



*Home of the Tualatin River National Wildlife Refuge*

**SHERWOOD CITY COUNCIL MINUTES  
22560 SW Pine St., Sherwood, Or  
March 6, 2012**

**CITY COUNCIL WORK SESSION**

1. **CALL TO ORDER:** Council President Dave Grant called the meeting to order at 6:07 pm.
2. **COUNCIL PRESENT:** Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Robyn Folsom, Krisanna Clark and Linda Henderson. Mayor Keith Mays was absent.
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Police Captain Mark Daniel, Planning Manager Julia Hajduk, City Engineer Bob Galati, IT Director Brad Crawford, Community Services Director Kristen Switzer and City Recorder Sylvia Murphy.
4. **OTHERS PRESENT:** Ray Pitz with the Sherwood Gazette.
5. **TOPICS DISCUSSED:**
  - A. **Town Center Plan:** Planning Manager Julia Hajduk presented a power point presentation, (see record, Exhibit A), and explained, discussion followed. City Manager Pro Tem Tom Pessemier further explained the next steps in the process and discussion followed.
  - B. **Transportation System Plan Amendments:** Julia Hajduk presented a power point presentation, (see record, Exhibit B) and explained, discussion followed. Council asked about funding and Tom Pessemier stated funding would come from TIF funds. Discussion followed.

Note: Councilor Folsom left the meeting at approximately 6:45 pm and said she may be returning for the regular session.

6. **ADJOURN:** Council President Dave Grant adjourned the work session at 6:58 pm.

**REGULAR CITY COUNCIL MEETING**

1. **CALL TO ORDER:** Council President Dave Grant called the meeting to order at 7:08 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**

4. **COUNCIL PRESENT:** Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Linda Henderson and Krisanna Clark. Mayor Keith Mays was absent and Councilor Folsom arrived at 7:32 pm.
5. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Community Services Director Kristen Switzer, Public Works Director Craig Sheldon, Planning Manager Julia Hajduk, Associate Planner Michelle Miller, Administrative Assistant Kirsten Allen and City Recorder Sylvia Murphy.

Council President Dave Grant addressed the Consent Agenda and asked for a motion.

## 6. CONSENT AGENDA

### A. Approval February 21, 2012 City Council Minutes

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

Prior to addressing the next agenda item, Council President Grant acknowledged a proclamation of **April 8-14, 2012 as National Community Development Week**. Mr. Grant stated the proclamation involved the Community Development Block Grant and the City has received over \$2 million dollars in grants since 1979.

## 7. CITIZEN COMMENTS

There were no citizen comments.

Council President Grant addressed the next agenda item and stated Ordinance 2012-004 was carried forward by Council at their previous meeting and a public hearing was held on February 21, 2012, he stated Council provided feedback to staff and staff has brought the ordinance back for Council's consideration. Council President Grant stated the public hearing will be opened, but not to receive public testimony.

## 8. PUBLIC HEARINGS

### A. Ordinance 2012-004 Approving A Planned Unit Development (PUD) to be known as Denali Planned Unit Development including application of a Planned Unit Development Overlay on The Comprehensive Plan and Zone Map and approving the Six-Lot Subdivision

Planning Associate Michelle Miller came forward and gave a recap of the discussion from the February 21 Council meeting. Michelle stated there was a hearing held and testimony taken regarding the Planning Commission recommendation for the Denali PUD. Michelle explained that the primary issue surrounded the appropriate calculation of density and after direction from legal counsel the City Council was advised that a net density calculation was the appropriate calculation for this particular project. Michelle said that Council directed staff to prepare findings for a six lot subdivision which is now before the Council.

Council President Grant declared ex parte contact and stated that in the work session prior to this Council meeting there was brief conversation about the contaminated soil issue that was ended until further discussion at the Council meeting.

Councilor Henderson and Councilor Langer stated they had nothing to declare.

Councilor Matt Langer asked Michelle regarding the contaminant concern and the requirements DEQ will place on the developer and how they will handle those contaminants during the process of construction.

Michelle stated that prior to construction the applicant will have to work with the Department of Environmental Quality (DEQ) and prepare a plan for more soil testing that will be managed by DEQ and not City staff. Michelle explained that no building permits will be issued until the applicant has received an approval letter from DEQ requiring no further action. Michelle stated that the language was open with respect to complying with the DEQ and not really indicating how they are actually going to clean up the soil.

Councilor Bill Butterfield stated that he had a DEQ question and that he understood it would be too costly to go into the site and haul off the contaminated soil. Michelle confirmed that this was the testimony by Michael Pugh from DEQ. Councilor Butterfield asked if the plan was to gather the contaminated soil on the site and cap it off or seal it somehow. Michelle confirmed and stated that no specific plan has been generated for this particular development but that is the general idea of how it will proceed.

Council President Grant asked if the plan is to satisfy DEQ by some plan short of hauling off every bit of dirt.

Michelle stated the DEQ has had experience with this site with respect to the Ironwood Acres subdivision which is to the north and most likely the same requirements will be for this particular PUD as were developed for Ironwood Acres. Michelle reminded Council that this contaminant is not harmful to human health and is more of an environmental contaminant for animals and the ground water.

Council President Grant asked if the end result is a product that is better for the City than the undealt with situation that we have today.

Michelle answered that there is contaminated soil on the site and cleaning it up is one of the benefits that this project will afford along with the neighborhood connectivity that will be enhanced by the roadway improvements on Ironwood Lane, which is a substandard street. Michelle added that the PUD will provide for open space and add to the limited supply of residential lots within the City.

Tom Pessemier, City Manager Pro Tem, stated that as far as we know the basic tests have shown that the site does not have any human health consequences, but more testing needs to be done. Mr. Pessemier stated that if they find Hexavalent Chromium, which is something that can be a human health issue, more studies will need to be done. Tom stated the DEQ will have those issues dealt with before they issue a no further action letter.

Councilor Krisanna Clark stated that she was the current Planning Commission Liaison and she has heard all of the testimony by the applicant and DEQ at the Planning Commission meetings. Ms. Clark stated that she has had ex parte discussions with Planning Commissioner Walker, who recused herself because she owns property in Ironwood. Ms. Clark stated the Planning Commission is definitely in favor of development and there are a lot of citizens and adjacent property owners that are concerned that the contaminants do exist and no one is testing them at this point. Ms. Clark stated if a developer comes in, DEQ and the developer will work to clean it up in a manner that is appropriate and to DEQ standards. Ms. Clark stated that she is in favor of the Denali PUD in the way that it stands and as it adapts to City code with the six units.

Council President Grant stated that a property owner could develop the land under the existing code and only have to satisfy DEQ and not come before Council. Mr. Grant stated that how DEQ is going to be satisfied regarding the contamination is in the PUD and would another method of development require that DEQ standards be satisfied.

Michelle answered that with a regular subdivision the applicant would have 40,000 square feet lots, rather than 10,000 square feet lots. Michelle stated that with a subdivision Notice of Decision City staff would likely recommend, before a hearing, that they comply with the Department of Environmental Quality. Michelle stated that it would also be a standard condition that would be implemented, as with Ironwood Acres, and any perspective development that were to come forward either with a subdivision or a Planned Unit Development.

Mr. Grant asked if it came before Council because it was a Planned Unit Development.

Michelle stated that the Planned Unit Development is for the developer to have the opportunity to have more lots and therefore make the development pencil out with the environmental requirements that are in place.

With no other Council questions or comments, Council President Grant stated the following motion.

**MOTION: FROM COUNCIL PRESIDENT DAVE GRANT TO READ CAPTION AND ADOPT ORDINANCE 2012-004, SECONDED BY COUNCILOR MATT LANGER, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS AND COUNCILOR FOLSOM WERE ABSENT).**

Council President Grant addressed the next agenda item and asked the City Recorder to read the public hearing statement.

**B. Ordinance 2012-006 Amending multiple sections of the Zoning and Community Development Code relating to Amateur Radio Towers in Residential Zones**

Planning Associate Michelle Miller came forward and presented a power point presentation, (see record, Exhibit C) and stated that last year the City Council approved new code language that reorganized the residential use section of the development code. Michelle stated that accessory structures, fences, and home occupation language was updated and the code was made easier for citizens to use. Michelle stated that one issue remained from the Planning Commission recommendation concerning residential uses; amateur radio tower and facilities, and explained that Amateur radio, also known as ham radio, is a hobby enjoyed by several hundred thousand people in the U.S. and wireless amateur communication is done on numerous frequency bands with several licenses required in order to become an operator. Michelle stated that amateur radio

operators can provide communication during states of emergency and these amateur radios work when other communication services fail.

Michelle indicated that current code provisions require a conditional use permit for amateur radio towers and facilities with a decision by the hearings officer which is a costly prospect for a residential citizen. Michelle stated that in 2009 the Oregon legislature passed ORS 221.295 that requires jurisdictions to permit amateur radio towers up to seventy feet and explained that the language before Council is to bring the City into compliance with state and federal law regarding permitting amateur radio towers and conforming to the height limits of those state regulations.

Michelle stated that the new radio provisions allow for adding radio towers and facilities as a permitted use in the residential zone with a new height restriction for those facilities of 70 feet high maximum, and provide a specific definition for amateur radio towers and language that ensures that City Building Code and other state and federal regulations apply to these towers. Michelle explained that before Council was the proposed ordinance, the Planning Commission recommendation, and the proposed code language and showed examples in the presentation of some amateur radio tower facilities. Michelle stated that staff found a scrivener's error on the language on page 78 of the packet under 16.12.060 A.2 and asked Council to strike the words "are considered permitted, and" so that it reads "Amateur radio facilities not meeting the requirements of this section must comply with chapter 16.12.30.C." Michelle explained that any facilities not falling under this code will fall under a conditional use permit and the height restrictions would apply for those perspective zones.

Council President Grant opened the public hearing to receive testimony.

Neil Shannon 23997 SW Red Fern Drive Sherwood and James Bryant 20762 SW Trails End Drive Sherwood came forward and Mr. Shannon stated he was a member of the Washington County chapter of Amateur Radio Emergency Service (ARES) but was not representing them. Mr. Bryant stated that he was the Emergency Coordinator for Multnomah County ARES and a member of Washington County ARES and he was not representing either group but testifying as a subject matter expert on amateur radio.

Mr. Shannon thanked staff for putting the ordinance together stating that he wanted to provide his support to the ordinance and said he likes the idea that we are finding ourselves in compliance with the state. Mr. Shannon stated that he was an amateur radio operator and amateur radio operators are not allowed to deal with a lot of power so antennas become very important to the operation of amateur radio.

Mr. Bryant added that antenna height is also important and stated that Sherwood is bounded by mountain ranges on all sides which make it very hard to get signals out as well as get signals in. Mr. Bryant stated that having the ability to raise your antennas up to a height of at least 70 feet makes it a lot better to get signals out and in being able to provide emergency communications in times of need. Mr. Bryant stated it is not just having emergency communications available for the City of Sherwood, but also for the world as well, a service which is provided free of charge.

Mr. Grant thanked Mr. Shannon and Mr. Bryant for their testimony and commented regarding Mr. Shannon's involvement with emergency management. Mr. Shannon stated that he volunteer's with the City of Sherwood as the EOC (Emergency Operations Center) amateur station operator.

With no other testimony received, Council President Grant closed the public hearing and Michelle Miller asked for questions from the Council.

Councilor Henderson asked if the 70 foot height was in compliance with state standards. Michelle confirmed. Ms. Henderson asked if someone was to install an antenna on their property and the City received a phone call asking if the antenna was in compliance if staff would be able to explain the importance of complying with the state standard and commented that it might be an aesthetic issue.

Michelle answered that they will come in for a building permit and staff will know where the antennas are located within the City and will be able to keep a record along with any comments that are received from the public with any concerns they may have.

Councilor Langer commented regarding the code language and said it is supposed to be easier for the amateur radio owner to get the permits and asked for an explanation of the differences between the old system to the new system.

Michelle stated that currently this would be categorized under a conditional use permit which is roughly \$4100 and would be a Type 3 Land Use Action. Michelle stated it would require a staff recommendation to a hearing officer who would issue a notice of decision and property owners within a thousand feet would have to be noticed. Michelle stated that it was not certain that the applicant would receive approval of the tower. Michelle explained that the new code is quite a bit easier as it requires going through the building permit process which identifies the safety concerns with respect to the towers and makes sure they are in compliance with all of those regulations.

Mr. Langer asked if there were any existing towers in the City that paid that \$4100 fee. Michelle stated that she was not aware of any.

City Recorder Note: Councilor Folsom returned at 7:32 pm.

Councilor Butterfield commented that he had the opportunity to talk with staff about this issue and as he was in the wireless business he had some concerns. Mr. Butterfield stated that we don't want anyone adding to the structure of their house without the Building Department looking at it and he was glad to see that the recommendation was added to the amendment. Mr. Butterfield commented regarding the height coming down from 200 feet to 70 feet and stated he was in favor of the ordinance.

Council President Grant asked regarding whether local CC & R's could supersede City code. Michelle replied that she would refer to legal counsel, but in theory the CC & R's can be more restrictive than City regulations.

Tom Pessemier replied that this was a question for those who would want to put the CC & R's in place to see how they can deal with the other laws and that is not really a concern for the City.

Council President Grant confirmed with the City Recorder the correction on page 78 of the Council materials, section 16.12.060, A.2, as indicated by staff to be a scrivener's error needed to be amended via a motion. The following motion to amend was received.

**MOTION TO AMEND: FROM COUNCIL PRESIDENT DAVE GRANT TO AMEND SECTION 16.12.060, A2 STRIKING THE WORDS "ARE CONSIDERED PERMITTED, AND" FROM THE**

**LAST SENTENCE, SECONDED BY COUNCILOR KRISANNA CLARK, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS WAS ABSENT).**

With no further discussion the following motion was received.

**MOTION: FROM COUNCILOR KRISANNA CLARK TO READ CAPTION AND ADOPT ORDINANCE 2012-006 AS AMENDED, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS WAS ABSENT).**

Council President Grant addressed the next agenda item.

## **9. CITY MANAGER REPORT**

City Manager Pro Tem Tom Pessemier informed the Council that the construction fence around the Cannery Plaza has come down and that area is now open to the public. Mr. Pessemier stated there will be a celebration this spring when the weather improves.

Council President Grant addressed the next agenda item.

## **10. COUNCIL ANNOUNCEMENTS**

Councilor Folsom stated she wanted to thank everybody who helped with the YMCA fundraiser last weekend at the Sherwood Bella Via.

Councilor Langer stated he would like to remind everybody that BOOTS now goes by the new nomenclature of Sherwood Main Street. Mr. Langer also commented on a letter received by the City Council from Kaylee Welters, a fifth grader at Hopkins, and her dad Chris Welters regarding the school speed zone in front of Hopkins and pointing out some Trimet bus concerns.

## **11. ADJOURN**

Council President Grant adjourned the Council meeting at 7:40 pm.

Submitted by:

  
Sylvia Murphy, CMC, City Recorder

  
Keith S. Mays, Mayor