



Home of the Tualatin River National Wildlife Refuge

SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
October 2, 2012

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:35 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Councilors Matt Langer, Robyn Folsom, Krisanna Clark and Linda Henderson. Council President Dave Grant and Councilor Bill Butterfield were absent.
3. **STAFF PRESENT:** City Manager Joe Gall, Public Works Director Craig Sheldon Community Development Director Tom Pessemier, Planning Manager Julia Hajduk, Finance Director Craig Gibons, City Engineer Bob Galati , HR Manager Anna Lee and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**
 - A. **Street Trees:** Public Works Director Craig Sheldon presented a power point presentation (see record, Exhibit A), discussion followed with staff seeking Council consensus to move forward with a maintenance program. Council conceded with staff moving forward and providing additional information to the Council.
 - B. **PGE Franchise Agreement:** City Manager Joe Gall briefed the Council on this topic and sought Council direction to move forward with negotiations with PGE for a franchise agreement. Council discussion occurred and Council conceded with staff moving forward with negotiations and bringing information back to the Council at a future date.

5. ADJOURN:

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

REGULAR CITY COUNCIL SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:04 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Keith Mays, Councilors Matt Langer, Linda Henderson, Bill Butterfield, Robyn Folsom and Krisanna Clark. Council President Dave Grant was absent.
4. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, Police Captain Ty Hanlon, Public Works Director Craig Sheldon, Finance Director Craig Gibons, Community Development

Director Tom Pessemier, HR Manager Anna Lee, IT Director Brad Crawford, City Engineer Bob Galati, Planning Manager Julia Hajduk and City Recorder Sylvia Murphy. City Attorney Paul Elsner.

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

5. CONSENT:

A. Approval of September 18, 2012 City Council Meeting Minutes

MOTION: FROM COUNCILOR LINDA HENDERSON TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR KRISANNA CLARK. ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, 6:0 (DAVE GRANT WAS ABSENT).

Mayor Mays addressed the next agenda item.

6. PRESENTATIONS

A. Eagle Scout Recognition

Mayor Mays stated there was not a presentation this evening as the Scout being recognized has gone off to college and a congratulatory letter and the certificate would be mailed.

Mayor Mays moved to remove Citizen Comments from the agenda due to the public hearing scheduled for tonight and sought Council consensus. Councilor Folsom asked to continue with hearing citizen comments and no objections were received. Mayor Mays addressed the next agenda item.

7. CITIZEN COMMENTS

Susan Claus 22211 SW Pacific Hwy. Sherwood came forward and commented regarding being in the middle of planning commission hearings for an unnamed major tenant that will have a seismic impact on Sherwood and said no one can tell her who it is and has heard it's Walmart. Mrs. Claus stated her point in addition to the nondisclosure of the tenant and the fact that we have a Councilor that owns the property and he refuses to inform who the tenant is. Mrs. Claus stated her other problem is the way the appeal is structured for this application stating it's a site plan and a site plan review and the City charged more than \$13,000 and the way the City has the fee structure, for anyone to appeal this from the planning commission which is an appointed body, which only requires four votes of citizens who are unelected, to the City Council, which are all seven elected positions, someone who wants to appeal has to provide one half of the site development fee that was charged, this is about \$7000. Mrs. Claus expressed disappointment with the fee for something that will be in front of the City Council that is a fundamental change not only to the transportation network along Tualatin-Sherwood Road but to our existing businesses. Mrs. Claus stated there's a reason why Walmart is called a category killer and said we have existing businesses that will not be here. Mrs. Claus asked to be informed who the tenant is and said the anxiety is killing us. Mrs. Claus gave examples of effects to businesses and said she did not think it was fair with the current economy to bring in a tenant like this. Mrs. Claus commented regarding the decision being in front of the Council and this being their decision, commented regarding guessing on traffic impacts.

Jim Claus 22211 SW Pacific Hwy Sherwood came forward and commented regarding going along with the City and fighting public policies and said you get to a point where you don't and he has

crossed this line. Mr. Claus stated he was looking for damages and a lawsuit and this would involve a lot of things and asked who is paying Beery Elsner and Hammond to be here and commented regarding working under a contract. Mr. Claus commented regarding the City not having a City Attorney and having legal advice that goes to advocate your position. Mr. Claus commented regarding the City working towards litigation and gave an example of his subdivision on McFall and not being able to sell it for four years and it being the best subdivision in town. Mr. Claus commented about two years ago, staff putting Cedar Creek pathway on it and lying to Metro. Mr. Claus commented regarding the City attorney's crossing Metro and there being results. Mr. Claus commented regarding a case he was involved in in California, commented regarding costs to him and Mrs. Claus of \$200,000 on that subdivision, commented regarding the pathway and lying to Metro. Mr. Claus commented regarding the tenant being Walmart and a letter from Chuck Martinez indicating cost per foot, commented regarding manipulating codes and commented regarding tax exchanges. Mr. Claus commented regarding the Council taking over the entire process and not liking a subdivision and creating a stigma, the Council not wanting someone to develop and then creating a road. Mr. Claus commented regarding a lawsuit and Council attacking his property using staff and said he has been documenting this to state agencies and recommended Council members obtain their own attorney.

Eugene Stewart 22595 SW Pine Street Sherwood came forward and commented regarding Planning Commission meeting minutes and the commission not having the minutes from the previous meeting and said this would be helpful to have to be able to refer to the minutes and any actions of the commission.

No other citizen comments were received. Mayor Mays replied to the comments made by Mr. Claus and said the City has always treated everyone fair and has been transparent and has heard threats from the Claus' for years and if they want to sue to go ahead and take us to court.

Mayor Mays addressed the next agenda item and asked the City Recorder to read the public hearing statement.

8. PUBLIC HEARING

A. Ordinance 2012-012 Approving an amendment to the Transportation System Plan and Comprehensive Plan regarding the functional classification of Cedar Brook Way

Planning Manager Julia Hajduk came forward and presented a presentation (see record, Exhibit B) and stated the amendment before the Council is PA12-03 regarding Cedar Brook Way and explained the following areas of the presentation:

Background

- Transportation System Plan updated in 2005
- Five amendments to TSP since 2005
 - 4 concept plan areas, made changes to:
 - functional classifications
 - Local street plan
 - Intersection improvements
 - One Functional Classification changes to Columbia Street (related to Cannery project)
- City is planning to begin a comprehensive update of the TSP next year. Julia stated the City was recently notified that we received a TGM Grant award for this.

- Several issues need to be addressed sooner to help facilitate development and public infrastructure improvement

Issues that need to be addressed prior to comprehensive update to TSP

- Street functional classification uncertainty in the Cedar Brook Way area, Julia referenced a map in the presentation.
- TSP is not clear regarding connectivity requirements between Elwert and Handley/Meinecke
- Washington County requirements will only allow connection to one of their arterial streets by a collector or another arterial. Julia stated there are exceptions but there is a process to follow and there's not a guarantee, Julia said discussion of this is documented in the Council meeting packet, Exhibit 1-K a memo from her to the Planning Commission.

TSP inconsistencies must be addressed - clear local connections planned

TSP inconsistencies must be addressed - shown on functional classification map

TSP inconsistencies must be addressed - portions identified for 3 lanes

Julia stated to get to the specifics of uncertainty or lack of clarity in our existing TSP we have a local street connectivity map that clearly shows local street connections in this area and we have a functional classification map generally showing collectors, neighborhood routes, arterials, the principle arterial and it does show a proposed local street, but our street for right-of-way is planned for more than two lanes, (Julia referenced the green markers on the map indicating collectors) and showed it is identified for three lanes and said this is generally an indication of a higher classification street. Julia stated this has caused some uncertainties as far as what the size requirements are, if its creditable for SDC's or county transportation development taxes. Julia stated as a result of this uncertainty we decided to try and address these issues to help facilitate development and clear up the issues.

Julia explained the following:

Outreach and feedback

- Study prepared by DKS and Associates, labeled Exhibit 1-B in your packets
 - We mailed letters to affected property owners and posted notices around town and in the newspaper
- Open House held on May 31st
 - 14 people signed in at this event, more may have attended
- Planning Commission work session 6/26/12, staff was provided with direction to proceed with a specific amendment and noticing
- Notices posted and published in the paper in accordance with code
- Mailed notice to affected property owners in the area
- Planning Commission hearing was held on 8/14/12 and 9/11/12 and they forwarded a recommendation to the Council

Findings and Record

- The proposed TSP amendments were reviewed for consistency with local, regional and state rules
 - Outlined in Exhibit A in the packet as well as the exhibit to the ordinance.
- Exhibits 1A-1K were reviewed by the Commission prior to making their recommendation and are in the Council meeting packet.

- Exhibit 1A – Proposed amendments, to be adopted with the ordinance
- Exhibit 1B – DKS memo analyzing several scenarios for connectivity. Julia stated there were four alternatives reviewed in the memo and what is before the Council is a combination of options 3 and 4 which is the connection from Elwert to Meinecke with an access to Hwy 99w but not saying whether or not it's right in/right out or a full access intersection as this would be dependent on development when that connection is ready to be made.

Julia informed the Council she received today 3 exhibits, she labeled Exhibits 2, 3 and 4, all submitted by Mr. & Mrs. Claus. The exhibits were provided to the Council (see record, Exhibits cataloged as 2, 3 and 4), Julia offered to answer questions pertaining to the exhibits. No comments were received.

Julia explained the following in the presentation.

Planning Commission Recommendation

- Change the classification of Cedar Brook Way from a local to collector street
- Clarify Cedar Brook Way is intended to connect between Handley and Elwert
- Confirm one access connection to 99W from Cedar Brook Way
 - The vicinity being 990 feet from each existing intersection and acknowledging that
 - Full access or right in/right out to be determined based on development need
- The planning commission discussed and confirmed that Bushong Terrace would remain a local street connection option, but realized that whether or not it needs to be extended would be determined at the time that development of the Elk's property and whether or not it meets the needs and criteria for typography and things like that.

Recommendation

- Hold a public hearing and consider adoption of Ordinance 2012-012 amending the Transportation System Plan and Comprehensive Plan regarding the Functional Classification of Cedar Brook Way.

Julia offered to answer Council questions.

Mayor Mays opened the public hearing to receive testimony.

Susan Claus came forward and stated she would like a point of order and said the Council has a letter that indicates property owners in the area are supporters, endorsements of Keith Mays running for Mayor or have contributed money. Mrs. Claus requested Mayor Mays recuse himself.

Mayor Mays replied that he did not believe there was any proposed or alleged conflict of interest.

Mrs. Claus continued and stated that 5 of the affected property owners, 2 were supporters of the Mayor in the October 2012 Gazette and questioned that Mayor Mays can deliver an unbiased decision. Mrs. Claus asked if she could ask the attorney what the process is. Mr. Elsner stated he would respond upon the request of the Council. Mrs. Claus continued and said the process in all of this has been problematic from the beginning and our property is being bisected by this proposed road and at a point at the Planning Commission level we were told that everyone was going to get together or at least we were going to get together with the staff and try and work some kind of a

situation out. Mrs. Claus stated staff waited until the day before the hearing, September 10th, and the 11th was the hearing, and met with us for 40 minutes and said there is no proportionality that the City contemplates in any of this and that somehow we are to bridge a gully that is there, plus bring it through the middle of our property at our own expense with some reimbursement contemplated by the City that is capped by some extensive crazy calculation that will happen at the time and yet you still have in your code, reimbursement districts that you could invoke. Mrs. Claus stated you could put something together that delivered proportionality. Mrs. Claus stated she has two accesses on her home place and on another piece of property that is impacted by this, deeded accesses. Mrs. Claus said it wasn't until the last meeting, September 11th that DKS representative admitted that his original report did not correctly reflect our deeded accesses. Mrs. Claus stated part of her objection and her point is that we are putting in a collector road from Meinecke all the way to Elwert on some properties that have already given up their access rights, whether it's a reservation of right or a deeded access, to the highway and the proposal, she guesses, is that she and Mr. Claus are to use their access points to bring that City street over to the highway and that its going to be an access point that.....Mrs. Claus continued and said she knows you (the City) doesn't want to pay for the property right that we own and she knows this has been pushed through and all the ODOT personnel involved with access and the previous Oregon access project that went through, have not been informed of this project. Mrs. Claus said the left hand doesn't know what the right hand is doing and you've had planners at ODOT involved and not the access people.

Eugene Stewart 22595 SW Pine Street Sherwood came forward and stated he noticed the notice that the City sent to DLCD, Notice of Proposed Amendment, says this is a transportation system plan amendment, but if you look at part 2 of your plan, chapter 6, goal 2, policy 2, "the City shall maintain a transportation plan map that shows the functional classification of all streets within the Sherwood Urban Growth Area, changes to the functional classification of streets must be approved through an amendment of the Sherwood Comprehensive Plan, part 2, chapter 6, transportation element". Mr. Stewart asked what is this and said he did not understand why your saying this is an amendment to the TSP and within your ordinance you say its an amendment to your plan. Mr. Stewart stated also on the document sent to DLCD you reference applicable statewide planning goals, is goal 1 and that is citizen involvement. Mr. Stewart referenced part 3, that is the code part that you have recorded and it says, "the code shall be administered in conjunction with and in a manner that is consistent with the policies and strategies that are adopted in the City of Sherwood Oregon community development plan, part 2 of the city comprehensive plan". Mr. Stewart continued and said if you look through part 2 of the comprehensive plan, chapter 1, page 1, "the community development plan when adopted together with the background data and analysis part 1 and community zoning and development code, part 3, will constitute the city of Sherwood's comprehensive plan. The Sherwood's comprehensive plan consists of three parts, background data and analysis, the community development plan and community zoning and development code. Parts 1 and 2 are organized in sections relating to the 7 major topics of the plan of which the first is citizen and agency participation in the planning process". Mr. Stewart stated, also in part 2 under definitions, you have CAC as Citizen Advisory Committee, a committee responsible for the 1989 Comprehensive Plan update and several times, I've been told this is the Planning Commission. Mr. Stewart said the CCI is the committee for citizen involvement in the City known as the Sherwood Citizen Planning Advisory Committee, which symbolizes SCPAC. Mr. Stewart then referenced chapter 2, the planning process under citizen involvement, "the City of Sherwood is committed to maintaining a creative and responsive planning process which assures the opportunity for the involvement of all parties affected by development decisions in the urban growth boundary consistent with LCDC goal 1. To that end the city has adopted the citizens involvement plan outlining how it intends to assure opportunity for citizen involvement in the planning process, the

goals of the program are as follows. To ensure opportunity for citizens to be involved in all phases", and also references part 1. Mr. Stewart said what's interesting to him is part 2 and part 1, the ordinance that created this originally was repealed and replaced with what you now have, code part 2. Mr. Stewart asked what is the citizen involvement plan and said he does not think, if you look at the statewide goals, the few meetings you had, did not meet what the City had said originally and what the state wants you to follow.

Jim Claus 22211 SW Pacific Hwy Sherwood came forward and submitted documents to the City Recorder for the record (see record, Exhibits C & D) and stated the fact of the matter is you lie, staff lies and falsifies reports. Mr. Claus stated he called ODOT today and Seth Brumley (spelling?) has ok'd this and said he spoke with his supervisor, Pennington and she indicated it was not in the system and did not know what Mr. Claus was talking about. Mr. Claus commented regarding the conversation he had with ODOT staff and an incorrect code number, Mr. Claus stated this was a minor lie and there is nothing you can do about it given sovereign immunity, but you do not have ODOT clearance. Mr. Claus stated he spoke with Loretta Keefer (spelling?) and said she is the access manager for this district and he commented regarding the conversation he had with her regarding 3 deeded ingress and egresses and the 74th exemption and having to be paid for. Mr. Claus continued to inform the Council of his conversation with Ms. Keefer and made reference to the Broadhurst's and Nathan Doyel and Mr. Doyel entering the highway illegally and moving 6 feet of fill, building a parking lot and converting the use and continuing to enter 99w. Mr. Claus stated his point is LCDC thinks this is a land use hearing and said he spoke with her today and she had no knowledge of what Mr. Claus was speaking of and referenced changing access oregon's agreement. Mr. Claus commented regarding Mayor Mays, according to the County Commissioners, trying to get that 20 acres rezoned around the traffic circle which they did not know of. Mr. Claus commented regarding having a simple system where you parcel in the information in various agencies and their management doesn't know about them. Mr. Claus said Garret's (spelling?) people had no idea you intended to walk away from access oregon and the multimillion grant you received, over the last Langer transaction on Home Depot and it being light industrial and then turning into a lumber yard that needed a stop light. Mr. Claus said now we have another one out here and the same way. Mr. Claus stated the City has not notified anybody and no one in management knows what you are doing. Mr. Claus stated the games up and he thought there has been notification of agencies and there is not. He thought the City was straightening the facts and getting files right, and you are not. Mr. Claus concluded saying this is fantasy land, commented regarding staff having this down to perfection and informed the Council and Mayor Mays to never tell him what to do or his family.

Mara Broadhurst 28440 SW Ladd Hill Rd Sherwood came forward and stated their property is located between the Elks and the Claus strip and when they first started working on the property in 1999 it was about 10 acres, the top 6 acres off Elwert were residential and the bottom four acres on 99w were commercial. Mrs. Broadhurst stated they brought in Renaissance Homes to develop the residential land along with the Peterson property and we retained the commercial land. It was determined through subdivision approvals that the old access from Elwert would no longer cut down through the commercial to 99w and that Bushong would handle the residential traffic connectivity, we kept our 99w access easement on the Claus strip which was the old access to Marion Hosler's property they bought from Centex. ODOT was consolidating accesses onto 99w as no one wanted Sherwood to function like Tigard and it was determined that there would be only one access to 99w between Meinecke and Sunset. The other properties with existing businesses or houses could use their accesses until they wanted to develop or change use. Since our property had no existing building we couldn't use or develop until this access was determined. In 2005 we were very happy

Cedar Brook Way was finally established on the transportation plan and many current objections should have been made at that time. Also at that time the Elks property was not included as ODOT didn't want cut-through traffic from 99w to Elwert through residential. In 2007 we initiated a meeting between the property owners, Julie Hajduk and Tom Pessemier were present and Commissioner Allen attended the second meeting. We were trying to develop our property and had our engineers, AKS draw up plans to show how the access could work on locations at least 990 feet from the Meinecke signal, either all on our property as the plan shows or with the Claus strip, but there was not enough cooperation to designate a specific plan. This situation has made development of our property practically impossible, the only thing the property owners do seem to agree on is that the City told us the road would be paid for. The path of Cedar Brook Way doesn't change on the other properties, just the designation from local street to collector, thereby making the promise payback possible. The new extension of Cedar Brook Way cuts our property, our four acres of general commercial in two pieces. Our main concern is that it is no longer suitable for a big box development and some flexibility in zoning should be allowed. The upper two acres may have to develop as apartment land and we want to make sure that would be possible as an allowed secondary use or a PUD. We would also like to know how the utilities are planned so we can all develop. Mrs. Broadhurst asked to please be as specific as possible and do not leave the property owners arguing amongst themselves. Development has been stifled in this area as the rest of the City moves on. The inclusion of 18 acres of residential land onto Cedar Brook Way allows changes to the access point as it can now be 990 feet from Sunset as well. How will this be determined and able to proceed without problems. If there is to be a future signal the logical place is midway between the existing signals and the approximate 18 acres of residential and the 18 acres of commercial divided in half with the ever popular question of how will it be paid for. Mrs. Braodhurst stated they would like to thank the Planning Commission and the staff for taking extra time and meeting to explain the road paybacks and hope that the City Council can further the process through a resolution. We would very much like to be able to develop our land and get some services to that part of Sherwood and we need some concrete facts. Any direction the Council could give the staff to address cost and design issues to build Cedar Brook Way would greatly help the property owners understand what's necessary to develop and how this plan affects them. I think the extension of Cedar Brook Way to Elwert is best for Sherwood and the paybacks make it possible and fair for everyone.

Mayor Mays thanked Mrs. Broadhurst for her eloquent testimony, clear of the facts as they have lived them. Mayor Mays stated from his perspective, as one of seven, if the Council supports this proposed ordinance and Planning Commission recommendation, the next step would be to have conversations about selecting an alignment and working with property owners for easements to help continue to reduce barriers so development can occur with what property owners want to develop. Mayor Mays stated this is an important part of what a City Council should do, and this would be the first steps in getting there and if Council supports the amendment then we can take the next steps.

Deborah Cherachanko 17919 SW Handley Street Sherwood came forward and stated she has lived on Handley for about four years and never received notice about anything about the street for any reason and is here for another basic reason. Ms. Cherachanko said how you connect Cedar Brook Way is how everyone will have to agree to do it, and how its decided on what the properties will be allowed to do and not do is not my business. Living on Handley is as wide as a freeway and you can't park on my side of the street in the Vineyards, I'm the property that the young lady backed out of and ended up in the hospital because someone was doing 45 on Handley. Ms. Cherachanko stated however you do this we would love to have some way to control traffic that doesn't involve taking down license plate numbers and calling the police, which is what we currently do. I don't know if it

involves one more stop sign at Stein in front of my house, when you connect Cedar Brook Way, it would be helpful to at least the people in the apartments on 99 so they don't have to come out of there and only turn right, it would be nice for them to come out to a light and make a choice. I don't know if this would add a tremendous amount of traffic in my neighborhood, but even if it does increase the traffic a bit it would be nice if the City Council could figure out a way for us to reduce the speeds or at least enforce the 25mph before someone gets killed. Ms. Cherachanko stated she did not care what you do with Cedar Brook Way, and asked if there's a way to control speeds that don't require police to sit and monitor and people doing what they have been to try and do that.

Mayor Mays replied fundamentally you want the general public to follow the speed limit and be safe in every part of our community.

Ms. Cherachanko commented about the new school in the neighborhood and children not paying attention and getting into the street. She commented about how ever the parcels are configured it may add to the traffic on Handley as it's the best route from Elwert to 99.

Mayor Mays thanked Ms. Cherachanko for her comments and said the Council has heard her concerns as has City Manager Gall and we will see what we can do.

Ken Shannon 22275 SW Pacific Hwy Sherwood came forward and stated he owns the antique mall and trading post and has seven acres. Mr. Shannon stated he did not know how the road will go across his property but was in favor of alternate 3 for the right in/right out as we've fought very hard for this for many years. He said ODOT has finally signed off on it so we can get it, this is extremely important to us. Mr. Shannon stated this is a start to getting this area developed and it has been a problem developing as no one knows how to get on or get off the properties. Mr. Shannon stated he has tried to have meetings with the landowners and it's not working. Mr Shannon stated he has been out here for forty years and is concerned how it's going to be paid for. He said he is not a developer and will not be and will listen to ideas presented by the city pertaining to his property, and said to be sure to bring a checkbook. He said he will stay there for a long time and will put his land in a family trust, he doesn't care and is very happy there. Mr. Shannon stated we have to know the alignment and we have to know where the road is going to go and how it will cross our property and for the most part, I think, this is a waste of good land, but we have to have the access out there. I know from where you (the Council) stands it would be nice if the property owners could get together and make something work. Mr. Shannon stated he will do his best with it and is in support of something starting and feels this is a start.

Mr. Shannon asked to make a complaint as he did not arrive in time for Citizen Comments and commented regarding the small print size of text in the Tigard Times being difficult to read in trying to read what Sherwood is doing. Mayor Mays replied he would see what he could do.

With no other testimony received, Mayor Mays closed the public hearing.

Mayor Mays asked City attorney Paul Elsner regarding the bias comments received earlier this evening, and said for the past fifteen years he has spoken with every one of these property owners about this part of town, the road and access and he has not had much to say for the past few years. Because of these conversations, whether they support him or oppose him politically, is there any concern.

Mr. Elsner replied this is a legislative matter, not a quasi-judicial matter and there is absolutely no concern on his part nor should there be on anyone's part.

Mayor Mays stated as he alluded to, after he was elected Mayor, he tried along with Planning Commission Chair Pat Allen and staff to get property owners together to try and help things along and there was clearly no desire to reach a similar agreement. Mayor Mays stated we then learned of problems with ODOT's transportation planning rule that put great restrictions on this part of our community and limited the ability for it to be developed and reduce barriers, but because of them realizing errors to the transportation planning rule and changes they are making, this has enabled us to start the conversation, concluding to this first chapter today.

Mayor Mays asked if Council would like for him to recuse....City attorney Elsner interjected and said he sees no reason to and recommended Mayor Mays not recuse himself.

Mayor Mays asked staff if they wanted to respond to the testimony received.

Julia Hajduk came forward and stated ODOT was contacted and notified in accordance to our normal agency notification and with the proper staff person. Julia stated we don't notify at the top, the chief operator, PGE or the Governor, we notify the person that is identified as the staff contact and said they did provide a response.

Mayor Mays commented he has spoken with Pat Garrett the head of ODOT about our community.

Julia stated another clarification and said this isn't anything other than a transportation system plan amendment identifying (Julie referenced her presentation), changing the functional classification from a local to a collector, clarifying that there will be connection points to Elwert and Handley, it's confirming that there will be one access to 99w, ultimately that would have to go through a process with ODOT to determine where and how that is designed and there would be additional review and it's confirming that Bushong Terrace is still on the potential map for a local street connection. That's it, it's not changing zones, it's not identifying alignments, it's not designing the road, it's not identifying who's paying, this is not appropriate for a TSP amendment. Julia stated she wanted to stress that, as Mayor Mays said, this is something that could happen at a later date. Julia stated the Planning Commission was supportive of that concept and if that is something that the Council wants to recommend through a separate motion or a resolution at a future date we can certainly do that.

Councilor Folsom confirmed that at this time we are not determining who is paying. Julia replied that is correct, this transportation system plan does not determine who pays or how and said there are options that are opened up by this TSP amendment because it would be a local street, it allows it to be creditable for City Transportation SDC's as well as County TDT.

Community Development Director Tom Pessemier interjected and said Julia meant collector not local. Julia confirmed.

Julia offered to answer questions.

Councilor Henderson confirmed Cedar Brook Way as listed has been on the TSP since 2005. Julia confirmed.

Councilor Langer stated he had clarifying comments and questions and stated this is not a new and additional street, is that correct. Julia replied that is correct.

Mr. Langer stated all we are doing tonight is changing the designation. Julia replied yes and clarifying the connection points.

Mr. Langer stated construction costs have been a big concern as he has heard this from residents and said previously, under the previous designation, who would have had to bear 100% of the costs. Julia replied if it's not a collector and if it's not eligible for City SDC's or County TDT's, ultimately it's the developer, the property owner that is responsible.

Mr. Langer said before this amendment the residents would have had to pay 100% of the cost of the construction of the road and receive zero credits for transportation fees and with this new designation as a collector they will be able to receive credits for land dedication and cost of construction, with some limits, very specific limits on how that works. Is this correct?

Julia replied that is correct and said this is actually in your packet, it's a memo in response to some questions the Planning Commission had on this issue, it is part of Exhibit 1-K and City Engineer Bob Galati prepared a memo identifying how SDC's, City and County credits are applied, see pages 175 and 176 of your packet.

Mr. Langer stated so while tonight's actions and discussion don't necessarily get into exact dollars and what it might cost, it's certainly going to be a net less cost to the property owner because they will receive significant credits back against their transportation fees. Julie replied that is our expectation.

City attorney Elsner replied in reference to Mr. Langer comments about receiving credits and said they would be eligible for.

Mr. Langer stated there is concern over the timing of when the road will be built and said his understanding is that the road will not be constructed until the property owner decides to develop their property at which time their private engineering firm would design the road and their contractors will construct it.

Mayor Mays replied unless someone else steps in to do it and said what you are suggesting is the current obligation, but other entities could do it in the future. It could be the City, it could be a neighbor, it could be another project or an adjoining property that reaches an agreement with their neighbor to build the road to facilitate whatever they are doing.

Councilor Langer stated the point he wanted to make is that the City is not going to go in and decide to build a road on their own and force the property owner, for example, the antique mall isn't going to be forced to shut down because a street is going to be built through the middle of them. Julia replied this is correct.

Julia added that if a road project were proposed on an adjacent property or some future City action, there would be a public process and there would be negotiations, it's not like the property would be taken because it's on the transportation system plan, there would be a process and people would have influence on how that road alignment would happen.

Mr. Langer stated there is concern from the property owners that their existing access points could be shut down tomorrow. Mr. Langer stated although this was not said, he's taking it a step further in asking and said he doesn't see this happening and said they would only be shut down when and if the property owner decides to develop their property and Cedar Brook Way is constructed. Is that correct? Julia replied that is correct and was a concern raised by some at the Planning Commission hearing, that even if the road goes through as properties developed, that's when their accesses would be closed, it's not going to happen automatically and it's not going to happen until development occurs.

Mr. Langer stated and that would be in a process where the property owner would control the destiny of their access because they would then have access off Cedar Brook Way to either of the two lights or the new access point at the 990 feet middle. Julia replied correct.

Mr. Langer stated either way they control their own destiny. Julia confirmed.

Mr. Langer stated there was concern over alignment and heard specifically, "my property will be cut in half and doesn't make it as developable as possible", and said we are not determining alignment in this process and it will be determined in a secondary process to follow and the property owners will get to have input on that and agree so that the alignment is to the best of their property and interest.

Julia replied yes and said if it doesn't happen through a formal alignment process, separate meetings that are directed of staff to have discussions and try and identify an alignment, as discussed this evening, then it would be as development occurs and the property owner, developer at the time, would identify how it works best for their project and their alignment. They would need to show how they are not completely messing up their adjacent neighbors, but it is up to them as development occurs.

Councilor Langer in closing stated tonight all we are doing is changing the designation of a local street to a collector and financially benefiting the property owners substantially, because before they would have had to pay for the entire street and now they are eligible for credits.

Councilor Folsom stated as a follow up to Councilor Langer's comments, not tonight but in the future, any accommodation that might need to be made with zoning, if the property is divided would be done in some future process. Julia replied absolutely, this is not a zone change, it may be something that people want to request in the future, there would be another public process, agency notice, DLCD notice, we would be looking at transportation impacts with that zone change then come back to the Planning Commission and Council for a decision, if that were proposed.

Councilor Butterfield stated we as Council in general want as much public input as we can get, we want input from the owners. We are basing our decisions, not only with staff information but with information coming from the citizens and we take that in high regard and we will never shut down the opportunity for a citizen to have input.

Mayor Mays thanked staff for their hard work and engaging the community and property owners and thanked the Planning Commission as well.

Mayor Mays asked for comments from the Council on the proposed ordinance, none were received.

He asked for comments from City Manager Gall, none were received.

Mayor Mays stated as we talk about important duties and responsibilities of the Council and improving our infrastructure and enabling development to occur in our City in a reasonable fashion, removing barriers is part of our charge, which does not compel anyone to accelerate, require development to occur as people can do what they want with their property when they want to, but this is a great step for our community.

With no other comments from the Council the following motion was received.

MOTION: FROM COUNCILOR MATT LANGER TO READ CAPTION AND ADOPT ORDINANCE 2012-012, SECONDED BY COUNCILOR ROBYN FOLSOM, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR 6:0, (DAVE GRANT WAS ABSENT).

Mayor Mays addressed the next agenda item.

9. CITY MANAGER REPORT

City Manager Joe Gall informed the Council the City auditors were working at City Hall and would be there for the next two weeks. Mr. Gall reminded that this Friday is First Friday in Old Town and Home Coming was also this Friday and said old town merchants would be hosting tailgating events.

Mr. Gall informed the Council that he attended the LOC Conference last week with a number of staff and Mayor Mays and the City was recognized and asked Human Resource Manager Anna Lee to provide a report to the Council on employee safety. Anna reported Sherwood was recognized with a Silver Award through the League of Oregon Cities and our insurance carrier, CIS. Anna stated these awards don't come to every City and is dedicated by the leadership of Sherwood and employees. Anna stated we take employee safety very seriously while on the job, and we initiated programs to help this and we have a safety committee that is comprised of representatives from every City department. Anna said the committee members receive training from CIS to be safety ambassadors to the City and the committee members conduct quarterly building inspections on all City facilities to ensure we have an environment that promotes safety. Anna informed the Council of our ergonomic program and active return to work program and explained because of these programs the City was recognized at the League of Oregon Cities.

Mayor Mays congratulated staff for their work and promotion of safety and reported the City also received the Governor's Fitness Award for the Field House. And he would pass this onto Community Services Director Kristen Switzer.

Mayor Mays addressed the next agenda item.

10. COUNCIL ANNOUNCEMENTS

Councilor Henderson reminded the community of the upcoming Halloween Hill Climb which is a fundraiser for Sherwood Main Street, organized by Hungry Raccoon, scheduled for October 21st. Ms. Henderson stated this is a family friendly event.

Ms. Henderson reported last week there was a fatality accident on Roy Rogers road and was unsure if Sherwood responded to the accident and wanted to send condolences to the families involved, the public safety employees that responded to the accident and the bystanders that stepped in to help.

Councilor Folsom stated as a citizen and appreciative of her position as a Council member, she would like to comment regarding what she has heard in the community regarding what businesses are or are not coming into Sherwood, and after recently attending an Economic Summit, said it is not the place of the Council nor can we regulate the businesses that choose to locate here. Ms. Folsom stated we have code and compliances in places and has received comments from community members that she and the Council cannot let this happen.

Ms. Folsom reported on the Sherwood Senior Center and said they are in desperate need of volunteers to help with lunch and they also need drivers, between the times of 10:30am and 1:30pm and said she is aware City staff is working on putting something together to help out. Ms. Folsom stated they are also holding a raffle trying to meet their fundraising goal for the year.

Ms. Folsom reported the Sherwood Cultural Arts Commission will be meeting this Thursday evening at City Hall and will be discussing their future and how they continue to serve the community. Ms. Folsom informed the Council of some of the commissions topics of discussion; how to introduce public art into the community and other past projects and said she really appreciates the members of the commission for their desire to make a contribution and impact as we move forward.

Ms. Folsom reminded of the upcoming Harvest Festival to be held at the Sherwood Middle School on October 20th, from 4-9pm and encouraged the community to attend.

Ms. Folsom reported Disney's Little Mermaid tickets are now on sale and the event is scheduled for Nov 2 and 3rd at 7:30pm, and 2:30pm and 7:30pm on Saturday, tickets can be purchased at Let's Make Music or VPAfoundation.org.

Councilor Clark reported this Saturday and Sunday there is a Good Samaritan event at the Sherwood Senior Center, it is a senior center outreach through Providence, the program supports senior who stay in their homes, with yard work and home maintenance. Ms. Clark stated the program used to be on Saturday and they have expanded the program to include Sunday. Ms. Clark stated you can sign up through Mark Federspiel with Providence or just show up, the event starts at 8am on Saturday with a breakfast and people will be assigned to a crew that will service Sherwood and parts of King City. Sunday's service will start at 9am and people are to meet at the Grocery Outlet.

Councilor Langer reported Saturday Oct 13th is the 26th Annual Great Onion Festival organized by the Sherwood Chamber of Commerce and said the famous Fireman's chicken will be served brought by Old Town Rotary, the event will be held at Archer Glen Elementary.

Councilor Langer reminded that starting in November the Sherwood Chamber of Commerce will be starting to organize the Sherwood map that will market and locate businesses and landmarks, Mr. Langer stated those interested can contact Nancy Bruton at the Chamber.

Mayor Mays reminded of the upcoming high School Booster Club Auction to be held on October 27th, and stated this event raises funds for Sherwood sports youth groups.

Police Captain Ty Hanlon reported on an upcoming event also on October 13th, Tip a Cop, to be held at the Sherwood Red Robin from 11am to 8pm, proceeds benefit Special Olympics.

Mayor Mays reported he and staff attended a PGE event along with Washington County elected officials. The event was for first responders to storm events to review areas that need improvements and communications.

Mayor Mays reported lots of progress was made with the Habitat for Humanity's project in Newberg a few weeks ago.

Councilor Folsom added the Sherwood Cultural Arts Commission produced an Arts Calendar and they are available in the library.

Mayor Mays added several Council members attended the Greater Portland Inc. Economic Summit recently and discussions were held on regional efforts and pointing the business community and local governments in the same direction to attract businesses and help new businesses to start and support existing ones.

11. ADJOURN

Mayor Mays adjourned at 8:27 pm.

Submitted by:



Sylvia Murphy, CMC, City Recorder



Keith S. Mays, Mayor