



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
March 4, 2014

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 6:46 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Robyn Folsom, Krisanna Clark, Bill Butterfield and Matt Langer. Councilor Dave Grant via conference call.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joseph Gall, Assistant City Manager Tom Pessemier, City Recorder Sylvia Murphy and City Attorney Chris Crean.

4. **TOPICS:**

A. Legal Counsel, Pending Litigation, Pursuant to ORS 192.660(2)(h).

5. **ADJOURN:**

Mayor Middleton adjourned the executive session at 6:53 pm and convened to the regular Council meeting.

CITY COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:02 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Bill Butterfield, Krisanna Clark, Robyn Folsom and Matt Langer. Councilor Dave Grant via conference call.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Jeff Groth Police Chief, Julia Hajduk Community Development Director, Finance Director Julie Blums, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Planning Manager Brad Kilby, Bob Galati City Engineer, Mark Daniel Police Captain, Colleen Resch Administrative Assistant and Sylvia Murphy City Recorder. City Attorney Chris Crean.

Before addressing the consent agenda the Mayor made an announcement regarding bringing decorum back to the meetings. He said the Council has rules and said copies were provided in the back of the room, (see record, Exhibit A). He referred to the rules and said that he sets the agenda and that is addressed in Section D.2. He stated that he recognizes Councilors wishing to speak and that is in Section E.3.g. He noted that every Councilor will have an opportunity to speak at least once on an issue and that is in Section E.3.b. He said currently they only address City Commissions and Committees in Section Q.3.a, but he will address that later and if you don't fall under that it is covered in Section Q.1.a. He said we are elected for the people and not our personal agendas. He commented on getting back to business and running the City as a professional group and that includes the citizen's as they address the Council.

Mayor Middleton addressed the Consent Agenda and asked for a motion.

5. CONSENT AGENDA:

- A. Approval of February 18, 2014 City Council Meeting Minutes**
- B. Resolution 2014-014 Appointing Andy McConnell to the Budget Committee**
- C. Resolution 2014-015 Appointing Coleen Swihart to the Library Committee**

MOTION: FROM COUNCILOR CLARK TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Middleton addressed the next agenda item.

6. PRESENTATIONS:

A. TVFR State of the District Report

Fire Chief Mike Duyck approached the Council and gave a presentation (see record, Exhibit B) and introduced Division Chief Kennedy, Public Relations Officer Steven Meyer, and Acting Captain Ryan Robinson. Chief Duyck recap 2013, TVFR's commitment to the community and the future. He stated that TVFR responded to 1,243 incidents in Sherwood in 2013 with a significant portion of medical calls. He said district wide they responded to 35,086 calls and referred to the trend line and the work they have done to reduce incidents. He noted that the number of incidents have started to increase and said this is due to growth. He said TVFR is not just about firefighting anymore as 8 out of 10 calls are medical district wide and that is a significant part of the business and they are now a component of the health care system. He said they responded to over 100 crashes in Sherwood in 2013 and commented on the need for training and being prepared for all situations. He noted they have specialty teams throughout the district such as hazmat, technical rescue and swift water. He said they also do inspections and investigations and in 2013 they did 310 inspections and 12 fire investigations in Sherwood. He commented on the upgrades they have done to the response infrastructure in centers and vehicles. He said they now have 4 response cars that respond to 7% of the 35,086 calls district-wide. He said they have done a number of public safety campaigns and gave the example of the free Apartment Landlord Training Program. He commented on the number of public safety campaigns in 2013 such as the public safety fair in Sherwood..

He commented on the future of TVFR and said they are data driven and gave examples of how they understand response problems and solutions. He commented on the 20 year horizon in terms of growth and said that as soon as they know about developments, residential and commercial they enter them into their system. He said the TVFR system currently has 21 interdependent stations covering 210 square miles and 450,000 people. He stated they will need additional sites in the future. He said since 2000 they have operated on a temporary tax or local option levy. He said this was renewed in 2005 and 2010. He said the TVFR Board of Directors have decided to put back on the local option levy with is a replacement levy on the May 2014 Ballot which would retain the 42 firefighter medics hired since 2000 and add up to 44 firefighter medics at three new sites throughout the community over the next 5 years. He said it would purchase land and construct 2 small and one regular size fire stations with trucks and medic units located between the sites. He stated this will be the first increase in 15 years and will cost 45 cents per \$1000, which is \$3.53 more per month than the current levy.

He stated on January 28, 2013 TVFR was the first in the State of Oregon to introduce a smart phone application called PulsePoint. He said it can be downloaded free of charge and it knows where you are and notifies you if someone has a cardiac arrest with ¼ mile. He said it gives the patient the highest likelihood of surviving a heart attack. He encouraged everyone to learn CPR and download the application and spread the word. He said there have been 7000 downloaded but with 450,000 in the district there is a long way to go. He asked for Council questions.

Councilor Henderson asked why they were going on a May Ballot when May is notorious for having low turnouts. Chief Duyck said this is 14% of the district's operating expense and would have a significant impact and if it is not successful they have time for other options. He said they have traditionally gone out in May elections. Councilor Henderson clarified that they responded to 35,086 incidents in 2013. He said yes and all indications are that we are on an upward swing due to population. He said they work with a number of providers but the fact is people have medical emergencies and incidents happen. Councilor Henderson asked when they would announce the new Captain. Chief Duyck said in May.

Mayor Middleton asked if TVFR charges for calls out of district. Chief Duyck said the Board of Directors is not in favor of that philosophy and he understands that those districts that do charge the collection rates are low and said it is better to understand why the incident occurred. Mayor Middleton said he agreed with that philosophy.

Councilor Clark thanked Chief Duyck for promoting the PulsePoint and referred an experience she had and said to have an app would be useful and is an amazing discovering. Chief Duyck commented that this will make the community safer.

Mayor Middleton thanked Chief Duyck for the presentation.

Mayor Middleton stated he was amending the agenda and moved Citizen Comments to the next business item.

7. CITIZEN COMMENTS

Sally Robinson came forward and reiterated what the Mayor said at the beginning of the meeting. She said that she is very disappointed and embarrassed by the last five minutes of the last meeting. She said it was a special meeting and only certain things were to be discussed and the last item was not on

the agenda but was on the agenda for the following week. She referred to the importance of following the rule and noticing requirements so people can determine whether or not they can attend. She commented on the disrespect shown to the Mayor and said she was disgusted that they were interrupting each other and not giving common courtesy to one another. She encouraged the Council to reevaluate the rules.

With no other public comments received, the Mayor addressed the next agenda item.

8. NEW BUSINESS

A. Resolution 2014-016 Approving the Terms of an Employment Agreement Between Sylvia Murphy and the City of Sherwood

City Manager Gall reminded the Council that this was the final step, and the City Recorder Evaluation was approved a few weeks ago and during that process they realized that the Employment Agreement was not up to date. He said the City Attorney drafted a revision of the agreement and the City Recorder has seen the agreement and the Council is being asked to approve the terms of the agreement. He said it is a 3 year agreement and stated the City Recorder is one of four that report to the Council.

Council President Henderson noted there is an error on Page 2, the date is incorrect regarding being payable by March 1, 2014 which has passed and asked for an alternative date. Finance Director Julie Blums suggested March 13, 2014.

With no further discussion the following motion was received.

MOTION TO AMEND: FROM COUNCIL PRESIDENT HENDERSON TO AMEND RESOLUTION 2014-016 PAGE 2 OF 5 UNDER COMPENSATION AND BENEFITS THE LAST LINE OF ITEM B TO CHANGE THE DATE FROM MARCH 1, 2014 TO MARCH 13, 2014, SECONDED BY COUNCILOR LANGER. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT THE AMENDED RESOLUTION 2014-016, SECONDED BY COUNCILOR FOLSOM. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Middleton addressed the next agenda item.

B. Resolution 2014-017 Providing City Council consent of Mayoral appointment of Councilor Krisanna Clark as Councilor Liaison to Sherwood Chamber of Commerce for 2014

Mayor Middleton said he was pulling the resolution from the agenda and said from now on we need to follow the proper process. He asked for objections.

Councilor Henderson commented that this is the second time the agenda has been amended without a call. She said Citizen Comments were moved already.

Mayor Middleton said that is his prerogative. He said he has decided to drop the issue and said there have been mistakes made and he has made mistakes and referred to an email on February 26 and he added a person to an email and apologized and said they have to be careful.

Councilor Butterfield stated that we are a democracy and not a dictatorship and things will go smoothly if we remember that.

Mayor Middleton said that we can also go by the rules.

Mayor Middleton addressed the next agenda item and the City Recorder read the public hearing statement.

9. PUBLIC HEARINGS

A. Ordinance 2014-006 amending the Dimensional Table in Section 1612.030.c of the SZCDC as it relates to front yard setbacks within the Medium Density Residential Low, Medium Density Residential High, and High Density Residential Zoning District

Planning Manager Brad Kilby came forward and gave a presentation for a proposal to reduce the front yard setback within the medium density residential low, medium density residential high and high density residential, (see record, Exhibit C). He said this is a proposal from DR Horton who is currently working on the Daybreak subdivision. He said the current setbacks are 20 feet for front yards and 15 feet for corner side yards for all residential zones. He said the proposed amendment from the applicant is to reduce the front yard setback to 14 feet, then allow a porch to extend 4 feet leaving 10 feet and keeping the garage setback at 20 feet. He said the Planning Commission did not agree.

He said there are things to consider and from a professional standpoint it is a community aesthetic issue. He commented that setbacks were originally employed to ensure that clean air could circulate in and around buildings. He said there are building code setbacks and planning code setbacks. He noted that places like Sherwood enjoy larger yards and that could be a reason for the setbacks. He said things to consider are the City requires an 8 foot public utility easement along the front property line and currently allows architectural features to project 5 feet into a front yard setback. He said the Planning Commission recommended that this amendment does not include the 5 feet projection into yards and recommended that the setbacks be reduced to 14 feet in the front yard and 20 feet to the face of the garage.

He referred to a table on density in the area and said they don't compare density to density across jurisdictions but you will generally see low density, medium density and high density zones and said the setbacks vary widely and it comes down to the aesthetic values of the community. He said in high density it makes sense to have smaller front yards because you want the buildings up front and the parking to the side. He stated that with medium density and low density setbacks you might consider that you have to provide a variety of housing in a community. He said the Planning Commission recommended reducing the setback to 14 feet in the front year and 20 feet to the face of garage to provide room to park and recommended putting a prohibition on encroachments permitted by section 16.50.050. He said when they consider 14 feet they go to the foundation line and reminded the Council that the City requires an 8 foot public utility easement so cautioned them not to allow a projection of 5 feet because that could reduce the setback to 9 feet and that may be too close to the utility easement.

Prior to the Mayor opening the public hearing, Community Development Director Julia Hajduk said this is a legislative land use hearing but it does have an applicant and said at the Planning Commission we

follow the same hearing schedule as a quasi-judicial but it is up to Council discretion whether they want to give the applicant 30 minutes to present. She said she recognizes this is a long time at a Council Meeting and recommended that staff and the applicant be brief.

Mayor Middleton asked if the Council had any objections and none were received.

Andy Tiemann with DR Horton came forward as the applicant and provided a presentation (see record, Exhibit D) and said they are building a subdivision within the City limits and realized there was no flexibility in the code for front setbacks. He commented on the architectural trend for houses to be more pedestrian oriented which means the porches are closer to the road and eliminates the snout houses where you see all garage and rather have a more porch dominant home. He said with that type of home there is usually flexibility with setbacks and they noticed the code was at 20 feet and the process of asking for variances was cumbersome and it was recommended by staff to request a code amendment to change the setbacks across the board. He stated they proposed a minimum setback of 10 feet to the porch, 14 feet to the front of the building and 20 feet to the garage but stated the Planning Commission recommended only going to 14 feet which was fine with them and that will still allow flexibility. He referred to the typical site plan which illustrated the front porch and still allows parking for vehicles and said moving the front forward results in a larger backyard and a bigger home. He provided examples that showed dominant porches and a garage setback and still allowing for decent front yards. He said they would like to build similar homes in the Daybreak subdivision in Sherwood.

He commented on the Planning Commission's recommendation that architectural encroachments not be permitted and said they would like an adjustment to the prohibition and requested an encroachment of 2 feet and stated the way the code is written it allows for a 5 foot encroachment. He said it is common that setbacks are measured to foundation walls if we use the 14 feet front setback and not have the encroachments it would be confusing to inspectors and plan drawers and to simplify they are requesting an encroachment limited to 2 feet to allow for eaves that are usually on the second story.

Councilor Langer asked about public input on this matter. Brad Kilby said there have been articles in the Gazette and the Archer and the information has been on the City website. He said they have received only one letter from Linda Klapp. Brad read the comments into the record (see record, Exhibit E) that stated she was opposed to changing the front yard setbacks as the yards are already too small for children to play so they take to the street and that is dangerous and the neighborhoods will look too crowded and referred to the neighborhoods by Target as an example. He said that was the only feedback and there was no public testimony at the Planning Commission meeting.

Councilor Langer asked Brad to compare the proposed subdivision to the neighborhood by Target that the letter referred to. Brad said that is the Autumn Hill neighborhood and those setbacks are about 10 feet and they are possibly maintained by the HOA and it is not uncommon for HDR zones to have those reduced setbacks. He said from a professional standpoint as a Council you want to provide options in housing stock and lot configuration and the more variety you allow the more opportunities you are giving developers and buyers so they can buy homes at different price points. He said he thinks they are at 10 feet setbacks and not 14 feet. Councilor Langer asked if there had been any problems with functioning and servicing utilities in that area. Brad said he was not aware of any problems. Brad clarified that they explained to the applicant that you can't get that many variances within a subdivision and they recommended the legislative amendment.

Mayor Middleton noted that this does not reduce the lot size and some of the back yards will be larger.

Mr. Tiemann referred to the site plan and explained that with the current code the porch would have to be setback to 20 feet making the backyard smaller. He noted that their original proposal was to have a 10 foot setback for the porch, 14 foot setback for the foundation wall and 20 feet for the garage. He said the Planning Commission's recommendation was that a 10 foot setback would be too small and not allow for landscaping and he said they agreed to 14 foot minimum setback and that would give them enough flexibility to give a variety of architecture and still provide larger back yards and larger homes. He clarified that it would be 14 feet to any portion of the structure. He noted that they are requesting the allowed projections to be at 2 feet and the code now allows for a 5 foot encroachment.

Councilor Folsom asked why the applicant is not going through the PUD process like Autumn Hill where the setback was part of the variance for the PUD. Brad commented on the limitations to bringing a PUD before Council and he is not sure that Daybreak would have met that. He commented that when developing a subdivision the code does not allow them to ask for a lot of variances. He said when developer's are laying out a subdivision they are expected to meet the standards that are laid out and he clarified the difference between a subdivision and a PUD and said there is public benefit for a high quality of design in exchange for reduced setbacks. He said in a subdivision they are expected to meet the standards and they should not be asking for a lot of adjustments or variances.

Councilor Clark referred to the ordinance and the third whereas which states they cannot apply the five foot setback reduction for architectural features if they are seeking the 14 foot front yard setback and asked Brad to explain. Brad said the Planning Commission felt that if you allow that provision which is Section 16.50.050 and gave an example of building on a second story deck, out 5 feet and said that if you are already setback 14 feet that puts the setback to 9 feet and that is too close. He noted that Mr. Tiemann acknowledges this but is asking for a 2 foot encroachment instead and gave examples of roof overhangs and other features this may include.

Council President Henderson clarified that all zones currently allow a 5 feet encroachment and clarified that Mr. Tiemann is requesting a 2 feet encroachment that could potentially change the setback to 12 feet. Councilor Folsom asked if the applicant presented this request to the Planning Commission. Julia said that the Planning Commission recommended that encroachments not be permitted and this request is a result of that decision and the Planning Commission was not asked to consider allowing a 2 foot encroachment.

Councilor Langer referred to the illustrations and asked whether those architectural details would need the requested 2 feet encroachment. Brad said yes. Councilor Langer clarified that allowing the 2 foot encroachment would change the setback from 14 feet to 12 feet and the concern with setbacks is to protect the 8 foot utility easement and asked if allowing the 2 foot encroachment would be a problem. Brad said that is would not be a problem and they would still have an additional 4 feet and you can also consider the sidewalks provide 5 feet of space.

Mayor Middleton opened that public hearing. With no one coming forward Mayor Middleton closed the public hearing.

MOTION: FROM COUNCILOR BUTTERFIELD TO READ CAPTION AND ADOPT ORDINANCE 2014-006. NO SECOND WAS RECEIVED. MOTION FAILED.

Council President Henderson asked Brad to show the chart illustrating the setbacks in other communities. Councilor Folsom clarified that they are considering whether to allow a 2 foot encroachment and commented that on the chart under high density setbacks we would be in line with other communities. Brad commented that in HDR zones the trend is to move the building towards the street and reducing setbacks to provide for parking on the side.

Councilor Clark said she does not have a problem with the HDR portion but the ordinance is affecting MDRL, MDRH and HDR and referred to the chart and said we are in line with the HDR but not so much the medium density and that is where she is having a problem.

Mayor Middleton asked if she agreed with the Planning Commission to not allow for the 5 foot encroachment. Councilor Clark responded yes.

Councilor Langer asked what the proposed area is zoned. Brad said it is zoned MDRL and MDRH. He commented that the other development DR Horton is considering off of Meinecke is zoned HDR but they are going through the PUD process for that development so the setbacks are a moot point. Brad referred to areas that will not be affected by this setback reduction.

Mayor Middleton stated he agreed with the Planning Commission's recommendation. The following motion was received.

MOTION: FROM COUNCILOR BUTTERFIELD TO READ CAPTION AND ADOPT ORDINANCE 2014-006, SECONDED BY COUNCILOR FOLSOM. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Brad clarified that the ordinance would be codified with Exhibit 1 which is 4 pages and Exhibit 2 which is 3 pages.

Mayor Middleton addressed the next agenda item.

10. CITY MANAGER REPORT

City Manager Gall said there are two Planning Commission positions available and the applications are due by March 21, 2014 to the City Recorder's office. He said the applications are available at City Hall or on the City website. He noted that applicants need to be Sherwood residents or reside within the Urban Growth Boundary.

Mayor Middleton addressed the next agenda item.

11. COUNCIL ANNOUNCEMENTS

Councilor Butterfield reported that the Parks and Recreation Board met last night and discussed the possibility of a dog park and sites were suggested. He said the Board has been directed to gather information and it is moving forward and he thanked the Mayor for coming up with ideas to get it started.

Councilor Langer reported that the YMCA will have a college prep course in the teen center on March 12th. He noted they just received feedback from a survey with a lot of positive comments. He reported

there will be a Chamber ribbon cutting at Mathnasium on March 20th from 5:00-6:30 pm. He said there will be a Chamber mixer on March 4th at Pacific Residential Mortgage. He announced Sherwood Cruisin' will be on June 14th. He said photos for the Chamber Directory are due and said 11,000 directories will be printed and distributed.

Councilor Grant stated the reason he presented a walk-on resolution at the previous meeting was this issue had been discussed since January and he felt this was the only way for Council to resolve it. He said that he approached Councilor Clark two weeks ago and there was a lot of discussions. He asked the Council to consider directing staff to draft a resolution to amend the Council Rules that would allow three or more Council members to put items on the agenda. He said this is done in other cities and if the Council has no way to put something on the agenda it takes away their right to vote at all. He suggested they look at this at the very least to make sure this does not happen again.

Councilor Clark commented that this is a service position and is happy to serve where she is sent. She said she was assigned to the Planning Commission and only missed 2 meeting in 18 months and attended 32 and it was a great experience. She said the purpose is to serve the community and said last year she enjoyed serving the Chamber and would have been happy to serve there again or anywhere. She said she loves the community as a whole and said the Chamber represents some of the community and represents its members which it should since it is a special interest group. She said that last week she attended the West Side Economic Alliance and said she has been very involved with them since she was appointed to the Chamber position last year and noted that she wanted to be involved in the bigger picture. She commented on a presentation she saw about collaborative communities and said this is an important thing because we cannot continue to just look at our community and our little groups and said special interest groups are important and are all part of a quilt that makes our community great and said that we need to look as Councilors as representing all of the citizen and all of the business community and economic strength of our region. She said it is important to work as a collaborative community for economic strength. She said she is happy to serve all of the citizens and all of the businesses and happy wherever she is sent. She said that when she was approach by Councilor Grant and asked why she wouldn't just pull out and she referred to following the rules and said the Mayor appointed her and it was not her right according to the Council Rules which says the Mayor appoints. She said it did not matter to her and it matters to others that they have a stake in a special interest group. She said she represents all the citizens not just one group.

Council President Henderson reported she was a judge along with Mayor Middleton and Councilor Butterfield at the Mr. Bowmen competition and they raised \$56,000 and their goal was to raise \$30,000 for Doernbechers Children's Hospital. She said this is a characteristic of our community to reach out to those in need. She said nine years ago they raise \$7,000 and now they are raising \$56,000 and encourage everyone to attend next year. She commented on the discussions regarding Council Rules and noted that we currently appoint members to Boards and Commissions by resolution and commented on that process and ask why we don't use a similar process for appointing Council liaison positions. She said if we had a public process it would help with transparency and create a record for the City to determine who has been appointed to what committee. She asked if the Council would like to consider a public process and more transparency and commented that if we did, this would not have happened. She said that is a question if we are going to actually follow the Council Rules it would clarify for future mayors and councils. She noted that the rules are not legally binding and they are their rules and in 2007 there were no rules and now they have 12 pages of rules. She said there has never been much discussion but now they have had two work sessions to review the Council Rules and have yet to

get passed page 6. She asked if Council would be interested perhaps at the next meeting to consider amending the rules to have more public process and transparency.

Mayor Middleton suggested a work session where we pick a few highlights to work on. He commented that preparation and scheduling of items on the agenda the Council Rules state that Councilors may request items to be place on the agenda and he said he does not believe he has ever refused a request. He said he does not want to be told that three people have the right to put something on the agenda. He said that we are going to stick with this rule and it has worked fine and he has never said no and said they have moved things around due to time constraints. He said it will stay the same and anyone can run for Mayor. He said he has always worked well with the Chamber until they got new leadership and we need to start working together. He stated the car show is an event for the City and all of these are events for the City and we give money in lieu and in-kind to these events and they need to start growing up and not being negative and said the City worked great for years and we need to get back to that. He referred to the council event last week and said that was an embarrassment to him and everyone in the City and he hopes it will not happen again.

12. ADJOURN:

Mayor Middleton adjourned the meeting at 8:30 pm and convened to a URA Board of Directors meeting.

Submitted by:

Sylvia Murphy, MMC, City Recorder

Bill Middleton, Mayor