finds difficult is when a Council member wishes to have something on the agenda, it provides for them to make suggestions but it doesn't say anything about how they would actually get something on the agenda if the Mayor did not want to put it on an agenda. She stated this happens and referred to the third sentence and said you can't do this now, you cannot reach consensus on agenda items because you're not in a meeting.

Councilor Henderson referred to the next page, item 3.L, *"if a council member wishes to discuss a major policy issue, it will be scheduled on a future agenda and not raised during a current agenda"*. Ms. Beery referred to the language and asked what a "major issue" is and said she believes the idea of this provision is not to bog down the Council with items that are not scheduled to discuss on that night's agenda when no one is prepared to discuss. Discussion occurred with Council member's ability to suggest future business items under Council Announcements and in the past asking to delay business as Councilor's would be absent from a meeting. Ms. Beery suggested making the language more flexible as it currently doesn't give the Council options. Discussion occurred regarding possible language of, "if a [certain number] of Council members contacted the City Manager requesting business to be scheduled". Ms. Beery stated this is a usual practice with a minimum of two (2) Councilors. Mr. Gall added he has seen language indicating a timeline of 7 or 10 days in advance to allow the business to be scheduled. Discussion occurred regarding a set agenda and who has the authority to remove something and how that process would occur. Mayor Middleton stated he and Council President Henderson set business due to timelines and how large an issue may be. Discussion occurred regarding scheduling business and Ms. Beery mentioned a topic being political and how it can be brought forward and having rules in place. Discussion occurred regarding Council members being able to pull something from the agenda, their monthly meetings with the City Manager and trying to plan business and then having business pulled from an agenda within days of a meeting and what would be the recourse if the majority wanted to have the discussion. Ms. Beery stated right now, there is nothing and that is why this rule isn't working very well. Discussion occurred with the agenda approval process staying with the Mayor and the City Manager being able to propose business. Discussion occurred regarding requiring a Council majority to add something to the agenda and a majority to pull something from an agenda and this not working. Further discussion occurred regarding having a Council majority to remove something from an agenda. Brief discussion occurred regarding public noticing requirements. Discussion occurred regarding having discussions to remove agenda items in a public meeting setting and voting to make the amendment to remove something at that time and this allowing for public transparency. Discussion occurred regarding past practices of setting the agenda and the City Recorder explained prior practices. Ms. Beery stated she hears the Council having a consensus and adding to the rules language pertaining to removing something from the agenda would require a majority of the Council at a Council meeting. Concerns were expressed regarding some Council members not being aware of the potential amendment and spending time studying the packet materials and then being ambushed at a meeting. Discussion occurred with Council members requesting postponing of business as opposed to removal of business and this being approved by the Mayor with notification being sent to the full Council. Discussion occurred regarding having language provisions of agenda amendments and removal of business items. City Manager Gall and Ms. Beery stated option examples could be provided to the Council for their consideration. Discussion occurred regarding the full Council being aware of proposed amendments. City Manager Gall commented regarding the upcoming Council Agenda being part of his Friday Update Report and him changing his process to include a Council only update that includes this and highlighting changes to keep the Council informed as well as communicating reasons for the changes. The City Recorder commented regarding the weekly meetings with the Mayor and City Manager where the Council Agenda business is discussed and suggested she provide a "upcoming meeting agenda" to the full Council on Monday's after the weekly meeting with the Mayor, Council President and City Manager. Ms. Beery agreed this was a good idea and no objections were received from the Council, comments were received that this process doesn't dictate a change to the rules.

Ms. Beery addressed Section D-Agenda and stated there is an order issue. Comments were received that the Council has made changes to the order of business and suggestions were received to remove

this section from the Council Rules. Discussion followed and Ms. Beery provided reasons she has experienced for the order to be given; when to allow citizen comments or when there is a desire to hold a prayer before the meeting. No objections were received to remove this section of the rules indicating the Order of Business. A suggestion was made to discuss rules and code of conduct for Citizen Comments as well. Comments were received regarding the past practice of not allowing citizen comments on business that was on the agenda unless it was a public hearing and the Council not currently following this practice. Discussion occurred regarding the prior reasons for this and Ms. Beery stated it is in the discretion of the person running the meeting to allow it. She stated the Council needs to provide the Mayor with feedback on how he is doing as he is running the meeting. Discussion occurred regarding receiving comments of informative information and listening to citizen concerns or their support of the agenda business. Discussion occurred regarding verbal attacks to Council, staff and legal counsel and the Council addressing these types of comments. Ms. Beery stated there is typically a rule that doesn't allow attacks on staff. Discussion occurred regarding Council meetings that occurred earlier this year where verbal attacks went long into Council meetings. Ms. Beery explained the option available to Council of removing themselves from the dais with the Mayor and City Manager remaining. Ms. Beery stated this is her suggestion and similarly for staff to be able to leave. Discussion occurred with the Mayor or presiding officer remaining and the need to maintain a quorum. Ms. Beery stated a quorum is not required to continue a meeting but is required to take any action, therefore the Council will not be able to conduct business if they leave. Comments were received regarding helping the public understand the rules and the Council having the authority to set the rules within some limits and being mindful of the constitution. Discussion occurred with the Council not being required to receive citizen comments. Ms. Beery stated the Council should arrive at a consensus of what will be tolerated and understand the legal ramifications of that decision and empower the Mayor to enforce it. Discussion occurred regarding how to support the Mayor and the procedure of calling for a Point of Order and then having the Mayor respond. Comments were received regarding giving the public the perspective of this not being a right or privilege, it's an opportunity and providing the public with this information and following through by removing the opportunity. Ms. Beery stated the legal limitations to this are first amendment rights and it must be equally enforced. Discussion occurred regarding excusing the speaker, repeated warnings, and abuse to the system and enforcing the rules. Ms. Beery stated recent case law involves first amendments and said the rule that is in the 9th Circuit currently is that you are only allowed to stop testimony or eject them from the room if they are being disruptive and said there is a question on the meaning of what is "disruptive to the meeting". She said if the Council members leave the meeting and the Council is not able to conduct business then there is disruption and you have every right not to take that type of abuse. She stated this is an untested theory and the only cases where someone has been lawfully removed are for throwing chairs, brandishing a weapon and really frightening people. She said there are Council rules that City Manager Gall has examples of indicating no abusive or harassing language. She said there are rules to that effect and the Council may choose to have this in there, she stated she would support this and inform the Council of their risks. She said someone could challenge the Council when enforcing this rule but you may also have better compliance by having the rule.

Council discussed the current testimony form and current language of "not impugning the character of someone else, including but not limited to the members of the community, reviewing body, staff and the applicant". It further states, "Person who violates these rules may be asked to stop their comments by any member of the body. Comments beyond the four minute limit may not be included in the record. Persons who impugn the character of anyone will be required to stop immediately and comments will not be included in the record of the meeting and they will forfeit their remaining time". Comments were received that the Council has not been enforcing this. Discussion occurred and Ms. Beery suggested the

Council members call for a Point of Order and let the presiding officer handle it. The Council discussed reducing the language on the testimony form as it's lengthy and the people are not reading it. Comments were received that people are reading it as they have written comments on the forms stating they are not complying and abiding by the rules. City Manager Gall suggested drafting language for the Council's consideration. Comments from the Council were received regarding reviewing the form and condensing it and suggestions of having a Land Use Form and a Public Comment Form. Comments were received regarding if the form is not signed or has things written all over it, the Mayor would not call that person forward to speak. The City Recorder informed Ms. Beery a portion of the language on the testimony form was adopted by resolution. Ms. Beery confirmed they will present options to the Council for better decorum. Comments were received regarding not allowing citizens to give their time to others and having this language on the form, the Council conceded to include language pertaining to this rule.

Ms. Beery recapped the Council discussion: 1) the removal of the Agenda Order language, 2) provide language on how the agenda is set.

She asked if the Council wants City committee's to report during Council work sessions, no objections were received to remove this language.

Ms. Beery addressed page 2, Section E-Council Discussion and Decorum and said this is fairly generic language and she doesn't see any issues with the rules. She highlighted Item C on page 3 and *not speaking on the behalf of the Council unless authorized to do so*. She said this is important and Council members need to be clear when speaking on behalf of themselves or the full Council. It was asked if this is only at Council meetings and Ms. Beery stated this is not only at Council meetings its everywhere. Discussion occurred regarding Council members making decisions while serving as a representative on a regional board and being authorized to make these decisions.

Council discussed Item F and language of "extra-territorial" and what this means. Assistant City Manager Tom Pessemier added the following example of people asking the Council to take action on federal regulations or actions on things outside of our jurisdiction. Comments were received to amend this section of language to state *the Council will focus on City issues*.

Council referred to page 2 Section E.1 and discussed *Council members abiding by all Council decisions whether or not the member voted on the prevailing side*. Discussion occurred and Ms. Beery stated this is a traditional provision and it's important for Council members to accept a Council decision and move on. Comments were received regarding the text of "abiding by" and this indicating one will obey this, but can still badmouth. Comments were received regarding the Council members owing this to each other. Ms. Beery suggested language of "abiding by and not making adverse...about". Discussion occurred regarding language of "impugning the motives" and comments were received regarding disagreeing and the example of running in an election was provided and people voicing things they don't like and now they would be violating the rules. Discussion occurred regarding censure votes and the prior budget process not being respectful to all the Council, elected officials having personal opinions and publicizing them, and some elected officials feeling personally attacked. Reference was made to page 2 of the rules and not attacking people that come to the dais and reference was make to Item K and language of Council members will not criticize or attack each other, City staff or other persons. Comments were received regarding having a different perspective of what this looks like and feels like. Discussion occurred regarding prior events and actions of the Councilors and understanding the effects and realizing not to do that again. Comments were received regarding the effects of comments in the public

and recovering from the comments. Comments were received regarding the Council discussing decorum, respect and honor the fact they are not always going to agree, but owe each other respect in an appropriate environment of decorum. Comments were received regarding accepting a decision, agreeing with a decision, and abiding by a decision are different things. Discussion occurred and an example was provided of voting to place something on a ballot and the elected official as an individual voter does not have the right to voice their opinion that they are against it. Ms. Beery stated the Councilor doesn't give up that right. Discussion occurred regarding elected officials having personal opinions and how best to converse with citizens or communicating with the press. Ms. Beery commented using language of "not disparaging Council members that don't agree with you". She referred to City of Tigard rules, "this does not allow Council members to make belligerent, personal, slanderous, threatening, abusive or disparaging comments with one another". Discussion occurred regarding this language and what is considered "slanderous" and not using this term. Ms. Beery stated she liked disparaging and said the concept is not to be disrespectful of each other to third parties following a decision. Discussion followed regarding the rules applying during an election season and elected officials having opinions and having opinions on upcoming future issues. Discussion occurred regarding the Council Rules applying during meetings as well as outside of meetings. Comments were received regarding prior actions of elected officials during a budget process and Ms. Beery reminded the Council that no one Council member has authority to take any action and it's a majority rule empowered as a body and not as an individual councilor.

Mayor Middleton stated he works for the citizens and not the elected officials, he works with them and will talk with them as citizens, and commented regarding not being able to move on when he thinks something was wrong, he said some issues still may be close to his heart, but he would not come after the other council members, but if citizens ask him, he is going to tell them and give his opinion.

Ms. Beery stated to try and improve the language and try and move forward and thanked Council President Henderson for bringing this topic forward and asked if there was anything else to cover.

Council President Henderson stated it's important how the Council conducts business, it's reflective on the Council as a professional body, an elected body. She said the bar should not be set lower in how we conduct business in public. She commented regarding people being confused and uninformed and gave an example of comments she has received from the public. She commented on why it is important to tell constituents why an elected voted in the certain manner and leaving it at that. Discussion occurred regarding revisiting decisions of elected officials.

Ms. Beery addressed Public Comment on pages 3 and 4 of the rules and comments were received to strike language of people having to provide name and address and having speakers indicate if they are a resident or not. Discussion occurred regarding the need or importance of indicating resident or nonresident. Comments were received regarding the elected officials not knowing if public comments are followed up on and Ms. Beery offered this as a suggestion; for the Mayor or City Manager for either of them to close the loop on the testimony and provide a reply that staff will look into the issue and bring back information to the Council, or the City Manager can reply that staff will get back to the citizen and follow up with the Council. Discussion occurred regarding not engaging in a conversation and putting staff in a position of answering questions at a meeting. Councilor Clark provided an example of a prior meeting with lots of questions and this filibustering the meeting and the Council needing to conduct the meeting and have staff respond rather than stopping the meeting. She suggested the City Manager can determine whether to address the questions. City Manager Gall commented regarding responding there at the meeting and other times the response may require research.

Ms. Beery stated there is an absence of language of decorum for the public and the Council discussing updating the sign in sheet. Discussion occurred regarding the rule language being in the Council Rules as well as on the form. Ms. Beery stated she would provide some language examples. Ms. Beery stated the Council spoke of elected officials feeling the need to leave a meeting and they having consensus on being able to do this. Discussion occurred regarding the elected officials calling for a point of order and the Mayor excusing individuals if needed and staff being authorized to leave. Ms. Beery spoke of the general impression the public has of Council meetings and how they are facilitated and conduct at those meetings. General discussion occurred with the public having concerns and issues and bringing those issues before the Council.

Ms. Beery addressed Section F-Motions and commented regarding the Council needing to get a second on a motion and the Mayor concluding the vote with a "motion passes" or "motion fails" and the Mayor asking if there is an opposing vote.

Ms. Beery addressed page 5, Item F-8 Reconsiderations and said this was a previous limit set by the Council and said the Council has never used it. Ms. Beery suggested removing this language, stated it's very limiting to Council members and it has never been used, no objections from the Council members were received.

Ms. Beery addressed Section G-Council Member Conduct and provided examples of elected officials testifying at the State legislature, not having support of the Council and speaking at other meetings such as Metro meetings. She stated the current language is sufficient. She addressed page 6 enforcing of rules, censure, violations and processes for handling. She stated the language is barebones and would like to see more process protection for the person who's being accused and would like to see more opportunity to be heard. She offered to provide language to the Council, Council conceded.

Ms. Beery addressed Section H-Confidentiality and stated the language is typical and she is not aware of Council members disclosing issues addressed in executive sessions and she doesn't have any concerns in this area.

Ms. Beery addressed Section I-Communications with Staff, and stated there is confusion from what she has seen in emails, confusing on how communications should be handled, how communication should get shared and with whom, and what the City Manager is supposed to do with communications from Councilor's. She stated currently the rule requires the City Manager to send all written materials requested by a Councilor to the entire Council, it does not state he has to forward all emails to the entire Council. Ms. Beery gave an example of a communication resulting from a request for a document and the City Manager responding to the requester as well as the entire Council, she stated this process is clear. What is unclear is what should be broadcasted. Councilor Folsom commented regarding appreciating the communication from the City Manager to the entire Council. Councilor Grant commented regarding accepting and knowing that emails will be shared and this being part of the Council process and part of the public record. He commented regarding the City Manager being required to send everything to everyone all the time might be too much. Comments were received regarding sharing emails with the entire Council with the opportunity to gather different perspectives. Councilor Clark stated she did not want her emails forwarded and will call the City Manager to avoid having her emails forwarded. She stated she doesn't like her emails being forwarded unless she is being told. Councilor Clark provided an example of a communication to the City Manager and the need to not share it with the full Council depending on the subject matter. Discussion followed regarding the

City Manager communicating with the elected official before an email is forward to eliminate the element of surprise. Councilor Clark stated if she wanted to share written communications with other elected officials, she would do so. Ms. Beery stated this is what is required currently to provide written informational materials. She asked if the Council wants the language to indicate, "it's in the managers discretion in all cases", or leave the rule and add that the manager may provide communications in his discretion. Councilor Grant replied he liked it this way. Discussion occurred regarding communications being public records and may be requested. Mayor Middleton commented that the City Manager should not be selective in his communications. Councilor Clark commented her issue was the result of the communication with multiple Councilors' responding and breaking state law and she was the person that started the discussion and now being part of it. Discussion occurred and Councilor Folsom stated she believes the City Manager should have the discretion depending on the content. Ms. Beery stated she will provide language that allows for discretion. Discussion occurred with the result of a communication from Councilor Clark being shared and the decision of the City Manager to share the communication and having a possible illegal meeting when a quorum of the Council is participating in the communication. Councilor Butterfield commented regarding the elephant in the room is people being worried about having a hidden agenda and other people not finding out about the agenda and secretly not sharing the information with the rest of the Council. Ms. Beery stated she will bring back language for the Council to consider to the extent that was covered.

Mayor Middleton reminded the Council of the timeline and need to conclude the work session. Council President Henderson noted the Council did not get passed page 6 of the rules.

5. ADJOURN

Mayor Middleton adjourned the work session at 6:55 pm and convened to the regular Council session.

CITY COUNCIL MEETING

- 1. CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:03 pm.
- 2. PLEDGE OF ALLEGIANCE:**
- 3. COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Bill Butterfield, Dave Grant, Krisanna Clark and Robyn Folsom. Councilor Matt Langer was absent.
- 4. STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Craig Sheldon Public Works Director, Julie Blums Finance Director, Julia Hajduk Community Development Director, Kristen Switzer Community Services Director, Ty Hanlon Police Captain, Michelle Miller Senior Planner, Colleen Resch Administrative Assistant and Sylvia Murphy City Recorder. City Attorney Pam Beery.

Mayor Middleton took a moment to acknowledge the loss of an officer from Oregon City and asked Captain Hanlon to say a few words and noted that they are all in our thoughts.

Police Captain Ty Hanlon stated Officer Robert Lybke was involved in an incident with the Oregon City Police Department where he served as a Reserve Officer. Captain Hanlon stated Officer Lybke was a Reserve Officer for years and he was shot Sunday afternoon and passed away yesterday at Emanuel

Hospital as a result of the injury. He stated Officer Lybke was married and his wife is currently in the hospital and is 5 month pregnant with their first child. He stated the memorial has not been set and we should have more information tomorrow. He stated that Sherwood has reached out to the Oregon City Police Department to offer assistance.

Mayor Middleton said it just shows how much our officers are willing to do to keep us safe. Council President Henderson clarified that he was responding to a house fire. Captain Hanlon stated the initial call was a house fire and during that response they learned there was an armed subject involved as well.

Prior to Mayor Middleton addressing the Consent Agenda City Attorney Pam Beery stated there is an item on the Consent Agenda that materials have not been previously distributed pertaining to the City Manager's evaluation. She asked the Council for permission to distribute the document (see record, Exhibit C). She said if the Council approves them this evening they will become part of the public record.

Mayor Middleton gave permission to distribute the document. Ms. Beery stated for the record, the document has been previously reviewed by the Council in Executive Session as authorized by law and the action taken this evening is the final step in the City Managers evaluation process for this year.

Council President Henderson asked now that you have entered this material into the record it will become part of the record and part of the City Manager's personnel file. Ms. Beery replied yes.

With no other comments from the Council, the following motion was received to adopt the Consent Agenda.

5. CONSENT AGENDA:

- A. Approval of October 15, 2013 Council Meeting Minutes**
- B. Resolution 2013-056 Appointing Ashley Korn to the Library Advisory Board**
- C. Resolution 2013-057 Appointing James A. Forsyth Jr. to the Parks and Recreation Board**
- D. Adoption of Memo, City Manager Annual Performance Evaluation**

MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR CLARK, MOTION PASSED 6:0, ALL PRESENT MEMBERS VOTED IN FAVOR, (COUNCILOR MATT LANGER WAS ABSENT).

Mayor Middleton addressed the next agenda item.

6. PRESENTATIONS:

A. Eagle Scout Recognition

Mayor Middleton called forward Leo Urmini to be recognized for receiving his Eagle Scout Award. Leo explained his project consisted of building 7 benches for the 14 Stations at the Cross at St. Frances Catholic Church. He explained he made the benches so people can sit and reflect as they go through the Stations of the Cross. Mayor Middleton acknowledged the importance of this project and all Eagle Scout projects and presented Leo with a Certificate of Achievement.

Mayor Middleton addressed the next agenda item.

B. Recognition of Rotary Club of Sherwood

Mayor Middleton thanked the 2014 Rotary Club and noted they are celebrating their 20th anniversary. He referred to the thousands of dollars that they raise through their annual tree sale, where funds go back into the community in the form of scholarships. He commented on the contributions that Rotary has made over the past 20 years and noted that Rotary does local projects and project throughout the world. He stated that the Rotary of Sherwood has been looking for a significant project in the community and they have been saving up for the past 20 years and they were honored to support the City through granting of funds for the Murdock Park refurbishment and have offered to help with demolition and construction. Mayor Middleton thanked them and said it is nice to have these groups in the community to help fund some of these projects. He recognized the following Service Committee Members; President Kim Nelson, President Elect Doug Mueller, Renee Brouse and said that Renee wrote the grant and helped push it through. He also recognized Jason Kirkpatrick, Emily Smith, Mark Federspiel, Heather Brookhouse, Krissi Kizzair, Chuck Britton, Ben Bole, Wendy Wells, Gary Rychlick, Marilyn Yordy, Keith Mays, and Liz Patch. He asked the members to come forward and presented the Rotary Club of Sherwood a Certificate of Appreciation.

Mayor Middleton addressed the next agenda item.

7. NEW BUSINESS

A. Resolution 2013-058 Authorizing an Intergovernmental Agreements (IGA) with the Oregon Department of Transportation (ODOT) to assist in the allocation of Federal grant funds to plan, design and construct the Cedar Creek Trail

Senior Planner Michelle Miller came forward and presented a presentation (see record, Exhibit D) and stated the purpose of the presentation was to describe the Cedar Creek Trail project overall and the general timeline, review planning and engineering parts, as well as go over the intergovernmental agreements in the resolution and discuss the next steps for the project. She referred to the timeline and history of the Cedar Creek Trail, the work of the community and past Councils and approvals and the funds that have gone into planning the trail to get where we are. She said she had information as far back as 1992 receiving a small grant for the development of the trail. She stated there were bond measures in 1998 as well as 1994 indicating approval of a Cedar Creek greenway which is the idea of having a central trail or pathway through the center of the City and connecting to Hwy. 99W. She commented in 2005 the City Council approved funds for the Tonquin Trail Feasibility Study that was wrapped into the Master Plan providing the multiuse regional trail that connects Wilsonville, Sherwood and Tualatin. She noted in 2009 Park SDC's were used to conduct the Cedar Creek Trail Feasibility Study which provided an analysis of whether the trail was feasible in this environmentally sensitive area and also to get feedback. She said once that was completed the Council approved Resolution 2010-018 authorizing staff to seek funding for the trail. She noted in 2012 we were awarded the Regional Flexible Fund Grant for the Cedar Creek Trail for FY 2013-2015 which was a \$5.1 million dollar grant.

She referred to the exhibit and a map from 1998 showing the Cedar Creek Project Study Area and highlight the Cedar Creek Trail that starts at Roy Rogers Road to the north and extends through the Cedar Creek greenway corridor at Hwy 99W and said we will have a crossing at SW Meinecke and Hwy 99W intersection and then head back up to the Cedar Creek corridor southward and a connection with

the existing Stella Olson Park boardwalk and then into the Old Town area where it wind its way down using the existing street grid for Old Town and heading out to Oregon Street and the roundabout. She said from there it will connect with the proposed Tonquin Trail points toward Wilsonville and Tualatin providing the regional connection. She said we have a pretty good idea where the alignment will be south of 99W and that was not quite as determined on the north side of Hwy 99W, so we split up the project into two separate projects for the purposes of this grant award. She stated we will have a preliminary engineering phase for Project 1, which is south of Hwy 99W and a planning for the alignment north of Hwy 99W, which is called Project 2.

Michelle gave a brief timeline for the projects and stated Project 1 will begin the construction engineering and permitting phase which will take approximately 15 months, while Project 2 will begin work on finalizing the alignment planning to get to 30% construction design and that process will take about 9 months, and will go back and wrap into Project 1 and we will end up with construction occurring in about 15 months after the initial project which will take approximately 9 months to complete the construction and then finalize the project at the end of 2015.

She stated there are a lot of issues that still need to be resolved such as what type of surface material will be used, design elements of the trail, safety and security measures and if the trail will be lit. She said all of those decisions and the decision making structure was set up with the Parks Board to be advising the Council. She said in March we formed a local trail advisory committee with interested people to help with the alignment design as well as neighbors that live along the corridor especially on the Project 2 section to help finalize that alignment. She said they will help inform the project as it gets moving to the Parks Board. She said we will also have a technical advisory committee along with City staff and a project team to come up with the best resolution for what the community is interested in and will also involve a public involvement component.

She stated before the Council tonight is the Intergovernmental Agreements with ODOT and Washington County. She noted ODOT is acting as the agent for the federal grant and they will be administering the funds to the local agency which is the City of Sherwood and the Washington County IGA is necessary because there are parts of the trail that will cross Washington County roads, such as Roy Rogers and Edy Road. She said in the first resolution the Council will authorize the City Manager to enter into an IGA with ODOT and to manage the project and agree with the grant and agree that the City will provide the local match of 10.27% of the overall grant. She referred to Exhibit 1 and said it is the IGA for Project 1 and Exhibit 2 is the IGA for Project 2. She said the second resolution and exhibit is the IGA with Washington County.

Michelle stated the next steps could be to review the IGA's and authorize signatures. She said parallel to that is an RFP process to select our consultant to the project and work with the consultant to negotiate a firmer work order contract and parallel to that ODOT will be requesting the release of funds from the Federal Government and we will be holding our kick off meetings in the upcoming months once the contract is finalized and the design and planning work begins. Michelle offered to answer Council questions.

Councilor Butterfield stated as the liaison to the Parks and Recreation Board the board unanimously supports the project 100% and said it's been one of the top projects in the Parks Plan over the last few years.

Councilor Folsom said she was the Parks Board liaison before Councilor Butterfield and appreciated the data. She referred to the 2009 allocation of funds for the feasibility study, at the time system development charges were low and believes this depleted them, but they knew this was a priority because in 2006 when we had done the Parks Master Plan, she believes that walking trails were the number one priority from the statistically valid survey that the company we hired did.

Michelle said this is correct and over 80% of the people supported the trails and the number 1 priority was for greenways and park trails.

Councilor Folsom affirmed that we spent \$180,000 plus on the feasibility study. Michelle state is was \$191,000 of Parks SDC's.

Councilor Folsom said the project has been going on for 21 years if we look back to 1992. Michelle confirmed.

Councilor Folsom said it takes a long time and said she is excited and that was the first month of her tenure when they started this project. She asked if this is Federal money that is funding the grant. Michelle responded that it is Federal Highway Transportation dollars.

Councilor Folsom referred to connectivity also being high on the priority list and asked if that is why it was a funded project as well.

Michelle said it received a lot of attention because it was serving that necessary multimodal connection for connectivity that we were short on when it came to crossing at Hwy 99w and connecting the community through a trail system. She said recognizing that the community was supportive of a trail system, we put our dollars behind that with a feasibility study and that is one of the reasons it received so much support for receiving flexible funds.

Council Folsom commented that this has gone through an extensive process where the public has been participating and voicing their support for this project. Michelle said in preparing her presentation she saw the Tonquin Trail Master Plan received over 1000 comments region wide about the trail and participated in that process.

Councilor Folsom noted that one of the advantages that we can highlight in this situation is that the Urban Wildlife Refuge, which is only one of ten in the Nation, will be connected to Old Town by 2.1 miles of trails. Michelle commented this is correct and theoretically at Roy Rogers there is the west parking access to the refuge so using the Roy Rogers as an access point as you come into the City, people can come down the Cedar Creek greenway into Old Town from the Refuge.

Councilor Folsom commented that is could be considered an economic revitalization tool for our urban redevelopment area as well. Michelle responded that is correct. Councilor Folsom referred to the maintenance of the trail and asked if the maintenance of most of the trail, takes about 5 years before the initial maintenance fees kick in and asked if we have looked at how those are going to be funded over time,

Michelle said they have done some preliminary work with the feasibility study and estimated the cost there. She said annual maintenance fees run about \$4,000 per mile of trail created and that will part of the planning process as we move forward. What type of material will we need to account for in the

maintenance and it will be part of the planning efforts so people can weigh those costs and establish the best solution for the community. She said as far as a maintenance plan and who will be doing that, she trusts the efforts of the community in pulling together as we have a civic minded community and perhaps there are creative ways we can follow to create a maintenance plan that will work for the community over time.

Councilor Folsom asked if we do have maintenance costs associated with this, the system development charge that comes into the Parks Board coffers won't necessarily be able to maintain this so we will need to find another source. Michelle responded that is correct and it is her understanding that Park SDC's can only be used for new acquisitions of park land and maintenance would not fall into this realm.

Councilor Folsom asked how do we maintain some of our other facilities. Michelle stated that we use Public Works and she asked Public Works Director Craig Sheldon to comment.

Councilor Folsom noted that she is trying to answer the questions that she has heard in the community.

Craig replied that our trail maintenance is behind schedule if you look at the new plan that was given to the Budget Committee because we have had cuts in our trail maintenance. He referred to the estimate as stated by Michelle of \$4,000 per mile and said it is pretty close and could be up to \$5,000 at the highest per mile. Councilor Folsom asked if this starts day one. He said it is pretty close to the 5 year and said it is broken out over a 30 year life cycle and it's in the refurbishment, facility asset plan that was given to the Budget Committee a few weeks back. He said it talks about when to do slurry sealing and crack sealing, slurry seal trails and maintenance and repairs.

Councilor Folsom clarified that the initial maintenance does not begin until 5 years after the trail has been built. Craig clarified if you are talking surface stuff, if talking about trash and vegetation that starts immediately.

Councilor Folsom noted that was what Michelle was referring to a civic minded community, and referred to the Boy Scout troops. Councilor Folsom thanked staff and stated she supports this project and referred to the time she spent as the Parks Board liaison and what a high priority this is for our community.

Councilor Grant said he was concerned about maintenance along with the style of the trail and said we all have a challenge with overall park maintenance in the coming years and we know the number is something like \$250,000 a year and this is part of the challenge, but a worthwhile challenge for an asset that the public will value. He commented on the \$5 plus million dollar grant and said that the maintenance costs will come after the Urban Renewal District closes which will change the finances of the City. He said there are a lot of dynamics in place but it is a worthwhile challenge as it's a great project. He stated he is in support of the project.

Councilor Clark said that Councilor Folsom touched on a lot of the topics she was going to address. She said she is excited about the project and we are a walking community and we use our trail tremendously that we have and to be able to join Old Town to the Refuge will be a huge asset to our community and an economic development piece. She noted her biggest concern is maintenance and is glad that it is at the top of the list and we don't forgot about that to ensure that the Councils that follow us are not hit with this five years down the line. She said she is excited about the forward thinking and said she appreciates it and is in support of the project.

Council President Henderson clarified that this is part of a regional trail system. Michelle said that is correct.

Councilor Henderson confirmed we have a representative from Parks Board serving on the Tonquin Trail Advisory Committee. Michelle responded yes, Brian Stecher and said she has worked with Brian on the Master Plan project which started in 2008 or 2009 and said she wasn't sure when he was originally appointed to the Parks Board, but is still on the Parks Board.

Councilor Henderson noted the \$5 million that we have been allocated comes from a federal grant and asked if it is this unique and have we had a federal grant project before and is there increased oversight or scope that will factor in. She also made reference the comment that we are a civic minded community and asked how people could get involved in a project like this given the steps we are in right now.

Michelle stated part of the structure that we set up in March for having a local trail advisory committee help with that, and as we move forward and when we identify things that might need responses from the community as we build our maintenance plan for example, and we can proceed with outreach efforts. She gave various examples.

Julia Hajduk Community Development Director said she is not aware of a project other than the Sherwood Boulevard repaving project was federally funded and having the federal funds makes it a little more complex with more oversight. She asked Assistant City Manager Tom Pessemier if he knew of other projects.

Tom commented that this project was the only one in recent history, the repaving of Sherwood Boulevard which was funded through the American Recovery Act. He said essentially the money go from Federal Highways to ODOT so we have to follow ODOT contracting rules and process and there is a lot of oversight and we have to pay Davis Bacon wages among other things. He said there is certainly more process.

Michelle said that when we participated in the Ice Age Tonquin Trail master planning process that was a federal grant that we were part of and we provided some matching funds dollars but did not run that grant.

Mayor Middleton asked if it was funded from Hwy. 99 to the Wildlife Refuge. Michelle stated to the extent of our City boundaries to Roy Rogers and would include the Roy Roger crossing.

Mayor Middleton asked if it was all funded through the grant. He asked if the project will be completed with this money when we are done.

Michelle said the grant award is for the design and construction specifically allocated for Project 1 construction and Project 2 construction has not been determined yet and we won't know whether it is merely a planning phase for the project at this time but it has enough cushion so if the design gets done and there are other funds available we can move that and decide at that time what portions to construct, if any.

Mayor Middleton clarified that for now it is not funded from Hwy. 99 to the Wildlife Refuge. Michelle said that is correct.

Mayor Middleton noted that of all the money \$4,338,528 is for the trail and \$1,358,564 is for planning and engineering and that is almost 1/4 of the project because of the guidelines from the federal government, Metro and all the other agencies and it seems like a huge chunk of money to sit and plan this out. He asked if we can make changes to the trail, such as from the circle up to Old Town is a 12 foot cement path going down there that already has sidewalks on one side but this would be a trail but almost more like a road.

Michelle said that some of the design decisions are possible to alter and at this point we know it is going on Oregon Street but the way the trail will connect with the Tonquin trail it is important for the connection and that is part of what the grant award was to allocate for.

Mayor Middleton said that the County has just started the planning but they have no money set aside for their section.

Michelle said she is not aware of what the County is planning at this phase but is aware they are working on their regional transportation plan and said she knows that Metro is working on acquisition along Tonquin Road for some parts of the trail. She said there are pieces in Wilsonville that are connected at this time as part of the Ice Age Tonquin Trail.

Mayor Middleton asked if it is too late to want to do the section from Old Town to the Wildlife Refuge and not do the other section, like not do the Oregon Street first and look for funding for it later. Michelle said it is too late for that.

Mayor Middleton said there is a lot of unanswered questions, especially the whole section that is not going to be built, but will be planned and plans are great and we have a lot of them. He said he wants the public to know that this is not free and referred to the County transportation study where the public said they want roads without realizing and accepting the cost. He said he wants the public to be aware that this will impact the City tremendously financially down the road. He said he would like this to go to the public for a vote and doesn't believe others would like to do that. He said the public needs to know that when we plan and build this they are going to pay for it down the road. He referred to his homeowner fees that pay for the maintenance of the trails in his area. He stated this is not a freebee and down the road we will have all these trails that we are going to have to take care of. He commented there is 18,000 people here and we are going to have to take care of this. He said he loves the public help, and he noted they will help to some extent. He referenced the trash in Stella Olsen Park that is not picked up by the public. He noted this is a huge community project and everyone needs to know what the future brings cost wise and said it is a great plan, but he does not like Metro's requirements on some of it. He suggested that we could do a substandard trail in some part, like the Wildlife Refuge where it is gravel, and that is what he would like to see because it brings you back to nature, not a 12 foot highway. He said he has been involved in Mazamas for years and they are always looking at the rural end and building their own trails and maintaining them, but not to the tune of over \$10 million, which is what it will cost when we do the other section. He referred to paying 10% and referred to street SDCs and URA funds and stated this project is going to be very expensive and he would like to see the public get a full list of what it is going to cost us and he suggested putting it on the ballot.

Councilor Henderson asked how do we know what the cost of the trail is if we haven't finished the design of the trail.

Mayor Middleton said that we need to know before. He commented you can do a maintenance plan and said Public Works Director Craig Sheldon can give us that and then you can look at the cost of what it will cost to cross Hwy. 99 to the Wildlife Refuge whether you go under or over. He asked what the cost was to go under Hwy. 99 and recalled it was \$11 million.

Council President Henderson said it was prohibitive.

Mayor Middleton said he wants everyone to know if you want this don't be surprised when we have to come back asking for money and cut other areas in the budget. He commented he does not like surprises and this is a great project and he loves the money involved but he wants all the answers before we start on it.

Councilor Henderson clarified before we start construction. Mayor Middleton replied before we start even planning which is going to cost 25% of the whole project.

Councilor Henderson asked whether the grant includes the design. Michelle confirmed it did.

Mayor Middleton stated once you start the design and accept the federal money, and if it turns out unfeasible you have to pay the \$1 million back because you have not complete the project according to the RFP.

Michelle replied per certain phases. She said we will have a first phase which is the design phase of Project 1 and when we get to the point where it is a go or a no go and then it allocates the construction money for phase 2 if we decide to go.

Mayor Middleton noted we still have to pay for the planning and engineering even if we don't put one bit of concrete down for the trail. He said once you start you have to pay the fees back to the federal government up to what you have spent. Michelle replied, for the phase.

Mayor Middleton stated if we spend 25% for the first phase, which is engineering and planning, and if we run into issues such as hazardous materials, that increase the cost, we still have to pay for that.

Michelle replied this is not her understanding.

Mayor Middleton stated it says once you start the program if you don't complete it you pay the government back the cost. Michelle clarified that means the construction.

Mayor Middleton asked if we go through the planning and engineering the government will just pay you if you find out it is too expensive to complete. Michelle replied, she believes so.

Mayor Middleton said that he does not believe that is true. Michelle offered to confirm and get back to the Council. Julia Hajduk replied she was not prepared for the question.

Councilor Butterfield asked, if the Mayor was finished, he would like to make a motion. The following motion was received.

MOTION: FROM COUNCILOR BUTTERFIELD TO ADOPT RESOLUTION 2013-058, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 5:1. (COUNCILORS GRANT, HENDERSON, FOLSOM,

BUTTERFIELD AND CLARK VOTED IN FAVOR, MAYOR MIDDLETON VOTED AGAINST) COUNCILOR MATT LANGER WAS ABSENT.

Mayor Middleton addressed the next agenda item.

B. Resolution 2013-059 Authorizing an Intergovernmental Agreement (IGA) with Washington County to secure approval of the mid-block crossings for the Cedar Creek Trail

Michelle Miller stated the Washington County IGA is to approve that we submit to them the work on the midblock crossings and they approve that the trail will go across Edy Road and Roy Rogers and that we can design and work together to come up with a good solution.

With no Council comments heard, the following motion was received.

MOTION: FROM COUNCILOR BUTTERFIELD TO ADOPT RESOLUTION 2013-059, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 5:1. (COUNCILORS GRANT, HENDERSON, FOLSOM, BUTTERFIELD AND CLARK VOTED IN FAVOR, MAYOR MIDDLETON VOTED AGAINST). COUNCILOR MATT LANGER WAS ABSENT.

Mayor Middleton addressed the next agenda item.

8. CITIZEN COMMENT

Mara Broadhurst, 28440 SW Ladd Hill Road, came forward and thanked those who voted yes on the annexation. She said elections stress and test the character of the City and you had to be brave to stand up and be counted. She questioned whether the Founding Fathers could have withstood Facebook. She referred to organized social media animosity and said it can be daunting and relentlessly promoting misinformation and bragging about the power to ruin just because you can and then joking about it is just mean but it is America, or is it. She said hopefully not the new face of Sherwood. She stated we have to keep faith and give legitimate consideration of the issues and not bully scare tactic. She said we are all proud of the town next door and it is a great place for kids and commented on the #16 and #5 small town in America designation. She said getting builders to invest in Sherwood or getting people to move here did not used to be so easy. She referred to the Tannery smell behind Hopkins on a hot afternoon. She referred to the nude strip club on 99W and the Blue Mountain dog food plant and said builders spent a lot of money working with a positive minded community to create great family neighborhoods and the City protected the wetland environment and planned for the sustainably of our Sherwood vision, which always included Brookman Road. She said now what, draw a line, build a wall and everyone else keep out. She commented on the proud sense of bully control power that permeates Sherwood politics and should remember the watch your back or do whatever it takes to win regardless of the truth or consequences is not the right democratic lesson for the kids. She said local businesses fear economic boycotts and struggle under the no growth policy and asked if we want to be the #1 most negative town that shuns new business, new jobs, new houses, new people, and says no to everything. She stated Sherwood did not used to be that weird and could only be so big. She said the annexation land was needed when brought into the urban growth boundary 11 years ago, the line was drawn and the land was rezoned and restricted to FD20, future development. She stated after public involvement, school scrutiny and City study the Brookman concept plan further zoned and limited the land. She said for wanting to proceed with the plans they are referred to as being greedy speculator and asked who has been fooling whom. She commented on vindictive agendas, irresponsible recklessness, and said

when democracy speaks it should be about keeping the American dream alive for everyone and should include the Brookman Road annexation property owners and their rights. She noted the Brookman area includes 20 acres of pristine Cedar Creek wetlands and said what an opportunity for Sherwood citizens to add this gem to the park trails for all to enjoy. She stated the worst election experience was getting cussed out when putting up "yes" signs and commented on the intimidation. She noted the Sherwood Gazette and social media reported high density zoning fueling the frenzy that this land was zoned for apartments and this is not true and frustrating. She said reminiscing with old time businesses about the good old days about progress and prosperity made sense was the best. She said she hopes Sherwood is allowed to blossom and commented on principles that need to be at the heart of any election; be kind you are in God's country, share, promote positive values, don't discriminate, teach tolerance and recall bullies and set goals and see them through, welcome citizens, families, property owners, businesses, City officials, home owners, home builders and weirdo's, we all love this town let freedom reign.

Nancy Taylor came forward and stated that she received her property tax bill and she looked at where the money was going and is not sure that this Council voted on everything that she paid for but said it is a lot of money. She said that in the future when citizen want to come forward with comments and they don't agree with you she does not think that means that we don't agree with a personality. She commented that she tends to disagree with people in their ideas, not personalities. She commented on the Council talking in the backroom and this disturbs her as you all want to be seen as one body and said they are not, they are all individuals with different personality types and agendas. She said when you are voting think about all of the citizens in Sherwood and said that they do not want to pay those bills. She commented that certain things on her tax bill disturbed her knowing that a large chunk was going towards Urban Renewal and that made her upset. She stated that Council made decisions that we all have to live with and she doesn't appreciate it.

Susan Claus, 22211 SW Pacific Hwy., came forward and stated that Jim was out of town, otherwise he would be here and said this is a document from him for the Council regarding the property at 22065 SW Pacific Hwy. the graveling and the changing of the property without permits. She asked Council to read the document and said it has been going on for 18 months and is in the planning with a hearings officer now. She noted it is important to see how it got there, how long it took to get there and why it is where it is. She said they are requesting Council oversight on that. She commented about the Cedar Creek Trail that just passed and said when that was talked about, just in the conversation tonight, it has changed again. She said part of the administrative money that says it is going to planning and engineering the clarification that she wants and to ensure it runs to the ODOT documents, we have a policy in town and maybe Julie Blums can tell us, we are also taking and administrative override that goes into our general fund and said there was \$1.2 million in the last budget that was anticipating this \$5.2 million grant. She said if we are also having a separate administrative charge on that money that makes it more expensive and less for us to get improvements built on there. She commented on the City Manager evaluation and said we still don't have the system set up and completed and said she does not where we are in that process and citizens have not had a time that the Council lets them approach the Council and talk about the City Manager evaluation. She said there is a partial criterion that was just made public and she could not get it earlier. She said the process is valuable to have staff input and Council input and extremely valuable to have citizen input when you are talking about the City Manager who is in charge of all the employees and interactions the community has with employees and it seems appropriate and we have done it in the past. She referred to the Cedar Creek Trail and said the other clarification that she had and said this is the first time she has heard we now have the north side of Hwy. 99 unfunded. She said there is piece of property they gave to the City with the stipulation that the trail would not go to the south of that property, next to their property, but the trail would extend to the north of that property and she

wants to make sure because we are using federal money and because that was part of the deal at the beginning that it still flows through and the trail goes to the north of that property.

Mayor Middleton said that staff will get back to her on that.

Eugene Stewart came forward and thanked the City of getting the ducts cleaned at the Senior Center and said hopefully we will set a schedule and not let that happen again. He said the City needs to get a better handle on what annual maintenance costs will be before we start spending money on new projects. He commented on the traffic on Hwy. 99W and said he doesn't see with what Washington County is spending that it will help anything. He said all you have to do is look at the other ends of our highways. He commented on the bottle neck at Tualatin Sherwood Road and referred to 99W towards Bull Mountain Road being a bottleneck. He commented regarding Trimet busses pulling over and the rear of the buses being in the middle of traffic allowing one lane of traffic to pass. He said we need to start looking to these things and start thinking about traffic for autos. He commented about getting more carpooling. He commented regarding getting 6000 people out of town on busses and finding money for the extra 400 buses and asked how routes will be create where cars travel that busses can't. He said we are in a rural community and it is time Metro looked at it and understood that we are different and we are not downtown Portland. He said hopefully we are not putting any businesses out of business, as roads become congested you can't meet your goal of 40% business in the Sherwood area. He said we need to take a better look at the other ends of our roads so we understand. He commented regarding the City of Portland and taking Barbur Boulevard down to 2 lanes and its congestion coming into and affecting Sherwood, commented regarding doing what Metro tells us to do without looking into things.

Patricia Claus Sherwood resident came forward and read a document provided by her parents. She read as a City Council, for the sake of the citizens, I believe it is time to confront some of the structural flaws in city operations. Council has been seated long enough to know that some problems have become chronic. Senior staff in our town are very well paid with excellent benefits and are by and large non-citizens of the town. We pay them well. I believe it is not too much to ask that our city become legally, not politically based in its application of the local and state rules and regulations. We have supposedly paid Beery, Elsner and Hammond attorneys to watch our codes, give us advice as supposed "municipal law" experts and provide an employee handbook to move our town away from cronyism, favored citizen status, and other unprofessional behaviors. Hopefully we have not also paid for a "get out of jail free" card to the former mayor's political backers. I believe the recent and current activities of the senior staff are serious enough breeches of the employee handbook that these senior staffers should be terminated. As a town, we need to clean house with professional civil servants concerned with the process, not control of land use regulation for political manipulations. If our senior staff cannot abide by our codes and our employee handbook, we need to replace them. Controlling of individual life and property without due process and equal treatment is a step out of democracy towards dictatorship and more. The case I bring to City Council is one that the Councilors are already familiar with, the illegal graveling of about 3/4 of an acre grassy areas located at 22065 SW Pacific Highway in Sherwood. I do not believe this is an isolated incident, however, will just focus on the events surrounding the illegal actions by a political backer of the former Mayor. Let me briefly analyze in my opinion and belief what happened here that if not stopped now, can lead to a lawsuit. In October 2011, Mr. Doyel bought taxation land #2100 located at 22065 SW Pacific Highway specifically to utilize to provide additional parking for the dental offices in the Cedar Brook Professional Building next door. Mr. Doyel worked with two licensed businesses in Sherwood and the State of Oregon to excavate large amounts of dirt from a one-half acre on the property which has only one acre developable and put in large amounts of gravel and then began to park his vehicles on the property, the fill dirt could have been used

inexpensively to help fill the Cedar Brook Way right of way. At least five dentists and their staffs operating out of the Cedar Brook Professional Building began parking their vehicles on the illegally excavated and graveled areas. The city continued to allow the dentists leasing from the Doyels property to use this illegally excavated and graveled grassy area. The city also allowed Mr. Plat, who alleges that he is not operating a construction office out of this site, to use another converted grassy area to store heavy construction equipment. This is a property that has no history of that use. Nancy and Al Williams used this house as a residence. She also had a small hair salon that she operated in a room attached to the garage area. They sold their highway access to ODOT. The Sherwood Transportation System Plan requires that this property's legal access is to enter off of Cedar Brook Way.

Josie Claus came forward as a Sherwood resident continued reading: Initially Tom Pessemier as interim city manager and then Joe Gall as city manager and Tom Pessemier as assistant city manager refused to have the City contract attorney pursue legal sanctions with the enforcement penalties associated with the illegal activity. They allowed the illegal parking and the illegal use to continue. Why no investigation? Activities are occurring here that if my wife and I did this we would be taken to court, fined and have anything else done to us the City can think of to do. This illegal activity would still be occurring except that the State Police were going to be brought in to enforce the codes or take action against the local officials who refused to enforce the code. The city manager according to Chapter 15.28.030 has the duty and responsibility to investigate complaints and conduct inspections to enforce the codes. Under the penalties section of this code it states: A. unless specifically limited elsewhere in the Sherwood Municipal Code, the city manager is authorized to seek a civil penalty from any violator in an amount of up to one thousand dollars for each violation of any of the provisions of the Sherwood Municipal Code. B. When determining the amount of the civil penalty, the city manager if appealed, shall consider at a minimum, the following factors and set out the notice or determination those believed to apply to the situation: 1. Prior violations and whether those violations were remedied in a timely manner; 2. The magnitude of the violation; 3. Whether the violation was repeated or continuous; and 4. Whether the violation was intentional or otherwise. The city manager and his senior staff are violating the employees manual. This must also be stopped. The latest changes made to our employee handbook were in June of 2012 after the current city manager was hired. Under Section 3.4.3 Notice, Mr. Gall has not notified the employee(s) that they could be fined for allowing the illegal use of parking and they could be fired. There this no way Beery Elsner and Hammond and Mr. Gall do not have access to the staff report on the Doyel application. Yet he has not done anything. Ask yourself: Why would Gall not be stopping this illegal activity rather than aiding and abetting the application in continuing his illegal activities for 18 months. Look at Section 3.7.2 and Section 3.7.3 you may have an answer that gives reason to dismiss Gall. In part it reads: No city employees may actively work for, or against, or attempt to influence the election or defeat any of the candidates for Mayor or Council, or the election to defeat of any other political candidate or ballot measure. Look at 3.8.2 Prohibited Activities. Clearly allowing someone to proceed to excavate 3/4 of an acre of land, change drainage, etc. is giving a financial advantage to someone who was a political supporter of the ex-Mayor. If it stopped there it would be fine, but it appears to be even more of a cover up. If you read Section 3.18.1 it is clear that neither Gall or the City contracted attorney has reprimanded as required, Bob Galati, Tom Pessemier, and/or Julia Hajduk or Jeff Groth for failing to stop what they themselves label as an illegal use. If you then look at Section 3.18.3 Termination of Employment, Gall has violated all of the following: 1 careless, inaccurate, unreliable or otherwise unsatisfactory work performance or productivity. 2 interfering with or impeding other city employees work.

Naomi Belov Sherwood resident came forward and continued reading the document provided by Josie Claus. 2. Interfering with or impeding other city employees work. Bill Collins should have started

enforcement against Mr. Doyel. The city contract attorneys have aided and abetted the city manager. 3, there is a breach of trust. These are Gall's employees and he has failed to force them to act consistently and violated his fundamental trust responsibilities to the citizens. Number 4 has violated any conduct that is illegal under, federal state law. The state building code has been violated, the local engineering code and zoning code have been violated and clearly they are ignoring major differences in Doyel's conduct vs. code provisions. Also under this section of the Handbook, Gall additionally has violated, Section 3.18.3 Major Infractions, bringing discredit to yourself or the City, dishonesty of any type conduct in the course of employment that could result in legal action against the city, failure or refusal to cooperate in an investigation or interfering with an internal investigation. Ms. Belov thanked Ray Pitz and Fenit from the Gazette and the Oregonian for the articles that helped reflect the care and love that people have of Sherwood and she is happy that people have taken the time to comment on Facebook and put signs in their yards to save the small farms south of town and have voted against the annexation. She said this a great place and started out as a small town and we need to keep it that way, there is only so much this ecosystem can handle between Parrot Mountain and the Tualatin River and you can only fit so many people in this space. She stated if we want to expand the City limits at some time she is glad it will always be brought to a vote and people will have a say. She referred to the recent awards recognizing the City and said we want to keep Sherwood a great place.

Mayor Middleton addressed the next agenda item.

9. COUNCIL ANNOUNCEMENTS

Councilor Dave Grant commented regarding the comments made by Nancy Taylor and seeing a line item on our taxes indicating Urban Renewal and said urban renewal is very confusing to a lot of people and asked staff if the Urban Renewal District had not been created would that mean that line item would not be there and our property taxes would be less on that line item.

Assistant City Manager Tom Pessemier replied no and said the reality is nobody's tax is changed because of urban renewal, there is a tax increment freeze that happens when the urban renewal's district is formed, they look at the amount of the increment of tax, it goes over inside of the urban renewal area and then the County in the way they divide the County up, divides it up over everybody's taxes over the City. He said, nobody's taxes go up, no taxes in the urban renewal area go up, nor taxes in other areas of the City go up, it remains the same. That increment gets redistributed to other places and this is why it shows up on the taxes.

Councilor Grant clarified that it is just a line item on our tax bill for reasons of their accounting and our tax bill would be the same either way. Tom said that is correct.

Councilor Bill Butterfield thanked staff for all the hard work they are doing and will be doing and said he know that everyone that voted for him supports staff. He said he wants staff to know they are supported, loved and encouraged them to keep up the good work. Councilor Grant echoed the support comment.

Councilor Robyn Folsom thanked the Sherwood School District for our great partnership that we had to provide 80 children the opportunity to participate in Beauty and the Beast Jr. which was held over two weekends and they had over 1600 people attend which was a record of attendees. She said they hit their licensing restriction and did not have to turn people away. She noted those who attended Saturday night stayed and put away their chairs and the cleared the gym in about 90 minutes. She thanked

Heather Cordie, Marianne Funderhide and Jeanette Godfrey and said they are fabulous to work with and she appreciates them greatly.

Mayor Middleton commented regarding a recent article in the newspaper and his work with citizen volunteers on a dog park, he said he has spoken with staff and they are on board with it, but they have not finalized anything. He said the response he has received is great and should not cost the citizens anything. He stated we are starting another partnership with the School District and asked the City Manager to briefly explain and said it's very important how closely we work with the School District.

Councilor Krisanna Clark thanked those that attended the Sherwood Bowman Auction and said Councilor Butterfield was also there and it was a great event and it helps to provide scholarships for students to further their college education.

Mayor Middleton addressed the next agenda item.

10. CITY MANAGER REPORT

City Manager Gall reported on growth issue and facility planning in the City and informed the Council that City staff, including himself, Julia Hajduk and Tom Pessemier met with the Sherwood School District senior staff to start a discussion and try to help them with their planning. He said their last facility plan was in 2008 and said we are very happy as we have expertise and knowledge that maybe wasn't done in the past that will help them plan facilities in the short term and long term. He said eventually that presentation will be made to the Council and to the School Board and we have discussed a joint work session. He said Superintendent Cordie has indicated that the Ridges schools continue to feel pressure as there are more students at those campuses than they expected and there are subdivisions being built around those schools and Archer Glen is under capacity.

Mr. Gall reminded everyone of the Veteran's Day ceremony at the Sherwood High School that begins at 11:00 am. He stated Mayor Middleton is the keynote speaker and Representative John Davis will be speaking. He stated Rose's Restaurant was partnering with the City to host refreshments.

Mayor Middleton thanked Kristen Switzer for distributing the document that recognized our City staff members that are veterans.

Mayor Middleton adjourned to a URA Board of Directors Meeting at 8:25 pm.

Submitted by:


Sylvia Murphy, MMC, City Recorder


Bill Middleton, Mayor