



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
July 17, 2012

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:08 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Councilors Matt Langer, Linda Henderson, Krisanna Clark, Robyn Folsom and Bill Butterfield. Council President Dave Grant was absent.
3. **STAFF PRESENT:** Community Development Director Tom Pessemier, Police Chief Jeff Groth, Public Works Director Craig Sheldon, Planning Manager Julia Hajduk, Associate Planner Michelle Miller, Senior Planner Brad Kilby and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**
 - A. **Cedar Creek Trail:** Michelle Miller presented a power point presentation (see record, Exhibit A) and briefed the Council on the timeline and process of the project. Discussion followed.
 - B. **Commercial, Industrial, Public Institutional and Use Zones:** Brad Kilby presented a power point presentation (see record, Exhibit B) and briefed the Council. Discussion followed.
 - C. **Progress Board:** Mayor Mays briefed the Council on the formation of a Progress Board, similar to the Progress Board in the City of Pendleton. Mayor Mays gave examples of board participants and gave examples of issues the board could potentially address.

5. **ADJOURN:**

Mayor Mays adjourned the work session at 6:55 pm.

REGULAR CITY COUNCIL SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:07 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Keith Mays, Councilor's Matt Langer, Linda Henderson, Robyn Folsom, Bill Butterfield, and Krisanna Clark. Council President Dave Grant was absent.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Community Development Director Tom Pessemier, Police Chief Jeff Groth, Public Works Director Craig Sheldon, Planning Manager Julia Hajduk, Senior Planner Brad Kilby, Associate Planner Michelle Miller, City Engineer Bob Galati, Administrative Assistant Kirsten Allen and City Recorder Sylvia Murphy. City Attorney Chris Crean.

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

5. CONSENT:

- A. Approval of June 19, 2012 City Council Meeting Minutes**
- B. Resolution 2012-035 Reappointing James Copfer to the Planning Commission**
- C. Resolution 2012-036 Approving a request from the State of Oregon Department of Transportation for a noise variance to perform nighttime construction activity**
- D. Resolution 2012-037 Extending the Portland General Electric Company Franchise Agreement through December 31, 2012**

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT DAVE GRANT WAS ABSENT).

Mayor Mays addressed the next agenda item.

6. PRESENTATIONS:

A. Proclamation, Relay for Life

Sherwood Relay for Life Event Chair Carol Apple came forward and Mayor Mays read the proclamation declaring August 4th and 5th, 2012 as "Relay for Life" days. Mayor Mays informed Council that Councilor Clark will read the proclamation at the beginning of the 8th Annual race on August 4th. Mayor Mays stated that there will be a Sherwood City team this year and encouraged the audience to sign up for a team and support Relay for Life.

B. Recognition of Eagle Scout

There were no Eagle Scouts present. Mayor Mays addressed the next proclamation, which was not listed on the meeting agenda.

C. Proclamation, Sherwood Robin Hood Festival Weekend

Mayor Mays proclaimed July 20-21, 2012 to be Sherwood Robin Hood Festival Weekend and stated he will read the proclamation at the event on Friday. Mayor Mays stated this was the first year the Royal Academy will perform a children's musical called A True Love's Tale after the knighting ceremony at Stella Olsen Park.

D. Report from TVFR and Sherwood Police Department

Police Chief Groth and TVF&R Division Chief Jim Davis came forward with a presentation (see record, Exhibit C) reporting on the July 4th firework activities in Sherwood and stated that it captures a true partnership between the City and Tualatin Valley Fire and Rescue that focuses on a community risk reduction.

Fire Chief Davis introduced the firefighters present at the meeting and thanked the Sherwood police department for making Sherwood a safe community and leading the curve in ensuring safety for the 4th of July holiday. Chief Davis stated that TVF&R performed outreach through

print, educational programs, television, and social media; including an article in the Oregonian that mentions Sherwood's efforts, handouts at fireworks booths, neighborhood visits, and ride alongs with law enforcement. Chief Davis stated that ride alongs happened in Sherwood, Tigard, Beaverton and Washington County. Chief Davis stated that Sherwood has a zero tolerance policy regarding illegal fireworks and that they will be seized and the offenders will be cited. Chief Davis stated that the Sherwood Police Department along with the Tualatin Valley Fire and Rescue Department has a diversion program that allows fines to be reduced.

Police Chief Groth stated that the inaugural for the diversion program was in 2011 and Sherwood is one of only a few communities that offer a fireworks diversion program. Chief Groth stated that 9 citations were issued this year which are eligible for the diversion program if there are no repeat offenders.

Fire Chief Davis stated that in 2011 TVF&R responded to 14 fireworks related incidents with property damage of \$271,300 with one of those incidents in Sherwood with damages valued at \$25,100. Chief Davis stated that for 2012 district wide there were 5 fireworks related incidents with zero calls in Sherwood. Chief Davis added that June was a very wet month and the 4th of July was midweek and it was assumed that more people are going to be safe. Chief Davis stated that Sherwood has done a great job with their education campaign regarding their zero tolerance policy and credited that to the \$0 loss in the City of Sherwood.

Police Chief Groth gave examples of unsafe illegal firework usage and stated we do this because we want to keep people safe and our hope is that we learn and change behaviors. Chief Davis concluded that the program has been successful.

Mayor Mays thanked both departments for the cooperative efforts and addressed the next agenda item.

7. CITIZEN COMMENTS:

Jim Claus 22211 SW Pacific Hwy Sherwood came forward and commented regarding Cedar Brook Way and staff trespassing to take photos and requested staff employment be terminated for this trespass, he stated ODOT has confirmed the trespass. Mr. Claus commented regarding rezoning and giving away of zoning, staff trespass, stealing of property and effects to his property value. He commented regarding a Metro Grant and the City complying with grant requirements. He stated he did not want staff on his property.

With no other citizen comments received, Mayor Mays addressed the next agenda item and stated this item was continued from a previous Council meeting and asked staff to come forward.

8. PUBLIC HEARINGS:

A. Ordinance 2012-008 Amending multiple sections of the Zoning and Community Development Code relating to landscaping, off-street parking and loading requirements

Michelle Miller, Associate Planner came forward and stated that this item was before the Council on June 5 and June 19, 2012. Michelle stated that Council had issues with respect to Metro concerning garage parking and carpool parking that staff addressed at the previous hearing and has incorporated into the legislation. Michelle added that the provision that excluded street trees from being counted toward the tree requirement was moved to a different section to allow street trees to be counted.

Mayor Mays referred to the highlighted portion on page 36 of the packet where it states “where three or more spaces are not individually enclosed” with the example being underground or multi-level parking structures and asked Council if three was a good number or if it should be four or five. Mayor Mays added that by having the example it might be fine as is.

Councilor Butterfield stated that he thought it was fine as is.

Mayor Mays asked for comments on the proposed ordinance. With no additional discussion the following motion was received.

MOTION: FROM MAYOR MAYS TO ADOPT ORDINANCE 2012-008, SECONDED BY COUNCILOR LINDA HENDERSON, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCIL PRESIDENT DAVE GRANT WAS ABSENT).

Mayor Mays polled the audience regarding who was present for the Sign code ordinance and who was present for the residential development. Mayor Mays stated he would continue with the order of business on the agenda and with the larger group present.

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

B. Ordinance 2012-009 Amending the Sign Code section of the Sherwood Zoning and Community Development Code (16.102)

Brad Kilby, Senior Planner came forward and presented a power point presentation (see record, Exhibit D) and stated that the project objectives were to make sure that this code was clear, easy to enforce, content neutral, and regulated a sign based on time, place and manner. Brad stated there had been a couple of work sessions on signs that looked specifically at temporary, portable, and banner sign regulations within the City of Sherwood. Brad stated that because the code was confusing and difficult to administer he was charged to try and clean it up.

Brad stated that the proposed amendments would separate the sign code into two separate chapters; a permanent signs Chapter 16.100 and temporary, portable and banner signs would be moved to Chapter 16.102. Brad stated the proposed amendments under chapter 16.100 would consolidate all the definitions as they pertain to signs with some added definitions for mural signs, snipe signs and some other signs and would remove the content provisions which related to off premise signs as recommended by legal counsel. Brad stated that on legal counsel’s recommendation there were two other amendments that would be proposed this evening.

Brad stated that within the permanent sign code chapter a provision was added to allow an additional projecting sign that could be oriented to the public; a sign that would be hung beneath an awning with standards that allow 6 square feet. Brad stated that Fat Milo’s restaurant had proposed an awning with a sign beneath it, but there was nothing in the code that would have allowed it and the City recognizes that there are businesses that benefit from that type of signage.

Brad stated that Chapter 16.102 would be Temporary, Portable and Banner Signs and clarified that temporary signs would be the signs that you see typical of commercial real estate signs. Brad stated that the City does not regulate content so a sign could have anything on it. Brad stated that portable signs are signs that are for civic functions, to sign up for sports, political, and campaign signs. Brad explained that banner signs are typically not rigid in nature and are allowed to be placed only on buildings in our existing code.

Brad stated that the existing language treats temporary and portable signs the same and stated that the ordinance proposes separating those classifications under 16.102. Brad explained that our existing code exempts signs from permitting on Tuesdays, and Thursdays through Sundays, adding that the problem is a sign code with temporary, portable signs and banner signs that is enforced two days out of the week, creating an enforcement nightmare for the code enforcement officer that only spends half his time doing code enforcement the other half doing evidence. Brad stated that it is not clear how many signs are permitted on private property and they are limited to eight square feet in size. Brad stated that the code regulates banner signs in combination with wall signs adding that if there is a wall sign on the building a banner sign for a special event is not allowed if you are already at the maximum wall sign percentage. Brad stated that we recognize a potential problem and propose that banner signs be regulated separately because they are temporary in nature and would then be permitted. Brad stated that the existing language says that it prohibits A-frame and banner signs in all residential and industrial districts, but then it goes on to allowed them in the medium density and high density residential zone.

Brad stated that the Planning Commission's recommendation was to differentiate between temporary and portable signs, to eliminate the Tuesday and Thursday through Sunday exemptions, and to allow signs in right-of-way and banner signs only with a permit. Brad stated that signs located on private property, outside of the right-of-way would not require a permit provided they meet the allowed amount of signage and it would require owner's permission for signs to be placed on private property or the adjacent owner's permission when placed within the right-of-way.

Brad stated that temporary signs are signs that are firmly affixed to a temporary structure like a stake, H-frame, or A-frame like in Old Town and the characteristics include signs constructed of rigid materials and are subject to maximum height and area requirements. Brad clarified that the planning commission's recommendation was four feet in height and six square feet.

Brad referenced examples of temporary signs in the presentation and stated that the typical commercial "for lease" signs are temporary signs. Temporary signs under the proposed code would be limited to 8 ½ feet high by 4 feet wide with a total allowable sign face of 32 square feet per side.

Brad stated that portable signs are small moveable signs that are not attached to a building or any other permanent structure and stated that there is currently no limit provided the signs do not exceed 8 square feet sign face. Brad stated that permits are required for signs placed in the right-of-way and permits are issued for up to ten signs for 2, 6, or 8 week periods and the cost of those permits range from \$50 to \$150. The problem staff sees is the majority of the people that come in and get permits are non-profit groups, but there are businesses that see it as a cost of doing business and hope that their sign is not going to be picked up. Brad stated signs are then plastered throughout the City regardless of the number or getting a permit and then temporary and portable signs are left in the right-of-way as litter. Brad referenced the presentation and showed examples.

Brad explained that banner signs are made of lightweight fabric, or other non-rigid material supported by two or more points, the planning commission recommendation is that they be allowed to be hung on buildings, fences or walls. Brad stated that currently there are a couple of instances where the banner signs are already on fences and on walls. Brad stated that banner signs are proposed to be allowed in all zones, but not located specifically on a single-family residence, adding that they would be allowed on a non-residential use within a residential neighborhood and gave the example of a church in a neighborhood with a conditional use. Brad explained that the current proposal from the planning commission is to allow six instances in any calendar year for 30 days at a time and they

would be requiring permits. Brad referenced the presentation and showed some examples of banner signs in Sherwood located on Tualatin Sherwood Road, Pacific Highway and on Sunset Boulevard. Brad stated that the Les Schwab sign was not on a building, fence or wall but held up by two stakes and the Puppy Playhouse sign was not a free standing sign but a banner sign placed on a temporary PVC structure. Brad stated that when a Special Events Permit is used the Woodhaven garage sale sign would be treated independent of the sign code because the duration is known.

Brad stated that the courts have maintained that a mural is a wall sign or can be treated as a wall sign and added that there are jurisdictions like Los Angeles, Philadelphia, and recently Portland that have implemented an arts commission for mural signs. Brad stated the commission might require a perpetual easement for the length of time the sign is proposed, the sign to be maintained, and the sign to be accepted or approved by an arts commission or council. Brad stated that the proposal has an added definition for mural signs and would allow a mural only when it is commissioned or approved by the City Council via resolution. Brad clarified that wall sign standards would remain the same at 20% of the building face with a minimum of 30 square feet or up to a maximum of 250 square feet for murals. Brad stated that when the code was written we were looking for a couple of instances where we would have a 250 square foot sign and the only one was Captain Ron's which is no longer there.

Brad stated that under other regulated signs are the over the right-of-way banner signs and added that even though they are hung vertically, as opposed to across the street, they are banner signs over the pedestrian right-of-way and could be permitted through a special event permit. Brad stated that balloons are currently not permitted but people use them and flag signs could be permitted provided they meet the standards for a portable sign. Brad added that the planning commission's recommendation is to prohibit inflatable signs.

Brad stated that Council should have received a letter from Mr. Claus in the form of an email with publications called SignLine that the Claus family puts out under their organization that would go down as exhibit D to the packet (see record, Exhibit E) and a letter from Daryl Winand from the Portland Metro Association of Realtors which would go in as exhibit E (see record, Exhibit F). Brad stated that City staff met with the Sherwood Chamber of Commerce and asked them to take a look and provide input from their businesses, stating that Nancy Bruton went out and talked with businesses and there was an email from her that would go into the packet as exhibit F (see record, Exhibit G).

City Recorder Note: The final City Council meeting record will include exhibits as cataloged and received by the City Recorder: Claus Testimony-Exhibit E, Winand Testimony-Exhibit F, Bruton Testimony-Exhibit G.

Brad stated that there was some alternative language proposed by staff based on discussions in work sessions on signs beginning on page 155 of the packet. Brad added that when talking about amending banner signs as they are attached to wall signs, staff is not proposing that Council eliminate the ability to use a banner sign. Brad suggested that if using a banner sign as a permanent sign we would prefer that instead of putting a wood frame around a banner sign, to invest in the cost of putting up a permanent sign.

Brad added that staff worked with City legal counsel and had determined warranted changes for the purposes of clarifying the meaning of the provision and to be sure that the language aligned with the intent of the provision. Brad referred to page 141 of the packet Section 16.100.010 E.4. and read the proposal which states "A sign that is forty five (45) feet tall or less and that is three hundred (300)

square feet or less in size is exempt from the requirement to come into compliance within five (5) years and may remain until: a.) structurally altered, relocated or replaced, or b.) until such time as the property on which it is located goes through a major re-development as determined by the Commission as part of a Type IV land use application.” Brad proposed that b.) be amended to read “until such time as the property on which it is located is developed or redeveloped pursuant to a Type IV land use application.” Brad stated that this takes out the planning commission’s ability to subjectively state that it is not a major re-development and clarified that development subject to a Type IV land use application is required to bring the sign into compliance.

Brad stated that the second proposed amendment is found on page 142 of the packet pertaining to electronic message signs under number 7. Brad read the provision which reads “*Electronic Message Signs: Consistent with 16.100.020. E. and F., electronic message signs may not change more than once every thirty (30) seconds. In addition, the change may not involve movement or flashing. Electronic message signs are limited to no more than thirty-five (35) percent of the total allowable sign area per sign face.*” Brad stated the proposed language starting with electronic message in the third sentence should read “*Electronic message signs are limited to no more than thirty-five (35) percent of the total area sign per sign face*”. Brad clarified using wall signs as an example and stated if somebody had the ability to put a 250 square foot sign on their building this provision limits the electronic message to 35% of 250 square feet. Brad stated they could propose a sign that is only 100 square feet instead of 250 square feet and the electronic portion would be limited to 35% of the actual proposed signage. Brad stated that this is the believed intent of the legislation initially and asked to make that change to clarify.

Brad informed Council that Exhibit A-1 in the packet was the track changes version and A-2 was the clean version of the planning commission recommendation and asked Council for discussion on any further issues.

Mayor Mays thanked the planning commission and staff for the hard work and asked regarding the alternative language points stated by Brad. Mayor Mays stated that there was concern that the standard A-frame size was different from that in the language. Brad replied that he measured some A-frame signs found in old town and on Sherwood Blvd and found that the maximum height was 4 feet and up to 32” inches in width with most of them being about 25 ½”. Brad stated that these A-frames were the ones with the handles on them which he would consider a typical A-frame sign. Brad proposed that the language should reflect what is out there with a 4 foot height and a total sign area of 7 square feet. Tom Pessemier confirmed that this was correct and stated that the alternative language was based on information that we heard from the work sessions with Council, and said staff went and spoke with people who had a familiarity with A-frame signs who commented that the typical A-frame sign is usually 4 feet or slightly less and 7 square feet in area and said we (staff) wanted to make sure we are not having custom signs built.

Mayor Mays asked for suggestions on how to amend the language. Tom referred to the proposed language which says, “*Portable signs, in all zones are limited to four feet in height with a sign face no larger than six feet.*” Tom added that there has been feedback that this is great for A-frames, but not for campaign signs, because that is a fairly large sign, and stated that such signs are usually about 18” x 24” which is roughly three square feet. Tom stated that staff looked at changing the definitions which would be on page 143 of the packet in order to define the size for a portable A-frame size sign as 4 feet in height and 7 square feet and then a regular portable sign being 18” x 24” or three square feet. Tom stated this would create a differentiation between an A-frame sign, which has one set of

standards, and a regular portable sign. Mayor Mays added that the alternative language for the temporary signs would go in 16.102.030. A.1. Brad clarified that it would go in 16.102.040 A.1.

Brad stated he had two more changes and asked Council to turn to page 151 of the packet. Brad said the cross reference for Section 16.102.040 A should be 16.100.I.13 and 14 not 16.100.I.15 which is incorrect and on that same page 16.100.040 A.1 should be deleted and the remaining regulations would be renumbered.

Mayor Mays commented that one benefit with the alterations that are being suggested is that it eliminates fees. Brad added that once the City Council is comfortable with the language, the fees would be eliminated under the alternative language and what staff heard from Council at the work session was that portable signs would not be allowed in the right-of-way at all, so there would be no need for a permit. Brad added that there was a proposed exemption for portable signs, like garage sale signs and such, for Friday, Saturday, and Sunday based on discussion as well, which would be from Friday morning at 6am to Sunday night at 6pm. Brad stated that during that time there would not be any enforcement of portable signs placed in the right-of-way and they would not be allowed in the right-of-way at any other time. Brad stated if there are not any signs in the right-of-way there would not be a need for a permit process. Mayor Mays commented that the right-of-way is generally behind the sidewalk or a street tree. Brad confirmed that it was one foot behind the sidewalk or in an older subdivision it would be typically six inches behind a utility pole or some type of phone.

Mayor Mays commented that there was value in allowing the non-profits to place signs without a fee and the best places to put those signs was on Institutional Public uses (IP); parks, City property and school district property, but the code does not really touch upon that. Brad answered that this was because the City owns most of the IP properties or the schools and if they have established policies as to what they would allow on their property that would probably be the best case. Brad stated he was not sure it is something you want to put in the code. Mayor Mays said there are IP uses that are government and there are IP uses that are churches. Brad agreed.

Mayor Mays asked Tom Pessemier about any other feedback.

Tom answered that the alternative language regarding changes to portable signs on residentially zoned lots to two portable signs and stated that the general consensus was that two signs was too low and four signs was more appropriate to what has been happening in the City especially with changes in the other portable signs in regards to permits and other things.

Tom added regarding IP zones and stated that the way the code is proposed is for all zones, one portable sign is allowed per business. Tom commented that a school is one business, which does not seem reasonable, and staff is looking at the school district, the City, and others creating policies regarding how to place signs. Tom suggested modifying section 16.102.040 A.2. of portable sign regulations and adding to the planning commission recommendation to say "*except that properties over an acre in size that are developed within an approved non-residential use may place one portable sign every 50 feet for the length of the site frontage along a public street*". Tom stated that this would give them the ability to put one sign every 50 feet like other businesses are allowed to do. Tom stated we would have to modify section 16.120.040 A.3 portable sign regulations to add "*zones, except for institutional and public IP zone*", because that is where it says no more than one portable sign per business allowed in all other zones.

City Recorder note: Tom corrected the record after the meeting concluded that the referenced section should have been 16.102.040.

Tom stated we would also take a look at adding to section 161.20.040.A in the last section to say “properties zoned in Institutional Public may place one portable sign meeting the dimensional standards of subsection 1. above every 50 feet for the site frontage along a public street.” Tom stated these are all the same and the basic point is an institutional or public property would only have one sign that is allowed. Tom stated they would have to choose which non-profit to support for a period of time and that doesn’t seem to be reasonable.

City Recorder note: Tom corrected the record after the meeting concluded that the referenced section should have been 16.102.040.

Councilor Henderson asked for clarification on the number of portable signs permitted on a residential lot. Tom explained that the planning commission recommended four portable signs per residentially zoned lot and the alternative language suggested going to two signs on any residentially zoned lot and what we have heard is that people feel that two is not enough.

Brad Kilby clarified that the planning commission’s recommendation was four and the alternative language proposing two was based on feedback from a Council work session. Brad stated that when obtaining feedback staff heard that two was not enough on a residentially zoned property and explained that if there are multiple measures going on at any one election and there are candidates, you may want to have four signs. Brad stated that the size of the sign is still limited. Councilor Henderson asked if the signs were currently allowed six times per year. Brad replied that portable signs are allowed any time on private property.

Mayor Mays asked for any other questions from Council and polled the audience regarding those interested in having standards for the A-frame signs that meets the size of manufactured A-frame signs so that the signs do not have to be custom made. Mayor Mays noted that there were a lot of heads nodding. Mayor Mays then polled the audience regarding portable signs on residential property two or four and stated there were more hands for four portable signs in residential versus two.

Mayor Mays asked to receive public testimony on the proposed Ordinance 2012-009.

Robert James Claus 22211 SW Pacific Hwy Sherwood came forward and asked to keep the record open for 14 days because he had a code enforcement file records request in and it would not be available until Thursday which gives a record of code enforcement. Mr. Claus stated he wanted to thank Mr. Kilby because this is the amendment of an earlier code, and he (Mr. Claus) had left the code that way because it had elements of prior restraint which went to the competency of Beery, Elsner, and Hammond. Mr. Claus stated he had been using and leaving it there because he felt if he had to litigate, he needed it. Mr. Claus stated that it is wonderful that the City has a document that confirms that an amendment Mr. Crean worked on which allowed the billboards was prior restraint and it is in your report. Mr. Claus stated he was grateful to staff and stated if Council adopts and tries to enforce the ordinance it will be appealed to LUBA. Mr. Claus stated the City has an enforcement problem and cannot even produce permits which means the City has a non-conforming sign and an illegal sign. Mr. Claus stated he had some experience with that and when you try to say something is non-conforming legal and is going to become non-conforming illegal without compensation that the federal courts won’t look at that very favorably. Mr. Claus stated that when you admit that half of the signs do not have permits, you have admitted a fourteenth amendment violation. Mr. Claus commented regarding a similar problem in San Diego and the resulting decision. Mr. Claus stated that over half the signs appear to be illegal, that there are internally conflicting definitions, and it is a permissive code. Mr. Claus stated that by law with permissive codes you must take the most

restrictive definition. Mr. Claus stated that it is appalling when a city has an abandoned sign that is not maintained and illegal on two parts of the code that must now be taken down in 90 days. Mr. Claus commented regarding the Robin Hood Theater sign and whether it was a historic sign and other Robin Hood Theater signs that were destroyed by staff. Mr. Claus state that this is going to be a long litigation which is probably going to end up in federal court because he would be looking for attorney fees and damages. Mr. Claus commented regarding his legal experience and judgments received in Federal and the Supreme Court. Mr. Claus stated that the code is un-enforceable as written and this is not going to end here. Mr. Claus commented regarding being called names and Councilor Langer's potential and actual conflict of interest for this ordinance because his family is the lease holder on Sherwood plaza which specifically received exemption no one else got. Mr. Claus stated he hoped Mr. Langer did not vote on this issue. Mr. Claus provided the City Recorder with documents and requested they be entered into the record (see record, Exhibits A, A.1 through A.5).

Charles Jagow, representing St. Paul Lutheran Church on Cedarview Way in Sherwood came forward and submitted a document into the record (see record, Exhibit H) and stated he has been working with Brad regarding the sign code that relates to banners and stated that St. Paul has used banners frequently to communicate community events. Mr. Jagow stated there is a huge summer camp at the church that is well attended and the church depends on temporary signs for a fair amount of publicity to let the community know that this type of event is being held. Mr. Jagow stated that the church finds itself in a right-of-way land locked zone and the way the sign code is currently written it would not be able to display banner signs anywhere near the road where people would be able to see them when they drive or walk by. Mr. Jagow stated he has documented this information in the packet he has sent out. Mayor Mays stated that it does not help that the county has landscaped all the way across the front of the property. Mr. Jagow stated the maintenance crew uses creative cutting to keep the signs visible. Mr. Jagow stated he was proposing a small amendment which he will read, but is open to modifications to the wording. Mr. Jagow requested that the addition to the temporary sign code section 16.102.020 A and 16.102.050 B say, *"if the city or county right-of-way extends more than 50 feet beyond the outermost point of road paving, curb, or sidewalk, the owner of the lot adjacent to the right-of-way may display a banner or other temporary sign 10 feet or more from the outermost sidewalk, curb, or paving if a permanent display sign is already allowed at that location"*. Mr. Jagow stated that the provision does not favor any one entity it is recognition that in some cases, like St. Paul Church, that Roy Rogers Road took a different route than it did a hundred years ago and the church got left out away from the public. Mr. Jagow said the church would appreciate it if it would be able to continue to advertise using banner signs as it has done in the past.

Daryl Winand Governmental Affairs Specialist for the Portland Metro Association of Realtors (PMAR) came forward and stated he represented more than 5700 members in his association. Mr. Winand stated he wished to review the way realtors use signs within the Sherwood community to market citizen's homes, to touch upon real issues of realtors with respect to the draft language and the alternate language before Council, and to urge Council's support of PMAR's recommendations. Mr. Winand commended Sherwood for the accessibility of its staff members who had been of great assistance in keeping PMAR up to date on everything coming before Council and the planning commission. Mr. Winand stated he would literate some of the points from his letter (see Council record, Exhibit F, received via email) and stated that every day realtors in Sherwood are helping citizens to sell property. Mr. Winand stated that in Sherwood \$86 million worth of property was transacted in 2010, with \$79 million in 2011, and \$93.8 million in 2012 to date. Mr. Winand stated that one of the key tools realtors use is a sign, adding that realtors place signs on an owner's property to communicate with a potential buyer and to assist in finding homes within the community that are for

sale. Mr. Winand stated that clients, who are Sherwood citizens, want signs and ask realtors to use signs to market their homes. Mr. Winand stated that one sign that is used most frequently is the A-frame. Mr. Winand explained that the sign is a portable temporary sign that has verbiage two sides which notifies the public that the house is available for purchase and for viewing during specific hours. Mr. Winand stated that open houses are commonly held for a limited period of time on weekends and possibly on Tuesdays for what is referred to as broker opens. Mr. Winand stated that PMAR's specific comments with respect to the sign regulation revisions and alternate language included Section 16.102.040 A.1. where PMAR supported the proposed language for a portable sign to be limited to 4' with a sign face limited to 6 or 7 as was amended by staff. Mr. Winand stated that PMAR opposes the alternate language stipulating that portable signs in all zones are limited to 2' in height and added that he did not think this would accommodate the signs that are out there in the industry which range from 24" to 36" in height with some even larger. Mr. Winand stated that the amendment proposed by staff with respect to the 4' and 7 square feet would be acceptable. Mr. Winand referred to Section 16.102.040 A.2. and stated the limiting of signs on private property is a concern for PMAR only in that there needs to be sufficient allowance for the marketing of the properties in the City and limiting the number of signs on private property would not burden the industry because if a home is for sale it is going to take precedence over any other sign. Mr. Winand referred to Section 16.102.040 A.4 and stated that PMAR opposes the proposed language disallowing the use of portable signs within the public right-of-way except by permit and PMAR does support the alternate language to allow the use of temporary portable signs, which he hopes includes A-frame signs, within the public right-of-way from Friday through Sunday at 6pm. Mr. Winand commented that when limiting by time there is no need for permitting. Mr. Winand referred to Section 16.102.040 A.5 and 5A and stated that PMAR opposes and supports portions of each to the proposed and the alternate language and recommended that the section read "portable signs shall also meet the following standards, an individual or entity wishing to place a portable sign off site in front of another property must make a good faith effort to contact the property owner". Mr. Winand commented that this is what PMAR members do right now and clarified that they go to that home and leave a business card and a message including the individuals contact information and a description of the effort made to contact the owner. Mr. Winand commented that it is not always going to be possible to reach that homeowner, they are going to be vacationing, taking an afternoon off to the beach, it is just not possible to have that written permission and to get it in advance. Mr. Winand stated that he had further comments that Council has read and asked Council to support PMAR's recommendations.

Nancy Bruton 22566 SW Washington St, Ste. 101 Sherwood came forward and stated she was the Executive Director for the Sherwood Chamber of Commerce here on behalf of the Sherwood Business community. Ms. Bruton thanked staff for their diligence in keeping the Chamber's community affairs committee informed and involved in the process. Ms. Bruton stated that the business community's perspective is that in order to function at our full potential and as a dynamic and competitive retail marketplace that our businesses need the tools to create, communicate, support, and reinforce the brands in our community. Ms. Bruton stated that signage is an economic tool that serves as a marketing function supporting consumers by differentiating from companies and services, creating public awareness, a community sense of place, and impacting our standard of living. Ms. Bruton encouraged the Council to recognize the limitless potential that signs offer our businesses and stated she would share some feedback which has been shared with City staff that she wanted to draw attention to. Ms. Bruton stated that businesses want to use quality signage to advertise their business, to ensure a positive reputation for it, and they hope that the policy does not seek to legislate taste for them. Ms. Bruton stated that this came up especially in conversations about

proposed language for section B.2 and the restriction of framing banners for commercial use. Ms. Bruton stated that businesses seek to purchase quality client signage to represent their business and many have bought banners, flag signs, etc. for this purpose. Ms. Bruton stated that some businesses feel some areas of the code prohibits them from advertising in high traffic areas entirely and, as mentioned by St. Paul Lutheran Church, does not consider businesses that are not close enough to the main traffic corridors when implementing code changes. Ms. Bruton stated there are a number of businesses that have physical barriers to being able to communicate their business to the consumer and we need to work cooperatively with them to get noticed as their success impacts the community as a whole as location is not always street friendly.

Ms. Bruton stated that additional feedback was also provided regarding B.1. the proposed restriction of banners on fences and some business leaders feel that the banners used are a way of giving an opportunity to inform the community of who they are and the positive things going on with their business and in the community. Ms. Bruton stated that the option for hanging a banner on the side of a building in some cases was not an option and they were disappointed that they could lose this form of expression. Ms. Bruton shared a thought from a long time resident and local business leader that said, "In the early days of yore I just put up my directional signage to our business with no problems. Then after a few years my signs began to disappear. At first I thought it was vandals, but I eventually learned financially, painfully, that it was the cities one by one passing local ordinances trying to regulate and raise money. We don't make much money selling our product, but I have many faithful followers who look for our signs to alert them to our "open for business". As the years have evolved and town governments and departments have grown they have grown away from us." Ms. Bruton stated she shared this because we want to see Sherwood succeed and we are on a good track to move beyond the threat that is offered by that vision. Ms. Bruton commented that the Chamber community affairs committee was impressed by the involvement in this sign code process and the consideration that went into the proposals that were addressed professionally with mutual goals for effective sign usage and an appreciation for keeping our city vibrant and aesthetic. Ms. Bruton expressed Chamber's appreciation for things like removing hard tuned, forced exclusion dates, addressing concerns with abusing the permitting process, the amendment tonight by addressing the size of A-frames, and revisiting questions that came up along the way. Ms. Bruton stated that it is a great testament to the City's ongoing progress in community involvement and thanked Council for ongoing consideration of our business community as a whole.

Mayor Mays thanked Ms. Bruton for Chamber's involvement with City staff and the Planning Commission through this process with the collective goal of making it easier for businesses in our community to advertise and be successful.

Jim Haynes 22300 SW Schmeltzer Road Sherwood came forward and stated he was a member of the Sherwood Chamber of Commerce Board and a member of the community affairs committee that met recently with Tom and City staff regarding these changes. Mr. Haynes complemented the city for the outreach given to get business people involved in this process which he found complicated and arcane. Mr. Haynes stated it was difficult to make it work on a fair and equitable basis. Mr. Haynes stated that he thought business people realized, and urged City staff to realize, that this is complicated and one of those ideal situations where you can be sure that half of the people will revile it and half of the people will love it no matter what you do. Mr. Haynes stated that this is the nature of this kind of regulation. Mr. Haynes stated he wanted to stress some of the comments received tonight, especially from Nancy Bruton. Mr. Haynes stated that signage is incredibly important to small business people and in his profession he works with small businesses, entrepreneurs and startups. Mr. Haynes commented that the ability of those organizations whether commercial, retail,

or a service organization is very dependent on their ability to outreach, represent themselves and differentiate themselves from their competitors. Mr. Haynes added that small businesses and startups is where jobs are created in our community and where young people can find their first real job. Mr. Haynes encouraged City staff to keep as much flexibility in initial ordinances written and in going forward to see if there is a way to make this a living document to address new technologies and techniques that creative and deserving to succeed people may develop to promote their businesses. Mr. Haynes urged Council to keep City staff on point and in the direction that they have gone to look for ways to work with the business community and keep it an open process in order to offer our businesses the most opportunity to succeed.

Charles Jagow, representing St. Paul Lutheran Church asked to come forward and provide additional comments, Mayor Mays agreed. Mr. Jagow commented that because we are land locked we find that we are in a *Catch 22* with the county right-of-way inside the City's jurisdiction. Mr. Jagow stated that he was told by the county that the church was inside the City and should be dealing with the City regarding right-of-way and usage of signs. Mr. Jagow stated the City response was that signs are not allowed in the right-of-way because it is the County's right-of-way, he suggested that the two sides communicate and work out a protocol.

Mayor Mays closed the public hearing and asked for questions from Council of staff.

Mayor Mays asked regarding a solution for the unique situation for St. Paul Church because the County constructed a big hedge across the front of the property and asked if Council should try to address the issue with suggested language or something different, if staff should be directed to create a variance.

Brad Kilby answered that the issue was looked at extensively and stated Mr. Jagow's suggestion was a good one and that Mr. Jagow was correct that the church is in a *Catch 22* because Sherwood code does not allow signs within the county or state right-of-way. Brad stated that he contacted the county and they do not allow temporary signage in the right-of-way at all but he has seen signage throughout the county when he drives around. Brad stated that the church's sign is actually within the county right-of-way but it does have two allowed signs that were put in place at the time of construction and they currently put their banners on two stanchions above the permanent signage. Brad added that a previous City Mayor allowed the stanchions on the signs when Roy Rogers Road was built. Brad stated that legal counsel suggested looking to a service provider letter from the county allowing the City to permit signage within our right-of-way and stated Council would need to discuss allowing banner signs in the right-of-way throughout the City because it may seem that one group was being favored over another. Brad stated that this is a specific instance where a variance might be warranted but was unsure if a variance could be written for a temporary sign ordinance.

Tom Pessemier added that there are very few circumstances where the City or county right-of-way extends 50 feet past the edge of the curb or sidewalk and stated that in writing it this way there would be few properties that would meet this criteria and it seems to address a particular situation because of the unique nature of the property. Tom commented that the variance process might be used but you are essentially back to the same point.

Brad added that the reason the planning commission recommended the six instances of allowing the banner signs was in response to Mr. Jagow's testimony before them.

Councilor Robyn Folsom asked regarding banner signs and if the example of the Les Schwab sign shown in the presentation would not be allowed with the new language. Brad confirmed and stated

the sign was not permitted and the current code states that the banner sign must be attached to a building and the Les Schwab sign used two stakes. Brad stated that there are instances throughout the community where signs are attached to fences, walls, and stakes that would not have been permitted if they had come in.

Ms. Folsom commented regarding the removal of marketing tools as stated in the Chamber testimony and asked if the planning commission felt strongly about the direction of the language. Brad answered that the planning commission's recommendation was that they be allowed on buildings, fences, or walls not just on buildings.

Councilor Clark added that the limitation before was just buildings and the planning commission expanded that to include fences and walls.

Ms. Folsom asked if it was a right-of-way in front of Les Schwab. Brad confirmed but was unsure how far it extended, but stated it was not 50 feet and the sign is behind the curb line.

Councilor Henderson asked if the planning commission's recommendation for banner signs on buildings, fences and walls was because that is what the City sees now. Brad confirmed and gave examples.

Councilor Langer asked if the examples given could get around the code by attaching a rigid sign in place of the banner. Brad confirmed that they could propose a temporary sign provided it met the limitations for a temporary sign. Mr. Langer summarized that they could still have signage if they chose a different manner of signage.

Mayor Mays asked Tom, based on discussion and new materials received, if staff's intent was to adopt using suggested language or bring the ordinance back to Council for consideration at the next meeting.

Tom replied his hope was to get the ordinance adopted because it takes 30 days for the ordinance to be implemented and the next opportunity to adopt is August 7th and said we are then getting into September. Tom stated he counted up to six moving pieces that need alternative language that might get garbled if Council tries to move forward.

Discussion ensued regarding a special Council meeting on July 31st and other available dates. Tom suggested Council give more feedback to staff regarding language so the new language would be clear. Brad added that the language could be organized so that Council had all of the proposed amendments and suggested language from P.M.A.R. and Mr. Jagow and any language that the Chamber might be interested in seeing in the ordinance in a format for discussion. Brad commented that it might be better to have a special meeting that is dedicated to the subject because it is a labor intensive effort.

Councilor Butterfield commented that there have been a lot of ideas and comments that Council needs to incorporate in the language and suggested that Council needed more time to digest because it is not simple and easy yet.

Tom asked if Council could discuss the six items so staff could more effectively write the legislation:

- Tom stated the first item was the number of signs on residentially zoned property and stated the planning commission's recommendation was 4. Council was in favor of four.
- Portable sign sizes. Mayor Mays stated to place it in definitions.

- IP lots would allow more than one sign and would allow them to be spaced 50 feet apart and non-residential uses allowed on residential properties that are over an acre be allowed to have signs every 50 feet along the site frontage and gave the YMCA as a good example. Council was in favor.
- The recommended changes in the non-conforming section regarding the development or redevelopment and allowable area for an electronic sign. Mayor Mays stated those were good.
- The St. Paul Church recommendation. Tom stated staff will take another look at that and come back with information and potential language. Mayor Mays commented that it was unique in our community. Tom stated there was general support.
- The recommendation from P.M.A.R regarding best efforts to contact homeowners. Mayor Mays commented that realtors should leave a business card and a piece of paper that allows the homeowner to remove an unwanted sign. Brad asked for clarification that Council supported the language proposed by P.M.A.R. Council was supportive.
- Tom stated that there was no need to leave the record open because it is a legislative decision and stated it was Council's decision on whether to leave it open.

Councilor Folsom expressed her appreciation for Chamber's testimony that stated that Council should not legislate taste and she thought it was not Council's job. Ms. Folsom stated she wanted to be sure the City was not impeding our businesses to do the very best they can and stated it was very important to her because our businesses do so much for our community which included use of banner signs.

Councilor Langer followed by stating he agreed with Councilor Folsom and said he has lived in communities where there are short signs and there are no banners signs. Mr. Langer stated that the culture adjusts and the community looks cleaner because the housekeeping is done. Mr. Langer stated this may be hard to understand, but he has seen it and we can be successful with the modifications. Mr. Langer commented that there is a lot of work left to do to get this done.

Mayor Mays asked for additional questions from the Council and asked if staff needed further direction.

Brad stated he would like to discuss the concerns from the Chamber and others who given testimony. Brad stated the City does not legislate taste because we don't legislate content but what we tried to do is to encourage our businesses through this legislation to invest in their business and put up permanent signage instead of using banner signs. Brad stated he did not want to pick on any one group of people but you can drive through Tigard and see where banner signs have been converted by framing them with a one inch strip of wood and calling it a wall sign. Brad stated these signs get tattered and torn, and are not maintained. Brad stated that banner signs in his mind should be temporary but the decision is up to Council as to whether they should be considered temporary or permanent with modifications.

Mayor Mays stated he was inclined to suggest July 31st for a special meeting. Councilors Folsom and Clark indicated they would be unable to attend. Tom Pessemier suggested a Council work session on that date. Ms. Folsom stated absent Councilors could catch up by reading it. Discussion ensued and the following motion was received.

MOTION: FROM MAYOR MAYS TO CONTINUE ORDINANCE 2012-009 TO THE 7TH DAY OF AUGUST, SECONDED BY COUNCILOR LINDA HENDERSON, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT DAVE GRANT WAS ABSENT).

Mayor Mays recessed the meeting at 8:51 pm and reconvened at 9:10 pm.

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

C. Ordinance 2012-010 Approving a Plan Map Amendment (PA) from Institutional Public (IP) to Medium Density Residential Low (MDRL) on tax lot 2S130CA0100 and approving a concurrent twenty-six lot subdivision to be known as Renaissance at Rychlick Farms

Upon conclusion of the public hearing statement, the City Recorder asked the Council members to disclose any ex parte contact, bias or conflict of interest.

Comments were received from each Council members, that they had nothing to disclose.

Brad Kilby, Senior Planner came forward and stated this comes before the Council with a favorable recommendation for both the plan amendment and subdivision from the planning commission. Brad presented a power point presentation (see record, Exhibit I) and referenced the site off Edy Road adjacent to the school. Brad stated the proposal is to rezone a portion of the property to medium density residential low (MDRL) from institutional public (IP) and divide the 6.57 acre site into 26 single family lots and 4 tracts. Brad explained Tract A and B are for water quality and detention, and vegetated corridor in compliance with Clean Water Services and Tracts C & D are for common open space. Brad indicated he received a question from Councilor Henderson regarding Tract D and said this is open space dedicated to a connection between this site and the school district providing a pedestrian connection to the school district as proposed by the applicant.

Brad stated this would be a comprehensive plan amendment and said this was property that was zoned as part of the Area 59 Concept Plan. Brad referenced the map and the IP zone and said it was thought at the time when the schools were being considered that they would need this land and subsequently it was not needed and the schools have been built without it.

Brad stated in the subdivision they are proposing MDRL which would be consistent with the rest of the zoning applied to the property and said within the concept plan there's some open space designated to the property but we neither have a comp plan or a zone that is dedicated to open space. Brad stated the minimum lot sizes for MDRL is 5000 square feet and said the proposed lots range in size from 5000 up to 12,013 square feet with the majority of the larger lots being adjacent to existing homes along the east property line and the smaller lots are concentrated along the vegetated corridor. Brad stated the setbacks are 20 to the front, 5 to the side and 20 to the rear and the corner side is 15.

Brad said the applicant has submitted a plan that demonstrates compliance with the recent tree canopy requirements recently adopted by the Council. Brad stated it's important to note that they have done a fairly good job in maintaining the trees they can, given the constraints of the site.

Brad stated the planning commission recommendation was approval with conditions and said staff believes that all public services have been provided to each lot with adequate access and said the applicant has been conditioned to provide frontage improvements in coordination with the county along SW Edy Road and they have proposed a pedestrian connection to the school site and

reinforced that proposal at the planning commission. Brad stated they have proposed a street that would eventually connect to Nursery Way if the property to the west is developed in the future.

Brad stated at the planning commission testimony was received from two property owners along Bedstraw and informed the Council they might hear from them this evening. Brad informed Council that there was concern with the setbacks along lot 1 and lot 2, with allowing a lesser setback along these two lots to allow the house and garage to be moved forward onto the lot to allow for a larger backyard. Brad stated this has not been proposed by the applicant but the planning commission recommended that the Council, in their determination, indicate your support for a variance that the applicant can pursue at the time if they choose. Brad said staff would still have to look at the merits of the proposal based on our code standards as they apply to variances. Brad stated at the time this came through staff recommended approval and we continue that recommendation this evening along with the planning commission's recommendation.

Mayor Mays thanked staff and asked for questions of the Council, with no questions or comments received Mayor Mays opened the hearing to receive testimony from the applicant.

Chris Goodell and Monty Hurley with AKS Engineering 13910 SW Galbreath Dr., #100 Sherwood came forward representing the applicant Renaissance Development for the project Renaissance at Rychlick Farm. Mr. Goodell presented a power point presentation (see record, Exhibit J) and recapped the team of professionals involved in the project. Mr. Goodell recapped the project details and stated this is a 26 new single family home project which meets the City's density requirements, satisfies an existing community need, as stated in the staff report which indicates there are only 22 lots in the City available for new home construction. Mr. Goodell stated the homes in this project will support the local schools adjacent to the property. Mr. Goodell stated new home construction is crucial in attracting and retaining businesses. Mr. Goodell stated the project has large backyards and large lots along the east property line and said the average lot size in this subdivision is approximately 6800 square feet and said the minimum lot size required is 5000 square feet. Mr. Goodell stated the proposal exceeds the requirements by 27%. Mr. Goodell referenced the presentation indicating the proposed open space of over 1 acre. Mr. Goodell stated the open space will serve different purposes, one is tree preservation, natural resource area enhancement and the vegetative buffer shown in Tract D which was the result of a professional delineation performed by a natural resource specialist and approved by Clean Water Services and Tract C is open space as required by City code.

Mr. Goodell referred to trees and landscaping and said over 119 existing trees will be preserved and over 400 new trees will be planted. Mr. Goodell stated the amount of proposed tree canopy exceeds the city's requirements by at least 16% and the natural resource area in Tract C will be enhanced to Clean Water Service' standards and this includes the planting of over 2000 shrubs and groundcover plants in that area. Mr. Goodell stated this will all be designed and inspected by a professional landscape architect and arborist.

Mr. Goodell stated the project includes staff access which is consistent with the access location approved in the concept plan and designed by a licensed professional engineer and meets City and county sight distance requirements as well as access spacing standards. Mr. Goodell stated all this is confirmed in the traffic analysis which was performed by a traffic engineer and included in the Council packet.

Mr. Goodell stated this project is a safe neighborhood project with walkable sidewalks on public streets and will include street widening on Edy Road, sidewalks and will also include a dedicated

pedestrian pathway to the school site. Mr. Goodell stated he spoke with a representative from the school district on coordination of the location of the pedestrian pathway, which will connect to an existing pathway which will go by the tennis courts.

Mr. Goodell concluded and asked for the Council's approval of the project and introduced Mr. Hurley as the project engineer and project manager and offered to answer questions.

Mayor Mays thanked Mr. Goodell and stated it was great to have development returning to our community. Mayor Mays asked in regards to Tracts B & C and if this area was going to be managed by an HOA (Home Owners Association). Mr. Goodell replied it could be managed by an HOA or could be dedicated to the City. Mayor Mays asked if the applicant had not decided what to do. Mr. Goodell replied no, it could be either, and said in the application we mentioned it could be both, if it was retained privately it would be an HOA and if it wasn't it would be the City.

Councilor Folsom asked in regards to the vegetated corridor and Mr. Goodell's comments about it being approved by Clean Water Services and asked if there was a wetland in that area. Mr. Goodell replied there is a drainage way, a 50 foot buffer from the stream bank edge up the hill. He stated he did not believe there were any wetlands but they still protect the drainage way.

Councilor Butterfield asked regarding the width of the road going through the subdivision. Mr. Goodell replied 28 feet wide with a 52 foot right-of-way. Councilor Butterfield asked Tom Pessemier how this compares to Wood Haven.

Mayor Mays stated 28 feet is the expectation of the City and asked if this was with allowing for parking on one side or both sides of the street. *Note: Staff responded from the audience and the reply was not audible.* Mr. Butterfield replied ok, that answered his question.

Councilor Henderson asked regarding driveway lengths and stated she is familiar with a renaissance development near her home and has experienced driveways that are very short and personally has run into a hitch while walking because the driveway isn't long enough for a vehicle with a hitch, she stated Mr. Goodell mentioned additional setbacks and asked how these will affect driveway lengths. Mr. Goodell replied they will be at least 20 feet deep and some could be deeper.

Mayor Mays stated the code indicates 20 feet from the back of the sidewalk to the front of the structure/garage door.

Mayor Mays asked for other Council questions, with none received he stated Council could ask questions as discussion continued. Mayor Mays asked if Mr. Goodell had anything further at this time.

Mr. Goodell stated he wanted to reference tree canopy and said as a result of testimony received by the City and at the last hearing, they amended some of the proposed landscaping along the eastern edge of lot 1 and put in an additional tree and spaced them out differently to provide an additional screening measure to that property owner who had written a letter.

Mr. Goodell stated in closing, his firm has worked with Renaissance on a couple of different projects in Sherwood and believes they have all been successful projects and projects that people really like and believes this will be in the case with this project.

Mayor Mays commented that the developments built in Sherwood by Renaissance have been successful and popular.

Mayor Mays thanked AKS Engineering and stated additional time was remaining for applicant rebuttal and moved onto receiving testimony for those in favor of the applicant and called forward Randy Sebastian. Mr. Sebastian replied he would wait for applicant rebuttal to testify.

Mayor Mays asked to receive testimony of those opposed to the application and called forward Susan Bejarano.

Tom Pessemier reminded the Council that 5 minutes is typically allowed for land use hearing testimony.

Susan Bejarano 21171 SW Bedstraw Terrace Sherwood came forward and stated she is retired and from Arizona and is a new Sherwood resident. She commented regarding her move to the area and looking at other neighboring cities and said Sherwood reminded her of why she loves Oregon and why she selected Sherwood over the other cities. Ms. Bejarano commented regarding what Oregon represents to her with greenery, trees and recycling and the culture of the people and said Sherwood upholds all these values and said she appreciates the Council and said servant leadership is not easy. She said 50 percent of constituent will be happy with Council's decisions and others may not be and she understands this. Ms. Bejarano stated the original plan that was presented to the voters, in her understanding in speaking with her Bedstraw neighbors, was entirely different on what they voted on. They were told a school would be built, that the plan had less units on it and the original draft or drawing the builder presented to them had lesser units and now that they are proposing 26 units and it differs from what they originally voted on. Ms. Bejarano stated on Tracts C & B, she believes these areas are not as densely wooded and said she loves the trees behind her property, they're huge, tall and at least 100 years old and to cut them down is a shame. Ms. Bejarano stated she understands progress and said the builder is a reputable builder and said she has no issues with the builder and it's a good thing for the community to have builders come in, but builders also need to accommodate the residents that are there and the residents that will buy there. Ms. Bejarano stated her property and her neighbor's property backup to the wooded area and this is the area that will be cleared for the housing, it's not Tract C or B that has already been cleared. Ms. Bejarano stated she proposes a change in the number of units to be built on the property and maybe different areas and to leave as many of those trees as possible. Ms. Bejarano stated the area off Edy Road is beautiful, picturesque and looks like a dream come true to her to be able to retire here. Ms. Bejarano stated she believes with the extra units being built it will create an overcrowded situation at the school and from her understanding the school is at capacity and with the additional children it will be over capacity. Ms. Bejarano gave examples of the wildlife in Arizona and the wildlife she has experienced in this wooded area and enjoying the wildlife and stated she does not believe this wildlife will continue to exist in this area when the woods are cleared and appealed to the Council to consider to have the builder go back to their original draft, original plan, on the details of this housing unit as it doesn't look the same as what was presented to her. Ms. Bejarano stated there was a walkway, a green buffer behind her property and again appealed to the Council to consider this and appealed to the builder to go back to their original plan. Ms. Bejarano stated she is aware of the legalities and lawyers have sewn this up tightly and they are completely within the realm to propose the changes and appealed to them as well to go back and create a beautiful living working environment that the current residents and new residents will enjoy. Ms. Bejarano stated it's not about how many houses you can get in there, it's about creating ambiance and the culture, climate and beauty of Sherwood to keep it that way so we can see as many of those trees as possible.

Mayor Mays thanked Ms. Bejarano and asked to receive additional testimony, with none received the applicant came forward to provide rebuttal.

Tom Pessemier informed that the applicant had 24 minutes of testimony time remaining.

Chris Goodell and Randy Sebastian came forward and Mr. Goodell stated he believes the plan that was referred to was the Area 59 Concept Plan and said he did not believe it specified how many units, other than maybe in the text. Mr. Goodell stated when they held the neighborhood meeting they had one more lot, 27, than what is being proposed now and reduced it as they thought it was overcrowded and said the MDRL zoning allows up to 35 and said we are at 26, far under the maximum. Mr. Goodell said with respect to trees, this was another consideration with reducing that lot and said an area that that lot was proposed for would have required a lot of tree removal. Mr. Goodell stated with respect to the new tree canopy code, we exceed that by a long shot. Mr. Goodell stated with respect to visual aspects of traveling along Edy Road, referencing the exhibit, there will be substantial green corridor there and a visual corridor per City code will be provided for the entire length. Mr. Goodell stated they believe this will meet City requirements and will look very nice.

Randy Sebastian with Renaissance Homes, 16671 SW Boones Ferry Road, Lake Oswego stated Mr. Goodell said everything he wanted to say and commented when he started building in Sherwood there wasn't a building department and he obtained his permits in Tualatin and since 2000 he has built 6 neighborhoods and over 200 homes and is proud of all of them and feels they did a very good job and said they will do a great job here as well. Mr. Sebastian stated the concept plan showed a school and open space designation, as a concept plan, and he then hired AKS to go through zone changes, which we are doing, and then hired biologist Murph Walker (spelling?) to delineate all the stream corridor. Mr. Sebastian stated he understands what Ms. Bejarano is saying, she's from Arizona and its beautiful here and that's why we all live here. Mr. Sebastian said he has relatives in Arizona and doesn't know why they live there. Mr. Sebastian stated one thing we forget about in these situations is the family that owned the property, in this case for a long time, Leonard Rychlick farmed the property and passed away and now the property goes to other family members who pay taxes. Mr. Sebastian commented regarding comments made of devaluing the property and said as long as we meet code, which we do, or exceed code, which we are, we will do a good job here. He said they have been working on this site for well over a year to get it to this stage, it wasn't just thrown together. He said AKS has done every development for Renaissance in Sherwood and do an exceptional job.

Mayor Mays thanked Mr. Sebastian and asked for Council questions. Mr. Sebastian asked to address the driveway lengths and said they are 20 feet long and in many cases they are longer, and gave an example of a larger vehicle length with a hitch being close to 18 feet and the owner needed to move it up closer.

Mayor Mays thanked the applicant and with no other Council questions said it will be a great project if it's supported and commented regarding knowing a lot of kids that will take the walk down Copper Terrace to get to school. Mr. Sebastian commented regarding working with staff to locate the path near the tennis courts to make the path exposed verses placing it between houses.

With no other testimony received, Mayor Mays closed the public hearing and asked for staff comments.

Brad Kilby stated staff wants to address two items; staff contacted the school district and according to them, they are not at capacity and he doesn't believe this is an issue for this subdivision.

Brad also informed the Council that the recently adopted tree code has been appealed to LUBA, the tree canopy requirements, and they are rightfully able to apply under those standards, and said, if

that is overturned at LUBA for any reason, they would need to be conditioned to comply with the standard that ultimately comes out of that decision. Brad stated we did not write a condition and recommends that as part of the Council decision, if approving this, we would need to craft a condition of approval. Brad offered to work with city attorney Chris Crean on this language.

Mayor Mays closed the public hearing and asked for Council questions of staff.

Council Henderson referenced a letter from one of the neighborhoods and they expressed concerns about line of sight at Bedstraw and Nursery Way as they are going west on Edy Road. Brad replied this is correct and explained the location as being steep and said the applicant will be grading this down to improve the sight distance and as part of the final approval, they have to certify that they continue to meet sight distance. Brad stated with the widening of Edy Road, some vegetation will be removed that may be hindering sight distance.

Councilor Butterfield commented and said he feels that with them coming into our City to create a nice subdivision like this is something that we need to embrace as it brings more families into our community and that is what we are about. Councilor Butterfield said he believes they produce a great product and he welcomes them.

Councilor Clark stated she agrees with Councilor Butterfield and said she is the liaison to the planning commission and sat in on all the presentation and feels they are making this subdivision with far less units than allowed per the code, they are following the code, and said as much as she loves green space, private property is not green space. Ms. Clark stated our community will benefit from this development and believes we should support development that follows our code and increases the livability of Sherwood.

Councilor Folsom stated she echoes that and appreciates that the codes were not at the bar, the applicant rose above the bar in a lot of areas and said she understands from reading the letters what the neighbors are saying. Councilor Folsom stated she appreciates Councilor Clarks comments that private property is private property and in this situation she believes those homes will be valuable to that area. She stated it's her understanding that the schools are not close to capacity and this will provide a great opportunity for children to be within walking distance of schools for 9 years and it seems to be an opportune area. Councilor Folsom commented regarding being familiar with renaissance homes near her home and appreciates the care taken with how the homes look.

Mayor Mays stated he agrees and said the builder is a fantastic builder and has done great work in our community and said another builder could have come in and changed to a higher density zoning. Mayor Mays stated it may be difficult initially for the neighbors but believes they will be happy in the long run with this verses the other options they could have had.

Mayor Mays asked staff and legal counsel if they have drafted a condition.

Chris Crean replied and stated the following language as a proposed condition of approval:

City of Sherwood Ordinance 2012-xxx, amended Sherwood Municipal Code 16.142.xxx regarding tree canopy coverage, ie the 30% standard. This application applied Sherwood Municipal Code 16.142..... (staff and legal counsel continued to work on proposed language).

Mayor Mays stated in the interim as staff develops the language, he asked Tom Pessemier from staffs perspective if staff was advocating that Tracts B & C be deeded to the community or be

maintained by the Home Owners Association. Mayor Mays stated the staff report indicates HOA. Council referenced page 186 of the Council packet.

Tom replied, it's what referenced in the code.

Mr. Sebastian commented from the audience, if the City is willing he would like to give the land to the City. Council discussion followed regarding cost to maintain, the area not being part of a trail system and the site size being an acre.

Tom replied it's mentioned in the staff report as an HOA.

Brad Kilby replied, it's not really spoken to in the staff report and said it's at the applicants suggestion and said he believes the HOA would maintain it and said staff would support that.

Mayor Mays asked City attorney Chris Crean if the language was ready.

Mr. Crean indicated he was done drafted the language and replied we need a *Condition of Approval* that reads something very close to the following:

The City of Sherwood Ordinance 2012-003 amended Sherwood Municipal Code 16.142.050 regarding tree canopy coverage. This application applied 16.142.070 as amended by Ordinance 2012-003. The ordinance is on appeal to the Land Use Board of Appeals, if Ordinance 2012-003 is reversed or remanded the applicant shall comply with the tree canopy coverage requirements in effect prior to the adoption of Ordinance 2012-003.

Mayor Mays motioned to add this amendment, seconded by Councilor Clark.

Legal Counsel and staff continued to discuss the proposed language.

Mayor Mays temporarily withdrew his motion.

Chris Crean stated the reason is, there's a statute that says when a City amends its land use regulations an applicant can proceed under those new regulations and do so at their own risk, if the regulation gets overturned on appeal, one would have to tear out the improvements or anything that got approved under the new standards. The new standard requires much less mitigation than the old standard (Chris confirmed with staff) so if that new standard isn't upheld on appeal and gets reversed or remanded by LUBA, it's not in effect any more and the City can't apply it, they will have to proceed under the old standard in 16.142.070.

Mayor Mays replied what was read by Mr. Crean (above in italics) is his motion to add that condition to the staff report recommendation, he confirmed this was a safe motion. Mr. Crean confirmed.

Mayor Mays asked for a second on the motion, seconded by Councilor Butterfield.

MOTION TO AMEND: FROM MAYOR MAYS AS STATED BY CHRIS, *The City of Sherwood Ordinance 2012-003 amended Sherwood Municipal Code 16.142.050 regarding tree canopy coverage. This application applied 16.142.070 as amended by Ordinance 2012-003. The ordinance is on appeal to the Land Use Board of Appeals, if Ordinance 2012-003 is reversed or remanded the applicant shall comply with the tree canopy coverage requirements in effect prior to the adoption of Ordinance 2012-003.* SECONDED BY COUNCILOR BUTTERFIELD, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR (COUNCIL PRESIDENT DAVE GRANT WAS ABSENT).

Mayor Mays asked for discussion on the amended Ordinance 2012-010, with none received he asked for Council action on the amended ordinance and the following motion was received.

MOTION: FROM COUNCILOR ROBYN FOLSOM TO READ CAPTION AND ADOPT ORDINANCE 2012-010, AS AMENDED, SECONDED BY COUNCILOR LINDA HENDERSON, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCIL PRESIDENT DAVE GRANT WAS ABSENT).

Mayor Mays addressed the next agenda item.

9. CITY MANAGER AND DEPARTMENT REPORTS

Community Development Director Tom Pessemier stated City Manager Joe Gall sends his regrets for not attending, he had a previously planned vacation. Tom reported since the last Council meeting the City Manager approved an OLCC permit for Music on the Green and the Historical Society. Tom stated they have traditionally sold wine at Music on the Green and as our usual course we are informing the Council. Tom reported that the City saw a lot of alcohol at the first concert that was not provided by the Historical Society and Chief Groth will be looking at this and will have police officers at each of the events to monitor. Tom stated staff may be coming back to the Council with additional code language changes as currently that type of activity is allowed.

Councilor Henderson clarified that patrons were bringing in alcohol even though it's posted at the bridge that it's not allowed beyond this point. Chief Groth confirmed this was correct and said there's conflicting code language that says it's allowable and staff will be working to clean up the language to help guide us moving forward. Council asked if this included the above park area, Chief Groth confirmed and said the language includes all parks. Chief Groth briefly explained the conflicting code language. Council asked what direction will the City be taking, and Tom Pessemier replied that hasn't been determined and the City Manager and Chief Groth will work on it and bring something back to the Council for consideration.

Tom reported other OLCC permits were approved for the Robin Hood Festival.

Mayor Mays addressed the next agenda item.

10. COUNCIL ANNOUNCEMENTS

Mayor Mays reminded the Robin Hood Festival was this weekend and the first annual Royal Academy following the festival and Wizard of Oz the following week.

11. ADJOURN

With no other business to address, Mayor Mays adjourned at 9.49 pm.

Submitted by:


Sylvia Murphy, CMC, City Recorder


Keith S. Mays, Mayor