



*Home of the Tualatin River National Wildlife Refuge*

# **CITY COUNCIL MEETING PACKET**

**FOR**

**Tuesday, January 6, 2015**

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

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



**AGENDA**

**SHERWOOD CITY COUNCIL  
January 6, 2015**

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

**Sherwood City Hall  
22560 SW Pine Street  
Sherwood, OR 97140**

**REGULAR CITY COUNCIL MEETING**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. SWEARING IN OF NEW ELECTED OFFICIALS**

**4. ROLL CALL**

**5. APPROVAL OF AGENDA**

**6. CONSENT**

- A. Approval of December 11, 2014 City Council Meeting Minutes**
- B. Approval of December 16, 2014 City Council Meeting Minutes**
- C. Resolution 2015-xxx Appointing Susan Claus to Budget Committee**
- D. Resolution 2015-xxx Appointing Andy Jensen to Budget Committee**

**7. PRESENTATIONS**

- A. Eagle Scout Recognition**
- B. Mayoral Recognition Award**

**8. CITIZEN COMMENTS**

**9. NEW BUSINESS**

- A. Resolution 2015-001 Declaring Councilor Clark's City Council seat vacant  
(Joseph Gall, City Manager)**
- B. Selection of Council President**

**10. PUBLIC HEARINGS**

- A. Ordinance 2015-001 Amending Section 10.12 of the Municipal Code relating to miscellaneous traffic regulations by adding a new section 10.12.235 relating to the use of certain all terrain vehicles in the City by police, fire and public works personnel while in the performance of their duties (Jeff Groth, Police Chief) (1<sup>st</sup> Reading)**

**11. CITY MANAGER REPORT**

**12. COUNCIL ANNOUNCEMENTS**

**13. 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 Sherwood Post Office. Council meeting materials are available at the Sherwood Public Library.

**To Schedule a Presentation before Council:**

If you would like to schedule a presentation before the City 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, 503-625-4246 or [murphys@sherwoodoregon.gov](mailto:murphys@sherwoodoregon.gov)



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**December 11, 2014**

**EXECUTIVE SESSION**

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:00 pm.
2. **COUNCIL MEMBERS PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Krisanna Clark, Dave Grant, Bill Butterfield and Dan King. Councilor Matt Langer was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, Community Development Director Julia Hajduk and City Recorder Sylvia Murphy. City Attorney Chris Crean.
4. **TOPIC:** Exempt Public Records, ORS 192.660 (2)(f).
5. **ADJOURN:**

Mayor Middleton adjourned at 7:55 pm.

Submitted by:

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Sylvia Murphy, MMC, City Recorder

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Bill Middleton, Mayor



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**December 16, 2014**

**REGULAR SESSION**

- 1. CALL TO ORDER:** Mayor Bill Middleton called the meeting to order at 7:10 pm.
- 2. COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Bill Butterfield, Krisanna Clark, Matt Langer and Dan King.
- 3. STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joseph Gall, Assistant City Manager Tom Pessemier, Community Development Director Julia Hajduk, Community Services Director Kristen Switzer, Finance Director Julie Blums, Police Chief Jeff Groth, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy. City Attorney Chris Crean.

**4. APPROVAL OF AGENDA:**

With no amendments to the agenda Mayor Middleton addressed the next item on the agenda.

**5. CONSENT AGENDA:**

- A. Approval of November 15, 2014 City Council Meeting Minutes**
- B. Approval of November 17, 2014 City Council Meeting Minutes**
- C. Approval of November 18, 2014 City Council Meeting Minutes**
- D. Approval of December 2, 2014 City Council Meeting Minutes**
- E. Resolution 2014-075 Approving the City Recorder's canvassing of the returns of the November 4, 2014 Washington County Election and directing the City Recorder to enter the results into the record**
- F. Resolution 2014-076 Forming a Technical Advisory Committee, a Community Advisory Committee for the Sherwood West Preliminary Concept Plan, and establishing the appointment process for members on the committees**

**MOTION: FROM COUNCILOR CLARK TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR GRANT. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda.

**6. PRESENTATIONS**

**A. Eagle Scout Recognition**

Mayor Middleton congratulated Jayden and Kyle Homer for earning their Eagle Scout Award. Mayor Middleton asked them to explain their Eagle Scout projects. Jayden stated he designed and installed shelving at the Good Neighbor Center in Tigard. Kyle stated he remodeled the center's garden area and installed benches. Mayor Middleton thanked them for their service and contributions and presented them with Certificates of Achievement.

Mayor Middleton congratulated Mitchell Jentzsch for earning his Eagle Scout Award. Mayor Middleton asked him to explain his Eagle Scout project. Mitchell stated that Washington County Sheriff's Office asked him to build new canine obstacles for their canine competitions in July. Mayor Middleton thanked him for his service and contributions and presented him with a Certificate of Achievement.

## **B. Mayoral Recognition Awards**

Mayor Middleton asked Alice Thornton and Phil McGuigan to come forward and he presented them with the Mayor's Outstanding Volunteer of the Year Award for 2014. He commended them on the volunteer hours they commit to the Robin Hood Festival and the Christmas events and thanked them for their service. He presented both of them with plaques.

Phil McGuigan commented on the scope of the work they do and the help he receives from Boy Scout Troop 224. He said the troop is attending the meeting and working towards their Citizenship and Community merit badge.

Mayor Middleton addressed the next item on the agenda.

## **7. CITIZEN COMMENTS**

Tammy Steffens, Sherwood resident came forward and thanked the outgoing Councilors and Councilor Butterfield for his service on behalf of Sherwood Bowmen Football. She commented on the work Councilor Butterfield has done for youth sports and high school sports and said they appreciate the countless hours he has given the program.

Kurt Kristensen, Sherwood resident approached the Council and asked for clarification on Resolution 2014-078 and asked if the primary beneficiary is Councilor Matt Langer.

Council President Henderson called for a point of order indicating the resolution was listed under public hearings.

Mayor Middleton said that Mr. Kristensen can come forward during the public hearing for that resolution or ask now.

Mr. Kristensen said he is concerned that a sitting member of Council is involved in a last minute budget appropriation for almost \$1 million. He said he would have preferred more lead time for transparency and said it doesn't seem proper and appears to be self-serving.

Naomi Belov, Sherwood resident came forward and thanked Mayor Middleton for his service. She said she is concerned about the \$890,000 being given to the Langers. She stated it is her understanding that there was a road put through to Home Depot and they are being given money and asked for clarification. She referred to an article in the Sherwood Gazette stating there was insufficient evidence that Sherwood

Mayor Elect Krisanna Clark filed a false statement in the voter's pamphlet during her November election bid.

City Attorney Chris Crean reminded Mayor Middleton that under the Council Rules citizen comment is reserved for items not otherwise on the agenda and the supplemental budget is scheduled for a public hearing.

Jim Claus, Sherwood resident came forward and expressed concern for the improper use of discretionary authority. He said the bulk of the laws the Council operates under are police powers and gave an example. He stated the discretionary power of when and where that will be used centers on the City Attorney. He referred to the parking at the McFall construction site and provided examples. He said if used improperly it is a felony and he is going to forward the information to the Secretary of State on their request. He commented on his experience with the building department since he started building again. He referred to stakeholders in a police state and said the only stakeholder is the state and that is what the staff has been turned into. He said the laws do not apply equally and the attorney uses discretion when to prosecute. He said the State is looking closely at the town and it is appalling. He referred to thousands and millions of dollars and the status of permits. He said the discretionary authority is used to the point that we can't do anything. He said to be careful and stay away from City Manager Gall's staff and let him run them. He said there used to be a thing in the Charter that if you talked to his staff you had to resign and there was a reason for that undue influence. He said there is a reason the Attorney and former Mayor Mays took that out of the Charter.

Brad Turner, came forward and stated he has been a Sherwood resident for 7 years and said he is a substitute teacher and coach in the Sherwood School District and his wife is also a teacher and a coach. He noted that it is Councilor Butterfield's last meeting and said he wanted to comment on his character and state some facts for the record. He recognized all the contributions Mr. Butterfield has made to Sherwood Football and Lacrosse and the number of athletes who have benefitted from his contributions. He said Councilor Butterfield has also lobbied for a skate park and serves at this church. He commented on how Mr. Butterfield has helped him personally and stated that he will be missed on Council.

Doug Egan came forward and said he is Councilor Butterfield's son-in-law and stated how much he appreciates the example he has set while serving on Council and the abilities he has been able to dedicate. He stated that he appreciates all of his service to the community.

Ben Butterfield, Councilor Butterfield's son, approached the Council and gave examples of Councilor Butterfield helping him and others in the community. He said he is proud of his father and said he did a great job on City Council.

Tracie Butterfield, Councilor Butterfield's wife, came forward and shared comments in regards to his service. She thanked Councilor Grant and Councilor Langer for their service. She said she understands what they have been through and the hours that have been given to the community. She commented on the stress, frustration and disappointment that Councilor Butterfield has experienced while serving on Council for free with righteous intentions. She said he has been in service to the community for 20 years in one way or another and while she has watched people manipulate, bully or spew lies about him he as stayed the course and has many successes that he can dwell on. She commented on the projects that he has been involved in including the lighted fields and the Community Center. She referred the muddy waters of public service and the accusations he has faced. She commented on the number of hours he has contributed to the community and what they would equate to if he charged his going rate. She

referred to his desire to serve others without anything in return and his voice of reason and understanding. She said she appreciates everything he has done and the community has been lucky to have him serve. She thanked all of the Councilors and noted that it is not an easy job.

Mayor Middleton addressed the next item on the agenda.

## 8. NEW BUSINESS

### A. Resolution 2014-077 Adopting an amended City of Sherwood Home Rule Charter as approved by City electors at the November 4, 2014 Election

City Manager Joseph Gall said this resolution is adopting a new Charter with the five amendments that passed on the November ballot. He stated the new Charter will be effective January 1, 2015. He said the most important difference will be the ordinance process which will now require two readings which is meant for the public to be more involved. He said this will slow the process down to allow more public input. He stated there will be a work session for the new Council at the second January meeting to discuss the new Charter. He noted this is the final process in accepting and adopting the new Charter.

Council President Henderson referred to Section 7 of the amended Charter which states that a majority of Council may cause in item to be added to the agenda of a future meeting. She said in January when the new Council is sworn in there will only be six and she asked if a majority and quorum would be four. She asked if three members were seen in the same place they would not be violating public meeting law.

City Attorney Crean said that is correct. He reminded the Council that even if the members where at the same event as long as they are not deliberating or discussing public business it is not a violation even if there is a majority.

Councilor Henderson referred to the same section and said item 10 states that in January after each general election the Council shall adopt Council Rules by resolution and asked Mr. Gall if they are planning on doing that.

Mr. Gall said the new Council is planning a work session on January 20 to discuss the Council Rules and said they will also have a Council retreat in January and any changes that may come to the rules will come out of that. Councilor Henderson asked if that would happen in January. Mr. Gall said yes.

With no other comments received, the following motion was stated.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT RESOLUTION 2014-077, SECONDED BY COUNCILOR KING. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda.

## 9. PUBLIC HEARINGS

### A. Resolution 2014-073 Extending the Area 59 Reimbursement District by 5 years to March 4, 2023

Community Development Director Julia Hajduk reminded the Council that this is a continuation of the public hearing from November 18, 2014. She said the packet includes a letter from Kelly Hossaini with Miller Nash Law Firm that represents the Sherwood School District (SSD). She said there is a revision to the proposed resolution to reflect the continuation of the hearing. She said since the packet was distributed, the Council has received via email letters from Nancy Mandel (see Record, Exhibit A), David Mandel (see Record, Exhibit B) and Dean Werst (see Record, Exhibit C). She suggested a format for the public hearing based on the results of the last public hearing. She said previously the SSD was given 20 minutes to present and Mr. Rankin, who represents several property owners, was given 20 minutes and now staff is recommending granting 4 minutes per testimony in the order they are received and not allowing citizens to defer their time to others. Council agreed with the recommendation.

Mayor Middleton noted that there are 31 people requesting to testify and asked them to please not repeat information. He said the Council has a lot of information in writing and have read all of the material.

He called Mr. Rankin forward and asked him if he would be speaking on behalf of the group he represents and said he could have 4 minutes. He said the Council agreed that people cannot defer their time.

Mr. Rankin proposed testifying at the end so he could hear the testimony from the school district.

Kelly Hossaini with Miller Nash Law Firm representing the Sherwood School District came forward and said in 2006 and 2007 when the school district was working the City to get the two new schools and Area 59 approved it became clear that the most efficient way to go about serving the new schools with infrastructure was to frontload all of the infrastructure for the entire area. She said it was close to \$4 million of infrastructure that needed to be built. She stated the new schools needed \$2 million of the infrastructure and the rest would be needed for the new subdivisions and other developments on the remaining private property. She said if the school district had not come in and frontloaded that entire infrastructure the developers of the benefitting property would have had to do so. She stated that developers do not expect to get infrastructure for free and the cost of infrastructure is built into their calculations when they cost-out a development. She commented on the price of infrastructure and said since the school district built the infrastructure as part of the reimbursement district the cost of constructing infrastructure has increased 12%. She said this information is in the memo she submitted (see record, Exhibit D). She said had the school district not built the infrastructure in 2008 and if the developer of the Mandel property for example had to build the infrastructure today it would cost on average 12% more and it is not likely to get cheaper in the future. She said as mentioned in the memo, construction for this type of infrastructure tends to increase every year and construction costs are expected to increase at a greater pace going forward. She said the reimbursement district does not represent all of the costs the school district incurred in building the infrastructure. She said no reimbursement was allowed for legal expenses, design engineering, financing costs, permits or fees required for construction permits. She said the cost to a private developer would include all of these costs yet private developers will not have to incur any of those costs because the infrastructure is already there and the school district already paid for that. She stated the \$1.7 million that is owed to the school district is taxpayer money and taxpayers are paying off the general obligation bond that the school district used to finance capital projects like Edy Ridge and Laurel Ridge. She said both the City Council and the School Board have an obligation to the taxpayers to be good stewards of that money and said they would not approve of giving a few property owners a huge windfall without having had a fair shot at getting the money back. She said earlier this year the Council unanimously approved a code amendment to allow that to happen and set out two approval criteria that an extension would be required to meet. She stated

the staff has found that the school district has met the approval criteria and contrary to what the Mandel property owners have argued the approval criteria have nothing to do with depreciation, third party contracts or the personal effect on the Mandel's if the developer of their property has to pay for the infrastructure that serves it. She said the approval criteria requires showing a good cause and value to the affected properties and those criteria are fair consideration for the extension and they have been met. She stated that despite the representation of the Mandel property owners there were no guarantees or promises made that the reimbursement district would never be extended. She said there were assumptions made about how long the reimbursement district would last and those assumptions came for the City code which only allowed 10 years for a reimbursement district. She said when this reimbursement district was formed no one foresaw the years of recession in which the school district and the taxpayers basically had no chance of getting the money back. She stated the school district is asking for a fair shot and an extension.

Mark Christie, former School Board member, approached the Council and provided a handout (see record, Exhibit E) and thanked the Council for their service and dedication. He said during his 15 years on the School Board he served as the construction board liaison on the \$98 million bond that the taxpayers of the school district approved by 61%. He said one of the key factors in the approval of the largest capital construction bond in Sherwood history was trust. He referred to trust that the commitments made during the bond campaign to be transparent, open and inclusive involving community and all stakeholders and equally to be wise stewards of the monies the taxpayers entrusted to us. He said this was and still is our promise. He said there is no question that the school district' need for additional land to build new schools and Metro's set aside of Area 59 to build those schools gave the property owners a substantial increase in property values virtually overnight. He gave the example that the Mandel property was valued at \$135,000 an acre outside of the UGB (urban growth boundary) and rose to \$400,000 per acre as soon as it was brought into the UGB. He stated that is a 300% increase in property value and all because the school district needed property for a new school site. He said the school district paid almost \$2 million for the Mandel's property and the addition of the Mandel property to the UGB also allows the Mandel's to develop the rest of it for housing at a significant profit which the Mandel's would not have had the opportunity to do but for the new schools need. He said the reimbursement district is the perfect example of our collective responsibility as elected leaders to protect the taxpayer money that has been spent on a portion of those total infrastructure costs associated with the development of this project. He stated there are approximately \$1.5 million of uncollected infrastructure tax dollars that would be used for other construction projects. He commented that the school district has met the criteria outlined by the Council for a 5 year extension of the reimbursement district and City staff has recommended the extension. He said he looks forward to approval and thanked the Council for their time and service to the taxpayers of Sherwood.

Kevin Noreen, former School Board member, came forward and said he served on the School Board during the construction and when the reimbursement district was created. He stated that he had a role at Clackamas County to oversee a reimbursement district program and said the intent is to share the costs when certain developers have to go in and develop first that they have an ability to recoup a percentage of the costs that others would have to pay.

Dan Jamison, former Sherwood School District Superintendent approached the Council said he had oversight of the bond and related projects and he offered support for extending the reimbursement district for five years. He said throughout the process of locating and building the two schools, school district representatives worked to maintain transparency and build trust throughout the community and with property owners in Area 59. He stated they made several key decisions to accommodate property

owners. He said while they wanted to locate the new schools closer to Edy Road at a far more economical cost the school district honored the consensus of area property owners by building the schools at the current location. He said the current site significantly increased the cost especially with infrastructure but it did accomplish other benefits for the community such as allowing Loretta Labahn to remain in her home, requiring less of the land that Lowell Labahn was using for his nursery and his farming business, and allowing property owners to the south to develop. He said at the request of the Mandel family they re-engineered and moved the Copper Terrace connection with Edy Road to the east which is the bend in the road as you approach the schools. He said this was done with additional time and resources expended by the school district. He stated to accommodate neighbors and build trust the school district did little things that are symptomatic to the school districts commitment and efforts to make sure that they were being good neighbors. He said the efforts included paying for one well, digging up another one, paying for nursery stock, paying for dirt, they moved and re-engineered a driveway and replaced six feet of septic tank line. He said the school district did this to treat neighbors in a fair manner. He said the school district paid a robust \$400,000 per acre for property in Area 59. He said the school district paid \$12 million for less than 30 acres so any family with an interest of 2.5 acres or more received \$1 million or more. He said he is sharing this to stress that there are no victims here. He said there are many examples illustrating that the school district did everything in its power to make property owners whole and to treat them respectfully and the intent of the reimbursement district is to begin to make the school district and the taxpayers whole. He said while the \$1.7 million does not begin to recapture all of the attendant costs incurred with land development and infrastructure but it does maintain the trust of those who voted to support that bond and the trust of those who continue to pay for it with their property taxes. He stated he looks forward to the approval of the 5 year extension and said it is the right thing to do.

Sue Hekker, School Board Chair, came forward and shared information regarding the 2006 bond measure passed by the Sherwood voters and the importance of that as it relates to the present day and more specifically the criteria recently set by the Council in regards to the extension of the Area 59 reimbursement district. She said Sherwood schools were overcrowded by 2005 so a long range facility planning committee was formed and recommendations were made to move forward with the plan to add much needed classrooms for students. She said in March 2006 the school district surveyed registered voters to gage the likelihood of passing a large bond for schools. She stated the original survey included questions about building and expanding schools along with a new high school stadium, a performing arts complex at the high school and a land bank to purchase land for future schools. She said the direction was clear that the community supported schools and items most directly impacting the immediate needs of the children. She said the community understood that the \$98 million bond was needed but the expense of the stadium, a performing arts complex and land was more than voters were willing and able to spend. She noted that because of Sherwood's growth at that time there were already two recent bonds being paid for by the voters. She said with the work of 208 adult volunteers over a period of a year Sherwood voters passed the largest bond on the ballot for schools that year with the second highest passing rate in the state at 61%. She stated the Sherwood community supports schools and trusts the school district with their tax dollars and in return the community expects to get the most for those dollars and holds the school district accountable. She said the Sherwood community wants the most for their tax dollars and as elected officials we have the responsibility to use those dollars wisely. She said she believes the City and the school district have done a remarkable job to use our monies wisely with IGA's and collaborations which have consistently saved the taxpayer's money. She said in regards to the reimbursement district the criteria the Council set is clear; to show good cause to extend the reimbursement district and to show that the value of the improvements to the subject property remains sufficient to warrant reimbursement. She stated the school district has met both criteria and has continued

to work with all parties in good faith. She said the taxpayers and most importantly the children educated in this district are owed their fair share of the investment the school district made to Area 59 that clearly benefitted the developers and they need to be repaid. She said the developers need to pay for those benefits not the taxpayers and certainly not the children of the school district. She urged the Council to vote to extend the reimbursement district.

Phil Johanson, Chief Financial Officer of the Sherwood School District, approached the Council and referred to comments that the school district had not provided evidence that it satisfied the criteria. He said all of the evidence that the school district provided was in writing and was prepared by another party. He stated the decline in the construction permits was obtained by the audited financials of the City and the information regarding the sufficient value of the infrastructure was obtained by engineering reports other than the districts preparation. He said questions were also asked about the value of the assets and if they were constructed today and he referred to Ms. Hossaini's comments that to replace the infrastructure today would cost about 12% more. He referred to the question regarding the life of the infrastructure and said in the City's audited financials it says the life of the infrastructure ranges between 20 -100 years so there is still sufficient remaining life in those assets. He stated a fair question was asked as to how the school district would use the money if it did get it and said that the use of the money would be governed by the question that they asked the voters when they sought the bond measure. He said part of the plans when building the elementary and middle school included a second gym on the Ridges campus as well as an additional covered play structure and that is how the district intends to use the money if they get reimbursed. He said the estimate of the cost for those two items is \$2 million.

Steve Emmert, Principal of Laurel Ridge Middle School, approached the Council and provided the school's perspective for the need for the Area 59 money. He thanked the Council for their service and thanked the people of Sherwood for providing an amazing educational facility. He said when Laurel Ridge was built in 2009 the plan was to build a phase 2 which included a second gym as soon as the need presented itself due to growth. He said by the 3<sup>rd</sup> year they were already at capacity but because of the economy, they were not able to add the additions. He said Edy Ridge was originally built to hold 600 students and they have been well over that for the past several years. He stated Laurel Ridge was originally built to hold 500 students in phase 1 with the plan of continuing to build phase 2 and the second gym as they continued to grow. He said today there are over 580 students and in spite of the tight space they continue to provide a quality education. He commented on the challenges of the lack of space and how it affects the P.E. classes and the lunch room as the cafeteria is often used for P.E. classes. He listed other challenges such as a lack of classroom space, science labs, crowded hallways and a crowded cafeteria. He said they have managed well but have counted on the Area 59 funds and hopefully some other monies to build phase 2 and another gym. He urged the Council to vote for the extension.

Frank Luzaich, Principal of Edy Ridge Elementary School, came forward and commented on the innovative layout for instruction at Edy Ridge and Laurel Ridge and how it benefits the families on the other side of Hwy. 99. He referred to the park like setting the architect designed for the recess playground where a bulk of the area is grass. He said he expressed concerns over the grass. He stated the area was hydro seeded on poorly graded clay and they have now learned that the back grass of Edy Ridge is a problem at the campus. He said there are 681 students and patrons walking through the muddy grass. He stated they now limit the students to the hard surfaces and face increased behavior concerns, injuries and health room visits because of the congestions outside. He said ultimately they have the back playground for about 50% of the school year. He commented on the mud being tracked into the schools. He said recess is a key component to the instructional program and they have to allow the students to run around and play outside. He stated that since 2009 they have tried to fix the drainage issues by trying to amend

the soil, aerate the clay and added a surface drain and another surface drain and the situation has not improved. He said the fix is wholesale and it is costly to redo the back playground to serve the students at Edy Ridge as well as the community that relies on the facility. He said the school district' CFO has stated that the only way to address this construction issue is to use future reimbursement funds. He asked the Council to support the students at Edy Ridge.

Dani Coughran, P.E. teacher at Laurel Ridge Middle School, approached the Council and commented on the growth and crowding at Laurel Ridge. She said having only one gym is a challenge and as an educator she knows that learning occurs best in facilities that are appropriate for learning. She said having only one gym and sometimes as many as four classes scheduled in that one space the students are forced to do P.E. in other areas such as hallways, the cafeteria and classrooms. She said there can be as many as 150 students in the gym at one time and having that many is a safety issues and limits the activity options. She said the focus is to get kids moving and keeping them physically active and establish healthy habits. She stated the P.E. staff is unable to do the full curriculum that the kids deserve and having only one gym is also an issue of equity. She commented that the kids deserve better. She said the outcome of extending the reimbursement district will be an improved learning environment where the kids will have more activity options and a full curriculum as well as safer activities and spaces for our students and a more equitable school experience.

Aimee Daiker, parent at Edy Ridge Elementary School, came forward and stated she would provide a parents perspective on the growth at Edy Ridge and Laurel Ridge. She said she moved to Sherwood because it is a great place for kids. She said by not extending the deadline it is a shift in our focus and it will change the way the community feels. She stated she supports the extension.

Emma Kiel, student at Laurel Ridge Middle School, approached the Council and said she is an 8<sup>th</sup> grader at Laurel Ridge. She presented a check on behalf of Brandy and Darby Bud who are business owners and parents of an incoming 6<sup>th</sup> grader and the check is for the school district for this fund because they believe in Laurel Ridge Middle School. She said the students at Laurel Ridge have concerns and she provided examples of lack of space in the classrooms and lack of supplies. She said the hallways are crowded and it is difficult to get to class in time and provided examples. She said it is hard to work with these conditions.

Colin Anderson, student at Laurel Ridge Middle School came forward and commented on the problems with having only one gym and provided examples. He said space is also an issue at the school and gave examples of closets being used as office space. He commented on the crowding in the school.

Heather Cordie, Superintendent of Sherwood School District, approached the Council and said in March the school district submitted a letter to the City Council asking them to consider a Municipal Code modification allowing for extension of reimbursement districts. She reminded the Council that after careful consideration the Council did modify the code and set two criteria for extensions. She said the criteria are demonstration of good cause and value of improvements remains sufficient to warrant reimbursement. She stated the school district has demonstrated that they have met the criteria. She said they have submitted evidence to support their position and the City staff has come to the conclusion that the criteria have been met. She reminded the Council that the funds that are in debate through this process are taxpayer funds approved by taxpayers. She said as elected officials the Board of Education for the school district and the City Council has a fiduciary responsibility to those taxpayers. She stated at the November 18, 2014 hearing Marvin Mandel submitted a letter and Mr. Rankin testified orally to the effect that although the property owners do not want Council to grant the extension they would accept a compromise

whereby the school district would waive the 4% interest rate from 2008 through the extended period of 2023 and agree to this for only one five year extension. She said since that hearing the school district has reached out to the property owners attempting to reach a settlement consistent with that offer. She said the property owners rejected the terms that they publically proposed on November 18 and added a number of other conditions that are unacceptable to the school district. She stated the district agrees to the following compromise in exchange for the requested five year extension; to waive all interest from January 1, 2014 through March of 2023 and to limit extensions of the reimbursement district to this one five year extension. She said in effect the property owners will not have to pay any additional interest on the infrastructure as of the end of last year and will continue to get the benefit of 2008 prices for the infrastructure which makes it a good deal for future development. She thanked the Council for their service and consideration of this request. She stated the school district is respectful of the process including the threshold for demonstrating that they have met the criteria which the Council has established. She asked the Council to provide a decision on this topic and said it is the right thing to do.

Nancy Mandel approached the Council and said in 2008 and 2009 they were told many times by representatives of the City and the school district that the reimbursement district would expire in 2018. She stated at the March 2008 City Council meeting Mayor Mays advised them to wait until 2018 to develop and Ms. Hossaini testified that some owners would chose to wait the 10 years and that the school district would take that risk. She stated City Attorney Chris Crean states on his website that under the Area 59 reimbursement district the fee becomes due only when the property develops and only if it develops within 10 years. She said in a private meeting between the Mandel family and the City, the Mandel family was told to wait until 2018 if they wished to avoid paying the fee. She said in court proceedings representatives of the City and the school district testified that the fee expired in 2018 and having these representatives repeat this statement constitutes a promise that they are now considering breaking. She said it may only be a promise and not a legal guarantee but breaking it seems unethical. She noted the Mandel family's decision to wait until 2018 to develop was based on this promise and it is clear that the City and the school district were anticipating their decision from the beginning and before the great recession. She said she and her husband are 65 years old and their age made the decision to postpone particularly unfortunate but they didn't feel they had any options. She said in 2008 the Mandel family was in the position of saving nearly a \$1 million by waiting 10 years to develop. She stated if the time period is extended to March 2023 they will be in the position of saving well over \$1 million by waiting 8 more years. She said if postponement was logical before, she supposes it is again. She stated they would like to sell the property to a developer in 2015 and the school district would like that too but that would require an amendment to the original reimbursement district resolution and selling the property now would make economic sense if they reduced the amount and the interest fee. She asked the Council to deny the extension because it is the right thing to do and instead encourage landowners and the school district to come to some compromise.

David Mandel approached the Council and reminded the Council that Mr. Rankin represents Marvin Mandel who is 75% owner and does not represent him or Randy Kieling. He said the disagreement with the school district is unfortunate as he and his wife are pro education. He commented that American's do not like ex post facto laws which are laws that are applied retroactively. He stated in the Constitution there is a clause saying that the Federal Government shall have no ex post facto laws and there is also a clause that States shall have no ex post facto laws. He said the Constitution was written to limit the Federal Government but in this case it limits State government too. He said this is usually applied to criminal law and said we can make ex post facto laws at the civil level and we do all the time such as in zoning. He said changing the rules of the game is unfair and not something that Americans accept. He said Americans also feel strongly about contracts and promises. He stated they feel a promise was made

and the school district took a risk by doing a reimbursement district and unfortunately they did lose on this.

Matthew Morrison, Sherwood resident came forward and said he was an employee of the school district as a lunch substitute at Laurel Ridge and a volunteer and is married to a member of the Mandel family. He commented on the crowded cafeteria at Laurel Ridge. He commented on the Mandel family and their situation and said they all attended school in Sherwood. He said the Mandel's have given a lot to the community and on the other hand the school district needs this money but asked if it is fair to ask a family that has waited this long and ask so much of this from one family. He said he is open to strategic thinking on how to raise money for the school district.

Jim Claus, Sherwood resident approached the Council and referred to urban renewal money and said those subdivisions are still paying your fees. He said on the price DR Horton just paid isn't suppressing those properties because they paid for the road. He said this is people looking for money and the problem is the school district is not the same thing as the City and they have a different municipal boundary line. He said they picked where they wanted to go and how they wanted to do it and we turned around and picked out of the State Treasury with the Urban Renewal District \$35 million that they are never going to see. He asked how the Council can analyze this without going back and order a full rebate to everyone close to that school. He said drop your SDC's and stated they are being double billed. He said we can't use Walmart because we funded Walmart and we are going to try to give them another \$1 million tonight after \$2 million or \$3 million or \$7 million and said everyone has forgotten because they are politically active and do the right thing and put something in that the staff benefits from. He stated the Council should check themselves before they wreck themselves because they are listening to the staff on all of this. He said to go get the money back from DR Horton and give it to the person you bankrupt. He commented on building it on fee on fee on fee and that is how you financed this town and that is what is coming back to bite you. He asked why they don't return the development fees and said double dipping is unfair and unreasonable and it is what is causing the community conflict. He asked why the City is not engineering the new traffic round-about on Sunset and said the County doesn't trust the City. He said after the stuff they pulled in the Langer subdivision they are not going to give the City another chance to take \$2 million of the public's money. He commented on the Council's advisory role and said they are making the City hard for a good City Manager to run it and said they first generate artificial conflict and then you give money to the politically active and do wrong by the people that are just good citizens. He urged them to stop and go back and reconfigure it and say here is your \$40,000 a house and it is the \$200,000 they are looking for and then your staff is no longer a stakeholder in the process. He said there is no reason for all of this and they have come full circle.

John Rankin, 26715 SW Baker Road came forward and submitted a letter (see record, Exhibit F), a document showing Oregon Statutes (see record, Exhibit G), and a document (see Record, Exhibit H). He noted that the Council has heard a lot of testimony in favor of the school district.

Mayor Middleton said that the Council heard a lot from the both sides. Mr. Rankin asked for a little more than 4 minutes. Mayor Middleton asked Mr. Rankin to start and they will see where it ends up.

Mr. Rankin stated he has been a teacher and has been involved in the area. He said he is also a City Attorney for 3 cities and he has worked overall for 7 cities in various capacities and said he understands the difficult decision before the Council. He said his clients respectfully appreciate everything the school district has done. He said some of the testimony from the school district was not complete. He referred to the 90 acres that came in as part of the concept planning process and said the Mandel family, the Labahn

family and neighbors worked hard to try to coordinate with the school district and the district did a lot of nice things and cooperated. He commented on the annexation where they were put into the UGB and then the annexation application appeared to be leaving them out. He said they had to work hard to make sure that their understanding of what should happen would become a reality. He referred to ORS 223.304 (see record, Exhibit G) and said it is the basis for reimbursement districts and the only place that you will see 10 years is in a credit. He read a portion from page 2 regarding SDC credits, "*Credits must be used in the time specified in the ordinance but not later than 10 years from the date the credit is given*". He referred to David Mandel's research into reimbursement districts around the State and said 10 years is the typical limit and the longer you go the more likely you get into a realm of lien, encumbrance, assessment and tax. He commented on the case *Kieling vs. the City Council of Sherwood* (see record, Exhibit I) and reminded the Council that the Court of Appeals case was only limited to the street assessment. He said the street assessment on the reimbursement district was \$440,000 and a street length of 439 feet so at \$1000 a foot they felt that was unfair. He said the Court of Appeals denied and he quoted from the case; "*The City passed a resolution doing so in leveling a conditional reimbursement fee of \$440,268 on plaintiffs—conditional, because the fees become due only in the event that the plaintiffs' properties are developed before 2018*". He said it is conditional and argued that a reimbursement district fee is not an assessment, not a tax and not a lien against the property as a local improvement district would be. He stated the fee is assessed for a 10 year period of time and if it is assessed for longer than a 10 year period of time, or the fee is due on a piece of property when development occurs for a longer period of time, than it become less conditional and more unconditional and it becomes more of a burden rather than less of a burden. He said what happens on the school district side in an extension situation is that the extension gives them a benefit and takes away some of their risk. He said you have this risk benefit analysis that goes on in any reimbursement setting and it is held at 10 years usually because that is the reasonable period of time. He urged the Council to deny the application. He said if the Council decides to approve the application his November 18 letter to the Council suggested that the Council waive, in other words confer a benefit and if you are going to give the school district a benefit and remove some risk they should extend a benefit to the Mandel family as well.

Mr. Rankin referred to materials that the school district submitted and commented on the bar graph that shows a significant decrease in residential building permits after 2005. He said he received a copy of the last ten years of building permits (see record, Exhibit J). He said these are residential building permits and they are labeled SFD for single family development but if you look at them carefully there are a lot of additions, decks and windows. He said he did a calculation and in 2006 the bar graph shows 221 building permits and said that is not single family dwellings and he calculated 114 actual permits and said 32 are not single family dwellings. He stated there were 82 single family dwellings built in 2006 in the City not 221. He said he did the same analysis for 2007 and there were 47 single family dwelling built and the school district graph shows 117 permits. He argued that this is a quasi-judicial hearing and Council is required by law to look at the criteria and address the facts and evidence that has been submitted. He commented on the criteria of a good reason and said the great recession is being pushed as the reason and said that is flawed based on the school districts own records.

Mr. Rankin commented on the testimony and decision before the Council and said he is focusing the Council on what their decision should be based on a quasi-judicial setting. He said it should be based on the evidence that has been submitted that address the criteria and said they have an obligation to base their decision on substantial evidence in the record.

Mayor Middleton asked Mr. Rankin to finish his comments.

Mr. Rankin referred to comments by the former Superintendent regarding the money paid to the Mandel family and the Labahn family and all of the efforts made by the school district and said that is just fair market value and the school district is required to pay fair market value for property when they need it for some public purpose. He said it was stated as something the Mandel's were demanding and said no it was fair market value. He referred to Ms. Hossaini's letter regarding the school district not being unique and that they are a developer. He commented on the testimony concerning taxpayer money and said the taxpayer money, the special assessment, should be used to pay back the bonds not for a gym or anything else that is needed for the community. He said that is the commitment they made to the citizens.

Mr. Rankin referred to Exhibit H and said it is a power point presentation that Community Development Director Julia Hajduk presented to the School District on January 15, 2014 and said on page 3 it states in 2013 the building department processed 39 residential building permits which are expected to be completed prior to September 2014.

Councilor Grant stated that is labeled page 7.

Mr. Rankin said there are 60 additional units of approved subdivisions to build out and then he referred to the 2-5 year look and said that is the 5 years that is being requested. He read from page 9, "*No formal applications have been submitted for land development, however it is anticipated that approximately 180 units will be approved and developed within the 2-5 years*". He stated that the great recession appears to not be over and appears to be ongoing because the building permit levels are continuing to maintain the level that they have been prior to 2006.

Mr. Rankin referred to the school district Superintendent's compromise and said he represents 75% of the landowners of the Mandel family and Lowell Labahn and his family. He said he does not represent 25% of the landowners of the Mandel family. He said when he first received the proposed compromise it was 1% for the duration and he presented it to the Mandel family and they came back with a reduction to \$500,000. He said their reasoning is the school district knew the risk going into the deal and 10 years is what any developer gets. He said there is a benefit going to the school district and said they will have had their 10 year run by 2018 and if they want more they should be able to give something for it. He asked the Council to look carefully and deny the application for the extension and the Mandel family will continue to wait until 2018 and maybe longer. He said if the Council does approve he asked them to give some meaningful benefit to the Mandel family and the others. He provided the Council with a handout (see record, Exhibit K).

Kelly Hossaini with Miller Nash Law representing the school district came forward and asked if the Council had any questions. She stated they tried to reach some meaningful settlement over the last month and got nowhere. She said what they have put on the table for the Council's consideration is quite meaningful and that is ending the interest as of December 31, 2013 and said the reason for the date is there have been two properties that did pay their reimbursement fee and the interest. She said it makes it cleaner if they don't mess with that and from January 1, 2014 through March 8, 2023 they will forego the interest. She said that is a big hit but they are willing to do that and will not come back for any additional extensions.

Pat Allen, Sherwood resident came forward said he is a current member of the Sherwood School Board and gave a historical perspective as a member of the Planning Commission during the time this was done. He referred to testimony regarding what the school district should or should not have known at the time the reimbursement district was created particularly what was happening to building permits in 2007.

He said downturns in housing construction come and go and the difference between this as a downturn and what became known as the great recession is not just the downturn in residential construction industry but also the ripple effect because of pooled risk and complex financial investments that locked up the entire credit market. He said there are two different things to look at in terms of evidence of what the school district should have known. He stated building permits is certainly one but also subdivisions and he said there were open subdivisions in that area in the pipeline at the time the school district moved forward with the reimbursement district and he said they had reason to believe at the early stages of the recession that we were looking at a housing downturn and not the cataclysm that we faced. He stated the City Council at the recommendation of the Planning Commission enacted one or more extension for every single approved subdivision and development plan in the City in reflection of that market circumstance and said that was something that was contemplated at the time the school district pursued this reimbursement district. He said if you are trying to determine what the school district should have known and what risks it should have assumed you need to consider the notion that the Council reflected that things had changed and the length of the time for development was going to be longer as a result. He noted that even those extensions were not enough to save a number of developments.

With no further comments Mayor Middleton closed the public hearing and recessed at 9:05 pm.

Mayor Middleton reconvened the meeting at 9:15 pm and notified the Council that the meeting would go passed 9:30 pm.

Community Development Director Julia Hajduk offered to answers question and said this is a Council policy decision and staff has done a technical review and agree that there is demonstration of good cause and the value continues to be there. She said the school district might be proposing to reduce the interest limitation and said that she does have language if the Council is interested in modifying the resolution.

Councilor Butterfield said he would like to see the language modified and said it is a tough decision. He said it would have been easier if they would have reached a compromise and brought a modified resolution.

Councilor King asked who decided the criteria for the extension.

Ms. Hajduk said that was based on consultation with legal staff looking at the Oregon laws and what needed to be demonstrated and the request from the school district was for the City to consider that and the City decided what the criteria should be and ultimately it was adopted by Council. Councilor King asked why was that criteria used. Ms. Hajduk said we needed to have some criteria to establish a process for a public hearing. She stated it was not a discussion amongst the different parties it was a legal discussion.

City Attorney Chris Crean responded that he worked with staff to develop language to incorporate into the City Code if the City decided to allow an extension. He said his goal was to accomplish two things, to retain maximum discretion on the City Council so the decision is theirs and theirs alone. He said secondly to remain true to the purpose of a reimbursement district. He said to recall that the improvements in the amount of the fee imposed on an individual property is intended to reflect the benefit those improvements confer on that property. He said in order to remain true to that they developed a criteria that the assets must still have a useful remaining life adequate to support the amount of the fee that is imposed on the property. He said they made a qualitative and objective determination about the remaining useful life of the asset that it was sufficient to support the amount of the fee imposed on the property. He said the other

good faith criteria was intended to allow the Council to determine other factors and determine in its discretion whether or not to approve the request.

Councilor King said he was on the Council when this started and it is his observation that there were people that wanted to be a part of the reimbursement district and some did not. He stated the Mandel's and others may have never intended to develop the property. He commented on the promise and the property owners waiting it out. He said even if extended their intention may still be to wait it out. He said the school district took a risk and a chance. He referred to contract law and promises. He stated contracts are how we function in our society. He said it is unfortunate that if the Mandel's and others don't develop the school district will not get any of that money reimbursed. He stated the property owners have received a benefit but they have a contract. He said if they approve the extension they are not only modifying a contract which is unheard of unless it is agreed to by both sides. He said if we modify it there has to be a benefit to both sides. He noted there is an agreement to be made that they have not come to yet and he wished they would. He stated it is reasonable that people pay for things they receive but noted this is not a good contract and everybody took risks. He said there is a deal to be made.

Councilor Langer commented on the difficulty of the situation and said he wished the two parties could have taken the time to figure out the terms that would be agreeable to both sides.

Councilor Clark referred to remarks Mr. Rankin made that the school district offered to reduce fees to a 1% and asked the school district if that was the case. Ms. Hossaini responded yes. Councilor Clark referred to remarks the school district made that they were agreeable to stopping the interest from January 2014 if we extend to March 2023.

Ms. Hossaini responded yes and said in discussion with staff regarding interest, staff said it was somewhat problematic to go back and waive the interest from the beginning since the school district has already had some reimbursement fees and interest paid. She said she wished they could have made a bargain before the meeting and said when the school district presented Mr. Rankin with the offer of 1% from beginning to end they figured that was pretty close to what he said they would take and it should work. She said what the school district got back was a proposal for no interest, no extension and reduce the amount to \$500,000 total and 0% interest. She said there are multiple property owner interest here and the Mandel's are the most active in opposing the reimbursement district. She stated, the school district's offer to waive interest from December 2013 isn't good enough and said she feels like what Mr. Rankin's offer to waive interest from 2008 to 2023 would make them feel better and get them over the hump then she would imagine the school district could agree to that and that is probably the closest compromise they will get from all of the parties.

Councilor Clark asked if the school district just changed their offer to 0% interest from January 1, 2014 to 0% from the beginning.

Ms. Hossaini said they came tonight, because it was the cleanest way to do it, with the offer of 0% from January 1, 2014 through 2023. She said if the Council cannot approve the extension based on that and feels that is still not enough then what they heard some of the Mandel's say is that they would accept that if we took the interest out from the beginning. She said the school district will agree with that if that is what the Council needs to approve the extension.

Councilor Clark said this doesn't expire until 2018 and asked why the school district brought it now.

Ms. Hossaini stated the school district was trying to stay on top of things and noted the effect is the same.

Councilor Grant said he heard Mr. Rankin say that if they have to approve this, could you waive the interest.

Ms. Hossaini said she read the comment as a signal to the school district as to where they would go.

Councilor Grant commented on properties that have developed and paid the fees and interest and asked when that took place. Ms. Hossaini responded November of 2013.

Councilor Grant asked how many properties developed at that time. Ms. Hossaini responded two properties in the amount of \$200,000 had paid.

Councilor Grant said he is compelled by both sides and this is tough when children are involved. He said he doesn't think this is about crowded classrooms. He said crowded classrooms are about the school funding equation which is broken. He said this is not about a gymnasium either. He stated the two sides are far apart. He referred to what sounds like an offer and said the interest is growing into something and that bothers him. He commented on paying interest when you want something sooner and the burden of interest falls on those who want something sooner not those that want it later. He said he knew the interest equation was in there but none of us knew that it would grow this big because of the waiting time. He said it seems like that is the burden of the people that wanted the infrastructure sooner. He said he agrees that if the Council extends this it needs to be something where both parties come to the table.

Council President Henderson said one thing that was mentioned was that only one party is represented here. She referred to Mr. Johanson's document (see record, Exhibit D) that was written yesterday and commented on the difficulty of the decision and noted that Council has had 8 documents presented to them tonight all multiple pages long. She referred to the chart in the document that lists all of the other interested parties and stated they have only heard from one party tonight. She said if the school district, the Mandel's and the other parties can come to an agreement that will not happen tonight and asked Ms. Hossaini if that is correct.

Ms. Hossaini responded that the other parties received notice and if they are not here then they are not bothered by this. She said they have had multiple opportunities to attend hearings, present written testimony and said this reimbursement district is not a contract and doesn't need all of the parties to come and sign documents. She stated the parties that are here are the most vocal parties and the ones that do care. She said at least 75% of the property owners are represented by Mr. Rankin and said what she is proposing is to not make this more complicated by saying where the other parties are. She said they are not worried about this. She said it is the Council's decision and the school district is saying that they need the money and the Mandel's are saying this is onerous on them as far as developing their property. She said you have the most vocal parties in the room and it does sound like we have an agreement or something that the Council can feel good about with giving the school district the extension request and giving the Mandel's and all of the other property owners no interest. She said that is a good deal and they are locking in the price of the infrastructure back to 2008. She said she thinks there is an agreement and asked Mr. Rankin if that is something that is acceptable and if so they can draft a resolution with that new language.

Council President Henderson asked if they can craft an agreement tonight without convening the School Board.

Ms. Hossaini responded yes as she is empowered to represent the Board.

Council President Henderson said that she appreciates the comments about the vocal majority and referred to the school district document (see record, Exhibit D) and that is why she mentioned it and she wants to make sure that what they decide is fair and equitable if an agreement can be reached. She said if they make a decision tonight, which she is inclined not to mostly because there is no urgency to decide tonight as the reimbursement district goes to March of 2018. She said this can be taken care of next month or in February. She commented on being handed 8 documents and is asked to make a decision and now it appears to be a disagreement between what is on the table and who it applies to and when it begins. She said it seems to be thrown together at the last minute and there is no urgency that she is aware of. She stated she does not know what has happened between the two parties since the last meeting and over the last month.

Ms. Hajduk responded that there is no urgency and the only complication with delaying it is we will have a majority of new Council members that will have to review all of the material that has been entered into the record, the minutes and the video tapes so that they are informed when they are making a decision. She said that is an added burden for the new Council members. She said they do not have to make a decision tonight. She clarified that if there is an agreement bedded in the resolution it would apply to all properties which is why staff was hesitant to go retroactive as it would affect those that have already paid the interest.

Councilor Henderson stated that some property owners paid interest in November 2013 and asked if they are required to reimburse.

Ms. Hajduk said she is not sure and assumes they will ask to be reimbursed.

Ms. Hossaini said she doesn't believe there is a requirement but the school district would reimburse the interest and that is another concession that the school district would be willing to make to get to the deal.

Councilor Henderson noted that if we are going to propose a resolution the Council needs to direct staff and asked to hear from Mr. Rankin. She said if we are going to draft a resolution the Council may have to reconvene because they are amending the reimbursement district. She stated if the Council wants to get this done this year they either have to do it tonight or have another meeting to adopt the resolution. She noted there are certain members of the audience that believe a walk on resolution is illegal and violates public meeting law and said that is what they are proposing to do tonight.

Mr. Crean said the 2008 resolution establishing the reimbursement district included a Section 3 that the amount to be paid by each benefitting property would increase annually on the resolution's anniversary date of 4% simple interest and said what the Council be doing is amending that resolution or adopting a new resolution that would change that requirement. He said they would amend to modify the interest requirement.

Councilor Henderson referred to page 80 of the packet and clarified that it is a new resolution extending the reimbursement district but it does not mention interest.

Mr. Crean said it does not change the substantive terms of the district.

Ms. Hajduk stated the resolution before the Council is just the extension and based on testimony received Council can make addition modifications. She said the Council is not amending the methodology and how the reimbursement district is calculated is set and vetted through the court system and urged the Council to be careful that they don't modify that just modify the interest or the length but not the actual assumptions that went into the reimbursement district.

Councilor Butterfield stated he respectfully disagrees and said if they can come to an agreement they should get it done.

Councilor Henderson said this is large track of land that the Mandel family has decided not to develop and wait out the reimbursement district and commented on the value of the land. She stated if the Mandel's did develop the land as others have what is the value of the land if developed. She commented on development resulting in SDC's and asked what is the cost benefit analysis of the Mandel family waiting and developing after 2023 and moving forward and how do we all benefit.

Mr. Crean said it is a 23 acre piece of land and is zoned MDR and the housing density range is somewhere between 7 and 12 dwelling units per acre. He said the transportation SDC reimbursement fee is \$440,000 or about \$18,000 per acre and there is additional for sewer and water but said it will probably work out less than the SDC's and TIF's per dwelling unit.

Mr. Rankin said the development of that property won't be anything greater than 6 dwelling units per net acre. He said he has done some analysis and 5,000 square foot lots would work best and under a planned development they might get a little more density but said it will not be the density that Mr. Crean is suggesting.

Mayor Middleton asked Mr. Rankin if they would accept the agreement and the extension if they eliminated all of the interest.

Mr. Rankin clarified no interest from 2008 through the extension?

Mayor Middleton said yes.

Mr. Rankin stated that on December 1 they received the offer and compromise from the school district. He said on December 12 he responded to the school district after consultation with his clients, the 75% owners and his non-clients who are the other side of the Mandel family and reminded the Council that he also represents the Labahn family who are Edy, LLC at this point. He said the counter offer included reducing the interest rate to 0% from 2008, reduce the original reimbursement fee to \$500,000, the Mandel family will begin actively marketing their property for sale to a buyer in 2015 and the reason for that is obvious and they are trying to get money to the school district, and the school district withdraw its current extension application reserving the right to submit it at a later date. He said that is the proposal they submitted on Friday and did not receive a response.

Ms. Hossaini said that she emailed Mr. Rankin today.

Mr. Rankin said he did not receive the email. He stated he came tonight and was chosen first and understands there has been communication between the school district counsel and the City Council and City staff.

Mr. Crean stated that he and Mr. Rankin have talked off line many time.

Mr. Rankin said he understands and the time he talked to Mr. Crean was after he learned that the City Council had adopted an ordinance to allow for the extension. He said he called Mr. Crean and asked why they did not receive any notice. He asked if Mr. Crean knew about it and he said he didn't know much about it and it was the school district requesting City staff to do something. He said he finds out in public testimony today that Mr. Crean has been involved all along; at least that is what the representation is at this point. He noted he doesn't want to muddy the water but this has to be played out fairly and appropriately.

Councilor King said it is like a contract and everyone benefits from the deal.

Councilor Grant said it is important to recognize that people did develop under the current contract. He agrees with Councilor King that a deal is a deal however he also agrees that the extension is needed and what would make him comfortable is to extend the district for five years and waive all interest during the extension. He said the existing 10 year agreement stays exactly the same during the 10 years and then during the five year extension it will be principle only and no interest. He said that is something in between.

Mayor Middleton said he prefers elimination of the interest since the school district was willing to do that. He said he understands they are waiting 10 years and said the ones that did develop need to be reimbursed if they eliminate it for everybody.

Councilor Grant clarified that it would be the school district who reimburses.

Mayor Middleton said that is correct and clarified with the school district that is what they have agreed to do. He said he would agree to extend five years and eliminate all interest and said they should not have put interest on in the first place now they should eliminate and reimburse the people that paid it.

Ms. Hossaini said the school district would agree to that.

Councilor Clark stated that she had contact with School Board member Pat Allen and said he did not provide her with any additional information that hasn't already been discussed but she wanted to be transparent about that. She said he communicated that the negotiation was ongoing and they were hoping to achieve an agreement. She stated the Mandel's are acknowledging that betterment has been received and asked what is the betterment and said that is the box they are trying to get to. She said a good case has been on the extension and they have met the two criteria that Council put before them and she agrees with Mayor Middleton that the interest is onerous and seems arbitrary on a depreciating asset. She would agree to a five year extension if the interest was waived from the beginning.

Mayor Middleton asked for a motion.

Councilor Clark asked for assistance to alter the resolution.

Ms. Hajduk said she and Mr. Crean are currently working on language and stated they are keeping Section 1 which states "*The Area 59 Reimbursement District authorized via Resolution 2008-011, is hereby extended to March 4, 2023*" and adding a new Section 2.

Mr. Crean said they would delete Section 2 and insert a new Section 2 which states; "*Section 3 Resolution 2008-011 is repealed*" which is the section that imposed the 4% interest and a new Section 3 for this resolution will state; "*The amount paid by each benefitting property shall not include an amount for interest*". He said Section 4 will state; "*The Sherwood School District shall refund to a person who paid the reimbursement fee prior to the effective date of this resolution an amount equal the interest paid*". He stated Section 5 would state: "*This Resolution shall be effective upon its approval and adoption.*"

Ms. Hajduk said Section 5 would state; "*The city recorder shall provide notice in accordance with 13.24.070 and record the resolution in accordance with 13.24.080.*" She said the new Section 6 would state: "*This Resolution shall be effective upon its approval and adoption.*"

Mr. Crean said yes and clarified that Section 2 and 3 would be renumbered Section 5 and 6.

Councilor Henderson asked Mr. Crean what is Section 4.

Mr. Crean said Section 4 requires the school district to refund a person who paid the fee prior to the effective date of this resolution and amount equal to the interest paid. He said Section 2 repeals the 4% interest requirement, Section 3 says the benefitting property pays the reimbursement amount that does not include interest and Section 4 requires repayment of the interest paid by somebody who has already paid the fee, Section 5 requires the city recorder to provide notice of the resolution and Section 6 is the effective date.

The following motion was received.

**MOTION TO AMEND: FROM COUNCILOR CLARK TO AMEND RESOLUTION 2014-073 AS INSTRUCTED BY OUR COUNSEL CHRIS CREAN, SECONDED BY COUNCILOR BUTTERFIELD.**

Prior to Mayor Middleton calling for a vote, Councilor Grant said as a matter of discussion that if the motion fails he will make a motion to amend to waive the interest only during the five year extension.

Councilor King asked how Ms. Hossaini and Mr. Rankin feel about the motion.

Mr. Rankin said he is representing he clients and said there are other Mandel family members in the room. He restated their counter offer for 0% interest, reduce the reimbursement amount, the Mandel family will actively market the property which they have not done and do not extend at this time. He stated the school district can come back later if the Mandel family fails to develop by 2018.

With no other comments, Mayor Middleton called for a vote on the motion.

**MOTION PASSED 4:3, (MAYOR MIDDLETON, COUNCILORS BUTTERFIELD, CLARK AND LANGER VOTED IN FAVOR AND COUNCILORS GRANT, HENDERSON AND KING VOTED AGAINST).**

Mayor Middleton called for a vote on the amended resolution.

**MOTION AS AMENDED: FROM COUNCILOR CLARK TO ADOPT THE RESOLUTION 2014-073 AS AMENDED, SECONDED BY MAYOR MIDDLETON. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.**

Mr. Rankin thanked the Council and commented on David Mandel's statements about other cities that have had difficulties with reimbursement districts and said it seems like they have fallen out of favor and he can understand why.

Mayor Middleton said the Council considered all of the material and he hopes that everyone is happy.

Mayor Middleton addressed the next item on the agenda.

**B. Ordinance 2014-020 Amending the terms of the Sherwood Municipal Code (SMC) Chapter 15.04 relating to the adoption of the Oregon Electrical Specialty Code; Declaring an Emergency**

Building Official Scott McKie approached the Council and said this ordinance and the following two ordinances are similar. He stated the State Building Code is applicable in uniform throughout the State and consists of several individual model codes that are specific to the code they address. He said they are periodically updated or amended and the new additions are adopted by the State of Oregon Building Code Division. He said once they are adopted individual jurisdictions that have a building inspection program are also required to adopt the codes. He said this ordinance is to amend the Sherwood Municipal Code to reflect the current State adopted codes.

Mayor Middleton opened the public hearing. With no comments Mayor Middleton closed the public hearing.

With no questions from Council, Mayor Middleton asked for a motion.

**MOTION: FROM COUNCILOR GRANT TO READ CAPTION AND ADOPT ORDINANCE 2014-020, SECONDED BY COUNCILOR LANGER. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda.

**C. Ordinance 2014-021 Amending the terms of the Sherwood Municipal Code (SMC) Chapter 15.04 relating to the adoption of the Oregon Plumbing Specialty Code; Declaring an Emergency**

Mayor Middleton said the staff report has been presented and opened the public hearing. With no comments Mayor Middleton closed the public hearing.

With no questions from Council, Mayor Middleton asked for a motion.

**MOTION: FROM COUNCILOR GRANT TO READ CAPTION AND ADOPT ORDINANCE 2014-021, SECONDED BY COUNCILOR HENDERSON. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda.

**D. Ordinance 2014-022 Amending the terms of the Sherwood Municipal Code (SMC) Chapter 15.04 relating to the adoption of the Oregon Residential Specialty Code; Declaring an Emergency**

Mayor Middleton said the staff report has been presented and opened the public hearing.

Jim Claus, Sherwood resident came forward and said his remarks are about everything that has been adopted to date. He said the building department is empowered to first verify that you have drawings and specifications that meet those codes or the equivalent. He said that is a mechanical perfunctory job. He stated they are to make sure that you have a licensed contractor if it is a commercial relationship. He said Mr. Gall has been good enough to interact with the State Construction and Contractor group and he can verify that they have changed the rules dramatically. He said the third thing they do is inspect the work done by those licensed contractors and nothing else. He noted they don't look at the character of the builder, the character of the developer because over here they have sovereign immunity and they do their job and you can't sue them personally. He said the only solution for a public servant that thinks he/she is too clever to follow the law is to fire him/her. He noted they are changing slowing but understand that is what Mr. Gall has brought to the building department. He said to be careful of the codes passed and said they are getting a reputation for writing codes that let you give away something as you did to Dr. Nathan Doyel and that you are refusing other applicants with the same zoning and a better history. He asked why is that happening and suggested because you are unpaid and looking for ways to get political funds and that is a mistake and our government is not set up that way. He said this has been going on for 4 years and is just starting to have its effect. He urged Council to understand what they are adopting and said he is to follow those and not invent them.

With no other public comments Mayor Middleton closed the public hearing.

With no questions from Council, Mayor Middleton asked for a motion.

**MOTION: FROM COUNCILOR GRANT TO READ CAPTION AND ADOPT ORDINANCE 2014-022, SECONDED BY COUNCILOR BUTTERFIELD, MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda.

**E. Resolution 2014-078 Adopting a Supplemental Budget and making appropriations**

Councilor Langer recused himself and stepped down from the dais.

Finance Director Julie Blums came forward and said this is a request for expenditure appropriations via supplement budget to make a payment that is due on a reconfiguration agreement that the City has with the developer related to cost for reconfiguring their property in order for the City to put through Langer Farms Parkway North.

Mayor Middleton opened the public hearing.

Anthony Bevel, Sherwood resident approached the Council and commented on the amount of \$890,000 included in the resolution. He said the resolution states that it has been thoroughly reviewed and analyzed by the City staff, a third party reviewer and the City Attorney. He said he could not find that

information and asked if this supplemental budget is there for viewing by the citizenry. He state he is glad that the City has the funds to give away and he would like to see if maybe it is a valid bill and said as a citizen they have a right to see how that is accounted for.

Naomi Belov, Sherwood resident came forward and said she is struck by the difference between what we just dealt with and now. She said the school district said it needs money and now we are giving away close to a \$1 million in funds out of the general fund. She said she emailed Mr. Gall and he did not answer. She asked where the money is coming from and was it owed or contractual because you don't honor contracts and she said she appreciated Councilor King's comments because that is what our government is built on and now you just rewrote the contract for the Mandel family. She said if you are going to follow contracts then why the Langer family isn't being asked to pay back the \$1.5 million for the south section of Langer Farms Parkway and added the \$500,000 for the Century Drive extension and said both roads directly affected and benefitted their development. She said Adams Street couldn't carry the traffic that Walmart has attracted. She asked if those monies are going to be given back to the citizens and the URA fund to the tune of \$2 million. She asked if there was any discussion about that and who she should ask.

Mr. Gall stated this is the time to give testimony and if the Council wants to ask staff questions then we can provide those answers. He said Ms. Blums has more of the background.

Ms. Belov stated that Ms. Blums told her that she had to pay \$600 to get any answers. She said there should be a transparent enough budget that we can figure out if the money that we pay to the URA bond or whatever to tell us where the money is going. She said if we are giving the Langer's \$2 million and owe another \$890,000 today and asked why we are being taxed and said you are just handing out money to developers. She noted it is a URA district and the City does get additional income into the general fund.

Councilor King asked if the money that is going to pay for this is coming from SDC's.

Councilor Grant called for a point of order and stated this is a time for public testimony and not question and answer.

Ms. Belov asked where the money is coming from and is it SDC's.

Mr. Gall said after the public testimony staff will provide more information in response to questions from Council.

Ms. Belov asked if all members of the Council and are equally informed and do they even know where the money is coming from and did it just fall out of the sky because apparently we don't have extra money if you are going to go and take money from farmers who could not develop their land and then say you can't develop your land unless you pay this \$1 million in SDC fees and in addition charge 4% interest. She said you are still preventing them from developing and said you are not treating your citizens equally and it is not fair and she wants more answers to questions. She said if they knew about this the room would be packed right now.

Nancy Taylor, Sherwood resident came forward and said she looked at the agenda and Resolution 2014-078 doesn't say where the money is going if you are just looking at the title online. She said she found more information that said the money was going to go to Mr. Langer and the Langer group. She stated she tried to find more information and obviously it was one of the last things Mr. Mays did before leaving

office. She asked Council to table this for 30 days so there can be more information given to citizens and posted online. She said it is about ¼ of the current budget for the next three years and it is a huge amount to give to anyone without having a lot of documentation and there is not documentation. She asked if the new road entrance has been done and this is just a projection and if it is just a projection is there a way the Langer's can come back and ask for more money. She asked where are the line items and how do citizens know exactly what it costs to do this. She asked if this was plucked out of the air and referred to Council President Henderson remarks about accountability and said this is faulty mathematics and there is nothing to document where this money is going and why it was asked for and why a specific amount. She said you have to, when you are asking for taxpayer's money, be accountable for it and there is no accountability.

Jim Claus, Sherwood resident came forward and said he is not surprised at this. He said that three of the Councilors were explicitly supported by the Langer's and asked if there was any connection between this give away Urban Renewal District that has now turned into the cleverest lunch stealing program from school children. He said every urban professor uses this as the prime example of what happens when you let urban renewal get dictated by people that are after the money. He said he knows we took money from Washington County and they expect it back and that was part of a public hearing and they did not get it back. He said now Mr. King has miraculously been put on the Council because they need a 4<sup>th</sup> vote and you were it. He noted that looks suspicious and noted that some of the Councilors are starting to get it that we have got it finally of what you are doing. He said they need to ask themselves what are we doing building big box international in a secondary zone that is not performing the way it should and we are paying for the mess urban renewal you started over there and that is urban sprawl of the worst kind. He said there are no environmental safety guards for the refuge. He said now we find out that we paid for the road out of other developer's money. He referred to people asking question and being insulted by the questions and referred to the last election. He said they are all asking the same question of how much money has gone over there and where is the legal opinion. He said nothing makes any difference here until we kick you out of office.

With no further testimony, Mayor Middleton closed the public hearing.

Mr. Gall asked if Council would like a brief presentation from Ms. Hajduk addressing the questions raised by the public.

Ms. Blums said this was publicly noticed as required by the State and has been on the City website for several weeks. She said the staff report explains where the funds are coming from and they are coming from the City street SDC's, not the general fund or Urban Renewal. She said this is a normal course of business when the City does public infrastructure and impacts private property and the normal course of business for cities is to enter into an agreement to pay for our impact on their private property. She stated that the City does this all the time. She said this reconfiguration agreement was done several years ago and we did have an impact on the property for Sentinel Storage and we looked at the items that were impacted and covered in the reconfiguration agreement and this is the cost. She said they brought a third party consultant in to review everything and this is what we owe for our impact on that property.

Ms. Hajduk clarified that this is for when Langer Farms Parkway went in north of Tualatin Sherwood Road the driveway to the existing Sentinel Storage site is where that road went through and they did a temporary access that is not a permanent location. She said it is still operating and looks like it is functioning but the access is not a permanent access and needs to be relocated and needs to be relocated to Langer Farms Parkway to meet spacing and access standards. She said the City knew that

when the development agreement was signed and when the reconfiguration agreement was entered into that we were going to have to relocate that access and in relocating the access they need to relocate the office, the security system, the gates, infrastructure, and parking. She said there are a lot of impacts that are effected and that is the cost. She noted they had Architectural Cost Construction Estimating run through the numbers in detail and said they are comfortable that it is the minimum necessary. She said they had to agree on what was included in the scope of what was to be reimbursed and she provided examples. She said adjustments were made to make sure that the City was not paying any more than was necessary to accommodate the parking relocation and things like that.

Mr. Crean said when he started in 2006 the Council Goals were to build Adams Avenue. He said this is the final step and it took City money, County money and SDC's. He noted that when Walmart went in there was a lot of right-of-way that was dedicated to that and it was a combined effort of City, County and local development and community and this is one of the final pieces. He referred to an aerial map of the driveway is right at the opposite of what was Adams South and now Langer Farms Parkway and when we put the road north we cut off the access to the Sentinel Self Storage and whenever there is a City or County or ODOT cutting off access to a property you have to provide "reasonable alternative access". He said it doesn't have to be their preferred access just a reasonable alternative access. He said we knew that when we were doing the development agreement that required them to build Langer Farms Parkway North and this is attached to the reconfigure agreement and it states these are the improvements that the City agreed were reasonable alternative access and the reconfiguration agreement requires the City to pay for these improvements. He said when the City received the bids they included some items that they didn't think were right and submitted them to the City hired Architectural Cost Consultants and they provided 15 pages of detail about what they think it takes to build this. He said they went back to Sentinel Storage and said this is what we agreed to and this is what it is going to cost which is \$890,000. He said we are not buying a road; we are complying with our legal obligation to provide reasonable alternative access to a property that lost access when we put through a public road. He stated cities, counties and ODOT do this all the time and years ago the City agreed that this constitutes reasonable alternative access and we had it priced out by our own consultants who stated the price is \$890,000. Mr. Crean said they have carefully examined this and believe it is a reasonable number.

Councilor Henderson asked what was the date of the reconfiguration drawing.

Ms. Hajduk said the configuration agreement was entered into in September of 2012 and reminded the Council that Mr. Gall emailed them the resolution (see record, Exhibit L).

Councilor Henderson asked Ms. Hajduk when they received the first numbers from Sentinel Storage.

Ms. Hajduk said mid-April and then there was a lot of discussion about what was included in the scope and the bids. She said the City then hired that third party outside reviewer and then had some discussions beyond that.

Mayor Middleton asked why this wasn't anticipated in the budget instead of receiving the information two weeks before the last meeting. He said it seems suspicious.

Ms. Blums said she understands the timing seems odd but at the time we put the budget together we did not know what the cost would be. She said that is what supplemental budgets are for. She noted that if they would have thrown a number out they would still be here because the number may have been wrong.

Mayor Middleton said it would have given us an idea that we would have been out another \$890,000 and we could have told the public that it was in the process and if it started in April that was before the budget.

Ms. Hajduk said they received the first numbers in April and it took us time to review it and question it and get outside information. She said the number we have is half of what they were asking.

Mayor Middleton stated that they had no knowledge that they were negotiating this.

Mr. Crean said when the budget was put together last year we did not know if it was \$200,000 or \$2 million.

Mayor Middleton stated that you need to tell people that there is something coming up.

Mr. Crean said there was something in the budget but not nearly \$890,000.

Ms. Blums stated it was not in the budget.

Mayor Middleton said he does not understand why this is coming now at the last meeting of this Council to do this now and they have not let the public know what is going on. He said he didn't know until two weeks ago.

Ms. Blums stated that money was allocated in last year's budget for this because they thought the project would be completed by June 30 so we didn't move forward with anything because they thought they would be done with it. She said timing wise their request came in late and there is no way that it could have been in this year's budget. She said the expectation was that it would be done by June 30. She said nobody was trying to hide anything it was all a timing issue.

Councilor Clark asked how much was allocated.

Ms. Blums said they originally allocated \$250,000 but that was based on an estimate from five years ago that did not take into account all of the different changes and when the road was finally put through the changes were more extensive than they originally thought.

Mayor Middleton said the next people that do the budget might be in for a surprise that we might need another \$1 million for something. He said if this was done in April we knew we were going to get hit with something.

Ms. Blums said the request came in April and it took weeks to get through it.

Mayor Middleton said this seems like a secretive agreement and the Council should have been informed of the progress of what is going on when are giving this much money, SDC's or not, because that pays for our other roads too and we will have roads that we can't pave because we are giving this money out. He said it is unfair to the public for us as a Council not to know what is going on so we can talk to our constituents about it and it was poorly done.

Mr. Crean clarified that we are not just giving money out we are complying with the City's legal obligation under a contract and he apologized for the timing and said they lost most of July as he was out of town.

Mayor Middleton asked why they can't put it off.

Mr. Crean said the agreement requires that we make payment within 21 days from the date that the parties reach an agreement on the amount and we are already beyond that and if we keep putting this off we put that decision in someone else's hands. He stated if we did go to court we would end up paying the exact same amount plus attorney fees and legal costs.

Mayor Middleton said all he is asking is that next time we do this staff should be more open with the Council and let them know what is going on.

Councilor Butterfield said whoever owned that piece of property was going to get the benefit of it.

Ms. Blums responded yes and stated we do development agreements on a regular basis.

Ms. Hajduk stated that there is not a benefit that is being given, they are being reimbursed the cost to make their site whole as a result of having to relocate their access. She referred to the testimony regarding Langer Gramor and said this is different and this is Sentinel Storage LLC as opposed to Langer Family LLC or Gramor Langer LLC. She provided examples of other road projects and property owners being compensated. She noted this is a large amount of money but not an abnormal concept or process.

Mayor Middleton said that he agreed and commented on being open and upfront with the future Council so the perception is that we are educated and can speak to our public.

Councilor Butterfield stated that there are not secretive deals going on within the City.

Councilor Henderson asked how this compares to Bilet when they needed to improve Oregon Street and the railroad crossing. She noted they had to take some of Bill Blakeslee's land to widen the road and change the entrance.

Ms. Hajduk said it was similar but there were no building impacts and that is an example of what happens when you don't have an agreement. She said the right away acquisition costs were appraised at \$11,200 and because of the litigation in that project the judgment was for \$187,000 so it was significantly more than the appraised value of those impacts and said that is what happens when you go to court. She said the numbers that are being reimbursed in this case are real numbers for real improvements.

Councilor Henderson commented on this being in the urban renewal district and said these are SDC's. She referred to façade grants where the URA pays for permanent improvements to the building. She said that it is similar to the Cultural Arts Center and said there are certain things they can't buy with urban renewal dollars that aren't fixed to the building. She said the staff looked at every reimbursement that they requested and looked to see if it was part of the original agreement which was signed in 2012. She clarified that these are for temporary improvements that have already been done.

Ms. Hajduk said no, they have a temporary driveway that allows them to function otherwise they would have been closed from the day Langer Farms Parkway was opened.

Mr. Crean said this money is for them to make those improvements.

Councilor Henderson noted that they will be permanent improvements.

Councilor King stated that in 2008 when he was on Council they extended the PUD and that was based on them doing the road and they saved the City quite a bit of money.

Councilor Henderson noted that they put the road in long before the City would have been able to afford to put it in.

Councilor King agreed and said there was a savings of approximately \$3 million.

Councilor Henderson clarified that it was a function of the development agreement which was a compromise on both ends where each person received a benefit. She said she understands some of the Mayor's comments but the fact that Sentinel Storage is owned by the Langer family has nothing to do with the fact that we knew this was coming and the City received the original request in April and they came to an agreement on November 18. She said it is an obligation that we need to take care of. She commented that we don't budget SDC's because we don't know what SDC's the City will get. She referred to a rolling fund which Ms. Hajduk said the current balance is more than the amount of the obligation. She said we need to fulfill this obligation. She provided examples of previous obligations.

Councilor Grant said it is ridiculous to use this as a political tool to criticize staff and said the staff did a good job. He said it is important to understand that they knew this was an obligation from the time they decided to put Adams North in sooner than it had to go in. He commented on the usefulness of the street and said it needs to be mentioned that back when they were discussing the whole development it was communicated to us that it was expensive to do the road upfront and the Council has known this for years. He said no one knew the amount and as soon as the amount was known we were informed. He noted this is not about whether to pay the amount it is about having a resolution to make a budget appropriation. He said this is not about staff or behind closed door accusations.

Councilor Clark referred to Councilor Grant's comments that as soon as the amount was known the Council was advised and asked City Manager Gall if that was correct.

Mr. Gall said it was November 21, not November 18 when he was informed that an amount had been agreed upon. He said it then went onto a future City Council Agenda and that is how the Council was notified. He stated that not everyone on the Council asked for the specifics of the supplemental budget.

Councilor Clark said she understands that in 2008 the City received betterment by taking the land and making the road but said her concern is the notice to the Council. She asked if this is the normal course that if you receive an application in mid-April for something this large that is going to be this impactful that staff would begin negotiations and not advise Council that this would be addressed by Council later. She asked if this is normal procedure.

Mr. Gall said yes it is the normal practice of doing business. He stated Mayor Middleton and Councilor Clark have expressed frustration and said part of the reason why this process is going on is there is a separation between the Council as a policy maker in terms of being involved. He referred to a Council member being involved in this issue and said he has an obligation to protect his staff so they can do their jobs and stated they did a great job. He said he hears what Mayor Middleton said about hearing of this earlier and when they do this in the future that is something they will have to do better. He referred to the Mayor feeling caught off guard and said he understands. He noted that up until this point this is the way

they have done negotiations and right-away acquisitions. He commented Mayor Middleton was not on Council when this was done and said there are lessons to be learned here in terms of how staff handled it and communicated it to the Council. He noted he can't turn back the clock and stated he would still do the same thing in terms of letting staff do their professional jobs which is their technical review of the list.

Ms. Hajduk added that this is normal and said the Council received an email earlier today with the original resolution that directed staff to proceed with negotiation easement and right-away acquisitions and said there is a list of other resolutions for other right-away projects. She said the language in those resolutions is almost exactly the same by setting the policy for staff to move forward and do the technical hard work. She said the staff does the work and does not necessarily communicate every step of the way. She said this is normal where the Council sets the policy and directs staff to do it and staff does it and in this case it required a supplemental budget.

With no other comments, the following motion was received.

**MOTION: FROM COUNCILOR GRANT TO APPROVE RESOLUTION 2014-078, SECONDED BY COUNCILOR KING, MOTION PASSED 5:1. (COUNCILORS HENDERSON, BUTTERFIELD, GRANT, KING AND CLARK VOTED IN FAVOR, MAYOR MIDDLETON VOTED AGAINST, AND LANGER RECUSED).**

Mayor Middleton addressed the next item on the agenda.

## **10. CITY MANAGER AND DEPT. REPORTS**

Mr. Gall announced the Planning Commission has an open position and said the deadline has been extended to December 31 and he encouraged citizens to apply. He announced that the Community Advisory Committee for the Sherwood West Preliminary Concept Plan is seeking applicants for a 14 month commitment and will meet approximately 6 times and the deadline is also December 31.

Mayor Middleton addressed the next item on the agenda.

## **11. COUNCIL COMMENTS**

Councilor Butterfield thanked everyone for the past 4 years on Council and said he learned a lot about dealing with the community.

Councilor Grant thanked the staff and commented on the abuse they have taken and the lack of credit they receive. He commented on serving on Council for the past 12 years and the improvements to the City. He referred to the former and present City Managers. He said former City Manager Ross Schultz did a great job managing the Urban Renewal District that is responsible for a lot of what we are thankful for in Sherwood. He said it incredible what a great staff we have and that makes it easier to serve on Council and he appreciates all of their work.

Councilor Langer referred to his 4 years on Council and thanked all of the supporters and staff and commented on their hard work, accomplishments and dedication. He commented on the criticism staff receives and said it is disheartening and those that aren't involved enough to know what is going on. He thanked everyone for the past 4 years and wished the new Council luck.

Councilor King commented on this being his first meeting and the difficulty of the decisions. He complimented staff and acknowledged their hard work. He said he is looking forward to working with the new Council.

Councilor Clark thanked the outgoing Councilors and announced that on January 7 the Sherwood PAC is hosting an event called Real Make Believe at 6:30 pm at the Sherwood High School and encouraged everyone to attend. She said in respect of time she would forego the events that she has attended and recommended viewing her Facebook page to see how she has been representing Sherwood.

Council President Henderson thanked the outgoing Councilors and said while they have not always agreed they always came into the room with the opportunity to listen to opinions that are not just their own and never made it personal. She thanked Councilor Grant for the 12 years of service and noted that is a significant amount of time. She thanked Councilor Butterfield and commented on the amount of time he has donated just on the electrical and mechanical consultation he provided for the Cultural Arts Center which saved the City a significant amount of money. She said they met every Thursday for over a year with Kristen Switzer, Bob Galati and Tom Pessemier and Councilor Butterfield contributed useful information. She thanked Councilor Langer for serving and commented that she has learned a lot from him about the development challenges that developers face in any city. She said they have made some great improvement in the Community Development Department to improve customer service. She commented on the upcoming elections for 2015 and referred to the canvassing of the November 2014 election and noted that only 60% of constituents voted out of 10,257 registered voters in Sherwood and said she would like to see more involvement and commented on outreach. She said that she and Councilor Grant toured the Cultural Arts Center and thanked staff for all the work they have done and said it will be great for the community.

Councilor Clark thanked Mayor Middleton for his service and said it has been a pleasure and he will be a hard act to follow. She referred to him asking the hard questions, being a good mentor, including people and opening the Council doors to the public.

Mayor Middleton said it has been incredible and thanked everyone. He encouraged the new Council to come with open minds and noted that they will not always agree but should disagree respectfully. He commented on always meeting together and letting everyone know what is going on and working as a team.

With no further comments, Mayor Middleton adjourned.

### **13. ADJOURN**

Mayor Middleton adjourned the meeting at 11:17 pm.

Submitted by:

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Sylvia Murphy, MMC, City Recorder

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Bill Middleton, Mayor

**TO:** Sherwood City Council

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

Through: Chad Jacobs, City Attorney

**SUBJECT: Resolution 2015-001, Declaring Councilor Clark's City Council Seat Vacant**

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**Issue:**

Should the City Council declare a vacancy on the Sherwood City Council?

**Background:**

With the swearing-in of current City Councilor Krisanna Clark as the new Mayor for the City of Sherwood on Tuesday, January 6, 2015, the current City Council position held by City Councilor Clark automatically became vacant pursuant to Section 31(a)(4) of the Charter. Under the Charter, individuals are not legally permitted to hold two city offices at the same time. As a result and pursuant to Section 2.04.032 of the City's Municipal Code, the City Council is required to declare the date of the vacancy.

Section 32 of the City Charter outlines the steps to take in filling vacancies:

**Section 32. Filling Vacancies.** A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term. The election will be held at the next available election date to fill the vacancy for the remainder of the term. A mayor or councilor vacancy may be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until the vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy.

The pertinent section of the Sherwood Municipal Code (SMC) related to vacancies includes:

**2.04.030 Vacancy in Office**

A city elective office becomes vacant as provided by City Charter Section 31.

**2.04.032 Filling of Vacancy**

- A. Upon becoming aware of a vacancy in an elective office, the council must promptly determine and declare the date of vacancy.
- B. A vacancy in an elective office must be filled as provided by City Charter Section 32.

**2.04.034 Appointment by Council**

- A. In filling a vacancy, the council may make inquiries and hold interviews as it considers necessary for the appointment. The appointment may be made at a regular or special council meeting.
- B. The council will use the following procedures in the appointment process:

1. Public notice to appropriate neighborhood organizations, civic groups, a newspaper of general circulation and other recognized groups;
2. Deadline for submitting applications at least two weeks after the notice;
3. Appointment from those applicants nominated and seconded for consideration by members of the council. The recorder will announce the results of each ballot and will record each councilor's ballot. An applicant who receives a majority of the votes by the current council members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the council will continue to vote on the two applicants who receive the most votes until an applicant receives a majority of the councilors voting.

**Discussion:**

As of January 6, 2015, there are 24 months remaining in Councilor Clark's term. Accordingly, Section 32 of the City Charter requires the City to fill the position at the "next available" election. The next available election is a special election in May 2015.

During the interim, Section 32 of the Charter authorizes the City Council to appoint a successor ("[the] vacancy *may* be filled..."), but it is not required to do so. However, for purposes of establishing a quorum and in order to avoid tie votes, staff believes it is advisable to appoint a person to fill the vacancy. However, with the swearing-in of three new City Councilors also on January 6, 2015, there has been no opportunity for the new City Council to discuss the possible appointment process.

SMC 2.04.034 establishes the appointment process. The code requires public notice and the opportunity for interested persons to apply for the position. The Council then nominates candidates from among the applicants and the person who receives a majority of votes is appointed.

The proposed resolution does the following:

1. Declares the seat vacant as of January 6, 2015;
2. States the next available election is the May 2015 special election;

**Financial Impacts:**

There are no significant financial impacts from adopting this specific resolution. There will be costs to the City of Sherwood for the May 2015 special election. An estimate of those election costs are difficult to identify at this juncture due to the unknown number of other ballot items in Washington County. As a reminder, we have a budget of \$13,000 in this year's budget for election costs.

**Recommendation:**

Staff respectfully requests City Council adoption of Resolution 2015-001 declaring Councilor Clark's City Council seat vacant.



**RESOLUTION 2015-001**

**A RESOLUTION DECLARING COUNCILOR CLARK’S CITY COUNCIL SEAT VACANT**

**WHEREAS**, current City Councilor Krisanna Clark was sworn in as Mayor of the City of Sherwood on Tuesday, January 6, 2015; and

**WHEREAS**, individuals cannot hold more than one city office at a time; and

**WHEREAS**, as a result of her swearing-in as Sherwood’s new Mayor, her current City Council position has become vacant; and

**WHEREAS**, Section 31(a)(4) of the Sherwood City Charter declares a seat on the Sherwood City Council becomes vacant upon the incumbent’s election to a different City office; and

**WHEREAS**, Section 32 of the Sherwood City Charter authorizes the City Council to appoint a person to fill the vacant seat until the end of the unexpired term, or until the next available election if there are more than 13 months remaining in the unexpired term; and

**WHEREAS**, as of January 6, 2015, there are 24 months remaining in Councilor Clark’s term; and

**WHEREAS**, the next available election is in May 2015; and

**WHEREAS**, Sherwood Municipal Code (“SMC”) Section 2.04.034 outlines the appointment process for City Council to follow if a decision to appoint an individual to serve on an interim basis.

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

**Section 1.** The Sherwood City Council declares Councilor Clark’s City Council Seat vacant as of the adoption date of this Resolution 2015-001.

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

**Duly passed by the City Council this 6<sup>th</sup> day of January 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

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

**TO:** Sherwood City Council

**FROM:** Jeff Groth, Police Chief

Through: Joseph Gall, ICMA-CM, City Manager and Paul Elsner, City Attorney

**SUBJECT:** Ordinance 2015-001 amending section 10.12 of the Municipal Code relating to miscellaneous traffic regulations by adding a new section - 10.12.235 – relating to the use of certain all-terrain vehicles in the city by police, fire, paramedics and public works personnel while in the performance of their duties. (1<sup>st</sup> Reading of Ordinance).

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**Issue:**

Should the City Council amend the Municipal Code to allow first responders and public works personnel to operate all-terrain vehicles in the performance of their duties?

**Background:**

The current language in the municipal code does not address the use of these all-terrain vehicles. In the past, first responders and public works personnel have operated certain all-terrain vehicles only during special events, and not as a part of their routine operations.

The City is now in possession, through grant funding, of all-terrain vehicles that can be used for patrolling open spaces and were obtained and equipped to be used for emergency response.

The amended language (see attachment to staff report) will allow first responders and public works personnel to utilize these vehicles in the performance of their duties and daily operations, and includes Class I & Class IV all-terrain vehicles. Class I includes small 4-wheel vehicles, or “quads” and Class IV includes larger 4-wheel vehicles, or “side-by-sides”.



Class I “Quad”



Class IV “Side-by-side”

**Financial Impacts:**

There are no additional costs associated with this amendment.

**Recommendation:**

Staff respectfully recommends City Council conduct a first reading of Ordinance 2015-001 amending the Municipal Code to allow first responders and public works personnel to operate all-terrain vehicles in the City of Sherwood.

## **Chapter 10.12 MISCELLANEOUS TRAFFIC REGULATIONS**

### **Sections:**

- [10.12.010 Powers of the city council.](#)
- [10.12.020 Authority of police and fire officers.](#)
- [10.12.030 Stop when traffic obstructed.](#)
- [10.12.040 Unlawful marking.](#)
- [10.12.050 Use of sidewalks.](#)
- [10.12.060 Permits required for parades.](#)
- [10.12.070 Funeral procession.](#)
- [10.12.080 Drivers in procession.](#)
- [10.12.090 Driving through procession.](#)
- [10.12.100 Emerging from vehicle.](#)
- [10.12.110 Boarding or alighting from vehicles.](#)
- [10.12.120 Riding on motorcycles.](#)
- [10.12.130 Unlawful riding.](#)
- [10.12.140 Clinging to vehicles.](#)
- [10.12.150 Crossing private property.](#)
- [10.12.160 Driving in parks.](#)
- [10.12.170 Sleds, skis, toboggans and skateboards on streets.](#)
- [10.12.180 Damaging sidewalks and curbs.](#)
- [10.12.190 Obstructing streets.](#)
- [10.12.200 Removing glass and debris.](#)
- [10.12.210 Illegal cancellation of traffic citations.](#)
- [10.12.220 Existing traffic signs.](#)
- [10.12.230 Bridle paths—Penalty.](#)
- [10.12.235 Police, Fire and Public Works exception](#)
- [10.12.240 Violation—Penalty.](#)

### **10.12.010 Powers of the city council.**

The council, provided that where required by the Motor Vehicle Laws of Oregon approval of the State Highway Commission has first been obtained, may by resolution establish traffic controls which shall become effective upon the installation of appropriate signs, signals or other markings. Such traffic controls may designate and regulate.

The city manager is delegated authority to direct the installation of necessary traffic control devices, as described in this chapter, on an emergency basis to protect the safety and health of the citizens.

- A. The parking and standing of vehicles by:
  - 1. Classifying portions of streets upon which either parking or standing, or both, shall be prohibited, or prohibited during certain hours,
  - 2. Establishing the time limit for legal parking in limited parking areas,
  - 3. Designating the angle of parking if other than parallel to the curb,
  - 4. Designating areas within which, or streets or portions of streets along which, parking meters will be installed, and the denomination of coins to be used or deposited in parking meters;
- B. Through streets and one-way streets;
- C. For trucks exceeding specified weights, streets to which they shall be restricted and streets on which they are prohibited;
- D. Traffic control signals and the time of their operation;
- E. Bus stops, bus stands, taxicab stands, and stands for other passenger common carrier vehicles;
- F. Loading zones;
- G. Turn regulations at intersections;
- H. Marked pedestrian crosswalks and safety zones;
- I. Special speed regulations in city parks.

(Ord. 06-015 § 1; Ord. 599 § IX(1), 1970)

#### **10.12.020 Authority of police and fire officers.**

- A. It shall be the duty of the police department, through its officers, to enforce the provisions of this chapter.
- B. In the event of a fire or other emergency, or to expedite traffic, or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of this chapter.
- C. Members of the fire department, when at the scene of a fire, may direct, or assist the police in directing traffic thereat, or in the immediate vicinity.

(Ord. 599 § IX(2), 1970)

#### **10.12.030 Stop when traffic obstructed.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the opposite side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Ord. 599 § IX(3), 1970)

#### **10.12.040 Unlawful marking.**

Except as provided by this chapter, it shall be unlawful for any person to letter, mark, or paint in any manner any letters, marks, or signs on any sidewalk, curb, or other portion of any street, or to post anything designed or intended to prohibit or restrict parking on any street.

(Ord. 599 § IX(4), 1970)

**10.12.050 Use of sidewalks.**

Pedestrians shall not use any roadway for travel when abutting sidewalks are available.

(Ord. 599 § IX(5), 1970)

**10.12.060 Permits required for parades.**

No procession or parade, except a funeral procession, the forces of the United States Armed Forces, and the military forces of this state shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police. Such permit may be granted where it is found that such parade is not to be held for any unlawful purpose and will not, in any manner, tend to a breach of the peace, cause damage, or unreasonably interfere with the public use to the streets or the peace and quiet of the inhabitants of this city.

(Ord. 98-1042 § 7: Ord. 599 § IX(6), 1970)

**10.12.070 Funeral procession.**

Vehicles in a funeral procession shall be escorted by at least one person authorized by the chief of police to direct traffic for such purpose, and shall follow routes established by the chief of police.

(Ord. 599 § IX(7), 1970)

**10.12.080 Drivers in procession.**

Except when approaching a left turn, each driver in a funeral or other procession shall drive along the right-hand traffic lane, and shall follow the vehicle ahead as closely as is practical and safe.

(Ord. 599 § IX(8), 1970)

**10.12.090 Driving through procession.**

No driver of a vehicle shall cross through a procession except where traffic is controlled by traffic control signals, or when so directed by a police officer. This provision shall not apply to authorized emergency vehicles.

(Ord. 599 § IX(9), 1970)

**10.12.100 Emerging from vehicle.**

No person shall open the door of, or enter or emerge from any vehicle into the path of any approaching vehicle.

(Ord. 599 § IX(10), 1970)

**10.12.110 Boarding or alighting from vehicles.**

No person shall board or alight from any vehicle while such vehicle is in motion.

(Ord. 599 § IX(11), 1970)

### **10.12.120 Riding on motorcycles.**

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto; and such operator shall not carry any other person, nor shall any other person ride on a motorcycle unless such motorcycle is equipped to carry more than one person.

(Ord. 599 § IX(12), 1970)

### **10.12.130 Unlawful riding.**

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person or persons riding within truck bodies in space intended for merchandise.

(Ord. 599 § IX(13), 1970)

### **10.12.140 Clinging to vehicles.**

- A. No person riding upon any bicycle, motorcycle, coaster, roller skates, sled, or any toy vehicle shall attach the same or himself or herself to any moving vehicle upon the streets.
- B. No person driving any vehicle shall permit any of the articles listed in subsection A of this section to be attached to the vehicle for the purpose of pulling along the streets.

(Ord. 599 § IX(14), 1970)

### **10.12.150 Crossing private property.**

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring goods or services.

(Ord. 87-858 § 1 (part): Ord. 599 § IX(15), 1970)

### **10.12.160 Driving in parks.**

No person in a park shall drive any vehicle on any area except on park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the city manager.

(Ord. 87-858 § 1 (part): Ord. 599 § IX(16), 1970)

### **10.12.170 Sleds, skis, toboggans and skateboards on streets.**

No person shall use the streets for travelling on skis, toboggans, sleds, skate boards, roller skates, or similar devices, except where authorized.

(Ord. 87-858 § 1 (part): Ord. 599 § IX(17), 1970)

### **10.12.180 Damaging sidewalks and curbs.**

- A. The driver of a vehicle shall not drive upon or within any sidewalk or parkway area except to cross at a permanent or temporary driveway.

- B. A temporary driveway may be used only after first obtaining a written permit therefor from the city superintendent, who may impose such requirements as are necessary to protect the public improvements within the street at the temporary driveway.
- C. Any person who damages or causes to be damaged any public improvement within the street by driving a vehicle upon or within any sidewalk or parkway area shall be liable for such damage regardless of whether or not the damage resulted from the authorized use of a temporary driveway.

(Ord. 599 § IX(19), 1970)

#### **10.12.190 Obstructing streets.**

Except as provided by this chapter or any other ordinance of the city, no person shall place, park, deposit, or leave upon any street or other public way, sidewalk, or curb any article or thing or material which in any way prevents, interrupts, or obstructs the free passage of pedestrian or vehicular traffic, or obstructs a driver's view of traffic control signs, and signals.

(Ord. 599 § IX(20), 1970)

#### **10.12.200 Removing glass and debris.**

Any party to a collision or other vehicular accident, or any other person causing glass or other material or substance likely to injure any person, animal, or vehicle to be upon any street in this city, shall, as soon as possible, remove or cause to be removed from such street all such glass or other material or substance.

(Ord. 599 § IX(21), 1970)

#### **10.12.210 Illegal cancellation of traffic citations.**

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner except where approved by the municipal judge.

(Ord. 599 § IX(22), 1970)

#### **10.12.220 Existing traffic signs.**

Except as the council may, by resolution or ordinance, change the traffic control regulations in accordance with the provisions of this chapter, all official traffic signs, signals, and markers existing at the time of adoption of this ordinance shall be considered official under the provisions of the ordinance codified in this chapter shall be considered official under the provisions of this chapter.

(Ord. 599 § IX(24), 1970)

#### **10.12.230 Bridle paths—Penalty.**

- A. No person shall ride, drive or lead one or more horses, mules, donkeys, or cattle upon any public sidewalk, bicycle path or pedestrian footpath within the city, unless the city council shall have by resolution first designated the sidewalk, bicycle path, or pedestrian footpath as also being a bridle path.
- B. Any violation of the provisions of this section shall, upon conviction, be punishable by a fine of not more than two hundred fifty dollars (\$250.00).

(Ord. 764 §§ 1, 2, 1982)

#### **10.12.235 Police, Fire and Public Works exception.**

Notwithstanding anything contrary in Title 10, on-duty members of the City's Police and Public Works Departments as well as on-duty members of Tualatin Valley Fire and Rescue, and any on-duty police officers and firefighters that may be assisting the above, may operate Class I & IV all-terrain vehicles upon public roadways, streets, highways, parks, trails, pathways and related areas within Sherwood in the performance of their duties.

#### **10.12.240 Violation—Penalty.**

Any violation of the provisions of any section of this chapter, or of any rule or regulation thereof, shall, upon conviction, be punishable by a fine of not more than five hundred dollars (\$500.00).

(Ord. 98-1042 § 6: Ord. 599 § 25, 1970)



## ORDINANCE 2015-001

### AMENDING SECTION 10.12 OF THE MUNICIPAL CODE RELATING TO MISCELLANEOUS TRAFFIC REGULATIONS BY ADDING A NEW SECTION 10.12.235 RELATING TO THE USE OF CERTAIN ALL TERRAIN VEHICLES IN THE CITY BY POLICE, FIRE AND PUBLIC WORKS PERSONNEL WHILE IN THE PERFORMANCE OF THEIR DUTIES

**WHEREAS**, city staff have identified a need to allow first responders, including police officers, firefighters, paramedics and public works personnel to operate certain all-terrain vehicles within the city limits of Sherwood while in the performance of their duties, and the Sherwood Municipal Code does not currently allow for the use of these vehicles by first responders; and

**WHEREAS**, the use of certain all-terrain vehicles upon public roadways, streets, highways, parks, trails, pathways and related areas will aid first responders' in their ability to perform their duties; and

**WHEREAS**, Council believes the use of all-terrain vehicles by first responders should be specifically recognized as an allowed practice by the Sherwood Municipal Code, and an exception to the general prohibition relating to use of these vehicles in the City of Sherwood by others should be created, the proposed amendment is added as section 10.12.235 in the miscellaneous traffic regulations section of the Municipal Code.

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

**Section 1.** **Findings.** After full and due consideration of the information presented, the Council finds that the text of the Sherwood Municipal Code shall be amended to allow first responders to use certain all-terrain vehicles in the performance of their duties.

**Section 2.** **Approval.** The proposed amendment for the Municipal Code identified in the attached Exhibit 1, is hereby **APPROVED**.

**Section 3** **Manager Authorized.** The City Manager is hereby directed and authorized to take such action as may be necessary to document this amendment, including necessary updates to Chapter 10 of the Municipal Code in accordance with applicable City ordinances and regulations.

**Duly passed by the City Council this 6<sup>th</sup> day of January 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

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

	<u>AYE</u>	<u>NAY</u>
VACANT	_____	_____
Robinson	_____	_____
Kuiper	_____	_____
Harris	_____	_____
King	_____	_____
Henderson	_____	_____
Clark	_____	_____

## **Exhibit 1**

### **Chapter 10.12 MISCELLANEOUS TRAFFIC REGULATIONS**

#### **10.12.235 Police, Fire and Public Works exception.**

Notwithstanding anything contrary in Title 10, on-duty members of the City's Police and Public Works Departments as well as on-duty members of Tualatin Valley Fire and Rescue, and any on-duty police officers and firefighters that may be assisting the above, may operate Class I & IV all-terrain vehicles upon public roadways, streets, highways, parks, trails, pathways and related areas within Sherwood in the performance of their duties.