



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, May 15, 2012

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

6:00pm Work Session

7:00pm Regular City Council Meeting

URA Board of Directors Meeting
(Following the City Council meeting)



Home of the Tualatin River National Wildlife Refuge

6:00PM WORK SESSION

REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CONSENT:
 - A. Approval of May 1, 2012 City Council Meeting Minutes
 - B. Resolution 2012-023 of the City of Sherwood approving employment related decisions of the Pro Temp City Manager consistent with Section 33 of the Sherwood Charter
5. PRESENTATIONS
 - A. Accreditation Award to Council by Joe Simon-Oregon Accreditation Alliance
(Police Chief Jeff Groth)
6. CITIZEN COMMENTS
7. NEW BUSINESS
 - A. Resolution 2012-024 Approving the terms of an Employment Agreement between Joseph Gall and the City of Sherwood, (City Attorney, Paul Elsner)
8. CITY MANAGER AND STAFF DEPARTMENT REPORTS
9. COUNCIL ANNOUNCEMENTS
10. ADJOURN TO URA BOARD OF DIRECTORS MEETING

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

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

To Schedule a Presentation before Council:

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

AGENDA

**SHERWOOD CITY COUNCIL
May 15, 2012**

6:00pm Work Session

7:00pm Regular City Council Meeting

**URA Board of Directors Meeting
(Following the Regular Council Mtg.)**

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



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
May 1, 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 Bill Butterfield, Matt Langer, Robyn Folsom, Linda Henderson and Krisanna Clark. Council President Dave Grant arrived at 6:45 pm.
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Finance Director Craig Gibons, Public Works Director Craig Sheldon, Police Chief Jeff Groth, Planning Manager Julia Hajduk, Assistant Planner Zoe Monahan and Administrative Assistant Kirsten Allen.
4. **TOPICS DISCUSSED:**
 - A. **Metro Urban Growth Boundary (UGB):** Tom Pessemier informed Council that the Department of Land Conservation and Development (DLCD) is recommending that the Metro analysis of the UGB expansion be remanded and desired Council support for staff to testify regarding the recommendation. Discussion followed.
 - B. **Trees on Private Property:** Zoe Monahan presented a power point presentation regarding the changes made to Ordinance 2012-003 per Council request (see record, Exhibit A) and provided Council with a memorandum handout with additional tree code revisions (see record, Exhibit B). Discussion followed.
5. **ADJOURN:**

Mayor Mays adjourned the Work Session at 7:00 pm.

REGULAR CITY COUNCIL SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:10 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Robyn Folsom, Linda Henderson and Krisanna Clark.
4. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Pro Tem Tom Pessemier, Finance Director Craig Gibons, Public Works Director Craig Sheldon, Police Chief Jeff Groth, Planning Manager Julia Hajduk, Assistant Planner Zoe Monahan and Administrative Assistant Kirsten Allen. City Attorney Chris Crean.

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

5. CONSENT:

- A. Approval of April 3, 2012 City Council Meeting Minutes**
- B. Approval of April 17, 2012 City Council Meeting Minutes**
- C. Approval of April 18, 2012 City Council Meeting Minutes**
- D. Approval of April 23, 2012 City Council Meeting Minutes**
- E. Resolution 2012-020 Approving employment related decisions of the Pro Tem City Manager consistent with Section 33 of the Sherwood Charter**
- F. Resolution 2012-021 Authorizing the City Manager Pro Tem to enter into an Intergovernmental Agreement with Washington County for development of West Nile Virus Response Plan**

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR ROBYN FOLSOM, ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed the next agenda item.

6. PRESENTATIONS:

A. Eagle Scout Recognition

No scouts were present.

Mayor Mays addressed the next agenda item.

7. CITIZEN COMMENTS:

Mara Broadhurst 28440 SW Ladd Hill Rd, Sherwood came forward and stated that she owned property on the corner of Hwy 99W and Meinecke Parkway and next to the Elks Lodge on Hwy 99W. Ms. Broadhurst stated that they had been trying to find out why Mr. Doyel, dentist and developer, had been allowed to purchase and improve property without a permit or site plan. Ms. Broadhurst stated that they had asked the City when Mr. Doyel purchased the property if he would need a site plan to develop a parking lot and if highway improvements and Cedarbrook Way issues would be addressed. Ms. Broadhurst stated that the business exceeds the parking capabilities of the site and soon after purchase there were machines on site without permits, site plan, or erosion control. Ms. Broadhurst stated that the City and code enforcement were informed without a stop work order. Ms. Broadhurst stated ODOT told them that the accesses had been sold and the property was to be accessed off of Cedarbrook Way. Ms. Broadhurst stated that cars are parking there and illegally accessing the highway. Ms. Broadhurst stated that her concern was that if Mr. Doyel was allowed to use the access and not improve his section of Cedarbrook Way or Hwy 99W it would stifle nearby development. Ms. Broadhurst stated that when they did their site plan across the street they had to bond for future highway improvement and if Mr. Doyel were to do the required site plan process and bond for improvements the neighbors would be assured that development could proceed in an orderly and legal fashion.

Mayor Mays stated that Mara's husband, Joe Broadhurst had informed him of the complaint and that staff is looking into the complaint.

Robert James Claus, 22211 SW Pacific Hwy Sherwood came forward. Mr. Claus handed documents to the City Clerk for the record. Mr. Claus stated he received a call from a potential buyer who wanted to buy the lots on McFall who stated there was no use trying to buy them because the City is trying to take them and he did not want to get involved because of the terms Mr. Galati placed in order to build the lots. Mr. Claus stated that Clean Water Services told him the conditions were anti-environmental and were in order to add costs so the lots could not be developed. Mr. Claus stated the buyer directed him to go down to the open path on Metro to see a path through his lots. Mr. Claus stated that he went to Metro and spoke to Jane Hart and Governor Roberts showed up at the metro meeting and asked for an investigation. Mr. Claus stated that Dan Cooper told him it was just a squiggle with a magic marker that can be moved. Mr. Claus stated that his wife's surgery has been rescheduled because this was another attempt to kill her. Mr. Claus stated the City knew where the road was going to be put and that they were not notified regarding a City meeting hosted by Michelle Miller which was confirmed by OTAK. Mr. Claus stated the little lines on Metro's map are not squiggles with a magic marker but paths put on there with engineers.

Mr. Claus stated that his favorite theme is that the City is doing this to restrain trade, but he is not sure that is true anymore. Mr. Claus stated that he thinks the staff has taken an incredible dislike to his attitude towards the City urban renewal plan. Mr. Claus stated that what the City has done with the Refuge and other things has made it so the City has got to teach us a lesson. Mr. Claus stated this is going too far and even Cooper won't believe it. Mr. Claus stated the City is putting something in place so that he can't sell his property and questioned what was said about being careful what was done with Nathan Doyel because of Dolan v. Tigard. Mr. Claus asked what the City was trying to do besides steal nine acres and stated that it was right there in writing. Mr. Claus stated that Michelle Miller sat there while Jane Hart went after him viciously. Mr. Claus stated that they have done more gifting in this town than other family and stated he has had disagreements with Council, has been excluded from meetings, and OTAK was allowed to trespass on his property. (Mayor Mays informed Mr. Claus that his time was running out). Mr. Claus stated that he has not been able to sell that property in three years and the reason is this City Council. Mr. Claus suggested the Council take some time and clean up its act and to do good things for more than the Langers.

Mayor Mays informed Mr. Claus that his time was up at almost 5 minutes and thanked him for his testimony.

Mayor Mays addressed the next agenda item.

6. NEW BUSINESS:

A. Resolution 2012-022 Authorizing an Intergovernmental Agreement (IGA) with ODOT to receive Transportation Growth Management (TGM) Funds to develop a plan for the Sherwood Town Center

Julia Hajduk, Planning Manager came forward and explained that the City received transportation growth management funds to do the Town Center Plan and before the process can begin an IGA must be completed between the City and ODOT. Julia stated that the scope of work negotiated between the City, ODOT and the consultant was attached to the IGA.

Mayor Mays thanked Julia and staff for getting the grant and asked for discussion from Council.

With no questions or discussion from Council, the Mayor asked for a motion.

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE RESOLUTION 2012-022, SECONDED BY COUNCILOR ROBYN FOLSOM. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed the next agenda item and reopened the public hearing for Ordinance 2012-003. Mayor Mays confirmed with City Attorney Chris Crean that the public hearing statement did not need to be repeated.

7. PUBLIC HEARINGS:

A. Ordinance 2012-003 Amending multiple sections of the Zoning and Community Development Code relating to trees on private property, including Divisions, I, V and VIII

Assistant Planner Zoe Monahan came forward and presented a power point presentation (see record, Exhibit C) and stated that the resolution was regarding the tree code clean up which is a continuation from the Council discussion on March 20th. Zoe stated that the Planning Commission held a number of work sessions and public outreach between December 2010 and January 2012 then forwarded a recommendation to the City Council in February of 2012 and the City Council continued a public hearing in March. Zoe stated Council just held a work session regarding the proposed changes to reflect the concerns that were heard at the previous Council meeting with some additional recommended changes.

Zoe stated that the purpose of the proposed tree code is to establish a fair and flexible code for developers and for the community. Zoe stated that the proposed code promotes tree preservation and makes the trees an asset by recommending that retained trees count as double towards the canopy requirement. Zoe stated that the ordinance eliminates the mitigation standard and that the canopy requirement is a new concept, Zoe further explained that it is difficult for people to understand because we are used to that mitigation standard. Zoe added that a diagram and a table have been prepared to be inserted into the code and it is recommended that they be codified to make it more clear as to what we are looking for with the tree canopy.

Zoe stated that there was interest in understanding why we are proposing a tree canopy for the residential developments rather than just having the street tree requirement and gave an example of a 26 lot subdivision now in review which shows that the street trees would only achieve a 30% canopy out of the 40% required for residential using 30 ft and 40 ft canopy spread trees.

Zoe referred to the presentation (Exhibit C) showing the table being recommended for insertion into the code that shows how to meet the canopy requirement and stated that it shows the requirement for residential and nonresidential and what types of trees, whether they are landscape trees, street trees, or retained trees and what can be counted to achieve that canopy. Zoe stated that the equation to determine how to achieve the canopy has been

broken down mathmatically and pi (π) has been updated to ensure that everyone is getting the same results.

Zoe referred to the presentation (Exhibit C) showing the diagram that is proposed for insertion into the code which shows that you don't have to have a cluster at 40% for residential but the trees can be clumped, retained, and planted. Zoe stated that there are a number of ways to achieve the required canopy and pointed out that the tree canopy is the expected mature canopy. Zoe stated that it doesn't mean that the developer is losing the area but can put a path or parking lots under the trees.

Zoe stated that there was also interest in getting more information regarding how the canopy is determined. Zoe reiterated that this applies to Type II through Type IV projects. Zoe explained that the number of trees that are needed for a one acre residential site is a 40% canopy, which can be found in the code language or on the table. Zoe explained that from there you could select the trees that you are going to retain on site, and select the street trees and any additional trees that you want to place on site to achieve your canopy. Zoe referred to the sample options in the presentation showing a number of ways that this could be achieved that provides flexibility to developers. Zoe stated that the example shows you could retain six trees using the double counting with a 40' spread or by planting four trees with a 30' spread and stated that another option would be for a site that does not have any trees where you could plant 11 trees with mature spread of 30' or plant 8 trees that have a 40' spread.

Zoe stated that in addition to the memo in the packet and the revised code in Exhibit 1A and 1B that there were additional changes added to clarify the language further in the memo dated May 1, 2012, with the revised language titled Draft Tree Code Language (see record, Exhibit B). Zoe began listing the changes with the clarification to the applicability that refers to the Type II - IV projects and stated that since we look at the highest level of review when we determine the process we wanted to ensure that any project that includes a Type III or IV be required to address the tree canopy, therefore "all applications including Type II – IV land use review" was added. Zoe stated that it is recommended that Sections D2 and D3 regarding the required canopy for residential and nonresidential be updated to add that "a variety of trees" be provided to achieve the canopy to encourage more than one type of tree be planted on site. Zoe stated that the table has been updated to identify how many decimal places need to be used when using pi (π) which is also updated in the diagram. Zoe referred to pages 12, 20 and 22 in the new code language (see record, Exhibit B) regarding the significant tree standards and the necessary buffers between sections and recommended that it read "necessary in required buffers". Zoe added that "other qualified professional" was added to all sections but was missed in tree protection during development section which was added to be consistent. Zoe stated that the trees on private property not subject to land review but nonresidential has an added exemption to tree replacement for sites such as St. Francis that in the future might need to remove trees and which won't be required to be replaced which is clarified in section 16.142.080.C.2.(3) which is also for the nonresidential pieces that do not require a land use review. Zoe stated that staff recommends that the City Council adopt the updated version dated May 1, 2012 by a motion to modify exhibit 1A to reflect the revisions and then a motion to adopt Ordinance 2012-003.

Mayor Mays asked to receive public testimony on the proposed Ordinance 2012-003.

Robert James Claus 22211 SW Pacific Hwy Sherwood came forward and stated that the form to sign up for comment is a form of prior restraint and violated time, place and matter content restrictions. He commented regarding staff resumes, a compliance agreement and the Langer tax ruling. Mr. Claus stated he wanted to appeal to LUBA and asked why it was not retroactive to every place in town and why 99W was singled out. Mr. Claus stated that there are provisions on 99W where you cannot grow the trees or they are taken out. Mr. Claus stated he told Ms. Hajduk they were going to remove trees specified in the ordinance and that she was told by PGE to mind her own business. Mr. Claus stated that legal liability for the trees being suggested for 99W are beyond belief and you cannot get policies to cover it. Mr. Claus commented regarding native species and it being confusing and mixed up and stated he has raised hybrid poplars which are meant for pulp and harvesting and not defined in the ordinance. Mr. Claus stated that native species are defined as non native species and this needs to be clarified. Mr. Claus stated that numerous sections in the ordinance are mixed up. Mr. Claus stated that poplars grow quickly, living 30-50 years then die and some of the trees he has planted grow very slowly and are nothing at fifty years old. Mr. Claus stated that under this ordinance that it would be impossible to replace a poplar when it dies a natural death and that is not taken into consideration. Mr. Claus stated that the City is requiring that we enter a federal government controlled highway and landscape it and stated the compliance agreements should be read before stating we can do that.

Mr. Claus commented regarding a Mayor Gilgan of Massachusetts stated there were two reasons why you would write an ordinance like this. Mr. Claus commented you could not read the ordinance and make anything out of it and there is too much vague language. Mr. Claus commented regarding native species listed that were not native and commented regarding statements made by Carol Connell and a subdivision being planted with native species then stated that none of the trees planted were on the tree list. Mr. Claus commented there are standards that cannot be met and he doesn't know what they mean. Mr. Claus commented there was a conspiracy in this town to restrain trade and harm 99W which comes in a myriad of ways like sign code enforcement, sign code language, and trees so that you can get money out of urban renewal. Mr. Claus recommended that each member of Council recuse himself because they are getting money to run the city by stealing money from school children.

With no other comments Mayor Mays closed the public hearing.

Zoe Monahan returned for questions from Council.

Councilor Bill Butterfield stated that he has spent quite a bit of time review this document as well and recognized the effort staff put into it. Councilor Butterfield stated it was a lot cleaner and simpler and was pleased with staff's work.

Councilor Langer referred to page 4 of the updated draft language (see record, Exhibit B) and asked if it was correct that as far as trees that are planted that meet the canopy requirements we are not defining what size caliper of tree has to be planted.

Zoe stated that for trees on private property that are subject to land use review we are looking at the expected mature canopy spread and not at how they are measured when it comes to diameter at breast height.

Mr. Langer gave an example of a residential site where a couple of street trees could be planted for credit and planting a seedling in the yard with no defined caliper for that tree or adequate protection and meeting the canopy requirement.

Zoe answered that we are trying to provide flexibility for developers that if they show that the seedling is protected and is going to grow then the tree counts.

Mr. Langer stated that some fears that were expressed by home builders and others was that they would have to plant more of the expensive 2" plus caliper trees and there is a lot of investment in that.

Zoe stated that the street trees have to be a 2" caliper and seedlings do have to be healthy and have the ability to grow and we would want them to be replaced if they die.

Mr. Langer asked regarding retained tree canopies in the case where an existing tree might exceed the canopy size you might find in literature and further inquired that if you have trees that are, stated to have a forty foot canopy but you have an existing tree that exceeds that, can the applicant get actual credit for that canopy.

Zoe confirmed and stated that a specific resource is not identified and an arborist stating that an existing tree on site has a certain canopy can be accepted.

Mr. Langer commended staff regarding the retention of existing trees because they look great in our community.

Mayor Mays stated that there is the potential that someone will come in with a project where they believed they cannot come up with the required canopy and asked if there was a process to make an argument for a variance.

Zoe answered that there is nothing specific in the tree code, but there is a variance process in place that can be used.

Mayor Mays stated that the canopy was very much achievable but it is unknown as to how development might change in one category or another so it should be said that there is a variance process that can be used.

Councilor Clark referred to page 19 of the handout (see record, Exhibit B) and asked how does the tree code effect her neighbors and residents of the City. Ms. Clark stated that under the residential single family and two family standards an existing residential property can remove up to five trees that are not street trees or up to 10% of the number of trees on the site within a twelve month period. Ms. Clark commented that notification to the City is a great way to handle your neighbors that the tree is being removed and if questions can come to the city they can field questions.

Zoe stated that there hasn't been a lot of time spent on private property not subject to land use review.

Mayor Mays commented that if you have to take out a street tree you have to replace the street tree per code. Mayor Mays stated that in general, people plant more trees in their yard and sometimes want to make changes and remove it or plant something else.

With no other discussion from Council the Mayor made the following motion.

MOTION: FROM MAYOR MAYS TO MODIFY EXHIBIT 1A TO REFLECT THE REVISIONS IDENTIFIED IN THE DRAFT TREE CODE LANGUAGE DATED MAY 1, 2012 FOR ORDINANCE 2012-003, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays asked for a debate or a motion on the amended ordinance. The following motion was received.

MOTION: FROM COUNCIL PRESIDENT GRANT TO READ CAPTION AND ADOPT ORDINANCE 2012-003, AS AMENDED, SECONDED BY COUNCILOR LINDA HENDERSON, ALL COUNCIL MEMBERS VOTED IN FAVOR.

B. Ordinance 2012-004 Amending Sherwood Municipal Code Section 15.16.100 regarding System Development Charge Credits

Mayor Mays indicated the legislative number assigned to this ordinance as 2012-004 was incorrect as it should have been assigned Ordinance 2012-007.

City Manager Pro Tem Tom Pessemier explained that in 2007 the City revised the System Development ordinance that included the section involving credits. Tom stated the ordinance in 2007 took out a section of the ordinance that required the City to notify developers if they had credits available for their property if they built qualified improvements. Tom explained upon a situation where a developer came in for land use approval and made improvements that did not qualify when the project began because it was not on the transportation systems plan or the capital improvements plan and was not included in the methodology. Tom explained that the project became eligible because of the length it took to complete the project and changes in the transportation system plan and transportation system development charge methodology changes. Tom explained that the developer ended up building a road that was SDC creditable but missed the opportunity for credits because of poor communication and not applying within 90 days of finishing the project. Tom explained that this was not fair and it was not the intent of the City. Tom stated that the ordinance allows any projects within that time frame and January 2012 to ask for system development credit if they meet the requirements. Tom stated the ordinance amends section 15.16.100 and adds some text in Item H that the City shall provide written notice to the persons making the improvement that the improvement may qualify for improvement and the credit request must be filed within 90 days of acceptance. Tom stated that it puts the burden on the City to notify the developers that we believe that their property may be eligible for credits and puts them on notice that they have 90 days to get the information back. Tom stated that we are trying to make things better and make sure there is no miscommunication and to treat developers fair.

Mayor Mays thanked Tom and confirmed with City Attorney Chris Crean that public hearing testimony was not required and up to the discretion of Council. Chris Crean confirmed. Mayor Mays asked if there was a request from Council to receive citizen comments on the proposed ordinance. With no requests from Council to receive public testimony, Mayor Mays asked for discussion from Council.

Councilor Folsom stated that this is to be more customer service oriented and to help with the System Development Charges and to be focused on helping the developer.

Tom confirmed and stated that we put requirements on the City when it is important to make sure people are treated the best they can and if the City identifies a credit they may not be aware of we want to make sure they know that and they can have their SDC reduced through credits.

Ms. Folsom stated that in a large development project this is something that could easily be overlooked as things change and stated she appreciated the efforts staff has taken.

With no further discussion the following motion was received.

MOTION: FROM COUNCILOR HENDERSON TO AMEND THE TITLE FOR ORDINANCE 2012-004 TO 2012-007, SECONDED BY MAYOR MAYS. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays asked for a motion on Ordinance 2012-007.

MOTION: FROM COUNCIL PRESIDENT GRANT TO READ CAPTION AND ADOPT ORDINANCE 2012-007, AS AMENDED, SECONDED BY COUNCILOR LINDA HENDERSON, ALL COUNCIL MEMBERS VOTED IN FAVOR.

8. CITY MANAGER AND DEPARTMENT REPORTS

City Manager pro tem Tom Pessemier stated there had been an increase in the number of complaints from citizens, staff and City Council regarding inappropriate behavior at the Plaza specifically damaging the public facility that is a very nice public asset. Tom stated there have been large boulders smashed, panel doors beaten up, and other activities incurring damages. Tom stated that the City took a proactive action to put together an ordinance in order to protect public places and he has spoken with Chief Groth and there will be a plan put in place to start cracking down on that type of behavior especially to those causing damage and being disruptive. Tom added that the people in the park are being rude and talking back and progressive action will be taken and enforcement stepped up in the way that we deal with those issues up to and including levying fines if that is what it takes to correct the behavior. Tom stated that fines would be the last desired option as well as looking to get compensated for damage that is done. Tom stated that cameras will be active very soon so we will be able to watch that area with a more careful eye. Tom informed Council that more signs will be put in place as we want to make sure the area stays nice and lasts for a long time. Tom announced that June 1st will be a grand opening celebration which will correspond with turning on the water feature for the season and said Community Services Director Kristen Switzer is working with some partners in the community to have a celebratory event at the plaza.

Tom stated that there was a second dog bite with an officer on duty and that Chief Groth and his staff have taken a hard look at the K-9 program which has been suspended. Tom stated that the chief has concluded that Azi is not the right dog for Sherwood. Tom explained that Azi will be going back and there will be a credit for the costs that were paid to acquire Azi. Tom stated that a pause will be put on the program in order to put the proper policies and procedures in place so that when the City replaces him the K-9 program can be successful. Tom stated he supports the program and Police Chief Groth has talked to many other K-9 units in the state and said it is a great program and we need to find a way to make it work so that it is effective and people don't get hurt.

Mayor Mays commented that there has been concerns about our officers and the dog but also supportive of the program. Mayor Mays stated the Plaza celebration on June 1st is going to be exciting and a majority of the youth are excited to have the water turned on and hopefully we will be able to correct the behavior of a small minority in our community that are not appreciating that and other assets in our community.

9. COUNCIL ANNOUNCEMENTS

There were no council announcements.

10. ADJOURN TO URA BOARD OF DIRECTORS MEETING

Mayor Mays adjourned at 8:01 pm and convened to a URA Board of directors meeting.

Submitted by:

Kirsten Allen, Administrative Assistant

Keith S. Mays, Mayor



RESOLUTION 2012-023

A RESOLUTION OF THE CITY OF SHERWOOD APPROVING EMPLOYMENT RELATED DECISIONS OF THE PRO TEMP CITY MANAGER CONSISTENT WITH SECTION 33 OF THE SHERWOOD CHARTER

WHEREAS, Section 33 of the Charter requires City Council appoint a manager pro tem when the City Manager position becomes vacant; and

WHEREAS, the City has appointed Tom Pessemier as City Manager Pro Tem; and

WHEREAS, Tom Pessemier, as City Manager Pro Tem has the authority and responsibilities of the City Manager except relative to the appointment and removal of City employees which can only be done with City Council approval; and

WHEREAS, the City Council has been informed that the City has need to appoint and remove individuals to certain positions to ensure the City’s continuing municipal operations; and

WHEREAS, the Human Resource Manager, by and through the City Manager Pro Tem, has informed the City Council that all appointments and removals for which City Council approval is sought are done consistent with the City’s long-established human resource policies, procedures and protocols.

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

Section 1. The City Council hereby approves the hire of temporary employees, on the attached Exhibit A consistent with the terms thereof.

Section 2: This Resolution shall be effective as of the date of its adoption by the City Council.

Duly passed by the City Council this 15th day of May 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

Exhibit A

The hire of:

One (1) temporary Recreation Assistant- ON CALL. Community Services Division employee – duration of employment not to exceed six (6) months.



RESOLUTION 2012-024

**A RESOLUTION APPROVING THE TERMS OF AN EMPLOYMENT AGREEMENT
BETWEEN JOSEPH GALL AND THE CITY OF SHERWOOD**

WHEREAS, the City Council selected Joseph Gall as the City’s newest City Manager and authorized the Council President David Grant, Councilor Linda Henderson, Heather Gantz of Waldron and Paul Elsner of the City Attorney’s office to draft and negotiate an employment agreement between the City and Mr. Gall; and

WHEREAS, a draft employment agreement has been negotiated and drafted and now requires Council approval;

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

Section 1. The Mayor is authorized to sign, on behalf of the City, an employment agreement between the City of Sherwood and Joseph P. Gall in a form substantially akin to that attached here as Exhibit “A” the final form and terms of which is subject to review by Council President David Grant and Councilor Linda Henderson.

Section 2. This resolution is and shall be effective from and after its passage by the Council.

Duly passed by the City Council this 15th day of May 2012.

David Grant, Council President
on behalf of Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made and entered into effective the ____ day of May, 2012, by and between the CITY OF SHERWOOD, OREGON (“CITY”), and JOSEPH P. GALL (“EMPLOYEE”).

WITNESSETH:

WHEREAS, CITY recognizes EMPLOYEE, as a Credentialed Member of the International City County Management Association (ICMA), has shown himself to have the education, training and experience necessary to be appointed as Sherwood’s City Manager and EMPLOYEE is willing to accept said appointment; and

WHEREAS, CITY and EMPLOYEE desire a written agreement creating a professional and businesslike relationship serving as the basis for effective communication and to avoid misunderstanding;

NOW THEREFORE, in consideration of the mutual covenants contained herein as well as for the other consideration described, CITY and EMPLOYEE mutually agree:

SECTION I. EMPLOYMENT, DUTIES AND AUTHORITY.

The CITY has agreed to employ JOSEPH P. GALL as City Manager. EMPLOYEE agrees to accept said employment.

The authority of EMPLOYEE, consistent with state law, the Sherwood City Charter and pertinent ordinances shall include, but not be limited to, the following:

- the overall management, administration and direction of City operations;
- the hiring, disciplining and firing of all City employees/agents except Municipal Judge, City Recorder and City Attorney;
- the negotiation, execution and administration of City contracts within budget appropriations pursuant to City policy and ordinance;
- providing policy advice to elected officials;
- maintaining open communications with the community to thereby foster both responsive and courteous public services;
- working toward achieving goals set by the City Council; and
- other duties as the City Council may, from time to time, assign.

The Mayor and the other members of the City Council agree to the principle of noninterference in the administration as necessary for orderly and efficient implementation of Council policy. The Mayor and City Council agree to direct their concerns and communications relating to the City’s administration through the City Manager. EMPLOYEE agrees to respond promptly to all inquiries from the City Council whether made individually or collectively.

SECTION II. TERM.

- A. This Agreement shall commence on June 25, 2012, and, unless terminated consistent with the terms hereof, shall continue for a two (2) year term (i.e., until June 30, 2014). This Agreement may be renewed by the parties for such additional periods as may be agreed upon in writing and approved by Council resolution.
- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate services of EMPLOYEE at any time subject only to the provisions set forth in this Agreement.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from his position subject only to the provisions set forth in this Agreement.
- D. EMPLOYEE agrees to remain in the exclusive employ of the CITY during the term of this Agreement.

SECTION III. SALARY, HOURS OF WORK, BENEFITS.

- A. Salary. Commencing June 25, 2012, and for the remainder of the term of this Agreement, the CITY agrees to pay EMPLOYEE One Hundred Fifteen Thousand Five Hundred Sixty Four Dollars and no/00 (\$115,564.00) as a yearly salary to be paid in installments at the same interval as CITY pays its other employees. EMPLOYEE shall also be entitled to receive a Cost of Living Adjustment (COLA) to his salary in the same percentage amount as may be given the CITY's unclassified professional employees. EMPLOYEE'S salary will be reviewed in conjunction with EMPLOYEE's yearly performance evaluation.
- B. Hours of Work. It is recognized EMPLOYEE must devote a great deal of time outside normal office hours to business of the CITY; as such, EMPLOYEE may take up to forty (40) hours as Management Leave per Fiscal Year to be used at EMPLOYEE's discretion during the term of this Agreement. Management Leave may not be accrued from year-to-year and shall have no cash value upon termination or resignation from the CITY's employ.
- C. Vacation. EMPLOYEE shall be entitled to the same vacation benefits as the CITY's other management/professional employees. Notwithstanding the foregoing, EMPLOYEE shall be deemed to have accrued eighty (80) hours of vacation for use during FY 2012-2013, which accrual amount shall have no cash value in the event of EMPLOYEE'S termination or resignation from the CITY's employ during FY 2012-2013 nor will it be carried over beyond said period.
- D. Holiday Benefit. EMPLOYEE shall receive payment for all City observed holidays.

- E. Sick leave. EMPLOYEE shall be entitled to the same sick leave benefits as other management/professional employees of the CITY. Notwithstanding the foregoing, as of June 25, 2012, EMPLOYEE will be deemed to have accrued forty (40) hours of sick leave. Sick leave shall have no cash value.
- F. Motor Vehicle Allowance. EMPLOYEE shall be paid, no sooner than September 15, 2012, a monthly motor vehicle allowance of Four Hundred Dollars (\$400.00) for use of his private vehicle(s) on and for City purposes. EMPLOYEE shall neither be entitled to nor seek reimbursement for mileage for his private vehicle(s) for travel on and for City purposes within a fifty (50) mile radius of the City but may, at his option, seek mileage reimbursement for travel on City business beyond that 50 mile radius.
- G. Cellular Phone Allowance. EMPLOYEE shall be paid the monthly cellular phone allowance (currently Eighty Dollars (\$80.00)) as is paid other CITY management/professional employees.
- H. Relocation Assistance. EMPLOYEE shall receive, within thirty (30) days of relocation of EMPLOYEE's family to Sherwood, a payment of up to Seven Thousand Five Hundred Dollars (\$7500.00) to help offset a portion of the moving costs associated with said relocation. EMPLOYEE shall provide the CITY with evidence of the moving costs to support the reimbursement.
- I. CITY shall pay, on behalf of EMPLOYEE, the premium cost for a term life insurance policy in the amount of Three Hundred Thousand and no/00 Dollars (\$300,000.00).

SECTION IV. TERMINATION AND LIQUIDATED DAMAGES.

- A. At-Will Termination Right. This Agreement may be terminated by either the CITY or EMPLOYEE for any reason whatsoever upon giving thirty (30) calendar days written notice to the other party, except as modified in subsection (G) of this Section.
- B. Employee Termination for Cause. EMPLOYEE's employment with the CITY may be terminated immediately in the sole discretion of the CITY upon the occurrence of any of the following events:
 - a. EMPLOYEE fails or refuses to comply with the written policies, standards and regulations of the CITY that are now in existence or are from time to time established;
 - b. The CITY has substantial evidence to believe EMPLOYEE has committed fraud, misappropriated CITY funds, goods or services to either his own or some other private third party's benefit and/or other acts of misconduct which the City Council believes, in its sole discretion, is or would be detrimental to the CITY and/or its interests; or
 - c. EMPLOYEE fails to perform his duties as City Manager.

C. Employee Not for Cause Termination. In the event EMPLOYEE is involuntarily terminated by CITY before expiration of this Agreement (albeit EMPLOYEE is willing and able to perform his duties as City Manager) for reasons other than those set out in subsection (B) of this Section, then in that event EMPLOYEE shall be entitled to (and CITY agrees to pay EMPLOYEE) liquidated damages consistent with the following schedule:

- anytime during the period between June 25, 2012 to and including December 31, 2012, liquidated damages equal to two (2) months' salary; or
- anytime during the period between January 1, 2013 through and including June 30, 2013, liquidated damages equal to four (4) months' salary; or
- anytime during the period between July 1, 2013 to the end of the Agreement's term, liquidated damages equal to six (6) months' salary.

Payment of the applicable amount of liquidated damages shall be made monthly, each payment being the value of one (1) month's salary or portion thereof to which EMPLOYEE has accrued a right (assuming entitlement thereto consistent with the graduated schedule). The right to said payment shall cease if, during the period of the scheduled payments, EMPLOYEE accepts employment with another employer (including self-employment). EMPLOYEE has an affirmative obligation to notify CITY upon acceptance of other employment. In the event EMPLOYEE fails to notify CITY of his employment, CITY shall have the right (but not the obligation) to seek recovery from EMPLOYEE of any and all amounts improperly received as well as recovery of any cost(s) or fee(s) (including attorney fees) CITY incurs in pursuit thereof.

D. If the CITY unilaterally (i.e., without concurrence of EMPLOYEE) reduces the salary or other financial benefits of EMPLOYEE in greater percentage than an applicable across-the-board reduction for all unclassified employees of the CITY, then EMPLOYEE may deem this Agreement to be involuntarily terminated without cause and he shall thereby be entitled to liquidated damages consistent with subsection (C) of this Section.

E. If EMPLOYEE is terminated by CITY during the six (6) month period immediately following the official seating of one or more newly elected Council members (for reasons other than those set out above in subsection (B) of this Section), notwithstanding EMPLOYEE's willingness and ability to perform his duties, EMPLOYEE may deem himself involuntarily terminated without cause and shall be entitled to liquidated damages consistent with subsection (C) of this Section.

F. Termination (regardless of whether for cause or without cause) or voluntary resignation, (except as limited by the terms of Section III(C) above relative to the non-cash vacation hours described therein) entitles EMPLOYEE to a lump sum payment equivalent to all accrued vacation benefits which payment shall be made within thirty (30) days of the official date of termination or resignation.

G. Notwithstanding the notice provision set out in subsection (A) of this Section, if EMPLOYEE voluntarily resigns his position with the CITY before the expiration of this Agreement, EMPLOYEE shall give the CITY at least sixty (60) calendar days written notice in advance and EMPLOYEE shall be available to serve during this period. The City Council,

however, shall have the discretion to decide whether EMPLOYEE shall continue in his position during the notice period.

SECTION V. RETIREMENT AND HEALTH INSURANCE.

- A. Retirement. CITY agrees to contribute into the Oregon Public Employees Retirement System on EMPLOYEE's behalf an amount at least equal to that same percentage of salary contributed for the CITY's other management/professional employees.
- B. Health Insurance. If EMPLOYEE elects to participate in the CITY'S health insurance programs, CITY agrees to provide coverage and make required premium payments for EMPLOYEE and his dependents for comprehensive medical and dental coverage consistent with City policy for the CITY's other management/professional employees.

SECTION VI. PROFESSIONAL DEVELOPMENT AND EXPENSE.

- A. To the extent funds are available and budgeted by Council, EMPLOYEE may participate, as he deems appropriate, in professional associations, short courses, seminars and conferences including, but not limited to, membership in the International City Management Association (ICMA) and the League of Oregon Cities (LOC). Major expenses such as out of town attendance at meetings requiring lodging and meals shall be reviewed and be approved in advance by the Council.
- B. CITY recognizes that certain expenses may be incurred by EMPLOYEE on behalf of the CITY and agrees to reimburse or pay reasonably necessary expenses upon receipt of appropriate documentation.

SECTION VII. PERFORMANCE REVIEW.

- A. The Mayor and other members of the City Council may periodically identify concerns they may have to EMPLOYEE either by informal discussions with EMPLOYEE or more formally. The City Council shall meet with EMPLOYEE at least once annually during the term of this Agreement, which first meeting shall occur not later than February 15, 2013, and thereafter not later than February 15th of each year for purposes of setting City Council goals and priorities and to evaluate and assess the performance of EMPLOYEE in meeting or progressing towards the goals adopted by the City Council and to examine EMPLOYEE's exercise of authority granted or otherwise identified in Section I of this Agreement. The evaluation of EMPLOYEE shall be in closed Executive Session but conducted consistent with Oregon's Public Meetings Law.
- B. In the event the CITY determines performance of EMPLOYEE is unsatisfactory or needs improvement in any area, the CITY (through the City Council) shall cause there to be produced a written description of the concern(s) which shall be in reasonable detail or with

specific examples and be objective and positive in nature and delivered to EMPLOYEE in a timely fashion.

SECTION VIII. GENERAL PROVISIONS.

- A. Professional Liability. The CITY agrees to defend, hold harmless and indemnify EMPLOYEE from any and all demands, claims, suits, actions and legal proceedings brought against EMPLOYEE in his individual capacity or in his official capacity as agent and employee of the CITY, consistent with the terms of the Oregon Tort Claims Act (ORS 30.260 to 30.300).
- B. Nothing shall restrict the ability of the CITY and EMPLOYEE to amend or adjust the terms of this Agreement at any time. However, no amendment or adjustment shall be valid unless in writing and signed by an authorized representative of the CITY and by EMPLOYEE. EMPLOYEE reserves the right to discuss the terms of this Agreement with the City Council as a whole in either closed Executive Session or open Regular Session as state law allows and as EMPLOYEE deems appropriate.
- C. Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected and shall remain in full force and effect.
- D. The rights and duties of CITY and EMPLOYEE shall survive termination of this Agreement.
- E. Arbitration. In the event the parties have a dispute concerning the terms of this Agreement, the terms and conditions of the employment relationship or the violation of any federal, state or local law relating to the employment relationship and they have not otherwise resolved the matter through any attempted mediation, conciliation or other voluntary dispute resolution process they choose to use prior to the initiation of arbitration, then the dispute shall be resolved by binding arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. Each party shall bear equally the expense of the arbitrator and all other expenses of conducting the arbitration. Each party shall bear its own expenses for witnesses, depositions and attorneys, if deemed necessary.

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F. Integration. This Agreement contains the entire Agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

IN WITNESS WHEREOF the CITY OF SHERWOOD, OREGON, has caused this Agreement to be signed and executed by its Mayor, Keith Mays, and JOSEPH P. GALL has signed and executed this Agreement, both in duplicate, the day and year noted below each signature.

Keith Mays
Mayor

Joseph P. Gall
EMPLOYEE

Dated: _____, 2012

Dated: _____, 2012

DRAFT

Field House					
Monthly Report April 2012					
April-12	Apr-12		YTD		Apr-11
					Est.
Usage		People		People	People
	<u>Count</u>	<u>Served*</u>	<u>Count</u>	<u>Served*</u>	<u>Served</u>
Leagues	5	585	25	5470	330
Rentals	73	1825	767	17561	1300
Other (Classes)			1	5	
[1] Day Use	11	110	91	748	119
Total Usage		2520		23784	
					1749
Income	Apr-12	YTD			
Rentals	\$4,145	\$41,378			
League fees (indoor)	\$5,275	\$72,529			
Card fees (indoor)	\$540	\$4,360			
Day Use	\$213	\$1,483			
Merchandise					
Snacks	\$604	\$4,828			
Classes		\$175			
Total	\$10,777	\$124,753			
FY 10-11					
Income	Apr-11	YTD			
Rentals	\$2,975	\$46,929			
League fees (indoor)	\$7,999	\$63,239			
Card fees (indoor)	\$80	\$3,162			
Day Use	\$208	\$1,745			
Merchandise					
Snacks	\$496	\$5,333			
Classes		\$2,336			
Total Income	\$11,758	\$122,744			

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

Active Rec happenings during the month of April 2012

Youth soccer played four games at Snyder Park during the month of April.

Youth soccer also rented Snyder Park for their Spring Academy on Tuesdays and Thursdays during the month of April.

Youth lacrosse played 24 games at Snyder Park and 5 Games at the High school during the Month of April.

Youth Track held the Ice Breaker Track meet on April 21st at the High School and had over 400 kids at the meet.

Youth baseball played some games at Archer and Middleton with the younger group as the weather allowed. While the older kids played some practice games.

Youth softball played some of the younger kid's rec games at the high school as well, not many games were played due to weather.

Greater Portland Soccer District rented Snyder Park and played 8 adult games during the month of April.

Respectfully

Lance Gilgan

April 30 2012

Sherwood Public Library – April 2012

	<u>Current Yr</u>	<u>Past Yr</u>	<u>% Change</u>
Check out	33,388	34,063	-2% (Self-checks stats unavailable)
Check in	25,035	25,472	0%

- New Library cards 107
- Volunteer hours 201.25 hours (30 volunteers)

Monthly Activities

- Twenty-seven Baby, Preschool and Toddler Storytimes (531 children / 424 adults = 955 total)
- One Read-to-the-Dogs program
- Magazine Monday (free magazine giveaway)
- WCCLS RFID tagging team continues tagging materials
- Staff attends various Polaris 4.0 upgrade training sessions at WCCLS
- New volunteer training continues
- 04/09-13 RFID Hardware installation – 3M security gates & two self-check kiosks
- Public photocopier moved & out of service until coin-op repaired and electricity routed to new location
- Architectural glass installed on old self-check cabinet for barrier necessary with new security gates
- Vandalism in the women’s restroom – Police report filed and Public Works quickly covered the damage
- 04/09 Materials ordering resumed after brief hiatus for RFID tagging process
- 04/14 Hearing Voices Storytelling Festival with Kirk Weller and “My Africa – Folktales from Across the Sea” (18 attendees)
- 04/15 Adult Writing Workshop “Journeys” with Marie Buckley (9 participants)
- 04/17 “Meet & Greet” Sherwood City Manager candidates
- 04/18 Library Advisory Board Meeting
- 04/20 Library Staff Meeting
- 04/21 Pelts & Skulls program presented by Tualatin River National Wildlife Refuge (11 attendees)
- 04/28 Friends of the Library Used Book Sale
- Library staff attended various regional, City and WCCLS meetings: Circulation, Youth Services, Acquisitions, Cataloging, WUG, Latino Services, Policy Group, Budget Committee, Health Benefits Committee and Safety Committee