



*Home of the Tualatin River National Wildlife Refuge*

# **CITY COUNCIL MEETING PACKET**

**FOR**

**Tuesday, April 1, 2014**

**Sherwood City Hall  
22560 SW Pine Street  
Sherwood, Oregon**

**6:00 pm Executive Session**  
(Pursuant to ORS 192.660 (2)(d), Labor Negotiator Consultation)

**6:30 pm Work Session**

**7:00 pm City Council Regular Meeting**



Home of the Tualatin River National Wildlife Refuge

**6:00 PM EXECUTIVE SESSION**

1. ORS 192.660(2)(d) Labor Negotiator Consultations

**6:30 PM WORK SESSION**

1. Metro Update-Metro Councilor Dirksen

**REGULAR CITY COUNCIL MEETING**

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CONSENT

- A. Approval of February 25, 2014 City Council Meeting Minutes
- B. Approval of March 4, 2014 City Council Meeting Minutes
- C. Approval of March 18, 2014 City Council Meeting Minutes
- D. Resolution 2014-019 Authorizing the City Manager to sign a Memorandum of Agreement (MOA) with the State Building Codes Division for the renewal of an assumed Building Inspection Program
- E. Resolution 2014-020 Authorizing the City Manager to execute a contract with Ogletree Deakins to provide labor attorney services to the City of Sherwood

5. PRESENTATIONS

- A. Proclamation, April 7-13, 2014 as Arbor Week
- B. Proclamation, April 21-26, 2014 as National Community Development Week

6. CITIZEN COMMENTS

7. NEW BUSINESS

- A. Ordinance 2014-007 Declaring certain sidewalks in the City to be defective under Sherwood Municipal Code Chapter 12.08 for Areas 3, Phase 4 (Craig Sheldon, Public Works Director)

**AGENDA**

**SHERWOOD CITY COUNCIL**

April 1, 2014

5:30 pm Urban Renewal  
Executive Session  
(ORS 192.660(2)(e))

6:00 pm Executive Session  
(ORS 192.660(2)(d))

6:30 pm Work Session

7:00 pm City Council Regular Meeting

Sherwood City Hall  
22560 SW Pine Street  
Sherwood, OR 97140

- B. Ordinance 2014-008 Repealing Ordinance 2014-003, temporarily prohibiting medical marijuana facilities, and declaring an emergency (Julia Hajduk, Community Development Director)**
- C. Resolution 2014-021 Accepting review of Operating Agreement with Sherwood Family YMCA and directing renegotiation of Operating Agreement (Joe Gall, City Manager)**
- D. Discussion of Motion to Take from the Table Resolution 2014-003, A Resolution removing Commissioner James Copfer from the Planning Commission**

## **8. CITY MANAGER AND DEPARTMENT REPORTS**

## **9. COUNCIL ANNOUNCEMENTS**

## **10. ADJOURN**

### **How to Find Out What's on the Council Schedule:**

City Council meeting materials and agenda are posted to the City web page at [www.sherwoodoregon.gov](http://www.sherwoodoregon.gov), by the Friday prior to a Council meeting. Council agendas are also posted at the Sherwood Library/City Hall, the YMCA, the Senior Center, and the City's bulletin board at Albertson's. Council meeting materials are available to the public at the Library.

### **To Schedule a Presentation before Council:**

If you would like to appear before Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder Sylvia Murphy by calling 503-625-4246 or by e-mail to: [murphys@sherwoodoregon.gov](mailto:murphys@sherwoodoregon.gov)



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**February 25, 2014**

**WORK SESSION - JOINT SESSION WITH CHARTER REVIEW COMMITTEE**

1. **CALL TO ORDER:** Council President Henderson called the meeting to order at 6:02 pm.
2. **COUNCIL PRESENT:** Council President Linda Henderson, Councilors Dave Grant, Robyn Folsom, Krisanna Clark, Bill Butterfield, Matt Langer and Mayor Bill Middleton via conference call.
3. **CHARTER REVIEW COMMITTEE PRESENT:** Citizen at Large Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke, Cultural Arts Commission Representative Alyse Vordermark, Citizen at Large Jennifer Kuiper and Citizen at Large Alternate Renee Brouse.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager and Sylvia Murphy City Recorder. Attorney Ed Sullivan.
5. **TOPICS**

**A. Joint session with Charter Review Committee**

Charter Review Committee Chairman Patrick Allen gave a brief overview of the how the committee approached this work. He said the first few meetings they discussed the Charter generally and identified basic principles and values and decided to focus on the issues that needed to get on the ballot by the May election that would affect the November election. He said they did not deal with clean up language and will more than likely have a Charter clean up amendment at a later date. He said they wanted to keep the first amendments simple, direct and substantive. He also noted that the Committee, with the approval of the Council, sought outside legal counsel.

He said there are 5 recommended ballot titles and referred to the meeting packet. He stated the proposed revisions removes "by position" language adopted in 2005. He explained the committees discussions and provided a summary of the arguments and said they decided an election of the most popular vote getters made the most sense. He commented on the dissatisfaction with the existing system as it may be unnecessarily confrontational and may lead to fewer candidates. He asked for questions.

Councilor Langer asked if they had a discussion about regional or geography based elections. Chairman Allen said they did consider geography based systems such as wards or bureaus but decided Sherwood is not large enough. Discussion followed about the geography based elections and the Committee noted that neighboring communities that have wards suffer from vacancies. Chairman Allen noted that this discussion was raised during the citizen comments and described the process the Committee used to involve the public with public comment periods and a workshop.

Chairman Allen introduced Exhibit C (see record) as a proposed ballot title addressing Council Rules to amend the Charter by removing language of: "The council must by resolution adopt rules to govern its meetings" and substituting: "In January after each general election, the council shall adopt rules by resolution." He noted that they do not address the content of the rules and they tried to look at the Charter as a constitutional document rather than a statutory document.

Chairman Allen introduced Exhibit E (see record) as a proposed ballot title to amend and add language of: "The council shall afford an opportunity for general public comment at each regular meeting." He commented on the notion of transparency and accountability in terms of accepting public comment. He said the Council can address the specifics such as when to accept comment and the length of the comments in their rules.

Chairman Allen introduced Exhibit G (see record) as a proposed ballot title regarding term limits for the Council members. He commented on the discussions and said they came to a consensus of 3 consecutive term limits for Council members and not for the Mayor. He said they heard that 3 consecutive term limits was too long but for those that were opposed to term limits they approved of the length. He said the Committee decided that because the Mayor serves a 2 years term there is not a need for term limits as the position is in a perpetual election mode. He said he was on the losing side of this issue and asked if any Committee member wanted to comment. Neil Shannon commented that having the Mayor serve a 2 year term allows a majority of the Council to be up for election every two years.

Councilor Grant commented on 3 consecutive terms and said he expected this to be shorter and he commented that it is a good idea.

City Manager Gall said they need to address the definition of term limits and partial terms and said the attorney has provided additional language to consider. He asked if this passes are the current member going to be affected. He provided examples and said they need to address transitional language. Discussion followed regarding transition language and the need to keep it simple.

Chairman Allen introduced Exhibit I (see record) as a proposed ballot title pertaining to Vacancies and Filling Vacancies. He said the amendment would do four things: 1) adds a provision when one gets elected to a different City office, their office then becomes vacant; 2) amends a provision regarding absences from the City by removing language of "from three consecutive regular council meetings" and replacing with "all meeting in a 60 day period"; 3) amends a provision "a mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term" by adding "or by appointment of the majority of the council within 45 day if less than 13 months remain"; and 4) amends a provision by replacing "may be" to "shall be" to read: "A mayor or council vacancy shall be filled by appointment by a majority of the remaining council members". He said they spent a lot of time considering various

possibilities regarding vacancies and noted that some of the recommended changes are substantive and some are clean up.

Chairman Allen asked the City Recorder to discuss the timeline. Ms. Murphy said the 5 ballot titles and 5 explanatory statements need to be adopted in a regular City Council meeting and can be amended at that time but requested the Council be very clear on what is to be amended. She said if the Council decides to adopt any or all of the ballot titles they need to adopt by a resolution and provide her with the adopted ballot titles by Friday, February 28<sup>th</sup> by 5:00 pm according to Oregon State Election Law. She said the next step is to notice the information in a newspaper of general circulation for a 7 day challenge period. She noted if there are no challenges after 7 days she will then file the ballot titles with the Washington County Elections Office by March 20, 2014.

Chairman Allen noted that the Committee also considered veto language and the issue of compensation and summarized those discussions. He stated that the Committee will come back and look at the remaining chapters of the Charter and will likely present additional ballot titles for future elections. He thanked the Committee for all of their work.

Mayor Middleton ended the conference call at 7:02 pm.

Councilor Henderson commented on the work of the Committee and the volume of work the City Recorder performed and thanked them for their service.

Ed Sullivan introduced himself as the outside legal counsel that was hired to review the draft ballot titles and explanatory statements.

Council President Henderson adjourned the work session at 7:05 pm and convened to a regular council meeting.

## **REGULAR CITY COUNCIL MEETING**

1. **CALL TO ORDER:** Council President Henderson called the meeting to order at 7:20 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark, Robyn Folsom, Bill Butterfield, Matt Langer and Mayor Bill Middleton via conference call.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager and Sylvia Murphy City Recorder. Attorney Ed Sullivan.
5. **PUBLIC HEARINGS**
  - A. **Resolution 2014-013 Approving Ballot Titles and Explanatory Statements and submitting proposed Charter amendments to City voters**

Council President Henderson stated the resolution before the Council would refer Charter amendments to the voters in the May 2014 election. She commented that the adopted resolution needs to be

delivered to the City Recorder by Friday, February 28 at 5:00pm and the recorder needs to get the information properly noticed and to the Washington County Elections Office by March 20. She asked Chairman Allen and Vice Chairman Shannon to come forward.

City Manager Gall introduced Attorney Ed Sullivan as the outside legal counsel that was recently brought into the process and explained the decision to seek outside legal counsel on this issue. He said Mr. Sullivan just came on board late last week. He said the Charter Review Committee has been meeting regularly since December and have been considering the two sections of the Charter that deal with election related issues in order to meet the deadline and have the amendments before the voters in the May 2014 election. He said they have met their goal and have come forward with 5 separate ballot titles.

Chairman Allen and Vice Chairman Shannon provided a brief background and introduced the nine members of the committee.

Chairman Allen commented on the process and said they decided to focus on the areas related to elections first in order to meet the timeline for the May 2014 election. He said the proposed changes are substantive and simple. He commented that they focused their consideration on the following areas: improve transparency, improve access, improve accountability, and to keep the nature at a constitutional level. He referred to the decision to seek outside counsel and stated that it has been helpful. He stated they will go forward and look at the other chapters of the Charter. He commented on the decision to propose five separate ballot titles and the Council's discretion to adopt what they wanted.

Chairman Allen introduced the first ballot title as Exhibit A in the packet which deals with the method of electing Councilors and stated that we now elect Council members by position and they are recommending reverting to the prior system where all of the candidates are on a single ballot and the top vote getters are elected to the Council. He said they spent a fair amount of time considering this issue and summarized the discussions. He said they felt this current position method is confrontational as you pick a seat you want to run against and decided single ballot will encourage the most participation.

Chairman Allen referred to the second ballot title as Exhibit C in the packet which deals with the Council Rules and stated that they have Council Rules now but not a built in process that requires review of adopted rules by the newly elected body after a general election. He said they recommend a provision that would require Council to adopt rules by resolution after each general election. He referred to the notion of being constitutional as opposed to substantive.

Chairman Allen introduced the third ballot title as Exhibit E in the packet which considers Public Comment. He referred to concerns they heard about Council accepting public comments and said the Committee proposed adding language of: "The council shall afford the opportunity for general public comment at each regular meeting". He said they considered how prescriptive they wanted to be and decided to leave it at the council's discretion.

Chairman Allen referred to the fourth ballot title as Exhibit G in the packet which deals with term limits. He stated the Committee is recommending establishing term limits but noted there was disagreement on this issue and they came to a consensus on a limit of no more than three consecutive terms for councilors. He responded to early concerns that this does not include any phase-in language, therefore

if it passes in May Council member that have served three terms may not be eligible to run for a fourth term in November. He also noted that this term limit includes partial terms. He commented on discussions regarding the Mayor's term and said the Committee did not recommend adding term limits or changing the length of the term.

Council President Henderson referred to the third sentence in the summary section of Exhibit G and asked if "*irrespective of*" would be at the end of the sentence. Chairman Allen responded yes. Ms. Henderson asked if that would be confusing to the voter. Chairman Allen said that change is to ensure continuous representation but that merits more explanation.

Chairman Allen referred to the last ballot title, Exhibit I in the packet regarding Vacancies and Filling Vacancies. He said the Committee is proposing a few things to improve the Charter and first is to clarify that if you are elected to a different City office that creates a vacancy. He stated they are proposing to tighten up the language regarding nonattendance from meetings without approval from the Council to state: "all meetings in a 60 day period." He said they are also proposing a time limit to act and fill vacancies which requires an appointment within 45 days if less than 13 months remain in the office term. He noted they changed "may be" language to "shall be".

Council President Henderson asked the Council if they would like to take public testimony at this time and with no objections she opened the public hearing and asked the City Recorder to read the public hearing statement.

Ms. Henderson asked the Council if they would be willing to change the 4 minute comment period to 6 minutes as there are five ballot measures under consideration. With no objections she asked for public comment.

Anthony Bevel, Sherwood resident came forward and said three terms for Council is way too long and two terms are adequate. He commented that 12 years in a volunteer position is a lot and noted that people get stale.

With no further comments Council President Henderson closed the public hearing and asked Chairman Allen and Vice Chairman Shannon to come forward for a rebuttal and questions from the Council.

Chairman Allen responded that the three consecutive term limits is a result of a compromise between those who felt that two term limits were appropriate and those that felt that the term limit is 4 years and if the voters get to say in an election they want to keep the member in office that is their call. He said this was a compromise that both sides could live with and he recommended putting this ballot title before the voters.

Council President Henderson referred to Exhibit B on page 6 of the packet and read the fourth paragraph stating: "The measure would return city elections to the former election process in which candidates did not indicate position numbers but instead, candidates would file to run for the city council and the candidates with the most votes from the electorate would be elected a City councilors to fill the vacant seats". She suggested that a seat is not always vacant and asked if they would consider amending and changing the word vacant to *available* or *open*. The Council agreed to change the word to *open*.

Mr. Sullivan recommended that Council come forward with all of their suggested revisions first then proceed with an amendment. Councilor Henderson said that was her only suggestion.

Mr. Sullivan said there are two other issues. He referred to the concern that section 29 is awkward and suggested starting the sentence with: "Notwithstanding any applicable term limits imposed by this charter" and remove the language in bold at the end. He said this makes it less awkward and reads as: "*Notwithstanding any applicable term limits imposed by this charter, the term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.*"

Mr. Sullivan said the second issue concerns Section 24 regarding the definition of a term and whether partial terms count towards term limits. He referred to an email from the City Attorney Chad Jacobs with two alternatives, (see record, Exhibit 1).

Chairman Allen approached the Council and said as the Committee considered term limits and decided on the compromise of three consecutive terms, they considered partial terms as a term.

Councilor Grant commented that it is not uncommon that people are appointed to Council with only a few months remaining in the term which would support the three consecutive terms as opposed to a limit of only two terms. He agreed that the partial term should count as a term.

Councilor Clark referred to the first section and said it seems to be opposite of what the Committee is recommending and she would be opposed it. She referred to the second ballot title on term limits and agreed with the Committee and recommended approving this version and inserting the word *shall*.

Mr. Sullivan asked if the Council wanted language to read "any partial term counts toward term limits" or language regarding a two year break off point. Discussion followed and the Council asked for the Committees opinion.

Chairman Allen stated that the intent of the Committee was that any partial term counted as a term and suggested that if you change the language to two years of a partial term you could have the potential for someone to be in office for three terms and two years of a partial term which would be 14 years and that was not the Committee's intent.

Mr. Gall commented on the options presented by the City Attorney and said there are several scenarios and referred to the second scenario which effects Councilors currently in office. He commented regarding clarifying the language.

Mr. Sullivan referred to Section 24 as proposed to be amended and said it reads: "*At each general election, three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms*" and suggested adding "*including any partial term as a councilor*". The Council agreed.

Mr. Sullivan recapped the three items that the Council wanted changed: to amend the explanatory statement on positions to strike "*vacant*" and add "*open*", to add "*Notwithstanding any applicable term limits imposed by this charter*" to the beginning of section 29, to add "*including any partial term as a*

*councilor*” to section 24. Mr. Sullivan asked for a 20 minute recess to amend the language in the ballot titles and the explanatory statements.

Councilor Folsom asked if the changes included transition language. Mr. Sullivan said that there is no transition language and said the terms will apply across the board retroactively. He said that he can put retroactive language in the explanatory statement.

Ms. Murphy asked if the Council wanted to revise the other ballot titles. Council did not.

Council President Henderson called for a recess at 8:02 pm and reconvened at 8:55 pm.

Mr. Sullivan presented the Council with amended documents (see record, Exhibit 2) and said he would go over only the areas that have been changed. He referred to the ballot title concerning positions and said the last paragraph has been changed to read “The former election process did not indicate position numbers so that candidates would file and the individuals receiving the most votes would be elected to fill open city council seats” with the word “open” added. He referred to the explanatory statement regarding positions and said in the fourth paragraph, it has been changed to read: “The measure would return city elections to the former election process in which candidates did not indicate position numbers but, instead, candidates would file “for” and said to strike “for”. He continued reading “to run for the city council and the candidates with the most votes from the electorate would be elected as City Councilors to fill the open seat” with the word “vacant” removed and “open” added.

He said the third change would be to Exhibit G in the packet concerning term limits and said the second paragraph has been changed to read: “Amend the current city charter Chapter 7, Section 24-Councilors by removing unnecessary language and adding the provision of: “No councilor shall serve on the council more than three consecutive terms” and adding ,”*including any partial term as a councilor.*”

He stated that Section 29 would be amended to read: “Amend Section 29-Terms, by adding the following to the beginning of the section: “*Notwithstanding any applicable term limits imposed by this charter*”. He referred to the explanatory statement for term limits and said the fourth paragraph would be amended to read: “The measure would amend Section 24 to read in its entirety: “At each general election three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms, *including any partial term as a councilor. The term limits imposed by this charter amendment would apply to the terms of the councilors not in office.* He said two paragraphs down the changes read: “This measure would amend Section 29-Terms, *to read as follows: Notwithstanding any applicable term limits imposed by this charter, the term of any officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office*”. He referred the Council to the amended Exhibit K which shows all of the proposed amendments to the charter. He recapped the changes to Section 24 and Section 29.

Mr. Sullivan said if this is what the Council wants they need to approve Resolution 2014-013 with the revision by the special appointed City Attorney regarding Exhibits A, B, G, H, and K.

Councilor Grant asked if they needed to do a special resolution for the amendments. Mr. Sullivan said no. The following motion was received.

**MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2014-013, SECONDED BY COUNCILOR CLARK. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.**

The City Recorder stated the Council needed a motion to amend to accept the new exhibits.

**MOTION TO AMEND: FROM COUNCILOR GRANT TO AMEND RESOLUTION 2014-013 WITH APPROVED AMENDMENTS, SECONDED BY COUNCIL PRESIDENT HENDERSON. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.**

**MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2014-013 AS AMENDED, SECONDED BY COUNCIL PRESIDENT HENDERSON. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.**

Council President Henderson thanked the Charter Review Committee and discussed various forms of communication to get the information to the voters for the May 20, 2014 election. She encouraged Councilors to take a summary to the Boards and Commissions and talk to their neighbors and other groups to improve voter turnout.

Councilor Grant stated he would like to walk-on a resolution regarding an issue pertaining to the Council Liaison to the Chamber of Commerce.

Council President Henderson clarified a walk-on resolution and Councilor Grant indicated it is not on the agenda.

Councilor Grant stated the following motion.

**MOTION: FROM COUNCILOR GRANT TO ADOPT A RESOLUTION TO APPOINT COUNCILOR LANGER TO SERVE IN THAT ROLE AS LIAISON TO THE CHAMBER UNTIL JANUARY 2015, SECONDED BY COUNCILOR BUTTERFIELD.**

Prior to calling for a vote, Council President Henderson acknowledged that there was a motion on the table and a second and said she was hoping to wait until the Mayor returned to be able to talk about this on March 4<sup>th</sup>. She said she would not ignore there is a motion on the table with a second and called for a vote. Prior to completing the receipt of the vote, the Mayor asked for clarification on what was being voted upon.

The City Recorder clarified that Councilor Grant has made a motion that has been seconded for Council to act and move in a certain direction. She said Councilor Grant identified it as a walk on resolution but there is no legislation so the motion is to move forward with an action of the Council. She said the motion was to appoint Councilor Langer as a liaison to the Chamber, with a second to the motion from Councilor Butterfield and Council President Henderson has called for a vote on the motion.

Mayor Middleton stated that the rules state that the Mayor is the only one that can make appointments and must be voted on by the rest of the council and he can solely make the nomination.

Ms. Murphy clarified for the record and asked Mayor Middleton if he is referring to the Council Rules. He said he believes so and said the Mayor is the one to bring forward who will be on a committee and it is not the council's decision.

Councilor Grant called for a point of order and stated there is a motion and a second.

Council President Henderson referred to page 10 of the Council Rules and said it states the Mayor will appoint Councilors to liaison positions to city commissions, and committees including ad hoc or limited term committees as the mayor deems necessary. She said she is not advocating for or against the position but as she reads it, the Chamber is not a City board or commission or a committee.

Mayor Middleton stated they are an ad hoc committee and Council President Henderson said ad hoc refers to a temporary committee.

Mayor Middleton stated that there is still no authority anywhere allowing to do this.

Council President Henderson said that she cannot debate via conference call and said that is why she wanted to wait until March 4. She said this is a non-city board or commission.

Mayor Middleton commented that the City does provide the Chamber with about \$7000 per year and understand they are not a part of us, but if we are going to have a commission it has to go through the same process as the other commissions.

Councilor Langer said that it is not a City Board or Commission and appointments are made by the Mayor with the consent of the Council and this is a step that is missed here, no council consent has been given.

Mayor Middleton replied they don't have the authority and it did not matter as they have not been appointed by the mayor. He said you would be making up something different and he did not think it could be done.

Councilor Langer said the mayor does not have the authority to appoint to the Chamber as they are not a City board or commission.

Mayor Middleton stated if they wanted to act and put a person on there as a board member, then they would have to fall under the guidelines of other City board members.

Councilor Clark said she believes what the mayor is saying is that they don't have the authority as a council to assign a liaison that represents the council, only the mayor has that authority.

Discussion followed regarding the council members not having the authority, the Chamber not being a City committee, and reference was made to the council rules. Examples were given of past practices of selecting liaisons and appointing liaisons to other non-City organizations.

Councilor Grant called for the question and Councilor Clark stated she was appointed by the mayor and referred to her past participation at chamber events. Discussion followed and Mayor Middleton stated

this was not the time for discussion and would like to receive a legal opinion and said he doesn't believe this is the way the process is meant to work.

Councilor Grant asked for a vote to be called and Councilor Clark indicated she believes this is a position of service and she is happy to serve wherever the mayor wants her to serve as this is the way the council rules read.

Council President Henderson called for a vote on the motion.

**VOTE: motion passed 4:3 (Grant, Langer, Butterfield and Folsom voting in favor). (Clark, Henderson and Middleton voting against).**

Additional comments were made on the process and timeline to address the business and Ms. Henderson replied the Council can discuss this in the future and adjourned the meeting.

## 5. ADJOURN

Council President Henderson adjourned the meeting at 9:14 pm.

Submitted by:

---

Sylvia Murphy, MMC, City Recorder

---

Bill Middleton, Mayor



**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. The following motion was stated.

**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 12<sup>th</sup>. 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 20<sup>th</sup> from 5:00-6:30 pm. He said there will be a Chamber mixer on March 4<sup>th</sup> at Pacific Residential Mortgage. He announced Sherwood Cruisin' will be on June 14<sup>th</sup>. 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



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**March 18, 2014**

**WORK SESSION**

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 6:00 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Councilors Dave Grant, Krisanna Clark, Bill Butterfield and Matt Langer, Robyn Folsom arrived at 6:05 pm. Council President Linda Henderson was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joseph Gall, Assistant City Manager Tom Pessemier, Finance Director Julie Blums, Community Services Director Kristen Switzer and City Recorder Sylvia Murphy. City Attorney Pam Beery and Consultant Rob Moody with Talbot, Korvola & Warwick.
4. **OTHERS PRESENT:** Thressa Caulkins, Sherwood Senior Center Director/Meals on Wheels and Eugene Stewart.
5. **TOPICS:**

**A. Senior Center Update.** Ms. Caulkins distributed a document, Activity Overview-Sherwood Center and recapped the number of meals served and volunteer contributed hours for March 2013 through March 2014, (see record, Exhibit A). She explained the number of people using the center, including community organizations and youth groups. She provided information on facility use, programs, Faith in Action and other rental uses and fees collected for rentals. She briefly recapped the recent lobby renovations to the center and informed the Council of a donation of a TV from IBM that is displayed in the lobby and is programmable and streams information, she provided examples of information displayed. She informed the Council of a donation of coffee services for one year from Scott Johnson with Oregon Hearing Solutions.

Ms. Caulkins informed the Council of a wish list for the center and said they would like to update the center's fire and smoke detector system and outdoor lighting. She said for immediate use, they would like to have a new kitchen floor and new dining room floor, new front windows and a new steamer for the kitchen. Mr. Stewart added a reader board sign placed on the street. Brief discussion followed regarding current signage for the neighboring church.

Ms. Caulkins informed of an additional program available at the center, with live music and ballroom dancing, which brings in people from neighboring cities.

**6. ADJOURN:**

Mayor Middleton adjourned the work session at 6:13 pm and convened to an executive session.

**EXECUTIVE SESSION**

**1. CALL TO ORDER:** Mayor Middleton called the meeting to order at 6:15 pm.

**2. COUNCIL PRESENT:** Mayor Bill Middleton, Councilors Dave Grant, Robyn Folsom, Krisanna Clark, Bill Butterfield and Matt Langer. Council President Linda Henderson was present via conference call.

**3. STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joseph Gall, Assistant City Manager Tom Pessemier, Finance Director Julie Blums, Community Services Director Kristen Switzer, Public Works Director Craig Sheldon and City Recorder Sylvia Murphy. City Attorney Pam Beery and Consultant Rob Moody with Talbot, Korvola & Warwick.

**4. TOPICS:**

**A.** Exempt Public Records, Pursuant to ORS 192.660(2)(f), YMCA.

**5. ADJOURN:**

Mayor Middleton adjourned the executive session at 7:05 pm.

Submitted by:

---

Sylvia Murphy, MMC, City Recorder

---

Bill Middleton, Mayor

**TO:** Sherwood City Council

**FROM:** Julia Hajduk, Community Development Director  
**Through:** Joseph Gall, ICMA-CM, City Manager

**SUBJECT:** Resolution 2014-018, Confirming Mayor as primary representative and appointing Councilor Krisanna Clark as alternate for the Washington County Coordinating Committee (WCCC)

---

**Issue:**

Shall the City Council confirm the appointment of Krisanna Clark as alternate to the Washington County Coordinating Committee (WCCC)?

**Background:**

The WCCC bylaws require representatives to be appointed by the local jurisdiction's Council. The Mayor serves as the primary representative to the WCCC and currently Councilors Henderson and Clark have been identified as the alternates; however, a formal resolution appointing alternates has not been passed. Councilor Clark has attended several WCCC meetings on behalf of the City when Mayor Middleton has been unable to attend. The attached resolution will affirm that Mayor Middleton remains the designated representative and officially appoints Councilor Clark as the alternate.

**Financial Impacts:**

None

**Recommendation:**

Staff respectfully requests adoption of Resolution 2014-018 confirming the Mayor as the primary representative and appointing Councilor Krisanna Clark as alternate for the Washington County Coordinating Committee (WCCC).



**RESOLUTION 2014-018**

**CONFIRMING MAYOR AS REPRESENTATIVE AND APPOINTING COUNCILOR  
KRISANNA CLARK AS ALTERNATE FOR THE WASHINGTON COUNTY  
COORDINATING COMMITTEE (WCCC)**

**WHEREAS**, the WCCC bylaws require that WCCC representation be determined by the local jurisdiction's City Council; and

**WHEREAS**, the Mayor is authorized by City Council Rules to appoint Council liaisons to City Boards and Commissions and had made adjustments to a number of liaison assignments; and

**WHEREAS**, the re-assignment of Council liaisons has necessitated the need to modify the appointment of the WCCC alternate; and

**WHEREAS**, the Mayor has determined that he is best suited to remain as the primary representative to the WCCC and that Councilor Krisanna Clark should be designated the WCCC alternate

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Council confirms the WCCC representation from the City of Sherwood is Mayor Bill Middleton as the primary representative and Councilor Krisanna Clark as the alternate.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 1<sup>st</sup> day of April 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**TO:** Sherwood City Council

**FROM:** Scott Mckie, Building Official

Through: Julia Hajduk, Community Development Director, and Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Resolution 2014-019, Authorizing the City Manager to sign a Memorandum of Agreement (MOA) with the State Building Codes Division for the renewal of an assumed Building Inspection Program**

---

**Issue:**

Should the City of Sherwood enter into a MOA to retain authority to operate the building inspection program?

**Background:**

The State Building Codes Division delegates authority of building inspection programs to local jurisdictions. The City of Sherwood has the responsibility to maintain a building inspection program to govern the construction, reconstruction, alteration and repair of buildings. The State Building Code establishes uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security for the residents of this state which the City must adhere to.

The State has recently required local jurisdictions to enter into a Memorandum of Agreement (MOA) relating to renewal of the assumed building inspection program. The MOA documents our responsibilities and obligations to operate a building inspection program. While the City has been given the authority to maintain a building inspection program continually for many years, the State Building Code Division has created a Memorandum of Agreement that they are asking municipalities to sign.

The agreement states that the City of Sherwood building inspection program agrees to the standards set forth in the Memorandum of Agreement including:

- **Administrative Standards.** Program must provide adequate funds, equipment and other resources needed to administer and enforce the program consistent with the inspection and permit requirements of the state building code.

- **Fees.** Program must follow the State's Uniform Fee Methodology for building permit and inspection fees.
- **Appeals.** Program must have a policy to allow an applicant for building permits to appeal a decision made by Building Official.
- **Operating Plan.** An Operating Plan must be on file with the State and amendments to the Operating Plan must be made within 30 days when changes occur.
- **Staff.** Program must have appropriately certified staff for inspections.
- **Enforcement.** Program must not enforce any standard in conflict with the State Building Code.

The City has been operating the building inspection program for many years and the MOA does not require anything that is not already occurring but simply documents the agreement and understanding. If the City does not sign the MOA, we run the risk of losing the authority to operate the building inspection program.

**Financial Impacts:**

None

**Recommendation:**

Staff respectfully requests City Council adoption of Resolution 2014-019, authorizing the City Manager to sign a Memorandum of Agreement with the State Building Codes Division related to the renewal of assumed Building Inspection Program.



**RESOLUTION 2014-019**

**AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF AGREEMENT WITH THE STATE OF OREGON BUILDING CODES DIVISION FOR THE BUILDING INSPECTION PROGRAM**

**WHEREAS**, the City of Sherwood has operated a Building Inspection Program for many years; and

**WHEREAS**, in accordance with the authority granted by the Oregon Revised Statute (ORS) 455.020 and Oregon Laws 2013, chapter 528, this Memorandum of Agreement (MOA) sets forth the roles and responsibilities of the City of Sherwood operating a municipal building inspection program as referenced in ORS chapter 455, and

**WHEREAS**, the City of Sherwood Building Department has operated the Inspection Program in a manner consistent with the provisions of the MOA, however the State has recently begun requiring local jurisdictions to formally enter into a Memorandum of Agreement; and

**WHEREAS**, the State of Oregon Building Codes Division has indicated that a signed MOA is required to retain authority to partner with the Oregon Building Codes Division to provide a Building Inspection Program; and

**WHEREAS**, the provisions in the MOA are consistent with current practices and the City of Sherwood understands that it is in the best interest of the community to retain a local Building Inspection Program.

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Manager is authorized to sign the Memorandum of Agreement, attached as Exhibit A, with the State of Oregon Building Codes Division for the Building Inspection Program.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 1<sup>st</sup> day of April 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**Memorandum of Agreement  
Relating to Renewal of Assumed  
Building Inspection Program**

I. Parties:

This agreement is made and entered into by the Building Codes Division (hereinafter the "Division"), through the Department of Consumer and Business Services, and **City of Sherwood** building inspection program.

II. Purpose:

In accordance with the authority granted by Oregon Revised Statute (ORS) 455.020 and Oregon Laws 2013, chapter 528, this Memorandum of Agreement (MOA) sets forth the roles and responsibilities of the **City of Sherwood** operating a municipal building inspection program as referenced in ORS chapter 455.

III. Background:

The Department is authorized to:

1. Promulgate a state building code to govern the construction, reconstruction, alteration and repair of buildings. The state building code establishes uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security for the residents of this state; and
2. Delegate authority to a municipality to operate all or any portion of a building inspection program for a reporting period. A reporting period means a four-year period during which a municipality administers and enforces a building inspection program pursuant to an approved operating plan.

IV. Agreement:

**City of Sherwood** building inspection program agrees to the following minimum standards, policies and procedures while operating a building inspection program during the next reporting period:

1. **Administrative Standards.** Program must provide adequate funds, equipment and other resources needed to administer and enforce the program consistent with the inspection and permit requirements of the state building code.
2. **Electrical Program.** A building inspection program with an electrical program must comply with all applicable electrical rules for the inspection and enforcement of electrical programs.
3. **Fees.** Program must follow the uniform fee methodology for building permit and inspection fees. Program must only use fees collected for the administration and enforcement of the building inspection program. Electrical permit fees must only be used for the administration and enforcement of the electrical program. To avoid division enforcement action, program must collect and remit surcharges (with permit log) to the division no later than the 15<sup>th</sup> day following the month or quarter for which the surcharges are required to be collected according ORS 455.220.
4. **Appeals.** Program must have policy to allow an applicant for building permit to appeal decision made by building official. Program must also allow an applicant for a building

permit to file a written appeal of a decision of the building official directly to the division on any matter relating to the administration and enforcement of ORS Chapter 455.

5. **Operating Plan.** Program must amend operating plan within 30 days when changes occur and provide amended operating plan to the division. Changes include a change of building official.
6. **Staff.** Program must have appropriately certified staff for inspections.
7. **Enforcement.** Program must not enforce any standard in conflict with the state building code.

V. Indemnity:

To the extent permitted by Article XI, sections 9 and 10 of the Oregon Constitution, and within the limits of liability established in the Oregon Tort Claims Act, **City of Sherwood** shall defend, indemnify and save the division, its officers, agents, and employees harmless from any and all claims, actions, costs or damages caused by the **City of Sherwood**.

VI. Term of the Agreement:

This agreement will become effective July 1, 2014 and will remain in effect for four years unless the municipality abandons or ceases to administer the building inspection program or the division assumes administration of the program under activities related to ORS 455.770. Failure to comply with any provision of this agreement may be considered a breach of this contract thereby impacting the municipality's continued administration of the building inspection program.

VII. Signatures:

Both parties, by the signatures below, hereby acknowledge that they have read this agreement, understand it and agree to be bound by its terms and conditions.

**Building Codes Division**

**City of Sherwood**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Mark S. Long, Administrator  
Building Codes Division**

\_\_\_\_\_  
**Please print building official name**



\_\_\_\_\_  
**Building Official Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Please print name and title**

\_\_\_\_\_  
**City of Sherwood Representative Signature**

**TO:** Sherwood City Council

**FROM:** Tom Pessemier, Assistant City Manager  
Through: Joseph Gall, ICMA-CM, City Manager

**SUBJECT:** Resolution 2014-020, authorizing the City Manager to execute a contract with Ogletree Deakins to provide labor attorney services to the City of Sherwood

---

**ISSUE:**

Should the City enter into an agreement with Ogletree Deakins to provide labor attorney services?

**BACKGROUND:**

The City of Sherwood will be entering into Collective Bargaining Agreement negotiations in the near future and has an ongoing need for labor attorney services that necessitate a personal services contract according to City and State rules. The City has previously used the firm of Bullard Law for many years and it became time to proceed with an updated selection process.

Currently, the City Attorney's office does not offer labor attorney services other than support for simple employment issues and encourages its clients to seek labor attorney services for more complex matters from other qualified firms.

The City sent out a Request for Proposal to four firms based on recommendations from the City Attorney's office and other cities in the metro area. All four firms responded to the RFP and the selection committee reviewed each of the proposals. It should be noted that all of the firms that responded had the ability to provide the services requested. However, based on the review of the proposals the selection committee unanimously recommends Ogletree Deakins with Howard Rubin as the account manager.

The City Manager will execute the standard Contract for Personal Services that has been reviewed and approved by the City Attorney's office.

**FINANCIAL IMPACTS:**

Expenditure for these services will vary widely from year to year based on the number of collective bargaining agreements and complex employment issues that the City may encounter. These expenditures will be budgeted in the HR department or other departments as the need for the services is expected.

**RECOMMENDATION:**

Staff respectfully requests City Council approval of Resolution 2014-020 authorizing the City Manager to execute a contract with Ogletree Deakins to provide labor attorney services to the City of Sherwood.



**RESOLUTION 2014-020**

**AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH OGLETREE DEAKINS TO PROVIDE LABOR ATTORNEY SERVICES TO THE CITY OF SHERWOOD**

**WHEREAS**, labor attorney services are necessary for collective bargaining agreements and ongoing employment items related to City business; and

**WHEREAS**, the current city attorney does not provide those services; and

**WHEREAS**, City staff utilized a selection process meeting state and local contracting rules for the procurement of personal services; and

**WHEREAS**, the selection committee reviewed 4 proposals and determined that Ogletree Deakins was capable of providing the highest level of service for a reasonable price; and

**WHEREAS**, the term of the contract is expected to be longer than three years and the City may terminate the contract at any time with 30 days' notice.

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Manager is authorized to execute a contract with Ogletree Deakins and to provide labor attorney services to the City of Sherwood.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 1<sup>st</sup> day of April 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**TO:** Sherwood City Council

**FROM:** Craig Sheldon, Public Works Director  
**Through:** Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Ordinance 2014-007 Declaring Certain Sidewalks in the City to be Defective under Sherwood Municipal Code Chapter 12.08 for Area 3, Phase 4**

---

**Issue:**

Should the City notify and work with homeowners through the Concrete Sidewalk Repair Assistance Program to complete sidewalk repairs?

**Background:**

The City of Sherwood has identified deficiencies in our sidewalk system which creates safety issues. The Concrete Sidewalk Repair Assistance Program was implemented to assist property owners in making the repairs. In 2012, the City completed an inspection of all City sidewalks and identified approximately 1,700 sidewalk deficiencies.

Chapter 12.08 of the Sherwood Municipal Code (SMC) states that property owners abutting sidewalks are the responsible party for all sidewalk maintenance and repair in the City of Sherwood. In order to assist with sidewalk repairs, City Council asked staff to create a Sidewalk Repair Assistance Program to help property owners with the cost of sidewalk repair or replacement. Under the policy, the City will provide written notice to property owners of necessary sidewalk repairs or replacement, the property owner will have 60 days to comply. The property owner may choose to use the City's contractor and the assistance program or use a contractor of their own choice, at their own cost. If the owner chooses to use their own contractor, or make repairs themselves, the assistance program will not apply.

For the purpose of implementing the program, City staff has divided the City into four sections (Areas 1-4). This ordinance is for the 4th round of repairs and covers the sidewalk issues in Area 3. As with previous repairs, work has been staggered to help City staff and the contractors complete the work within the timeframe defined per the program.

**Financial Impacts:**

City Council approved the implementation of a sidewalk maintenance fee in FY2011-12. The fee was established to repair sidewalk deficiencies. City Council approved the program which allows for two types of repairs: shaving and/or replacement (per criteria outlined in the policy). The City has obtained competitive pricing for concrete repairs.

City Council has determined through the assistance program that the homeowner is responsible for 50% of the total cost of the repair and will have up to 12 months to remit payment.

If the owner does not correct the defect, eliminate the hazard, or make the repairs, the City will construct or repair the sidewalk deficiency(s) and the owner will be responsible for all costs associated with the repair including the cost of notice, engineering, advertising, and attorney's fees, in the form of an assessment lien.

**Recommendation:**

City Staff respectfully requests City Council adoption of Ordinance 2014-007 declaring certain sidewalks in the City to be defective under Sherwood Municipal Code Chapter 12.08 for Area 3, Phase 4.



**ORDINANCE 2014-007**

**DECLARING CERTAIN SIDEWALKS IN THE CITY TO BE DEFECTIVE UNDER SHERWOOD MUNICIPAL CODE CHAPTER 12.08 FOR AREAS 3, PHASE 4**

**WHEREAS**, pursuant to the Sherwood Municipal Code Section 12.08, the City of Sherwood (City) assigns sidewalk responsibility to abutting property owners; and

**WHEREAS**, the City approved implementation of a sidewalk maintenance repair fee in the FY2011-12 to identify and fund sidewalk repairs; and

**WHEREAS**, City Council approved Resolution 2011-097 for a Concrete Sidewalk Assistance Program; and

**WHEREAS**, SMC Chapter 12.08 requires the City Council to enact an ordinance to enforce the terms of SMC Chapter 12.08.

**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1.** The City Council finds that the Public Works Director’s recommended area-by-area approach to addressing defective sidewalks is consistent with the priority levels established in Resolution 2011-097 and will most effectively and cost-efficiently promote public safety when balanced against competing City projects.

**Section 2.** In accordance with SMC 12.08.060, the City Council declares that the sidewalks associated with the properties identified in attached Exhibit A are defective, a nuisance and must be brought into conformance with City standards for sidewalks.

**Section 3.** In accordance with SMC 12.08.070, City staff shall notify the owners of such properties that they must repair their respective sidewalks consistent with City standards.

**Section 4.** The defective sidewalks must be repaired within 60 days of the date of the notice described in Section 2 above, unless the Public Works Director or designee permits an extension. The Director or designee may not permit an extension longer than 120 days.

**Section 5.** The materials and specifications to be used and followed in repairing the sidewalks are on file with the Public Works Department.

**Section 6.** This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this 1<sup>st</sup> day of April 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Grant	_____	_____
Henderson	_____	_____
Middleton	_____	_____



Home of the Tualatin River National Wildlife Refuge

## Exhibit A Area 3, Phase 4 Concrete Sidewalk Repairs

<b>STREET ADDRESS</b>	<b>CITY, STATE, ZIP</b>
23719 SW Aspen Lakes Drive	Sherwood, OR 97140
17703 SW Ballard Lane	Sherwood, OR 97140
17064 SW Carlson Street	Sherwood, OR 97140
17121 SW Carlson Street	Sherwood, OR 97140
17155 SW Carlson Street	Sherwood, OR 97140
17214 SW Carlson Street	Sherwood, OR 97140
17253 SW Carlson Street	Sherwood, OR 97140
17344 SW Carlson Street	Sherwood, OR 97140
17376 SW Carlson Street	Sherwood, OR 97140
17493 SW Carlson Street	Sherwood, OR 97140
17087 SW Cobble Court	Sherwood, OR 97140
17101 SW Cobble Court	Sherwood, OR 97140
17108 SW Cobble Court	Sherwood, OR 97140
17122 SW Cobble Court	Sherwood, OR 97140
17192 SW Cobble Court	Sherwood, OR 97140
17232 SW Cobble Court	Sherwood, OR 97140
17363 SW Cobble Court	Sherwood, OR 97140
17374 SW Cobble Court	Sherwood, OR 97140
17461 SW Cobble Court	Sherwood, OR 97140
16918 SW Cobblestone Drive	Sherwood, OR 97140
16930 SW Cobblestone Drive	Sherwood, OR 97140
16942 SW Cobblestone Drive	Sherwood, OR 97140
16976 SW Cobblestone Drive	Sherwood, OR 97140
17027 SW Cobblestone Drive	Sherwood, OR 97140
17030 SW Cobblestone Drive	Sherwood, OR 97140
17059 SW Cobblestone Drive	Sherwood, OR 97140
17070 SW Cobblestone Drive	Sherwood, OR 97140
17075 SW Cobblestone Drive	Sherwood, OR 97140
17091 SW Cobblestone Drive	Sherwood, OR 97140
22251 SW Dewey Drive	Sherwood, OR 97140
22503 SW Dewey Drive	Sherwood, OR 97140
17538 SW Dodson Drive	Sherwood, OR 97140
17610 SW Dodson Drive	Sherwood, OR 97140
17654 SW Dodson Drive	Sherwood, OR 97140
17676 SW Dodson Drive	Sherwood, OR 97140
17729 SW Dodson Drive	Sherwood, OR 97140
17895 SW Dodson Drive	Sherwood, OR 97140

STREET ADDRESS	CITY, STATE, ZIP
18010 SW Fitch Drive	Sherwood, OR 97140
18077 SW Fitch Drive	Sherwood, OR 97140
18189 SW Fitch Drive	Sherwood, OR 97140
17603 SW Fredrick Lane	Sherwood, OR 97140
17647 SW Fredrick Lane	Sherwood, OR 97140
17706 SW Fredrick Lane	Sherwood, OR 97140
22118 SW Friar Lane	Sherwood, OR 97140
22146 SW Friar Lane	Sherwood, OR 97140
23865 SW Golden Pond Terrace	Sherwood, OR 97140
17237 SW Greengate Drive	Sherwood, OR 97140
17357 SW Greengate Drive	Sherwood, OR 97140
17369 SW Greengate Drive	Sherwood, OR 97140
23346 SW Greengate Place	Sherwood, OR 97140
23427 SW Greengate Place	Sherwood, OR 97140
17512 SW Heatherwood Lane	Sherwood, OR 97140
17587 SW Heatherwood Lane	Sherwood, OR 97140
17606 SW Heatherwood Lane	Sherwood, OR 97140
17614 SW Heatherwood Lane	Sherwood, OR 97140
17622 SW Heatherwood Lane	Sherwood, OR 97140
17636 SW Heatherwood Lane	Sherwood, OR 97140
17724 SW Heatherwood Lane	Sherwood, OR 97140
17759 SW Heatherwood Lane	Sherwood, OR 97140
22971 SW Hosler Way	Sherwood, OR 97140
22987 SW Hosler Way	Sherwood, OR 97140
17356 SW Inkster Drive	Sherwood, OR 97140
17385 SW Inkster Drive	Sherwood, OR 97140
17422 SW Inkster Drive	Sherwood, OR 97140
17428 SW Inkster Drive	Sherwood, OR 97140
17463 SW Inkster Drive	Sherwood, OR 97140
17480 SW Inkster Drive	Sherwood, OR 97140
17515 SW Inkster Drive	Sherwood, OR 97140
17612 SW Inkster Drive	Sherwood, OR 97140
17619 SW Inkster Drive	Sherwood, OR 97140
17630 SW Inkster Drive	Sherwood, OR 97140
17646 SW Inkster Drive	Sherwood, OR 97140
17668 SW Inkster Drive	Sherwood, OR 97140
17684 SW Inkster Drive	Sherwood, OR 97140
17716 SW Inkster Drive	Sherwood, OR 97140
17752 SW Inkster Drive	Sherwood, OR 97140
17886 SW Inkster Drive	Sherwood, OR 97140
17910 SW Inkster Drive	Sherwood, OR 97140
17946 SW Inkster Drive	Sherwood, OR 97140

Concrete Sidewalk Repair  
Area 3, Phase 4

18049 SW Inkster Drive	Sherwood, OR 97140
<b>STREET ADDRESS</b>	<b>CITY, STATE, ZIP</b>
18100 SW Inkster Drive	Sherwood, OR 97140
18196 SW Inkster Drive	Sherwood, OR 97140
16887 SW King Richard Court	Sherwood, OR 97140
16959 SW King Richard Court	Sherwood, OR 97140
17033 SW King Richard Court	Sherwood, OR 97140
22350 SW Lee Drive	Sherwood, OR 97140
22456 SW Marshall Street	Sherwood, OR 97140
23612 SW Middleton Road	Sherwood, OR 97140
23648 SW Middleton Road	Sherwood, OR 97140
23682 SW Middleton Road	Sherwood, OR 97140
22545 SW Pinehurst Drive	Sherwood, OR 97140
22556 SW Pinehurst Drive	Sherwood, OR 97140
22610 SW Pinehurst Drive	Sherwood, OR 97140
22629 SW Pinehurst Drive	Sherwood, OR 97140
22657 SW Pinehurst Drive	Sherwood, OR 97140
22738 SW Pinehurst Drive	Sherwood, OR 97140
22754 SW Pinehurst Drive	Sherwood, OR 97140
22770 SW Pinehurst Drive	Sherwood, OR 97140
22791 SW Pinehurst Drive	Sherwood, OR 97140
22840 SW Pinehurst Drive	Sherwood, OR 97140
23015 SW Pinehurst Drive	Sherwood, OR 97140
23034 SW Pinehurst Drive	Sherwood, OR 97140
23058 SW Pinehurst Drive	Sherwood, OR 97140
23082 SW Pinehurst Drive	Sherwood, OR 97140
23597 SW Pinehurst Drive	Sherwood, OR 97140
23614 SW Pinehurst Drive	Sherwood, OR 97140
23667 SW Pinehurst Drive	Sherwood, OR 97140
23790 SW Pinehurst Drive	Sherwood, OR 97140
18096 SW Reiser Lane	Sherwood, OR 97140
22805 SW Sanders Terrace	Sherwood, OR 97140
23679 SW Sanders Terrace	Sherwood, OR 97140
23842 SW Sanders Terrace	Sherwood, OR 97140
23868 SW Sanders Terrace	Sherwood, OR 97140
22820 SW Saunders Drive	Sherwood, OR 97140
22857 SW Saunders Drive	Sherwood, OR 97140
22862 SW Saunders Drive	Sherwood, OR 97140
22875 SW Saunders Drive	Sherwood, OR 97140
22903 SW Saunders Drive	Sherwood, OR 97140
22910 SW Saunders Drive	Sherwood, OR 97140
22932 SW Saunders Drive	Sherwood, OR 97140
22977 SW Saunders Drive	Sherwood, OR 97140

Concrete Sidewalk Repair  
Area 3, Phase 4

22980 SW Saunders Drive	Sherwood, OR 97140
22997 SW Saunders Drive	Sherwood, OR 97140
<b>STREET ADDRESS</b>	<b>CITY, STATE, ZIP</b>
22484 SW Saxon Place	Sherwood, OR 97140
22111 SW Sir Lancelot Lane	Sherwood, OR 97140
22186 SW Sir Lancelot Lane	Sherwood, OR 97140
22236 SW Sir Lancelot Lane	Sherwood, OR 97140
16723 SW Travis Court	Sherwood, OR 97140
23548 SW Voss Place	Sherwood, OR 97140
23689 SW Voss Place	Sherwood, OR 97140

Concrete Sidewalk Repair  
Area 3, Phase 4

**TO:** Sherwood City Council

**FROM:** Julia Hajduk, Community Development Director  
Through: Chris Crean, City Attorney and Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Ordinance 2014-008 Repealing Ordinance 2014-003, Temporarily Prohibiting Medical Marijuana Facilities, and Declaring an Emergency**

---

**Issue:**

Should City Council adopt Ordinance 2014-008, repealing Ordinance 2014-003, temporarily prohibiting Medical Marijuana Facilities, and declaring an emergency?

**Background:**

The City Council adopted Ordinance 2014-003 on February 18, 2014, which temporarily prohibits Medical Marijuana Facilities for 150 days to allow time to develop land use regulations in response to House Bill 3460. House Bill 3460 established a uniform registration and licensing system for Medical Marijuana Facilities. At the time, staff was concerned that the 150-day prohibition did not provide sufficient time to adequately develop and vet potential development code language, but 150 days was the maximum recommended by legal counsel. When Council adopted Ordinance 2014-003, the State Legislature was still in session and subsequently approved legislation (Senate Bill 1531) that gives local jurisdictions authority to prohibit Medical Marijuana Facilities until May 2015. However, an ordinance that prohibits such facilities until May, 2015, must be enacted before May 1, 2014.

In addition to utilizing the additional time afforded by SB 1531 to discuss and develop code language, adopting Ordinance 2014-008 would allow the City time to monitor and respond to anticipated additional changes in state law. It is anticipated that there will be one or more ballot measures at upcoming elections that address marijuana as well as potential additional State legislation that affects what local jurisdictions can and cannot do in regulating Medical Marijuana. Adopting Ordinance 2014-008 will give the City the best opportunity to ensure that any legislation adopted regarding Medical Marijuana reflects the most up to date state regulations and provides additional time for staff, the Planning Commission, the City Council and the public to have a more robust conversation about potential development code amendments.

**Financial Impacts:**

As previously identified when Council adopted Ordinance 2014-003, there will be staff time and City Attorney time in developing proposed amendments to the development code as well as costs associated with providing the required public notice. Adopting this Ordinance 2014-008 repealing and replacing Ordinance 2014-003 allows staff to monitor the topic and fit the project into the workload more easily with less impact to existing projects.

**Recommendation:**

Staff respectfully requests City Council adoption of Ordinance 2014-008, An Ordinance Repealing Ordinance 2014-003, Temporarily Prohibiting Medical Marijuana Facilities, and Declaring an Emergency.



**ORDINANCE 2014-008**

**REPEALING ORDINANCE 2014-003, TEMPORARILY PROHIBITING MEDICAL MARIJUANA FACILITIES, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Oregon Legislature approved House Bill 3460 (2013), which creates a registration system for medical marijuana facilities and allows medical marijuana facilities to be located in areas zoned for commercial, industrial, or mixed use: and

**WHEREAS**, House Bill 3460 (2013) authorized certain restrictions on the location of medical marijuana facilities related to proximity to schools attended by minors and to other medical marijuana facilities: and

**WHEREAS**, medical marijuana facilities and the restrictions on the location of such facilities are not currently addressed in the Sherwood Development Code: and

**WHEREAS**, the City of Sherwood adopted Ordinance 2014-003 which temporarily prohibits siting of medical marijuana facilities for 150 day to allow time to evaluate and develop potential amendments to the Sherwood Development Code to address medical marijuana facilities: and

**WHEREAS**, the temporary prohibition was the maximum amount of time recommended by legal counsel at the time but does not afford sufficient time for thorough analysis of options and issues; and

**WHEREAS**, the Oregon Legislature subsequently enacted Senate Bill 1531 (2014) which authorizes a local jurisdiction to prohibit medical marijuana dispensaries until May 1, 2015; and

**WHEREAS**, the Sherwood City Council believes it is in the best interests of the health, safety and welfare of the citizens of Sherwood to prohibit the establishment or operation of medical marijuana facilities within the jurisdictional boundaries of Sherwood until May 1, 2015;

**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

- Section 1.** Ordinance 2014-003 is repealed
- Section 2.** Effective April 1, 2014, a person may not establish or operate a facility for the distribution of medical marijuana pursuant to ORS 475.314 or any other provision of state law within the City limits of Sherwood.
- Section 3.** The City Manager, Planning Manager, Building Official, Business License Specialist and Chief of Police are authorized to enforce this Ordinance 2014-008.
- Section 4.** In order to maintain the health, peace and welfare of the City of Sherwood, an emergency is declared and this ordinance takes effect immediately upon passage and approval by the Mayor.

**Section 5.** This Ordinance 2014-008 is in effect until May 1, 2015.

Duly passed by the City Council this 1<sup>st</sup> day of April 2014.

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Grant	_____	_____
Henderson	_____	_____
Middleton	_____	_____

**TO:** Sherwood City Council

**FROM:** Joseph Gall, ICMA-CM, City Manager

Through: N/A

**SUBJECT: Resolution 2014-021, Accepting Review of Operating Agreement with Sherwood Family YMCA and Directing Renegotiation of Operating Agreement**

---

**Issue:**

What are the next steps in the process in improving the partnership between the City of Sherwood and the Sherwood Family YMCA?

**Background:**

Since the Council's executive session discussion regarding the Operating Agreement with the YMCA in July 2013, city staff from Administration, Finance and the City Attorney's office have all been working with the City's auditor – Talbot, Korvola & Warwick (TKW) in reviewing the financial terms of the agreement, with particular focus on compliance with financial components including expenditures for repairs and maintenance, required reserves, net operating revenues and payments between the YMCA and the City. The City auditor's work is now complete and Rob Moody, partner at TKW, has presented their report and recommendations to the City Council in an executive session held on March 18, 2014.

In order to move forward with the recommendations in the report, the City Attorney has recommended that the City Council accept the Review and direct the City Manager to begin renegotiation of the existing Operating Agreement with the Sherwood Family YMCA.

**Financial Impacts:**

Our contract with TKW to complete this Review was for an amount not to exceed \$13,000. Based upon their latest estimate, the cost for their services up to this point is approximately \$6,000.

**Recommendation:**

Staff respectfully requests City Council adoption of Resolution 2014-021 accepting the review of the existing Operating Agreement with the Sherwood Family YMCA and directing renegotiation of Operating Agreement.



**RESOLUTION 2014-021**

**ACCEPTING REVIEW OF OPERATING AGREEMENT WITH SHERWOOD FAMILY YMCA AND DIRECTING RENEGOTIATION OF OPERATING AGREEMENT**

**WHEREAS**, the Sherwood City Council directed staff to conduct a comprehensive review of the existing Operating Agreement between the City of Sherwood and the Sherwood Family YMCA; and

**WHEREAS**, the City of Sherwood utilized the firm of Talbot, Korvola & Warwick, LLP (TKW) to conduct the comprehensive review, with particular focus on compliance with financial components including expenditures for repairs and maintenance, required reserves, net operating revenues and payments between the YMCA and the City; and

**WHEREAS**, TKW has completed their review of the Operating Agreement which contains a number of recommendations for the two organizations to implement; and

**WHEREAS**, in order to move forward with the recommendations, the City Council should accept the review of the Operating Agreement and direct City Staff to renegotiate the Operating Agreement with the Sherwood Family YMCA.

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Council accepts the Review of the Operating Agreement completed by TKW in March 2014, attached as Exhibit A.

**Section 2.** The City Council directs the City Manager to begin renegotiation of the existing Operating Agreement with the Sherwood Family YMCA.

**Section 3.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 1<sup>st</sup> day of April 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**City of Sherwood, Oregon  
Review of Operating Agreement Between the  
City of Sherwood and the Sherwood Family YMCA**

**March, 2014**



4800 Meadows Rd., Ste. 200  
Lake Oswego, OR 97035

P 503.274.2849  
F 503.274.2853

[www.tkw.com](http://www.tkw.com)

**Achieve More**



**Talbot, Korvola  
& Warwick, LLP**

Certified Public Accountants  
& Consultants

4800 Meadows Road, Suite 200  
Lake Oswego, Oregon 97035-4293

P 503.274.2849  
F 503.274.2853

[www.tkw.com](http://www.tkw.com)

March 14, 2014

Mr. Joseph Gall  
City Manager  
City of Sherwood  
22560 SW Pine Street  
Sherwood, OR 97140

Dear Mr. Gall:

We have completed our review of the City's operating agreement (Agreement) with the Sherwood Family YMCA. This report contains our analysis and conclusions based on our review.

We wish to express our appreciation to all City staff and members of the City Council we spoke with for their cooperation and assistance during this review. Their candid responses to our questions and their solutions-oriented approach were very helpful and appreciated.

Sincerely,

**Talbot, Korvola & Warwick, LLP**



**RESOLUTION 2014-003**

**A RESOLUTION REMOVING COMMISSIONER JAMES COPFER FROM THE PLANNING COMMISSION**

**WHEREAS**, James Copfer was appointed to Planning Commission on April 5, 2011 to fill a term vacated by a previous member and reappointed on July 17, 2012; and

**WHEREAS**, Commissioner Copfer has had sufficient training to understand the expectations of Planning Commission members; and

**WHEREAS**, regular attendance to scheduled meetings is expected; and

**WHEREAS**, Commissioner Copfer has missed meetings at a much higher rate than usual for a Commissioner during the past year; and

**WHEREAS**, Section 16.060.010.B of the municipal code states: A Commission member may be removed by a majority vote of the Council for misconduct or non-performance of duty, as determined by the Council; and

**WHEREAS**, Planning Commission has sufficient members to carry out regular business while awaiting a new appointee to be named, if Commissioner Copfer is removed.

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** Commissioner James Copfer is hereby removed from the Planning Commission.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 7<sup>th</sup> day of January 2014.**

\_\_\_\_\_  
Bill Middleton, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

## **Executive Summary**

### **Objectives**

The City of Sherwood (City) requested a review and evaluation of the operating agreement (Agreement) between the City and the Sherwood Family YMCA (YMCA), the relevant terms of the Agreement, and compliance with those terms. Our review focused on stated financial arrangements between the parties and payments to the City under the terms of the Agreement.

To achieve the defined objectives, TKW interviewed members of City Council and appropriate City staff as well as representatives of the YMCA.

Additionally, we obtained and reviewed available documentation including the Agreement and subsequent amendments, financial and budget summaries related to the operations of the YMCA, summaries of payments to the City, email correspondence between the City and the YMCA, and other information as necessary in forming our conclusions.

### **Results**

Although the Agreement was initially written to reflect the thoughts and intentions of the City's leadership and the YMCA, it is poorly written with respect to specific financial terms and requirements. As a result, the City and the YMCA have, over time, interpreted those terms differently and with varying expectations and outcomes. Further, there appear to have been verbal amendments in the past that vary significantly from the stated terms of the Agreement. Until recently, little attention has been paid to the financial terms of the Agreement. This has resulted in past and current practices being "accepted".

### **Recommendations**

Throughout this report, we offer recommendations related to specific findings resulting from our review.



## Results and Recommendations

### The Agreement in General

The current Agreement is vague and poorly written in many aspects and specifically in regard to detailed financial terms. The Agreement appears to reflect the thoughts and intentions of the City's leadership and the YMCA at the time it was written and has since been modified (formally and informally) multiple times. Specific terms have been interpreted differently by each party and actual implementation reflects those interpretations. Until recently, little attention has been paid to the financial terms of the Agreement.

#### Recommendation #1:

##### The City should:

- **Undertake a formal review and revisions to the current Agreement with respect to the financial terms and conditions, so as to clearly set expectations and performance of all parties involved.**
- **Clearly define terms within the Agreement.**
- **Refrain from verbal agreements and commitments outside of, or in addition to, the agreed-upon terms of any revised agreement.**

The following identifies specific financial terms of the Agreement that are vague and/or have caused confusion with respect to how it should be administered.

#### Sharing of Excess Revenues (Paragraph 3)

The Agreement as written provides, by means of a formula, for sharing between the City and the YMCA of any excess from operations beyond year two. The Agreement initially calls for the first \$50,000 of excess from cumulative operations to be paid to the City. This amount increases by \$10,000 per year up to \$100,000. Further, if there remains any excess after payment to the City of the "first cut" as described, the Agreement provides for an additional sharing between the City and the YMCA of that excess at 20%/80%, respectively.



The interpretation of how to quantify this sharing of any operational excess is complicated by the fact that terms are not specifically defined within the Agreement. It is unclear what comprises “operational expenses” or whether capital expenditures and/or depreciation should be considered as part of those expenses. The YMCA has interpreted the Agreement such that capital expenditures are not included as an operational expense, and depreciation is included. Over time, actual cost of improvements and the depreciation of those improvements will equal out, whereas in any given year, the difference between charging or not charging capital costs to operations versus depreciation may be considerable.

Additionally, the Agreement calls for the YMCA to budget for “reasonable” reserves for repairs and replacement of equipment and structural components of the facility. However, “reasonable” is not clearly defined within the Agreement. Over time, “reasonable” has been interpreted by the YMCA to mean that minimal amounts will be budgeted for reserves, and all actual excesses will flow to the bottom line and subsequently be designated as reserves. This practice has evolved since the initial signing of the Agreement and has been based on verbal discussions between the YMCA and prior City leadership. Upon request from the YMCA and based upon past practice, the current City Manager agreed to continue with this treatment of reserves.

We requested and obtained an analysis from the YMCA of annual operating results from 1999 through 2012. This analysis made several assumptions regarding the calculation of operating expenses as noted above. Our analysis and calculations were based on the assumptions and interpretations made by the YMCA, and the financial information provided to us by the YMCA directly, as well as information provided by the City.

We independently recalculated the cumulative excess from operations for the years 1999 through 2012. The result of that calculation, summarized in the following table, found that approximately \$438,000 would have been paid to the City over the period 1999 through



2012 under a literal and strict reading of the terms of the Agreement as written.

Year	Net Operations	Potentially Available for Reserves	Calculated Payment to City per Agreement
1999	(\$152,819)	(\$152,819)	\$ -
2000	(27,609)	(180,428)	-
2001	92,293	(88,135)	-
2001 *	35,522	(52,613)	-
2002	30,166	(22,447)	-
2003	41,450	19,003	19,003
2004	27,229	27,229	27,229
2005	79,080	79,080	79,080
2006	125,376	125,376	105,075
2007	180,638	200,939	120,188
2008	67,659	148,410	83,809
2009	(3,067)	61,534	-
2010	(94,840)	(33,306)	-
2011	(5,619)	(38,925)	-
2012	42,112	3,187	<u>3,187</u>
			\$437,571

\* - In 2001, the YMCA shifted from a June 30 fiscal year end to a calendar year. Amounts shown indicate the fiscal year ended June 30, 2001, and then the six months ended December 31, 2001.

It appears that based on past practices and informal agreements between the City and the YMCA, amounts that would have been paid to the City as calculated above have been retained by the YMCA for reinvestment in the facility. Information provided by the YMCA indicates that approximately \$570,000 has been reinvested into the facility in the form of new equipment and facility upgrades. Per an email to the City dated October 25, 2013, the following details of capital expenditures were provided by the YMCA.

- 2007 – Security cameras, interactive gaming system and heat exchanger for a boiler.
- 2008 – UV disinfection system for the pool, HVAC motor, upgrade to the family changing room, and roof repairs.



- 2009 – Pool filter repairs and upgrades, HVAC repair and upgrades, compressor for the sprinkler system.
- 2010 – ActivTrax kiosk and license, pool pumps, wood floor on sport court, and lighting update.
- 2011 – Pool equipment update including replacement pumps, ventilation system for sport court, family changing room remodel, and HVAC repairs and upgrades.
- 2012 – Window repairs, paint and carpet refresh.
- 2013 – Welcome center remodel, painting and deep cleaning, pool maintenance and new pool deck, and locker room remodel.

Some of the items identified above as “capital” appear to be more properly identified as repairs and maintenance under common accounting and guidance (i.e. pool filter repairs and updates to lighting), or appear the direct responsibility of the YMCA under a strict reading of the Agreement (i.e. HVAC repairs, painting and cleaning). Per the Agreement (Paragraph 10), the City shall repair and replace as necessary all structural components of the improvements to the facility and the roof. The YMCA shall be responsible for maintenance and repair of all major plumbing, HVAC and electrical systems, all major lighting facilities and equipment, windows and doors.

Without details of the various components and recalculation of operating expense using strict definitions of capital and operating expenses, and a recalculation of depreciation based on those determinations, it is difficult to recalculate an amount for net operations, year to year or in total. Detail cost information relating to the respective items above was not immediately available, and if available may not be retrievable without considerable effort and cost.



**Recommendation #2:**

The City and the YMCA should meet, discuss, and agree on terms as to what amounts represent appropriate capital costs under the Agreement, and if any amounts are possibly due the City.

**Recommendation #3:**

The City should clearly define terms and set expectations with respect to:

- What represents “reasonable” reserve levels?
- What are appropriate capital expenditures to be paid by the City versus those paid by the YMCA?

**Rent (Addendum A to the Agreement)**

Under the terms of Addendum A to the Agreement, the YMCA was to pay directly to the City, specified amounts on a schedule coinciding with the City’s debt service payments on bonds issued to construct the facility. These scheduled payments were to continue until such time as the City refinanced the debt, at which time the YMCA was to make payments equal to the debt service payments of the City. The City refinanced the debt in early 2002.

Records relating to rent payments from the YMCA to the City indicate that the YMCA has paid the amounts as prescribed in the Agreement.

**Amendment to the Operating Agreement – June, 2002**

An amendment was approved and signed by the YMCA and the City in June, 2002 that called for the YMCA to make scheduled payments to the City totaling \$250,000. The payments were in relation to capital improvements made to the facility, specifically the Teen Center and other improvements. Annual payments of \$50,000 were to be made in March of 2002 through 2006. Records appear to indicate that payments to the City have been made as scheduled.



### Overhead Costs (Paragraph. 3.b and Amendment)

Per the Agreement as amended, the YMCA is to budget an amount for overhead costs equal to the lesser of a) 15% of adjusted gross income as defined, or b) the share of the YMCA's overhead as calculated by the corporate organization. Overhead amounts paid are to offset costs of services provided to the YMCA related to human resources support, finance, legal, risk management, etc.

Documentation obtained indicates that the YMCA is the second highest contributor<sup>1</sup> of overhead to the corporate organization. In discussion with the YMCA Executive Director, it was explained that under an association model, those branches that perform better often make up for those that perform not as well. For example, the Sherwood YMCA is a performer and the Beaverton Hoop and Clark County YMCA both operate at a deficit. The 15% cap on overhead costs for the Sherwood YMCA was established to address concerns that the operations locally could potentially support other corporate functions.

The YMCA indicates that costs in support of the local operations exceed the 15% charged for overhead on an annual basis. We inquired as to any analysis at the corporate level showing the percentage of total support costs (human resources, legal, etc.) attributable to the YMCA as a percentage of the total for the corporate organization overall. At the time of this report, that information was not readily available.

#### Recommendation #4:

**The City should begin a dialogue with the YMCA around cost of service as a basis for evaluating overhead payments to the corporate organization. If information is not currently available in a form to support the discussion, support services could be evaluated over the course of a year and provide a basis for consideration of overhead costs on a going-forward basis.**

---

<sup>1</sup> The childcare function being first highest contributor



**Governance and Participation (Paragraph 7 and Amendment)**

The Agreement includes several terms relating to the City's participation in and monitoring of operations and finances of the YMCA. Included in those terms is the City having representation on the YMCA's Board of Managers (four seats appointed by the City). Additionally, the YMCA's Executive Committee is to include one member appointed by the City. This representation is relevant in the oversight of the YMCA's budgeting and approval of major expenditures in accordance with the Agreement.

The Agreement does not specify how appointments to the YMCA Board are to be made, or by whom (i.e. the City Manager or the Council). There appears to also be no clear historical precedent for the City in terms of appointment to boards of external organizations. There is also no clear indication per the Agreement as to whether the City's positions on the YMCA Board of Managers should be filled by City Councilors, staff, citizen appointees or some mix. Conversations with City Councilors and City staff and a review of City representation to the YMCA Board of Managers and the Executive Committee found that, over the years, representation has been a mix of City Councilors, administration, and City staff. In the context of financial oversight, we recommend that it may benefit the City to choose their representatives carefully and with duties well defined in terms of attendance and reporting back to the City.

The Agreement further provides that the YMCA present quarterly financial reports to the City. Through discussions with the YMCA, it was indicated that financial summaries have been consistently provided to the City, though varying in format and frequency based on discussions with respective City leadership. Recently, the City requested and received financial summaries dating back to 2001 with consistent information provided for the period 2007 to present. The YMCA underwent a change in financial systems some years ago making it difficult to retrieve specific financial records prior to 2010.



**Recommendation #5:**

**The City should:**

- **Establish a formal procedure for appointment to the YMCA's Board of Managers.**
- **Clearly define individuals or positions for representation on the YMCA's Board of Managers, and their respective duties in terms of financial oversight and reporting to the City.**
- **Establish and implement policies for the retention of minutes, financial information, and correspondence related to the Agreement's defined performance requirements.**



# Community Services Department – Monthly Update

---

*February 2014*

## **Library**

- 85 new Library cards were issued in February.
- 27 volunteers contributed 159.75 hours; equivalent to .92 FTE.
- 48 new Library2Go users.
- 28 Baby, Preschool and Toddler Storytimes (1029 attendees, including those at Oregon Symphony Storytimes).
- 376 people attended the Oregon Symphony Storytimes which were held Wednesdays during the month of February.
- Two Read-to-the-Dogs programs were held.
- 26 attended Family Game Day.
- A Get to Know Library2Go workshop was offered.
- 32 people attended the Valentine Craftshop.
- Don Jansen entertained with Valentine Guitar in the Stacks.
- 41 attended The Bug Chicks presentation.
- 25 attended Saturday Family Storytimes.
- 7 attended the DIY Craftshop – Can Tab Bracelets & Belts.
- New volunteers were trained and started their shifts.
- Library staff attended various regional, City and WCCLS meetings: OLA Executive Board, Circulation, WUG, Policy Group, Cataloging, Safety, Oregon Reads/PGE Grant.

## **Recreation and Field House**

### *Sport Fields and Gyms*

- Youth basketball played approximately 70 weekend games during the month of February.
- Youth basketball played approximately 40 classic games during the week days in February.
- Youth basketball has decided to extend their season for the boys in to March.
- Youth soccer continues to practice and play games at Snyder Park.
- Soon spring sports will begin practicing at all the schools and at Snyder Park.

### *Field House*

- The Field House is running 5 adult leagues and 4 youth leagues at this time.
- Sundays are slowing down as spring sports begin outdoors.

## **Events & Volunteer Program**

### *Special Event Permits*

#### *Approved*

- Newfoundland Dog Competition
- Clancy's Sidewalk Modification

### *Permits in Review*

- Egg Hunt for Hope
- Woodhaven Church Easter Egg Hunt
- Running Water 5k
- The Friar Trot
- Saturday Market
- Altered Arts Festival
- Chamber Awards Banquet
- Cruisin' Sherwood

### *Pre-application Discussion*

- Stella by Starlight
- Wedding at Stella Olsen
- Senior Sunset
- SFA Play – Les Miserables
- Oregon Crusaders Drum Corp
- Sherwood Youth Football Knight Run
- Sherwood Presbyterian Picnic

### **Volunteer Program**

- Continued interviews and orientations for new library volunteers.
- Added shelving opportunities to our current library volunteer program.
- One new Adopt-a-Road group added – Wells Fargo Bank.
- Began coordination of National Volunteer Appreciation Week celebration.

### **Other**

- Began coordination of various spring/summer events including:
  - Music on the Green
    - Wednesdays, July 9 – August 20, 6:30-8:30 pm, Stella Olsen Park
    - Bands secured
    - Sponsorship forms sent out to local businesses
  - Pix on the Plaza
    - Fridays, August 8-22
    - Locations and movies TBD
  - Community Services Fair
    - Tentatively set for Saturday, May 31, 11:00 am – 2:00 pm, TVF&R Station
  - Missoula Children's Theater
    - Two camps scheduled, SHS PAC booked
      - Black Beard the Pirate, June 23 – June 28
      - Pinnochio, July 7 – July 12
  - Trashpalooza – Earth Day Event
    - Saturday, April 26, 10:00 am – 12:00 pm, Cannery Square Plaza
    - SOLVE application submitted and approved
    - Online registration open
    - Supplies ordered
    - Sponsors secured
    - Posters/flyers produced and distributed
    - Booth hosts pending

Sherwood Field House Monthly Report February 2014					
<u>February-14</u>	<u>Feb-14</u>		<u>YTD</u>		<u>Feb-13</u>
					Est.
<u>Usage</u>		People		People	People
	<u>Count</u>	<u>Served*</u>	<u>Count</u>	<u>Served*</u>	<u>Served*</u>
Leagues	8	644	23	4656	700
Rentals	63	945	478	8305	2750
Other (Classes)					
[1] Day Use	10	99	49	372	71
<b>Total Usage</b>		<b>1688</b>		<b>13333</b>	<b>3521</b>
<u>Income</u>	<u>Feb-14</u>	<u>YTD</u>			
Rentals	\$5,100	\$31,373			
League fees (indoor)	\$11,200	\$63,781			
Card fees (indoor)	\$205	\$3,052			
Day Use	\$287	\$1,237			
Advertising					
Snacks	\$547	\$3,654			
Classes					
<b>Total</b>	<b>\$17,339</b>	<b>\$103,097</b>			
<b>FY 12 13</b>					
<u>Income</u>	<u>Feb-13</u>	<u>YTD</u>			
Rentals	\$6,192	\$36,974			
League fees (indoor)	\$8,070	\$48,686			
Card fees (indoor)	\$648	\$2,994			
Day Use	\$206	\$1,308			
Advertising					
Snacks	\$707	\$3,668			
Classes					
<b>Total</b>	<b>\$15,823</b>	<b>\$93,630</b>			

\*Estimated number of people served based on all rentals have a different # of people. Along with each team will carry a different # of people on their roster.



PRB Report for February 2014

### **Sports Fields and Gyms**

Youth basketball played approximately 70 games during the weekends in the month of February. That number would have been closer to 100 if we would not have snowed out one weekend.

Youth basketball also played approximately 40 classic games during the week days in February.

Youth basketball has decided to extend their season for the boys so they will have some practice and game in March.

Youth soccer continues to practice and play games at Snyder Park. I believe that they had about twelve games during the month.

You will soon see all the spring sports practicing at all the schools and up at Snyder.

### **Field House**

The Field House is running 5 adult leagues and 4 youth leagues at this time.

Our Sundays are slowing way down as spring sports are starting outside.

Respectfully Submitted

March 3, 2014

Lance Gilgan



## Sherwood Public Library – February 2104 Monthly Management Report

	<u>Current Year</u>	<u>Past Year</u>	<u>% Change</u>
<b>Check out</b>	<b>27,178</b>	<b>32,253</b>	<b>-15.7% (22% Self-check)</b>

<b>Check in</b>	<b>19,157</b>	<b>22,318</b>	<b>-14.1%</b>
-----------------	---------------	---------------	---------------

- New Library cards 85
- Volunteer hours 159.75 hours; equivalent to .92 FTE (27 volunteers)
- New Library2Go users 48
- Library2Go check outs 940

### Monthly Activities

- Twenty-eight Baby, Preschool and Toddler Storytimes (1029 attendees, including those at Oregon Symphony Storytimes)
- Two Read-to-the-Dogs programs
- Magazine Monday (free magazine giveaway)
- 02/01 Family Game Day (26 attendees)
- 02/01 Get to Know Library2Go (5 attendees)
- 02/05-26 Oregon Symphony Storytimes, Wednesdays at 1pm (376 attendees)
- 02/06 Closed at 2pm & 02/07-09 Closed all day due to inclement weather – Teen Advisory Board and Cover Oregon presentations canceled
- 02/12 Pajama Time Storytime (5 attendees)
- 02/13 Valentine Craftshop (31 attendees)
- 02/13 Don Jansen, Valentine Guitar in the Stacks
- 02/15 The Bug Chicks presentation (41 attendees)

- 02/19 Library Advisory Board Meeting
- 02/22 Saturday Family Storytimes (10:30am – 23 attendees and 1pm – 2 attendees)
- 02/22 Cover Oregon presentation (4 attendees)
- 02/26 DIY Craftshop – Can Tab Bracelets & Belts (7 attendees)
- 02/27 Library Assistant I Interviews
- Volunteer recruitment & training continues / New volunteers started shifts
- Library staff attended various regional, City and WCCLS meetings: OLA Executive Board, Circulation, WUG, Policy Group, Cataloging, Safety, Oregon Reads/PGE Grant