



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
March 20, 2012**

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:20 pm.
2. **COUNCIL PRESENT:** Mayor Mays, Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, and Linda Henderson. (Councilors Robyn Folsom and Krisanna Clark were absent).
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Community Services Director Kristen Switzer, Finance Director Craig Gibons, Public Works Director Craig Sheldon, Human Resource Manager Anna Lee and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**
 - A. **League of Oregon Cities, Training Video, Land Use Hearings:** City Manager Pro Tem Tom Pessemier explained the video and reviewed it with the Council. Discussion followed.
 - B. **Preliminary Issues for 2013 Budget Process:** Tom Pessemier and Finance Director Craig Gibons presented a power point presentation (see record, Exhibit A) and reviewed it with the Council. Discussion followed.
5. **ADJOURN:** Mayor Mays adjourned the work session at 7:02 pm.

REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:12 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**
4. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, and Linda Henderson. Councilor Robyn Folsom arrived at 7:30 pm and Councilor Krisanna Clark was absent.
5. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Community Services Director Kristen Switzer, Public Works Director Craig Sheldon, Assistant Planner Zoe

Monahan, Senior Planner Brad Kilby, IT Director Brad Crawford, Human Resource Manager Anna Lee, Police Captain Mark Daniel and City Recorder Sylvia Murphy.

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

6. CONSENT AGENDA

- A. Approval of March 6, 2012 City Council Meeting Minutes**
- B. Approval of March 12, 2012 City Council Meeting Minutes**
- C. Resolution 2012-013 of the City of Sherwood approving employment related decisions of the Pro Tem City Manager consistent with Section 33 of the Sherwood Charter**
- D. Resolution 2012-014 authorizing the City Manager Pro Tem to enter into an Intergovernmental Agreement (IGA) with Washington County for the 2012 Slurry Seal Program**

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR (COUNCILORS ROBYN FOLSOM AND KRISANNA CLARK WERE ABSENT).

Mayor Mays addressed the next agenda item.

7. CITIZEN COMMENTS

Patrick Huske 23352 SW Murdock Rd, Sherwood came forward and stated that the last several weeks he has been scouring the tree adoptions to decide how they hurt the region. Mr. Huske stated that he lives in an area known as the Southeast Sherwood neighborhood and the Ken Foster Farms area that has involved DEQ because of its hazardous waste. Mr. Huske stated that he has worked through DEQ over the last five years trying to solve the problem. Mr. Huske asked Council to consider bringing back the SE Sherwood Master Plan, stating that in its infancy there was money from the state, involvement from then City Planning Director Kevin Cronin, staff, and Metro with citizen input. Mr. Huske asked why the Master Plan wasn't passed as all the work was done, and commented that much of the same effort was put into the Brookman Annexation. Mr. Huske commented regarding the Denali PUD receiving approval for only six lots that may prevent the area from being developed. Mr. Huske asked the Council to consider bringing the SE Sherwood Master Plan to a Council work session.

Mayor Mays thanked Mr. Huske and stated it was a good suggestion to review the SE Sherwood Master Plan and asked Mr. Huske if he felt it should be adopted in its entirety. Mr. Huske stated the plan was designed with meandering paths, parks and the connectivity that every development needs. Mr. Huske stated that the density was higher, but not High Density and stated that it was a good plan to have as a model for the neighborhood. Mr. Huske stated the land is a problem and Council needs to help lend the way.

With no other comments received, Mayor Mays addressed the next agenda item.

8. NEW BUSINESS

A. Resolution 2012-015 of the City of Sherwood providing for the setting of a Sidewalk Repair Fee for property owners choosing to use the City's Concrete Sidewalk Repair Assistance Program

Finance Director Craig Gibbons directed Council to page 21 of the packet and explained that Council has seen this issue before and this is the setting of the fee level. Craig stated that the Budget Committee recommends the fee to be 50% of the cost of the project.

Mayor Mays asked for questions or discussion from Council.

Council President Grant commented that there were a lot of ideas on the table about how to fund this and what portion of the sidewalk repairs were going to be funded by the City versus the homeowner and concluded that the responsibility for sidewalk repairs is with the homeowner.

Councilor Linda Henderson stated that it does not mention in the resolution if a property owner who enters into an agreement with the City, and the City does the sidewalk repairs, if the property owner can repay over a period of time.

Craig answered that it is specified in the ordinance.

Mayor Mays added that it could be paid over time on their utility bill.

Councilor Matt Langer asked if the public has been given a fresh overview of the matter for understanding.

Mayor Mays stated that the City has a hazard that is partially created by development standards where trees are creating pop ups in some sidewalks and the sidewalks need to be repaired. Mayor Mays explained that City Council passed a resolution creating an assistance program that puts a small fee on all utility bills to help create a fund to help address these problems. Mayor Mays stated that if more than 25% of the sidewalk in front of a home needs repairs, there is no assistance, and the problem has to be dealt with by the property owner, but if the problem is small enough the City can give assistance to make the repairs quickly with homeowners still paying a portion. Mayor Mays stated the finance committee recommends that portion to be 50%.

Tom Pessemier, City Manager Pro Tem stated that Council has been talking about this for a long time and has already taken action with regards to how that assistance program is going to work. Tom added that the one question remaining was a recommendation from the Budget Committee with this percentage, which was the last piece of something that has already been considered.

Councilor Langer stated that what Council was passing was 50% cost share that the City is agreeing to pay for something that the homeowner is completely responsible for and while it appears to be a fee on the surface it is actually a 50% help.

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

MOTION: FROM COUNCIL PRESIDENT GRANT TO ADOPT RESOLUTION 2012-015, SECONDED BY COUNCILOR MATT LANGER, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILORS FOLSOM AND CLARK WERE ABSENT).

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

9. PUBLIC HEARINGS

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

Zoe Monahan, Assistant Planner came forward and stated that she would be talking about trees on private property as part of the Code cleanup project that the Planning Department and Planning Commission have been working on and presented a power point presentation (See record, Exhibit B). Zoe explained that for public outreach a number of work sessions with the Planning Commission and a “dessert and discussion” were held, there was an online questionnaire, and there was a code cleanup open house that included information on trees in order to receive community feedback about the proposed language.

Zoe explained that the Planning Commission goals for this portion of the code clean up could be found in Exhibit 1D of the materials in the packet and stated that the Planning Commission wanted to make sure that we were headed towards an objective. Zoe listed some of the goals as establishing and maintaining the maximum quality tree cover, establishing and maintaining an ideal level of tree diversity, establishing clear, fair and easily implemented code changes, and to establish standards for commercial, industrial and residential zones.

Zoe stated that an issue with the current code is the mitigation standard for trees on private property that are subject to land use review and stated that the mitigation standard can be quite expensive for developers. Zoe explained that it is an inch for inch requirement and gave an example that the removal of a 10 inch diameter tree would generally be replaced with (5) 2 inch trees or a fee in lieu of replacement which is \$75 per inch or \$750 for a 10 inch tree. Zoe stated that there’s a lack of incentives for tree preservation.

Zoe stated that rather than have a mitigation requirement for trees on private property subject to land use review, we are proposing to move to a canopy requirement. Zoe explained that there will be a canopy percentage that each development would need to achieve with a proposed 40% canopy for residential and 30% for Non-residential. Zoe stated that residential includes single family and two family developments and nonresidential is everything else; multi-family, commercial, and industrial developments.

Zoe referred to a diagram in the presentation and stated that the intent is not to have 30% or 40% of the development site treed, but to reach an expected mature canopy, which is mathematical. Zoe stated that 30% of an acre would be about 13,000 sq. ft. of trees, so the trees can be in clusters, in a tree stand, or in the landscaping. Zoe stated the trees can be near the sidewalk, and in the landscaping, with parking under the trees and showed an example of what it could look like. Zoe showed a breakdown of the square footage of different types of trees and stated that larger trees reach that canopy requirement much faster. Zoe commented that generally there are a number of different types of trees on site and by using Greenspire Linden or Pin Oak trees the canopy is reached a lot faster.

Zoe showed Woodhaven PUD, Phase 1D as an example of a subdivision achieving the 40% tree canopy requirement with just the street trees and stated this was just the minimum standard and that over time people have planted additional trees in their yards.

Council President Grant asked if the subdivision complied with the 40% requirement from the outset. Zoe confirmed that it was at a 59.4% canopy which was achieved by the two trees per lot and also by a number of trees with a very large canopy spread.

Mayor Mays asked why it could not be made simple and just use street trees to meet the standard as long as the canopies touch. Zoe answered that the idea is also to encourage people to preserve trees over time.

Mayor Mays stated that tree preservation is a different question but in dealing with a calculation just to use street trees.

Zoe stated that her example was based on the old street requirement and she had not done a breakdown of what it would look like if it were just based on the spread of each street tree.

City Recorder's note: Councilor Robyn Folsom arrived at 7:30pm.

Zoe showed Jim Fisher Roofing, an industrial site on Galbreath Drive, and stated that it demonstrated what is currently being seen at industrial sites and described the site as having eight pine trees on the northern portion that achieve a 4% canopy. Zoe stated the canopy requirement could have been reached by adding trees to the east or the south of the property. Zoe stated that Wildrose Mini Storage at the intersection of Wildrose Place and Tualatin Sherwood Road would have well exceeded the canopy requirement; however it is not a great example because they had so many trees due to mitigation. Zoe stated that mitigation is proposed to be removed, and added that the Wildrose site shows that you can have trees in an industrial area that are along the perimeters of the site.

Councilor Langer asked if Jim Fisher had 4%. Zoe answered that they had a 4% canopy with just the pine trees and a 16% canopy with the street trees included. Zoe stated that Jim Fisher Roofing could have added trees to their parking lot landscaping or along the perimeter to achieve the 30% canopy and clarified that the proposed language does not include street trees for non-residential sites so the site is at 4%. Zoe showed the Sherwood Regal Theater as an example which does achieve the 30% requirement at 36.9% canopy.

Zoe stated that there are proposed development incentives for the trees on private property that are subject to land use approval and listed the options as a lot averaging reduction, a setback reduction, the sidewalk can go to a curb tight or meandering sidewalk, a residential density transfer, a parking lot reduction, and an increase in height for commercial and industrial buildings.

Zoe stated that she knew Council was concerned about lot averaging allowing lots to go below 4000 sq. ft. and explained that with the current code the subdivision reduction at a 90% takes you down to 3600 sq. ft. for Medium Density Residential High (MDRH) and High Density Residential attached units and as proposed the 80% would take you down to 3200 sq. ft. which is only a 400 sq. ft. reduction.

Mayor Mays asked Zoe to remain on the Lot Averaging Comparison Table (See Record, Exhibit B).

Tom Pessemier added that the subdivision reduction of 90%, shown in the second column, was current code that has already been adopted and the third column which is the tree reduction at 80% would be something that Council is considering and would allow an even further lot reduction if the ordinance was passed. Zoe confirmed.

Mayor Mays stated the average lot size for MDRH attached still had to be 4000 sq. ft. Zoe confirmed and added that some lots could be reduced to 3200 sq. ft. Mayor Mays stated that there would have to be some larger lots and the average would have to retain the required lot size. Zoe confirmed and stated that the density would not be increased. Mayor Mays asked if the definition of density was changing. Zoe replied it is not.

Zoe stated that the current code for trees on private property that are not subject to land use approval looks at residential and non-residential the same and that property owners can remove up to five trees per acre not to exceed 100 inches at diameter breast height but to go above the five trees required a site plan review. Zoe stated the proposed language allows five trees per year to be removed or 10% whichever is greater and to remove more would require a statement describing the need, verification that the homeowners association has been notified, and half of the trees would have to be replaced or replanted. Zoe stated that non-residential property is generally approved with a land use decision and trees required by a land use decision would need to be replaced after being removed. Zoe explained that for trees that were not required by a land use decision up to 25% could be removed through a Type I process with half of the trees being replaced and removing more than 25% would require a Type II process with 2/3 of the trees needing to be replaced. Zoe reminded Council that a Type II process requires a public notice.

Zoe stated that there were some additional minor changes as part of the trees on private property code amendment regarding the open space code updates in section 16.142 that needed to be cleaned up, and said the street tree measurement has been updated to be consistent with nursery practices, and because of that, it is more appropriate for Diameter at Breast Height to be moved to the definition section of the code.

Zoe stated that there have been a number of questions about what does the canopy requirement mean and how is this calculated. Zoe directed Council to page 10 of the draft language with track changes (See Exhibit 1-B of Ordinance 2012-003) and pointed out that item D3 states a "certified arborist or other qualified professional shall establish the tree canopy" and recommended the verbiage be added to D2 and to strike "new" from the fourth line of D2 and the fifth line of D3. Zoe recommended adding "the canopy percentage is based on the expected mature canopy of each tree by using the equation πR^2 to calculate the expected square footage of each tree. The expected mature canopy is counted for each tree even if there is an overlap of multiple tree canopies" in order to clarify how you calculate the canopy. Zoe stated that this was the intent of the code but there have been questions from developers interested in moving forward with this code language as well as staff.

Zoe invited questions and comments from Council and stated the next steps were to hold a public hearing and to adopt, amend or deny the Planning Commission's recommendation. Zoe requested that she be able to respond to Council's questions when she responds to public comment.

Mayor Mays stated that "net developable area" was added to the definitions but the proposed language did not contain the phrase. Mayor Mays stated that "net developable site" was used, but not defined. Zoe answered that the Planning Commission asked that a proposed definition be added and she would confirm the terminology and make the correction. Mayor Mays stated that with the definition of net developable area he was inclined to add that the building footprint be added as an exclusion for industrial and commercial sites. Mayor Mays stated that with higher density and advocating for trees we also want our commercial and industrial sites to have big

buildings that employ lots of people and have a high land value. Mayor Mays stated that if the building footprint is not excluded we are restricting the other goals of Metro, the state, and the City for efficiently developing our land.

Zoe stated that it could be added, but the reason it is not is because it is possible to achieve that canopy with the parking lot landscape requirement as well as preserving trees.

Mayor Mays asked concerning Section C., Inventory, at the bottom of page 55 of the packet under Number 1, which states "all land use actions above require a certified arborist for every application". Zoe answered that "or qualified professional" could be added as in sections D2 and D3. Mayor Mays stated there may be some size of applicant where that is overkill, that he did not know what the threshold is, but suggested if somebody wanted to put an addition on to their house, to hire an arborist or professional adds a lot of cost to a homeowner.

Mayor Mays commented the new code was making things more complicated on the residential side than it needs to be and stated that the street trees seem to meet the requirement and the desires of the Planning Commission. Mayor Mays noted that some people in residential want lots of trees and some want a big garden.

Mayor Mays referred to Item 4 on page 57 of the packet where it states "the City may determine" and asked if, based on the type of application, the City could be staff, hearing officer, the planning commission, or the City Council. Zoe confirmed.

Mayor Mays referred to page 61 of the packet Item 3 under Preservation Incentives and asked if large stature street trees were on the permitted street tree list and if the City is going to be incentivizing developers to use huge maples which may not be allowed because they destroy the roads and the sidewalks.

Mayor Mays asked for examples of Item 4 under the same section regarding the up to 100% Density Transfer and asked if "a natural resource area" was defined in the code as shown at the top of page 65, Item 3 where it states "If removal is proposed within a natural resource area".

Councilor Bill Butterfield asked how much Metro influences the City.

Councilor Butterfield inquired that if he owned a 10,000 sq. ft. lot next to Middleton Elementary and wanted to build a 3600 sq. ft. house on the lot, that currently has no trees, how many trees would have to be planted in order to build the house. Mr. Butterfield stated that in a neighborhood situation where you have 40-50 houses you are going to have enough trees along the street to meet the requirement. Zoe answered that the standard only applies when going through a land use process and further explained that if the lot was larger and was to be divided by a land use process then the development would need to achieve the 40% canopy which could be achieved using street trees, preserved trees, and trees planted on the site. Zoe stated that the canopy requirement, as proposed, does not apply to Old Town or infill, and standalone lots that have already been divided do not apply.

Mr. Butterfield asked if the 40% canopy has to be maintained. Zoe answered that if the subdivision or partition was under the new regulations and certain trees were proposed or retained as a part of the land use approval the trees would have to remain. Mr. Butterfield asked if there are no trees and the lot is bare, how many trees have to be planted. Zoe stated that if you are not going through land use you do not have to plant anything because it is already an established lot and would fall under the trees not subject to land use approval standards. Zoe stated that unless

you are dividing the lot the standard would not apply because building a house does not trigger a land use review. Zoe explained that a land use review is triggered when you divide a lot by going through a partition or a subdivision and added that a commercial or industrial site that goes through a site plan review would need to achieve the 30% canopy. Mr. Butterfield asked if a lot that was not developed and had to go through land use was it subject to 40%. Zoe confirmed and stated that in the case of existing residential lots that are already established, but have not been built yet, they would not need to meet the standard and only go through a plot plan review which is not a land use review.

Zoe stated that with a one acre site you would need to achieve the 40% canopy and depending upon the trees that are selected it is about 17,000 sq. ft. of expected mature canopy for those trees. Zoe stated that the required street trees are taken into account and there may be a few site trees that have to be planted. Zoe stated that this information is shown on a landscape plan with the proposed trees and a mathematical equation is used to see what the square footage would be.

Councilor Butterfield stated that the proposed language was not simple and is confusing.

Councilor Matt Langer referred to Item 4 on page 57 of the packet where it states "The City may determine that, regardless of section D1 through D3, that certain trees or stands of trees may be required to be retained" and stated that when he ran for City Council he wanted to make sure that Sherwood still had a small town feel and that Item 4 feels like the government has too much power. Mr. Langer asked for language stating that if the City chooses to use that leverage that there be some give back on the other side for the private property owner.

Mr. Langer stated that in general he thought the idea was great, but once he dug into the details it was too confusing with too much language. Mr. Langer stated that something that should be simple has become extremely difficult and he has spent many hours changing plans to try to comply but could not figure out if he was in compliance. Mr. Langer commented that the term "canopy factor" is used, but there are no units tied to the factor. Mr. Langer stated that the term is in a different tree schedule that shows the canopy factor for the trees and asked for an explanation of how the tree language is linked to that list with the canopy factor.

Zoe answered that the canopy factor is not a portion of the trees on private property draft language, but is in the landscaping standard and stated that this code is looking at the expected mature canopy of each tree which can be found using the canopy spread of each tree and does not use the canopy factor. Mr. Langer asked if the canopy spread was found in the same list or if there was another list showing the square footage of each tree. Zoe answered that there was not a list with the square footage for each tree, and when staff creates a document that shows how to find the canopy factor of each tree it would have the canopy spread in it, but the canopy factor is not part of this section of the code update.

Mr. Langer stated that part of the confusion was using the wrong list and asked if staff would develop a list showing how many square feet of credit you get for each tree. Zoe answered that staff is not proposing to provide a list of trees with the square footage but when staff develops the list that tells how to reach canopy factor you could use what it says will be the canopy spread of those trees to do the math to find the square footage of each tree. Mr. Langer stated that his struggles were from trying to do the calculations from data that is not available.

Zoe commented that this is why she recommended adding language to make it more clear on how to reach the percentage and that overlapping trees are allowed. Zoe stated that the intent was to

make it more clear because there have been questions from developers. Mr. Langer stated that something needs to be done to make the calculations more clear.

Mr. Langer referred to page 62 of the packet Item 4.a.5 subsections 1-4; conservation easement, open space tract, deed restriction and dedication and acceptance by the City, and stated he assumed some of them, like open space tract, to be formal defined terms and ought to be capitalized. Mr. Langer asked how they are defined and are there any particular areas in that list that are being left out. Mr. Langer gave an example of a ten acre site that has to dedicate two acres of wetland buffer and asked if there would be any credit for that.

Mr. Langer stated that in the previous language agricultural trees were exempt and he did not see that language in this code. Mayor Mays directed Councilor Langer to the definitions on page 56 of the packet where it states commercial agricultural trees are excluded.

Mr. Langer asked regarding incentives and stated the only incentive he could see was an increased building height for commercial and industrial and stated that the biggest asset in the Tonquin employment area are the fir trees. Mr. Langer stated that an increase building height is not an advantage in that area and if there is no advantage they may go ahead and cut them. Mr. Langer stated that the incentive program needs to be more creative, flexible and broad, particularly with mature fir trees which are the pillar of our community's history. Mr. Langer commented that something specific should be written to retain the mature fir trees with a direct incentive.

Mr. Langer stated that if the City is going to stick with language that is this complicated, sample drawings should be added in the language with the calculations showing and the values of the canopies.

Councilor Henderson commented regarding the increased building height incentive of 20 feet mentioned by Councilor Langer and asked how that might be received adjacent to a residential zone. Ms. Henderson referred to Item 2 on page 56 of the packet which states that "trees removed on the property within one year prior to submittal of the development application shall also be included in the inventory" and asked how the City would keep track of or verify tree inventory. Ms. Henderson stated she agreed with Councilor Langer in regards to more incentives for a developer to retain the trees in commercial or industrial zones. Ms. Henderson commented that there was a piece of property on Murdock that was considering developing and quickly cut down a bunch of trees. Ms. Henderson stated the code change was fairly broad reaching and wanted to know if there was a way to keep the trees prior to a development application. Ms. Henderson commented that the City should provide incentives to keep trees on a piece of undeveloped land other than a meandering sidewalk and the increased building height.

Mayor Mays commented that fir trees that grow together support each other and removing too many of them creates a hazard.

Ms. Henderson stated she agreed with the use of the graph on how to calculate the canopy measurement as a visual is very helpful.

Councilor Robyn Folsom asked how the new changes in the code help the situation with the street trees that were causing damage on the property and how does the average citizen come in and figure what needs to be done from the new code.

Zoe answered that this section does not address street trees and that the street tree code was updated about a year ago and the City changed the street tree requirements from two per lot or based on the frontage to being based on the spread of the tree to prevent the same issues from happening and updated the removal standards so that people do not have to go to the Parks Board anymore to remove those trees. Zoe stated that the street tree language is in there because it was recommended that street tree measurement standards be updated and the diameter breast height was moved to the definition section. Zoe stated that the references for the section have been updated but the actual substance of the standards has not been changed.

Council President Grant commented regarding the measurement of the canopy and asked if staff was hearing Council asking for a list of tree canopy sizes. Zoe answered that a list was not proposed at this time, but there are a number of resources for that information. Mr. Grant asked if there was a standardized list on trees with the square footage of trees on it that developers can bring forward and use.

Zoe answered that it is likely that the list states the expected mature canopy spread of a tree and you take the radius of that and use the πR^2 to get the square footage and the intent is for the developer to say I have X amount of maples, they are going to get me this square footage, and that equals X to meet the 13,000 for a one acre site that achieves the 30% canopy.

Mr. Grant stated that it didn't sound difficult as long as there were standards that would be recognized that would not be disputed because there are different lists available. Mr. Grant commented that if Councilor Butterfield wanted to develop his lot then staff would say 40% is the required number.

Zoe agreed and stated the idea is to allow flexibility. Zoe commented that if there is a tree stand on site even though the trees are clumped together the full value of a mature canopy for each of those trees counts towards the canopy percentage. Zoe stated that for commercial and industrial sites the required landscaping trees are included to give flexibility to reach the canopy percentage and that is where we are really trying to go. Zoe stated that we have heard from the Planning Commission, the tree panel, as well as citizens and interested people in the community that they want flexibility but they want it to be clear and fair for everyone which is hard to make into one standard.

Mayor Mays recessed the meeting at 8:17 pm.

Mayor Mays reconvened the meeting at 8:26 pm.

Councilor Langer disclosed that he had a potential conflict due to some development projects that will soon come to the City and stated that he felt like he could still participate and have fair, clear, and honest judgment regarding the subject matter at hand.

Mayor Mays asked if staff wished to add more before public testimony was received.

Brad Kilby, Senior Planner answered that staff has some work to do to prepare responses and wanted to talk about stepping back and looking at the larger objective. Brad stated that the largest incentive not to have to pay for the mitigation and not overplanting a site. Brad stated that there is something to be said for increasing the incentives, that several different types of incentives were attempted, but did not really understand what would be available to incentivize preservation of existing trees. Brad stated that coming from a private consulting background, he knew that developers typically do not want to remove bunches of trees, because trees intrinsically add value

to lots. Brad stated that the problem is grading has to be done for storm water drainage, streets have to be put in, and because of the nature of where we live there is a lot of water and grading and things that have to happen which sometimes necessitates the removal of trees. What we are trying to achieve is to move in a direction that does not dis-incentivize development and to remove a barrier.

Brad stated that the code is a tool box with different sections in the code and staff is going through the language for both the landscaping standards for parking lot standards and tree preservation simultaneously and some of the verbiage is going to intermingle but they are not the same. Brad stated that canopy factor is entirely different than what we are trying to achieve here regarding canopy and maybe staff can look at the terminology that we use, but that is the proper terminology that is used by arborists.

Brad answered that Metro has a stake through Title 13 requirements and the City has a stake through Goal 5 Statewide Planning Goals, but even more so the City has standards and policies and goals within the comprehensive plan that talks about tree preservation. Brad stated that the proposed tree preservation is to maintain what the City has to an extent that can be done by requiring street trees, following Clean Water Services requirement for trees in the vegetative corridors, and those types of measures. Brad stated the City does not want to take away the right to develop property, but to do it in a way that is sensitive to the environment and to the goals and objectives in the comprehensive plan.

Brad stated that staff was sensitive to the fact that maybe commercial and industrial height requirement is not the best incentive and is open to suggestions, adding that one thing that might be considered is allowing existing mature trees to count two or three times a canopy whichever Council is comfortable with and asked Council for their input. Brad stated that the goal is to create good quality development for the citizens of Sherwood and staff needs guidance from Council as to whether they want the Jim Fisher Roofing or the theater site type of industrial development so they can write standards to achieve that.

Tom Pessemier added that one of the reasons we are here is because of the comments and complaints concerning mitigation standards and if nothing is done, those mitigation standards stay in place. Tom stated that staff may not have perfectly hit the mark in this effort but we are trying to improve on something that everybody agrees is not working for us.

Mayor Mays opened the public hearing to receive testimony.

Patrick Huske 23352 SW Murdock Rd, Sherwood, came forward and stated that as a developer he found the process for trees on private property to be confusing and although the intent of planning staff was to create something simple, they did not make it simpler. Mr. Huske stated that he has about 30% trees on about 5 acres, but in the last 6 years he could have clear cut it. Mr. Huske stated that his neighbor did clear cut his property and he hopes that doesn't happen in the future. Mr. Huske stated Council was bringing up some good questions and his concern is the language sounds good but in reality will not work. Mr. Huske commented that Denali lost one lot and is not being developed because it has contamination and is too expensive. Mr. Huske stated that Denali is one of many properties in his neighborhood that this might have an impact on. Mr. Huske stated that there was another property that was recently annexed that wanted to save the trees, but clear cut it because they ran into problems and this 40% is going to be a problem for them.

Mr. Huske stated that there might be some options for incentives for the developer and suggested that the canopy requirement should be closer to 25% or 30% to match Tigard or Multnomah County. Mr. Huske recommended a credit from the parks and open space SDC and stated that he just pulled a permit for a new 4500 sq. ft. house in Ironwood Acres and the parks and open space fee was \$6700. Mr. Huske stated if he had to give up some of his land for a tree canopy to benefit the community and the neighborhood then maybe there is a way to give him incentive for the future in the form of an SDC credit. Mr. Huske stated that he thought the tree canopy requirements were very vague and commented regarding cover required in the scenario of a 10,000 sq. ft. lot, used by Councilor Butterfield, and asked how tree canopies that go passed the property lines are figured.

Mayor Mays commented that staff stated that no matter how close the trees are as long as the trunk of that tree is planted on the lot, regardless of where the spread goes, you get credit for the entire spread even if they overlap or go beyond the lot.

Mr. Huske stated that he thinks the intent is great and asked Council to consider if the ordinance eliminated buildable lots in the long term that may be needed as a tax base. Mr. Huske stated the \$45 million for improvements will be gone and Metro is going to continue to squeeze the available land making a finite number of buildable lands available for future Councils and all the taxpayers down the road.

Justin Wood, Portland Home Builders Association, 15555 SW Bangy Road, Lake Oswego came forward and stated that he applauded the effort of the City to incentivize, as opposed to penalize and it was a good direction. Mr. Wood stated that the Home Builders Association just found out about the ordinance and he had talked to some local developers. Mr. Wood stated that he has served with several jurisdictions in terms of working with their tree policies and he had some thoughts regarding what Sherwood is proposing. Mr. Wood stated that Sherwood has a higher tree canopy coverage than Portland, which is 33%. Mr. Wood commented that Portland has a 2" per 1000 square foot lot requirement, explaining that if you have a 5000 sq. ft. lot you want to build a house on you have to plant 10" of tree, which can be (1) ten inch tree or (5) two inch trees. Mr. Wood stated that it is simple when looking at a plan to know what it is that has to be planted, and it makes sense to the average lay person as opposed to knowing how much canopy a particular tree has. Mr. Wood stated that Tigard is working on their tree requirements right now and they have 40% requirement across the entire development, but only 20% on each individual lot, and explained that if you have a large grove of trees that is saved you get credit across the whole development giving more flexibility and Council should consider looking at that. Mr. Wood stated that a group of developers in Tigard hired a helicopter and flew over the Mayor's house and other houses and measured what their canopies were and found that most houses above a 30% had very little lawn, because the shade on the lot made it difficult to have a lawn. Mr. Wood commented that a side effect to an aggressive tree canopy is it makes it hard to have solar. Mr. Wood commented on the Mayor's mention of using the net buildable lot and stated he strongly advocated for that, and commented that when you talk about 40% of a net buildable lot you should take out the building footprint and increase the percentage if necessary.

Mr. Wood commented that in industrial areas like the movie theater with a large parking lot and a lot of planter strips you can plant a lot of trees and asked where you would plant the trees in an industrial lot with a large building and not much parking. Mr. Wood stated that at the Helser site in

Tualatin they have a large manufacturing facility and a very small parking lot and he did not know where they would put the trees.

Mr. Wood commented that if canopy is the ultimate goal what will happen is a lot of people will plant trees that have the maximum canopy, maple trees for example, and you will end up with a community full of maple trees as opposed to fir trees, which are native to our region, because fir trees don't offer as big of a canopy as some deciduous trees do. Mr. Wood stated that he would caution against requiring an arborist plan for landscaping, because you could end up getting what the arborist wants in a development as opposed to what homeowners would want. Mr. Wood stated he heard something about incentivizing the tree protection by allowing a two or three times bonus and stated that the City of Tigard is doing this in their tree plan and you get a bonus or extra credit to save trees. Mr. Wood commented that Metro across the region is pushing more density on all of us and it seems like we tend to have two different goals, to increase density, but also to increase tree canopies. Mr. Wood stated it is hard to see how those two things work hand in hand when you are trying to pack more units on smaller lots and add more trees on the property.

Council President Grant commented that it didn't seem difficult to make a calculation and asked if Sherwood's proposed method of computation based on canopy size was an unusual method.

Mr. Wood answered that it is not unusual and there are other areas doing it. Mr. Wood stated that Portland uses a 33% as their goal and they achieve that by having each new development plant 2" per 1000 sq. ft. so the math is already done. Mr. Wood stated his problem with the canopy is the grey area as to what the tree canopy measurement is. Mr. Wood stated that you are going to have people planting trees with the maximum canopy and the same trees all across the region with a lot more leaves to pick up when everybody has maple trees in their front yard.

Gary Langer 17384 SW Timber Crossing Lane, Sherwood came forward and stated he had no intention to testify until he heard all of the information. Mr. Langer stated he came to the meeting and read the manual with the tree code information and found that it required a lot of input. Mr. Langer stated that as a teacher if he asked Council the same question each Councilor would have a different answer because the code has a lot of differences of how it applies. Mr. Langer stated that the code has to be more user friendly and the language is too constrictive. Mr. Langer stated the impact and restrictions come across with small lots and that Councilor Butterfield asked a question regarding small lots and the issue was skirted around and the answer kept shifting. Mr. Langer stated that lots with a great big tree are already compromised with what you can do with the footprint of the house. Mr. Langer commented regarding the impact on commercial parking and referred to the vacant BMC site that was built for parking, lumber, trucks, and equipment. Mr. Langer asked who would measure the development before and after the project and stated a house could be denied based on tree coverage. Mr. Langer commented that trees in the perimeter should count and they are a big factor in big businesses like the theater and the Target store. Mr. Langer asked how to figure out all of these codes and to come up with the numbers. Mr. Langer stated there will be a time delay for developers who try to meet the requirement if they have to have a tree specialist to figure out the code and reiterated that the code has to be a lot more user friendly.

Eugene Stewart PO Box 534 Sherwood came forward and asked what the goal for tree canopy coverage for the total City was and stated that once that goal is set then Council has good reasons to try to obtain that percentage. Mr. Stewart stated that once there are reasons to obtain those goals then the next question is how to do it. Mr. Stewart asked what the City was going to

do within their City parks and stated that he remembers stands of Cedar trees in Stella Olsen Park. Mr. Stewart asked if the City should be planting groves of Cedar trees in the park again. Mr. Stewart asked what is happening at Snyder park and if there is a conflict between ball fields and tree canopy. Mr. Stewart asked what the canopy requirements for a new park would be and how do you meet the canopy requirements with a baseball field. Mr. Stewart stated that there is lots of space in Snyder Park with no trees planted and asked if it could be planted to meet the overall goal for the City.

Mr. Stewart asked Council to think of all the space along the creeks that move through the town that lay jumbled up and overgrown and asked how that can be developed by putting more trees along the banks. Mr. Stewart asked where the green space is supposed to be and stated he lived on two acres close to 80% canopy with leaves, a lot of moss and no place to plant a garden. Mr. Stewart asked what happens to people who want a flower or vegetable garden and stated they will not be able to do it because plants need sunshine. Mr. Stewart asked why Council would deny people the right to plant a garden with the canopy coverage. Mr. Stewart stated that it seemed like there are a lot of good ideas, that it needed more public input, and many of the problems should have been resolved before it came to Council or even to the Planning Commission.

Mayor Mays stated that in defense of staff there were multiple listening sessions to give feedback including developers and environmentalists, advocates for tree canopy and multiple meetings with the Planning Commission before it came before Council, but there is more work to be done, and those people who may have missed prior opportunities are being heard during public testimony.

Mr. Stewart concluded by commenting on the question raised regarding solar energy and asked Council what ordinances were in place to protect solar energy access, stating that solar energy needs to be addressed before Council goes much further with this.

With no further public testimony, Mayor Mays closed the public hearing and invited staff to comment on Council questions or public testimony.

Brad Kilby stated that staff would like to prepare a response and come back to Council with some proposals to help clarify some of the language. Brad stated that staff strives to make things as simple as possible and remove barriers, especially in this economy. Brad stated that one of the objectives of this code cleanup process was to remove barriers and to learn from mistakes made when the City had a lot of development, but he was concerned that it was not going to be a simple fix.

Mayor Mays stated that he thought there were simple things that could be done. Mayor Mays stated that for residential it could be as simple as requiring street trees that overlap when they mature and planting more trees is great. Mayor Mays stated that tree preservation is a different piece and if there are significant trees then there are incentives and mitigation options.

Mayor Mays commented that there is a separate landscaping standard which will deal with a lot of the commercial issues of what will be expected in parking lots of commercial and industrial properties, because they are really different. Mayor Mays stated that commercial is much simpler because there are not a lot of big trucks and parking issues, but industrial has limited parking lots for employees and parking needs for service trucks. Mayor Mays stated that the footprints of buildings should be removed from the language and in general if they cannot work around trees the property owner needs to have the right to remove those trees, with a few exceptions, and plant new ones.

Zoe Monahan wanted to stress that the canopy requirement in residential subdivisions is the percentage per development and not per lot and staff will look at the canopy percentage requirements at application and not go back in five or ten years to see if the canopy is being achieved.

Mayor Mays commented that as a new homeowner he could cut down all of the trees in his yard except for the street trees. Zoe clarified that five could be removed in one year. Mayor Mays clarified that per the City code he had the right to cut down the trees or to remove them and plant other trees because he didn't like the species that was planted.

Mayor Mays asked Tom Pessemier when to continue the public hearing to. Tom responded that staff will need time and suggested May 1st.

With no other discussion, the following motion was received.

MOTION: FROM MAYOR MAYS TO CONTINUE THE PUBLIC HEARING FOR ORDINANCE 2012-003 UNTIL THE MAY 1, 2012 CITY COUNCIL MEETING, SECONDED BY COUNCILOR LINDA HENDERSON. ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCILOR CLARK WAS ABSENT).

Mayor Mays addressed the next agenda item.

8. CITY MANAGER AND STAFF DEPARTMENT REPORTS

City Manager Pro Tem Tom Pessemier had no report.

Mayor Mays addressed the next agenda item.

9. COUNCIL ANNOUNCEMENTS

Councilor Folsom apologized for arriving late and stated she came from the High School where all of the Sherwood School District choirs performed and there were four elementary school choirs, two middle school choirs, and two high school choirs.

10. ADJOURN

Mayor Mays adjourned the meeting at 9:04 pm.

Submitted by:


Sylvia Murphy, CMC, City Recorder


Keith S. Mays, Mayor