



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
November 1, 2011

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:35 pm.
2. **COUNCIL PRESENT:** Mayor Mays, Councilors Linda Henderson, Bill Butterfield, Matt Langer, and Krisanna Clark. Council President Dave Grant arrived at 6:43pm and Councilor Robyn Folsom was absent.
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Public Works Director Craig Sheldon, Economic Development Manager Tom Nelson, Police Chief Jeff Groth, Finance Director Craig Gibons and City Recorder Sylvia Murphy.
4. **OTHERS PRESENT:** Ray Pitz with the Sherwood Gazette.
5. **TOPICS DISCUSSED:**
 - A. **Sidewalk Assistance Program.** Craig Sheldon reminded the Council this topic was previously discussed in a work session and said staff would be presenting additional information for Council consideration. Craig provided information on the number of current sidewalks in need of repair, explained shaving and other methods of repair including replacement. Craig provided information on options for implementation of program, timelines and funding. Craig explained public notification processes, bid packets, contract award timelines and options. He explained staffing needs of the program. Craig explained the options available to the Council to move forward on the program. Council discussion followed.
6. **ADJOURN:** Mayor Mays adjourned the City Council work session at 7:10 pm and convened to the regular Council session.

REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:15 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**

4. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Bill Butterfield, Matt Langer and Krisanna Clark. Councilor Robyn Folsom was absent.
5. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Pro Tem Tom Pessemier, Finance Director Craig Gibons, Public Works Director Craig Sheldon, Economic Development Manager Tom Nelson, Police Chief Jeff Groth, Building Official Scott McKie, Administrative Assistant Kirsten Allen and City Recorder Sylvia Murphy. City Attorney Chris Crean.

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

6. CONSENT AGENDA

A. Approval of October 18, 2011 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. (COUNCILOR FOLSOM WAS ABSENT).

Mayor Mays addressed the next agenda item.

7. PRESENTATIONS-None

8. CITIZEN COMMENTS

Neil Shannon 23997 SW Red Fern Drive, Sherwood came forward and commented on the proposed City Charter changes on the upcoming November election ballot and his opposition of the changes. Mr. Shannon expressed concerns with possible flaws in the proposed Charter changes and said he was unsure of what he would be voting for. Mr. Shannon commented about conflicting language in the explanatory statement and the Charter change would be eliminating the position seat for Council election and in the summary it states, *"including voter approval of all annexations and the requirement that the city councilors are elected by position"*, resulting in contradictory statements in the voters' pamphlet. Mr. Shannon stated he looked at the resolution passed by the Council for the charter change and said they did correctly make revisions to Section 24, deleting the reference of elections by positions, however they did not delete or revise anything in Section 7, which states, *"the six councilors nominated and elected in the city by position"* nor did they change the portions of Section 28 where *"the council must adopt an ordinance prescribing the manner for each person to be nominate to run for mayor or a city councilor position"*.

Mr. Shannon stated he hopes the Charter changes fail to allow us to go back and rewrite some of the Charter changes in a less-hurried and more organized atmosphere. Mr. Shannon stated he agrees that the Council positions should not be by elected position and would support this in the future.

Mayor Mays stated he spoke with City Attorney Chris Crean and said there was a scrivener's error in the ballot title but the resolution and explanatory statement were clear. City Attorney Crean provided the following explanation.

Mr. Crean stated the ballot title states the Charter amendment would remove the provision that Council would be elected by position and the explanatory statement states the revised Charter would retain this provision and said there was a scrivener's error in the ballot title. Mr. Crean referenced the approved Charter, Section 7 which states *"the city council consists of a mayor and six councilors nominated and elected from the city by position"* and said this was retained. Mr. Crean stated, as a matter of law the Charter prevails over any description in the ballot title or explanatory statement. Mr. Crean stated people are presumed to know what the law is and ignorance of the law is no defense. Mr. Crean stated in the County's voter pamphlet the explanatory statement says one thing and the ballot title says another and said this is evidence that one should go to the resolution or call the City and question what had occurred. Mr. Crean stated the Charter prevails over any description in the explanatory statement or the ballot title and said there is a provision in statute to challenge the ballot title, one has 7 days to challenge it after it's been approved by the Council, this challenge period was in August and has now closed. Mr. Crean stated there are other statutes that allow for challenges to elections, the Corrupt Practices Act in ORS Chapter 260, *"prohibits the publishing of knowingly false statement relating to an election..."*, Mr. Crean stated what occurred was a scrivener's error and as the scrivener the error is on him. Mr. Crean stated in a rush to get the documents out we ended up with the second to the last version of the ballot title and not the last version. Mr. Crean stated there is no legal consequence to the City that they can discern, the Charter that was approved by the Council that is on the ballot retains the provision that councilors are elected by position, this is what's in the explanatory statement and what's in the Charter and what was in the staff report, the ballot title simply has a scrivener's error. Mr. Crean stated none of the cases they looked at are remotely close to anything that would cause a court to overturn an election. Mr. Crean provided the Council with a case law example and said this was a scrivener's error and there is no perfect document and no perfect drafters and apologized for the error and said they are not concerned that there is legal error to the city. Assuming it's approved the language of the charter will prevail over anything in the explanatory statement or ballot title and the time to challenge has passed.

Mayor Mays thanked Mr. Crean and addressed the next agenda item.

9. NEW BUSINESS

A. Resolution 2011-089 Adopting the Capital Improvement Project Plan for Fiscal Year 2012

Finance Director Craig Gibbons stated this was a piece of business leftover from last year's budget preparation and explained this resolution formally adopts the five year capital improvement plan.

Mayor Mays confirmed there were no changes from the previous budget discussions, Craig confirmed.

Mayor Mays asked for questions or discussion from the Council, with none heard he asked for a motion.

MOTION: FROM COUNCILOR LINDA HENDERSON TO ADOPT RESOLUTION 2011-089, SECONDED BY COUNCIL PRESIDENT DAVE GRANT, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCILOR FOLSOM WAS ABSENT).

Mayor Mays addressed the next agenda item.

B. Resolution 2011-090 Approving an amendment to the Intergovernmental Agreement for provisions of support services between the City of Sherwood and the Sherwood Urban Renewal Agency

Economic Development Manager Tom Nelson came forward and stated in February the City Council approved Resolution 2011-014 approving an Intergovernmental Agreement between the City and Urban Renewal Agency and with further review of this agreement legal counsel recommended language of “*building and property management services*” be added to the agreement as it wasn’t listed in the services being provided.

Councilor Linda Henderson asked why building and property management was the highlight of this. Tom replied because it’s the one task that the City was actually performing and it wasn’t in the agreement. Tom further explained when Pam Berry was doing some work for us, she asked if the language was included in the IGA. Tom said it has to do with the URA purchasing property and the URA isn’t actually doing the building and property management for that property, the Public Works department is.

Council President Dave Grant asked if the URA will begin compensating the City in a manner that it previously wasn’t. Tom stated that it was being charged and it just wasn’t listed in the agreement.

Mayor Mays asked for other questions or comments, with none received he asked for a motion.

MOTION: FROM COUNCIL PRESIDENT DAVE GRANT TO ADOPT RESOLUTION 2011-090, SECONDED BY COUNCILOR KRISANNA CLARK, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCILOR FOLSOM WAS ABSENT).

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

10. PUBLIC HEARING

A. Ordinance 2011-013 Amending Section 15.04.150 of the Sherwood Municipal Code adopting the 2011 Oregon Residential Specialty Code

Mayor Mays asked the City Recorder to read the public hearing statement.

City Building Official Scott McKie came forward and stated the state of Oregon adopts Structural Specialty Codes every three years with new additions of code changes and language to the current code. Scott stated this year the single family dwelling code is being updated from 2008 to 2011.

Mayor Mays stated this is generally housekeeping with all cities and counties across the state adopting the same codes. Mayor Mays asked for Council questions.

Council President Grant asked regarding the previous adoption of Mechanical and Electrical and asked if the “specialty code” was an umbrella and we would be adopting “all” codes. Scott replied, no and stated each one is separate and the commercial code is the Oregon Structural Specialty Code and there’s the Oregon Mechanical Specialty Code, which is basically for commercial

mechanical. Scott stated the Single Family Oregon Residential Specialty Code encompasses everything residential and explained the other codes, Structural, Mechanical and Plumbing were adopted last year and it will be two years before these come back to the Council.

Councilor Linda Henderson asked if there were any major changes regarding planning, plan review or inspections with the state code and new revisions. Scott replied there were significant changes on the structural lateral bracing for seismic and wind loading and is geared more towards the engineering aspects of constructing the building. Scott stated the state has decided for certain counties, including Washington County that all new residences have to have radon control methods to remove radon from crawlspaces and must have carbon monoxide detectors.

Councilor Bill Butterfield asked in regards to the disciplines within the City and confirmed the City doesn't do electrical. Scott confirmed the County does electrical and the City does all the others and this code the Council is considering doesn't pertain to electrical.

Mayor Mays opened the public hearing to receive testimony. With no testimony received, he closed the public hearing. With no other Council comments, the following motion was received.

MOTION: FROM COUNCILOR BILL BUTTERFIELD TO READ CAPTION AND ADOPT ORDINANCE 2011-013, SECONDED BY COUNCIL PRESIDENT DAVE GRANT, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCILOR FOLSOM WAS ABSENT).

Mayor Mays addressed the next agenda item.

11. CITY MANAGER REPORT

City Manager Pro Tem Tom Pessemier informed the Council the Sherwood Police Department recently held a prescription drug take back event and collected approximately 85 pounds of prescription drugs and said the drugs would be turned over to the Drug Enforcement Agency. Mayor Mays asked about the City having a drop box and Chief Groth confirmed a drug drop receptacle is located in the lobby of the police department and prescription drugs can be dropped off during regular business hours and said the box is labeled with what is acceptable.

Tom Pessemier stated the Sherwood Library would be holding their Annual Food for Fines event December 5th through 11th with donated non-perishable food items having a value of \$1 which goes towards library fines. Tom stated the donations do not apply to lost or damages items.

Tom informed the Council the City recently received the GFOA Award for the 2011-12 Budget.

Tom informed the Council in the past the City Manager informed the Council of requests of OLCC license application and said the 76 Station was changing to a 7-Eleven and they have applied for an OLCC liquor license. Councilor Henderson inquired if it was a license transfer. Tom stated that it was a new application.

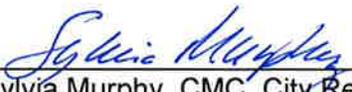
12. COUNCIL ANNOUNCEMENTS

City Recorder note: Council Announcements were not addressed.

13. ADJOURN

Mayor Mays adjourned the Council meeting at 7:35 pm and convened to a URA Board Meeting.

Submitted by:



Sylvia Murphy, CMC, City Recorder



Keith S. Mays, Mayor