



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD CITY COUNCIL MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**December 4, 2012**

**EXECUTIVE SESSION**

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 5:50 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Matt Langer, Krisanna Clark, Bill Butterfield, Robyn Folsom and Linda Henderson.
3. **STAFF PRESENT:** City Manager Joe Gall and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**
  - A. **City Recorder Annual Performance Evaluation**, pursuant to ORS 192.660(2)(i). The City Council conducted the annual review of the City Recorder and reviewed a 2012 annual report listing areas of responsibilities and duties for the City Recorder. Discussion followed.

**5. ADJOURN**

Mayor Mays stated the Council cannot discuss compensation in Executive Session and adjourned the Executive Session at 6:15 pm and stated the Council would discuss compensation in open session. Mayor Mays convened to a work session.

**CITY COUNCIL WORK SESSION**

1. **CALL TO ORDER:** Mayor Mays called the work session to order at 6:20 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Matt Langer, Krisanna Clark, Bill Butterfield, Robyn Folsom and Linda Henderson.
3. **STAFF PRESENT:** City Manager Joe Gall, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Police Chief Jeff Groth, Community Development Director Julia Hajduk, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**
  - A. Mayor Mays briefed the Council on an Oregon Business Plan Leadership Summit he attended with staff. He stated the priorities and topics of discussion included; PERS, Education and building a bridge.

**B. Recap of Parks Board Meeting:** City Manager Joe Gall recapped a topic of discussion held at the Parks Board meeting on December 3<sup>rd</sup> regarding re-turfing the turf field at Snyder Park and informed the Council staff will schedule supplemental budget proposals to come before the Council at their December 18<sup>th</sup> meeting. Discussion followed.

**C. Drainage at Edy Ridge Ball Fields:** Mayor Mays briefed the Council on drainage issues at the fields and discussion occurred regarding having conversations with the School District regarding maintenance and resolving drainage issues.

**D. Recap of Parks Board Meeting; Project list, lighting of ball fields and use of SDC's:** City Manager Joe Gall recapped discussions held at the December 3<sup>rd</sup> Parks Board meeting regarding project priority list, lighting of ball fields, available and future SDC's, Parks Master Plan and maintenance of fields. Discussion followed.

**E. Brookman Area Annexation:** Mayor Mays inquired with the Council and brief discussion followed regarding placing the annexation of the Brookman Area on the May 2013 ballot.

**5. ADJOURN:**

Mayor Mays adjourned the work session at 7:05 pm.

**REGULAR CITY COUNCIL MEETING**

**1. CALL TO ORDER:** Mayor Mays called the meeting to order at 7:15 pm.

**2. COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Matt Langer, Krisanna Clark, Bill Butterfield, Robyn Folsom and Linda Henderson.

**3. STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Police Chief Jeff Groth, Community Development Director Julia Hajduk, City Engineer Bob Galati, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

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

**4. CONSENT:**

**A. Approval of November 14, 2012 Council Meeting Minutes**

**MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA SECONDED BY COUNCILOR BILL BUTTERFIELD. MOTION PASSED 7:0, ALL COUNCIL MEMBERS VOTED IN FAVOR.**

Mayor Mays addressed the next agenda item.

**5. PRESENTATIONS**

**A. Eagle Scout Recognition - No scouts present.**

Mayor Mays addressed the next agenda item and called forward Joelle Davis.

## **B. Proclamation, Human Rights Week**

Mayor Mays read the proclamation. Ms. Davis came forward and stated she is a City Councilor for the City of Tualatin and Vice Chair of the Washington County Human Rights Council. Ms. Davis stated the Washington County Human Rights Council was formed in 2006 at the direction of the Commission and stated they have several goals they promote, Ms. Davis explained those goals. Ms. Davis explained the Council's accomplishments. Ms. Davis informed the Council that they have a traveling exhibit, called No Easy Road, which educates on discrimination in Oregon and is available to place in the lobby at City Hall. Ms. Davis stated more information on the exhibit can be found on their website [Humanrightswashco.com](http://Humanrightswashco.com) and they can be reached at [humanrightswashco@gmail.com](mailto:humanrightswashco@gmail.com). Ms. Davis provided the Council with a handout of a poster contest winner, explained they hold an annual poster contest for kids in Washington County, and said this year's theme was Unite for Human Rights. Ms. Davis informed the Council they will be presenting at and sponsoring a 13<sup>th</sup> Annual Martin Luther King Day celebration to be held at the South Minster Presbyterian Church.

Mayor Mays stated City Manager Gall would make note of Ms. Davis' contact information for displaying the exhibit. Mayor Mays thanked Ms. Davis and presented her with the proclamation.

Councilor Henderson asked how big the exhibit was and if they have placed it in schools. Ms. Davis replied she is aware of it being displayed in various County building and Pacific University and said she believes it's a kiosk and stated it will fit in the City Hall lobby.

Mayor Mays addressed the next agenda item.

## **6. CITIZEN COMMENTS**

Brad Brucker 22545 SW Park Street Sherwood came forward and provided the Council with a handout and said he went to do a project, a 288 square foot addition to an existing building in old town with 144 square feet of roof space. Mr. Brucker explained he went through the planning process and spoke with staff, who helped him quite a bit and said they are now down to the code. Mr. Brucker stated the code indicates he has to pay about \$3000 for planning fees. Mr. Brucker stated outside of old town he would have paid \$600. He explained the building he was adding to is approx. 1200 plus square feet and the addition was more than 10% of the building and because of this it falls into a major modification. Mr. Brucker stated he's not sure if this is true, but he has paid more in planning fees than Kohl's. He stated there's a significant inequity and exorbitant fees in proportion to the scope of work that he did. Mr. Brucker stated he has paid the fees and presented it to the Planning Commission and Julia Hajduk is familiar with his project as is Council Liaison to the Planning Commission, Councilor Clark. Mr. Brucker stated although the Planning Commissioners did not say the fees were excessive he believes they agreed. Mr. Brucker stated he is before the Council tonight to ask for a refund. Mr. Brucker stated the Commission and staff have indicated the Commission does not have the power to issue a refund but said the Council does. Mr. Brucker said he believes there's a significant injustice, not the intention of anyone, and the code dictated something that the staff in the planning department did not have the power to use good judgment. Mr. Brucker stated he spoke with planning staff and in the code cleanup process, and asked if there's something the Council can do to give staff the power to make a prudent decision at the desk. Mr. Brucker informed the Council that in his process he had to send letter of notice and explained the following costs;

\$2940 in fees, \$130 in postage for the letters, plus his time in mailing the letters, which resulted in no one showing up for his project. Mr. Brucker referenced his handout and the location of the addition. Mr. Brucker stated he understands and is willing to go through a process and pay his fair share and commented regarding private sector investors in the old town area being limited to maybe 3 or 4 in the last 10 years that have added footprint to buildings. Mr. Brucker stated he lives and works in old town and loves it here and stated he believes these types of fees are a barrier.

Mayor Mays thanked Mr. Brucker and asked City Manager Gall for an explanation of the high fees. Mr. Gall stated he had knowledge of the information coming before the Council this evening and had asked staff to look into and they have come prepared with some of the information.

Community Development Director Julia Hajduk stated this is a major modification, even if only 288 square feet and was a 16% addition to the existing building which triggers a hearing and said we did the other land use actions required which resulted in \$2425 in fees, the public notice for a type 3 or 4 in old town, the process is \$265 and the old town overlay review is \$250 for a total of \$2940. Julia stated this is a lot and informed Council of costs associated with this process; Staff time for Brad Kilby was \$2173 and we also did the published notice of 1000 feet which costs about \$385, even though we only charged \$265, this included both a published and mailed notice. Julia explained this does not include staff time to go to the planning commission and the meeting coordination. Julia stated regardless of what one thinks of the process, this is what it costs and said when we do another code cleanup project we will look at the old town overlay process and standards and said this is certainly something we should talk about and if this is too much process for these types of conditions. Julia stated the fees basically cover the costs to process this.

Mayor Mays asked if the major bump in expense was due to this being a major modification and therefore requiring the planning commission hearing? Julia replied yes.

Mayor Mays confirmed it was declared a major modification because of the percentage of the building. Julia replied this was correct.

Mayor Mays stated a reasonable person could say it should not just meet a percentage but a square footage type.

Mr. Brucker added because it was a major modification it cost him about \$3000 more in architectural fees as his architect had to go through the code and remedy all the information to be able to present to the planning commission.

Julia stated there could be a threshold and we went through the process to create the minor modification process, and said there was discussion about this, and is something we need to discuss, but for perspective, if you have a 300 square foot building and you're increasing it by 288 square feet that would be a significant change to the structure. Julia stated she thinks this is where the Planning Commission and ultimately the Council when you adopted the triggers for minor modifications did not have a minimum square footage and this is something we can talk about.

Mayor Mays stated from his perspective, it's a big fee for a little thing and he would be interested in getting a recommendation from staff on a refund of some level. Mayor Mays asked for other comments from the Council.

Councilor Folsom stated she appreciated Mr. Brucker's comments that the Council ensures there are no barriers in improvements in old town. Ms. Folsom stated we are going to have these problems in old town because the buildings are small and asked how do we set appropriate thresholds, because this had to be a small thing. She stated she was in the area and did not know of the improvements. Councilor Folsom stated this is the problem she sees and said if we set a threshold with percentage or square footage, these buildings in old town are small and how do we make it reasonable and stated in her mind it doesn't seem reasonable. She stated she understands the staff time involved, because we triggered it. She stated we talked about this when we went through code cleanup, that when we run into a snag, that was our time to sit back and be reasonable and asked how do we get to "reasonable" from here.

Councilor Clark stated she attended the Planning Commission meeting that Mr. Brucker came too and said there was discussion and she wants to share that discussion to help understand why the staff time was so expensive. She stated if this project cost that much staff time, is it always going to cost this much staff time when we have a project that is a large percentage but a small project. Councilor Clark stated there was discussion that this structure was built before application was made to build it and so there was a retroactive staff time needed in this project. Ms. Clark asked staff if this is the case, or will it always cost this amount of staff time to process it.

Julia replied she did not believe, and said when we receive an application we assign a job number and I don't think we went back and charged time to something after the application came in and doesn't know if there was that retroactive piece and said the biggest amount of time, is old town, the old town overlay standards, even though it was minor, we still have to review the standards, prepare the staff report and go through the process. Julia stated as we move forward she believes the best way is to make sure it's reasonable and we can look into the old town standards and make sure we don't have standards that are overburdening, especially for new development. Julia stated this project was new, it was not an old building, but the way the standards are written we still have to apply the old town overlay standards and we have not gotten to that part of the code cleanup yet and this is something we need to deal with as it frustrates staff as well.

Councilor Butterfield stated code is code and he deals with code every day, the electrical code and said there's always been an opportunity if there's been a disagreement, to appeal it. Mr. Butterfield stated he thinks if we have something in effect that will let someone that has a special circumstance, either appeal it or have another look at it, he believes it's our intent as citizens to make sure it's easy, cost effective and fair and when we run into these instances that aren't they have to be able to bring this to our attention and we should stop and look and make sure they are reasonable.

Mr. Brucker stated he does not have a lot of money and just the fee.....we are trying to build something and trying to add and said basically we will have three business tenants in old town that we are personally trying to draw into old town that will spend money in old town and said he is in support of old town but does not have deep pockets. Mr. Brucker stated it cost him \$7000 to do this addition, apart from the fees, this is the building costs.

Councilor Langer asked if this included the architectural costs and Mr. Brucker replied it did not and explained the architect was going to charge him \$1000 but because of the code and he (architect) having to go through the major modification, it cost me a little over \$3400 and this was with a 25% discount.

Councilor Langer confirmed this was not new square footage and Mr. Brucker basically covered it.

Mr. Brucker explained the project as being a deck with a partial cover and he enclosed 288 square feet of the 432 square foot deck to make it new office, work-art space.

Councilor Henderson asked what the new space was for. Mr. Brucker replied for his wife's art studio.

Mayor Mays asked staff to come back with a recommendation of a refund.

City Manager Gall stated there's a few issues, one being is this the right process and code being another issue and stated this does seem excessive. Mr. Gall commented regarding looking at the code and is intrigued with Mr. Bruckers comments of this stopping other development in old town and said this is important to him for staff to take a hard look at the code. Mr. Gall stated he will speak with the City attorney's office and sees no code language and said you need to have the ability to be able to make refunds and the Council establishes the fee schedule every year and you all can waive fees and things like that as there's no code language that clearly gives you that authority and said this is bothersome to him. Mr. Gall commented there's other cities that have code that is clear as to who is the decision maker. Mr. Gall stated this is another suggestion he wants to look at as well as when something looks crazy, what do you do with that. Mr. Gall commented on the current process and not having an opportunity for things to be brought to the attention of the Council. Mr. Gall stated these are some things we would like to work on and bring back recommendations to the Council.

Councilor Folsom commented regarding echoing Councilor Butterfields comments and finding a way to avoid spending the staff time having that charged against us and doing a sanity check beforehand with any future process.

Mayor Mays informed Mr. Brucker that the City will not have an answer for him today.

Mr. Brucker stated the planning staff was intelligent and are well thought out people and can make prudent decisions and said if staff could have looked at the project, it was basically common sense.

Councilor Langer commented, excluding the additional architectural costs Mr. Brucker incurred and in listening to the total construction costs, about \$7400, your planning fees were 43% of the cost of construction and if you include the additional architectural costs, all the extra fees were 84% of the true construction costs.

Discussion continued with costs and Mr. Brucker explained the two leasing tenants and his spouse occupying the other space at a savings to them of \$720 a month in rent.

Mayor Mays thanked Mr. Brucker and called forward RJ Claus.

Robert James Claus 22211 SW Pacific Hwy Sherwood came forward and stated he enjoyed the last presentation and discussion and commented regarding how little the Council knew about old town. Mr. Claus commented regarding the Council understating the hotel he and Mr. McClure built and restored and the City taking it for a City Hall with a promise that they would never move here. Mr. Claus commented regarding the Robin Hood Theater and the 1996 earthquake, it being structurally sound and he being forced out of that and then it being destroyed. Mr. Claus commented regarding these two building being historic and one being one of a kind and never being replaced. Mr. Claus

commented regarding the building in old town and Council checking their history and the (his) buildings not being little and well over 7000 square feet. Mr. Claus commented having to pay because the City forced him to get rid of them. Mr. Claus informed the Council he is preparing to go to LUBA with the sign code, and commented regarding mediation and the mediation process. Mr. Claus commented regarding having two groups looking at taking this to federal court and under title 42, USC 1983 and 1988 you may run into the same problem as San Diego when he wrote their code that passed the Supreme Court and they trying to write another that did not. Mr. Claus commented regarding legal fees and they having to pay out a lot of money for what they had done. Mr. Claus stated the Supreme Court requires he tell the Council of his plans and said if you lose this in federal court you could be looking at hundreds of thousands of dollars. Mr. Claus commented regarding legal fees of other cases and said the Council's fees could be between \$500-\$5 million.

Mayor Mays stated he believes Mr. Claus is confused on a number of facts and asked staff regarding the appeal date of the sign code. Tom Pessemier stated it has been appealed and is currently before LUBA.

Mayor Mays called forward Tammy Steffens.

Tammy Steffens 23617 SW Voss Place Sherwood came forward and stated she wanted to speak of the importance of sports fields and the difference they make in our youth. Ms. Steffens stated she has had the opportunity to help Coach Lawrence with the football program as team mom coordinator. Ms. Steffens shared a story with the Council on a youth that came through the program as a freshman with little support from home and progressed through his high school years and as a senior was a team captain and is currently in the military and doing well. Ms. Steffens stated she believes if the youth had not had sports he could have gone the other direction in his life and said she feels it's important for the kids to have sports fields available to them.

Mayor Mays thanked Ms. Steffens and called forward Bradley Turner.

Bradley Turner 22862 SW Forest Creek Drive # 203 Sherwood came forward and said he feels the Council is doing a fantastic job as he feels comfortable speaking before the Council for the first time. Mr. Turner stated he and his wife are both teachers here in the Sherwood school district as well as coaches and value education and are educators first before coaches. He stated athletics keep a lot of kids motivated and the ball fields in Sherwood are used throughout the entire community. He commented regarding the dollars spent on the fields and the effect of those fields to a lot of people. Mr. Turner commented regarding his church's use of the parks and kids playing on the fields and the parks and fields effect on many people and the many groups and organizations that use the fields. Mr. Turner stated any expenditure that goes towards the fields to maintain and to keep as a beckon and symbol of pride in our community, he knows a lot of people feel this way after the recent state football championship. Mr. Turner stated sports is not everything but definitely helps a lot of students and are a symbol for the community and stated any expenditure to maintain those fields is money well spent.

The Council congratulated Mr. Turner for their state victory.

Eugene Stewart 22595 SW Pine Sherwood came forward and commented regarding issues with the building permits and informed the Council when he remodeled his office across the street from City Hall they did not have to go before the Planning Commission and this was before the rules were

changed, and at that time the planning director had the ability to look at what they were doing, waive requirements and let them move forward without going through all the processes. Mr. Stewart stated he believes anyone on the Council could have appealed the directors decision. Mr. Stewart asked how did we get from a simple solution to a complicated one and said maybe we should look back at what we had and put that back into the code with the planning director having more...he stated everything has to be built to code so there's no question on that. Mr. Stewart commented regarding the property not being considered historical and said he is not aware of any of the properties being registered as historical. Mr. Stewart said everything worked fine and the tenants were happy.

Mayor Mays addressed the next agenda item.

## **7. CITY MANAGER REPORT**

City Manager Joe Gall reminded the Council of an informational kickoff meeting for the Cedar Creek Trial Project to be held tomorrow evening in this community room from 6-8pm. Mr. Gall stated this is an opportunity for the public to learn more about the project and be part of the effort as it proceeds. He stated for more information people can contact Julia Hajduk or Michelle Miller.

Mr. Gall reported Mayor Elect Middleton was present this evening and has been working hard and has had a series of meeting with him as well as he has been attending boards and commission meetings and meeting with City department heads and preparing for his swearing-in in January.

Mr. Gall informed the Council of a new employee and asked the City Recorder to introduce Colleen Resch. Ms. Murphy informed the Council Colleen has been with the City for a week, has been a resident of Sherwood for about 10 years, is a graduate of Oregon State with a bachelor's degree in political science, has prior work experience as a congressional legislative assistant and prior experience as a project analyst for an economic development agency.

Mayor Mays addressed the next agenda item.

## **8. COUNCIL ANNOUNCEMENTS**

Councilor Folsom reminded that the Senior Center was still selling See's Candy and can be ordered at the center's front desk, with proceeds benefiting the seniors and stated the gift shop is open every day from 9-4pm with handmade crafts. Ms. Folsom stated they also have gift certificates.

Councilor Langer shared information from a recent SURPAC meeting, information on a parking study that was conducted as part of the Community Center Project. Mr. Langer stated the study was conducted on Wed., August 15<sup>th</sup> from 8am-6pm and the study showed about 515 parking stalls available in the study area and of the combined total of on-street and off-street parking, between the hours of 2-3pm, which is the peek, there was 37.7% of the parking spots used.

Councilor Henderson asked if Council would be receiving the information and Tom Pessemier replied staff is planning a future work session and can provide a copy to the Council.

Councilor Butterfield informed Bradley Turner who provided citizen comments, that the Council would like to invite the Sherwood High School football team and coaches to the December 18<sup>th</sup> Council meeting to be recognized for the recent state championship. Mr. Turner stated he would relay the information to Coach Lawrence.

## 9. ADJOURN to URA Board of Directors Meeting

Prior to adjourning to a URA Board work session Mayor Mays stated the City Council met earlier this evening in an executive session and conducted the annual performance evaluation of one of the Council four employees, City Recorder Sylvia Murphy.

Mayor Mays stated the Council unanimously concluded that we are fortunate as a community and as a Council to have Ms. Murphy working for us in this capacity and she does an outstanding job, represents our community and the Council professionally and helps us do our jobs better and said we are very appreciative and grateful. Mayor Mays thanked Ms. Murphy.

Mayor Mays stated after the review in executive session, the Council in open session can make any changes to compensation the Council desires and stated changes can be pretty much anything and said per the contract Ms. Murphy is eligible for COLA, unless we don't make her eligible, which is awarded in July of each year at the same formula the rest of city staff is eligible for and if it's in the budget. Mayor Mays stated she is not a city employee she is a Council employee and if you were to mimic what city employees are eligible for each year, which is a step increase, which is 2.5% until they are topped out in their category and they are no longer eligible for additional steps. Mayor Mays stated the Council was given salary comparison from like communities as well as salary history for Sylvia.

Mayor Mays asked for comments or suggested changes and said if it's a COLA it would be effective in July and if it's a salary adjustment it would be effective January 1<sup>st</sup>.

Council President Grant stated he believes the Council all agrees that Sylvia is an outstanding employee and she stands out and said he believes we have a better employee in Sylvia that a lot of other City's don't have in that position and pointed out in prior years, not only Sylvia but not all employees got a step with COLA and said it hasn't been an automatic thing and recapped the adjustments from the prior year' evaluations. Mayor Mays confirmed last year was a 3% increase with no COLA and the previous year was a COLA and no salary increase.

Council President Grant stated he believes Sylvia understands we have to be able to defend to the citizens and make sure it's understandable to the citizens and said he would be supportive of a step increase and a COLA this year and keep the COLA on time with the other employees and the step on January 1<sup>st</sup>. Mr. Grant stated every employee knows every year is different and we want to fairly compensate our good employees and Sylvia is outstanding.

Mayor Mays asked for other Council comments.

Councilor Henderson stated she would second the comments made by Council President Grant and said the things that stand out for her this year are, we held two elections which went seamlessly and secondly we have a new City Manager who has been very complimentary of her in his transition. She said this is something she doesn't want to overlook and this is a testimony to Sylvia, and an important part of her personality, is putting the mission of the City above her own personal interests and issues that we've had with other members of staff. Ms. Henderson stated she believes this merits both opportunities to reward Ms. Murphy. With no other comments, Mayor Mays asked if Council President Grant would like to make a motion.

**MOTION: FROM COUNCIL PRESIDENT GRANT TO AWARD A STEP INCREASE OF 2.5% ON THE REGULAR SCHEDULE EFFECTIVE JANUARY 1<sup>ST</sup> AND COLA ON THE JULY 1<sup>ST</sup> SCHEDULE, SECONDED BY COUNCILOR HENDERSON. MOTION PASSED 7:0, ALL COUNCIL MEMBERS VOTING IN FAVOR.**

Mayor Mays adjourned the Council meeting at 8:10pm and convened to a URA Board work session.

Submitted by:

  
Sylvia Murphy, CMC, City Recorder

  
Keith S. Mays, Mayor