



*Home of the Tualatin River National Wildlife Refuge*

# **CITY COUNCIL MEETING PACKET**

**FOR**

**Tuesday, October 20, 2015**

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

**5:45 pm Council Executive Session**

(Pursuant to ORS 192.660(2)(i), Performance Evaluation of Public Official and Employee)

**6:45 pm Work Session**

**7:00 pm City Council Regular Meeting**



Home of the Tualatin River National Wildlife Refuge

### **5:45 PM EXECUTIVE SESSION**

1. ORS 192.660(2)(i), Performance Evaluation of Public Officials (City Attorney Soper)

### **6:45 PM WORK SESSION**

1. City Recorder Annual Review Process (City Attorney Soper)

### **REGULAR SESSION**

#### **1. CALL TO ORDER**

#### **2. PLEDGE OF ALLEGIANCE**

#### **3. ROLL CALL**

#### **4. APPROVAL OF AGENDA**

#### **5. CONSENT AGENDA**

- A. Approval of September 15, 2015 City Council Meeting Minutes
- B. Resolution 2015-076, Appointing Roni Zettlemoyer to the Cultural Arts Commission
- C. Resolution 2015-077, Appointing Skye Boughey to the Cultural Arts Commission
- D. Resolution 2015-078, Authorizing the City Manager to execute a Contract with FCS Group for updating City Transportation System Development Charge (SDC) Methodology and Rates, and other Street Fees
- E. Resolution 2015-079, Appointing Amy Kutzkey to the Budget Committee

#### **6. PRESENTATIONS**

- A. Eagle Scout Recognition
- B. Clean Water Services – State of the District Update  
(Mark Jockers and Diane Taniguchi-Dennis, Clean Water Services)

#### **7. NEW BUSINESS**

- A. Resolution 2015-080, Assessing Sidewalk Construction costs on 17818 SW Reisner Lane and 17729 SW Dodson Drive, Sherwood, Or 97140 and directing the City Recorder to enter such assessment in the City's Lien Docket (Craig Sheldon, Public Works Director)

## **AGENDA**

### **SHERWOOD CITY COUNCIL October 20, 2015**

#### **5:45 pm Executive Session**

Performance Evaluation of Public Official &  
Employees  
(ORS 192.660(2)(i))

#### **6:45 pm Work Session**

#### **7:00 pm City Council Meeting**

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

**B. Resolution 2015-081 Approving amendments to City Council Rules pertaining to Agenda Headings (Joe Gall, City Manager)**

**8. CITIZEN COMMENTS**

**9. PUBLIC HEARINGS**

**A. Ordinance 2015-007 Amending Title 6 of the Municipal Code and Division II of the Zoning and Community Development Code and Chapter 6 of the Municipal Code as it relates to the regulation of backyard chickens (Michelle Miller, Senior Planner) *Second Reading***

**10. CITY MANAGER REPORT**

**11. COUNCIL ANNOUNCEMENTS**

**12. ADJOURN**

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**SHERWOOD CITY COUNCIL MEETING MINUTES  
22560 SW Pine St., Sherwood, Or  
September 15, 2015**

**WORK SESSION**

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 5:32 pm.
2. **COUNCIL PRESENT:** Mayor Clark, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris and Renee Brouse. Council President Sally Robinson and Councilor Dan King were absent.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, City Engineer Bob Galati, Planning Manager Brad Kilby, Senior Planner Michelle Miller, Police Chief Jeff Groth, Volunteer Coordinator Tammy Steffens, and City Recorder Sylvia Murphy.

4. **TOPICS:**

**A. Metro Update**

Metro Councilor Craig Dirksen presented information to the Council (see record, Exhibit A). He provided handouts regarding housing (see record, Exhibit B). Discussion followed.

5. **RECESS:**

Mayor Clark recessed the work session at 5:50 pm to hold a Solid Waste Community Enhancement Program Advisory Committee meeting (see record of this committee meeting for meeting materials).

6. **RECONVENE:**

Mayor Clark reconvened the Council work session at 6:38 pm.

**B. Tualatin-Sherwood Road Update**

Russ Knoebel Principle Engineer with Washington County presented information (see record, Exhibit C) and explained. Council questions followed.

7. **ADJOURN:**

Mayor Clark adjourned the work session at 7:00 pm and convened to a regular Council meeting.

**REGULAR SESSION**

- 1. **CALL TO ORDER:** Mayor Clark called the meeting to order at 7:10 pm.
- 2. **COUNCIL PRESENT:** Mayor Clark, Council President Robinson, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris, Renee Brouse and Dan King.
- 3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, City Engineer Bob Galati, Planning Manager Brad Kilby, Senior Planner Michelle Miller, Library Manager Adrienne Dorman Calkin, and City Recorder Sylvia Murphy.

Mayor Clark addressed the next agenda item and asked for a motion.

**4. APPROVAL OF AGENDA:**

**MOTION: FROM COUNCILOR HENDERSON TO APPROVE THE AGENDA, SECONDED BY COUNCIL PRESIDENT ROBINSON. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next item on the agenda and asked for a motion.

**5. CONSENT AGENDA:**

- A. Approval of August 18, 2015 City Council Meeting Minutes**
- B. Approval of September 1, 2015 City Council Meeting Minutes**
- C. Resolution 2015-074, Appointing Madeline Robinette to the Library Advisory Board**
- D. Resolution 2015-075, Supporting an update to the Sherwood Comprehensive Plan and authorizing staff to apply for grant funds from the Department of Land Conservation and Development in support of the Comprehensive Plan Update**

**MOTION: FROM COUNCILOR BROUSE TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR KING. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next agenda item.

**6. PRESENTATIONS:**

**A. Eagle Scout Recognition**

Mayor Clark recognized Michael Schantin for receiving his Eagle Scout Award and asked him to explain his eagle project. Michael explained for his project he went to where his brother rests at St. Patrick's Cemetery in Canby and cleaned up the tombstones and placed slats into the chain link fence and installed two cement benches. Michael explained Troop 224 assisted with the project as well as friends and family. Councilor Brouse asked how he selected his project and Michael stated while visiting his brother he noticed the cemetery was messy and had housing developments around it and trash had

gathered along the fence and he wanted to clean it up. Mayor Clark presented Michael with a Certificate of Achievement.

Mayor Clark addressed the next agenda item.

## 7. CITIZEN COMMENTS:

Doug Pederson came forward and provided information to the Council and said he is the President of the Sherwood Village Homeowners Association and said they have a park structure that is falling apart. He said they need to formalize an agreement with the City and stated they have had an agreement for the past 10 years and it has come due. He said he spoke with Public Works Director Craig Sheldon about the agreement and the playground structure. He said the structure has been condemned a bit and a portion of it has been boarded up and some of the slides need to be removed. He said they are looking at about \$100,000 per Craig and they can't afford this. He said they can either remove it and not replace it or they are able to cover 20% of the cost and have the City pay for the remainder.

Mayor Clark asked City Attorney Soper to comment on the agreement with the HOA.

Mr. Soper stated the agreement expired in August and was renewed for an additional 60 days. He said the agreement states the association is completely responsible for the maintenance of the park.

Mr. Pederson said they are responsible for maintenance and water and referred to the handout indicating the park location and the green space that belongs to the HOA.

Mayor Clark asked if they have had a maintenance schedule on the playground structure. Mr. Pederson replied kind of and said they have been replacing things as needed. When asked who performs the work he replied he did not know and it is a company out of Baker. Craig Sheldon replied he believes it is Natural Structures which used to be in Sherwood and are out of Baker.

Council President Robinson said under the current contract the homeowners association is responsible for erection of a new structure, technically, correct? Mr. Pederson replied not necessarily and that it was up in the air and it's the maintenance of. He said whether or not they buy the new structure or not, they will have to look at this.

City Attorney Soper replied the language in the contract states, *"the association shall be responsible for maintenance and care of Langer Park, the improvements located therein including but not limited to existing or future play structures."*

Mayor Clark asked Mr. Sheldon, since he is aware of the Natural Structures agreement, was there a regular maintenance schedule with this? Craig replied the City does the inspections of the facility and the HOA is responsible for the maintenance and they order the parts and install and the City inspects. He said the structure is in bad condition and it is not the same type of structure the City has in other parks. He said when Natural Structures installed the structure, they did not use the same materials we've used in our other parks. Craig said the park also needs to be brought up to meet ADA requirements. He reminded the Council the City spent approximately \$107,000 at Murdock Park, which is of similar size.

Mayor Clark asked Mr. Pederson what are the current HOA annual fees. He replied \$200 per household. She asked how many residents they have and he replied 211. She asked what the current balance was on the HOA. Mr. Pederson stated he did not know. Mayor Clark said she believes the City needs to have this information and this is something that would be referred to the City's legal department to handle.

Nancy Taylor Sherwood resident requested clarification from the Mayor on a council member and said a Council member previously spoke on whether or not graffiti on buildings, and it occurred to her that one of the Council members manages a building that could possibly have graffiti on it and asked if we have seen the document this councilor has and do we know when she should recuse herself and when she should not? She said this is a legal question for the legal department as it is listed on the agenda again.

City Attorney Soper replied the government ethics laws don't consider it to be a conflict of interest if you will be impacted the same degree as a class of individuals, so if you own a building in Sherwood that is potentially going to be impacted just like any other building in Sherwood, this is not a conflict of interest.

Jim Claus Sherwood resident came forward and said it is time the Council zones people out of these riparian corridors, it makes trespass. He commented regarding the trestle fire and said the kids should have never been in that area. He said all zoning in the US or land use regulation is aimed at people and this is a bad idea. He said there is no City in the US that zones for fish and wildlife. He shared a story regarding Redhead Ducks and fish and wildlife having different needs than we do. He said the problem is, if you think about fish and wildlife you build a sustainable environment, because the environment we need for long run sustainability, they have to live. He said that is why the Tualatin River is cleaning up. He said it's the refuge that is cleaning it and is making water for all of us. He said in an urban situation other than the water we put on our lawn, residential and retail doesn't use any water, he said what goes in the pipe comes out. He said this City is ideally petitioned to be the first village in the US to say we are going to create a zone for fish and wildlife. He said if that had happened you would have that 100 year railroad trestle. He said the Council has an opportunity and it is still here to create zones where you don't let people go.

Mayor Clark addressed the next agenda item.

**8. PUBLIC HEARING:**

**A. Ordinance 2015-006, amending title 9 of the Municipal Code relating to public peace, morals and welfare by adding a new chapter 9.62 relating to graffiti**

Police Chief Groth stated this is the second reading for this ordinance and said the Council heard it at their previous meeting. He said this amendment would establish code language to specifically deal with graffiti and related aspects, including possession of graffiti related tools and requirements to report, clean up and remove graffiti. He said the code would provide tools for police officers and the municipal court to address graffiti locally in our court system. He said if approved tonight it will become effective in 30 days.

Mayor Clark opened the public hearing.

Tess Keis 22923 SW Pine Street, #1, Sherwood came forward and stated as a licensed property manager when the Council spoke about graffiti issues at the previous council meeting she had concerns from a property management perspective and the time that it takes to address an issue and solve a

problem. She said sometimes a building may be owned by an owner and maybe a triple net situation or a situation where the owner is off site. She provided the council with a copy of language from the City of Portland and said in her research, Portland's language was pretty good and concise and gave a great parameter on how to deal with graffiti, notification and timelines. She said four days is not enough time and said most state statutes for right to cure are always ten days. She said she doesn't know if this falls under what cities can do and asked the Council to look at the timeline for getting rid of graffiti. She said what she likes about the Portland language is the ways you can notify people and time to cure the problem as well as having resources available. She commented regarding companies bidding on jobs and allowing time to find out who will be able to remove the graffiti in the best way for the best price. She requested the Council consider providing more time as four days is not enough.

Eugene Stewart Sherwood property owner came forward and stated he was talking to a lady at the Odd Fellows Hall and said the reason they did not clean up the graffiti right away was because they were advised by the police department to hold off until the issue was.... he did not know whether they were trying to get it so that the juveniles would paint it. He said if there is a delay in the court system, why are you pushing so long, four days for the property owner to go out and do it when they are the ones that have been harmed, yet they are being somewhat punished. He commented regarding the graffiti in the alley which was painted over and said you can still see the difference in colors and said the person should be made to have a good paint job. He said he was wondering what the problem is, and to him, the problem is the person putting the graffiti on the building and how you address that so they don't do it again. He said whereas if you make the property owner responsible for it right away, are they going to get reimbursed? He said is there no punishment for the person who did it, because it's been taken care of for him? He said he did not think this ordinance at this time addresses what the real problem is.

Mayor Clark closed the public hearing and asked Chief Groth to comment, she stated the timeline issue was discussed and Chief Groth had some points to make. Chief Groth stated he wanted to highlight in the ordinance language 9.62.060, regarding the timeline. He said in subsection (2), it says, "*whenever manager determines the graffiti exists on any property in the City, the manager may issue an abatement notice. The owner shall have 4 four calendar days after the date of service of the notice....*". He said in reality depending on when the graffiti is discovered and depending on when the notice is issued, it may very likely be more than four days that the owner has to remove the graffiti. He stated, graffiti attracts graffiti and the rationale across the board is to remove the graffiti. He referred to the language in subsection (4) and "hardship" and the owner contacting the City Manager requesting more time. He said he does not envision the City not allowing more time. He said it is very common in an ordinance like this to have a time noted and said City Attorney Soper also reviewed the language. He addressed the issue of responsibility and said the ordinance also allows for restitution. He said the owner removes the graffiti at their own expense before things are settled in court. He said the value of this is we get to settle it in our own municipal court and our judge has the ability to apply restitution as noted in the code language.

Mayor Clark asked if Chief Groth felt comfortable with the 48 hours plus the 4 days for removal time. Chief Groth replied yes, and said this is what he suggested. He said City Attorney Soper reviewed a lot of ordinances to ensure ours was consistent and common.

City Attorney Soper stated he looked at a lot of ordinances and said four days did not seem inconsistent with what was commonly done in the area.

Councilor Henderson commented regarding notification to the property owner, where in some cases could be out of state. She asked if we contact them off the tax rolls. City Attorney Soper stated we defined "owner" very broadly to basically encompass any possible situation that could come up, where you could have an out of state owner, we have a local property management company and in that case we would notify the local property management company. He said we have the flexibility under the code to adapt to different types of ownership situations.

Councilor Henderson asked if we would attach a copy of the ordinance to the letter so they understand or will we just outline it in the letter. Mr. Soper replied it is required in the letter that we outline the substance of the ordinance. Councilor Henderson referred to the subsection language about hardship and the owner's ability to contact the City Manager and said if you don't have a copy of the ordinance, how would you know that? Mr. Soper replied one of the things that is required to be in the notice is a statement that if the graffiti is not abated and good cause for failure to abate is not shown then a citation may be issued.

Councilor Henderson asked who will send out the letter. Mr. Soper replied the City Manager or his designee. She asked if it is code compliance and City Manager Gall replied it will be our Code Enforcement Officer. She asked if he would be the contact person if the property owner requested additional time. Mr. Gall replied they would probably contact him (Code Enforcement Officer) and it would probably come to the City Manager's office.

Councilor Harris stated her concern was the four-day period and hardships and said it was addressed by being able to speak with the City Manager. She said she believes it meets both needs of removing the graffiti as soon as possible as well as helping an owner who might be struggling to get it removed.

City Manager Gall gave an example of a similar situation with a privately owned cemetery along Roy Rogers Road that had code issues and the property owner lived out of town. He explained how he and code compliance worked with the property owner to resolve the issues. Councilor Harris added communication with the City is important.

Mayor Clark said she appreciates Chief Groth bringing this forward and said it is something that has come up, although has not escalated to an ongoing problem, but we don't want it to happen. She said she believes it is prudent to have an ordinance in place that addresses it and said we always want to work with our property owners and businesses to make Sherwood the greatest place to live.

Mayor Clark stated the following motion.

**MOTION: FROM MAYOR CLARK TO READ CAPTION AND ADOPT ORDINANCE 2015-006 AMENDING TITLE 9 OF THE MUNICIPAL CODE RELATED TO PUBLIC PEACE, MORALS AND WELFARE BY ADDING A NEW CHAPTER 9.62 RELATING TO GRAFITTI.**

Prior to receiving a second to the motion, Councilor Kuiper referred to Section 4 of graffiti removal notices and procedures and said this could be broadly defined as being out of town and unreachable.

**SECOND: MOTION WAS SECONDED BY COUNCILOR HARRIS. MOTIONED PASSED 7:0, ALL VOTED IN FAVOR.**

Mayor Clark addressed the next agenda item and the City Recorder read the public hearing statement.

**B. Ordinance 2015-007 Amending Title 6 of the Municipal Code and Division II of the Zoning and Community Development Code and Chapter 6 of the Municipal Code as it relates to the regulation of backyard chickens**

Senior Planner Michelle Miller presented information to the Council (see record, Exhibit D) and stated the purpose of the hearing is to present the proposed code amendments to the Municipal Code regarding backyard chickens. She stated it was reviewed at a public hearing before the Planning Commission on July 14, 2015. She said ultimately the Planning Commission voted not to recommend the proposed language. She stated backyard chickens currently fall under the category of raising animals other than household pets in the residential zone. She said this category is considered a conditional use and a conditional use permit is required and is considered a Type 3 land use action requiring a hearing before a Hearings Officer, notice to property owners within 1000 feet and publication in the newspaper. She said the City does not have a record of any conditional use permit regarding backyard chickens.

She said in 2011 as part of a larger code cleanup project the Planning Commission reviewed regulating backyard chickens in Sherwood, conducted public outreach and proposed some code amendment recommendations to City Council. She noted the Council did not forward the recommendation to a public hearing at that time. She said in the spring, the Council requested the Planning Commission re-visit the proposed code language. She stated the recent public outreach included an online survey on backyard chickens which received over 530 completed responses. She noted the Planning Commission took the online survey results, reviewed the previous language and developed language at a work session. She said notice of a public hearing was published in the Sherwood Archer, the Sherwood Gazette and the Tualatin Times and was posted at five locations throughout town.

Ms. Miller discussed the proposed language and noted the new chapter in the Municipal Code entitled Backyard Chickens falls under the category of animals. She said the language includes limiting the number of chickens based on the size of the lot, not allowing roosters, and rules for the enclosure location. She said the enclosures have to be in the backyard or side yard and have to be 10 feet away from all of the property lines and 25 feet from any adjoining and abutting dwelling units. She noted the proposed language also addresses the enclosures and ongoing maintenance. She said enclosures need to be secured at night, or within a fence during the day and chickens need to stay on their own property and enclosures must be clean. She said the language includes procedures for obtaining a chicken license and penalties for any violation. She stated in the current zoning and development code a footnote was added to the provision of raising animals other than household pets and refers them to the new chapter created in the municipal code.

Ms. Miller stated the Planning Commission held a public hearing on July 14 where three people testified against establishing the regulations with two additional written comments also against the issues. She said no one testified in favor of the proposed language. She said based on the information the Planning Commission had before them they recommended denial of the proposed code language. She said they were concerned that there was not enough community support in favor of changing the current policy and found the testimony was persuasive against raising chickens in residential neighborhoods. She said the Council has several alternatives: Accept the Planning Commission recommendation and not approve the Ordinance, approve the Ordinance as written, approve the Ordinance with modification or send it back to the Planning Commission for further review. She referred to the meeting packet and said it includes the draft Ordinance, Exhibit A which is the proposed code amendment language, Attachment 1 which is the findings and attachments to the findings are Exhibit A – Exhibit H which includes the survey results, Chief

Groth's recommendation and comments and other additional written testimony. She stated the Council received emails after the packet was completed that have been provided to the Council.

Council President Robinson referred to questions and requests regarding neighbors being allowed to bring action should a homeowner fail to control the smell or appearance of chickens. She asked what is the procedure the neighbors need to follow in order to object or what is the remedy. Michelle replied the Planning Commission felt that if the rules were set up to be objective and the criteria for the enclosures was an objective set of rules that needed to be followed, the notice would include a mechanism for them to contact the Code Enforcement Officer and the penalties that would be imposed should those ongoing conditions not be considered. She said the Code Enforcement Officer would be the one to evaluate and impose any infractions that may occur.

Council President Robinson asked what is the general cost for a conditional use permit to raise backyard chickens. Ms. Miller said currently the cost is \$4,145 for a Type 3 conditional use permit and there is a notice fee of \$466. Community Development Director Julia Hajduk clarified that cost is per conditional use permit, not per chicken.

Councilor Harris asked if someone could have 25 chickens. Ms. Hajduk said they could ask for 25 chickens but that is not saying through the conditional use process and hearing it could be determined that it would not be compatible with the surrounding neighborhood. She said that is the idea of the conditional use is that we look at how it fits on the property and if it is affecting the neighboring properties.

Councilor Harris said once they have the permit and want to add more chickens do they come back for an additional use permit. Ms. Hajduk said this is theoretical, but it would be an expansion of a conditional use which would require an additional process.

Councilor Kuiper asked about CC&Rs that prevent chickens. Ms. Miller said CC&Rs may have a higher bar than City rules and provided an example.

Council President Robinson restated her question about the occurrence when someone has not maintained their chicken coop and what is the remedy for the adjoining neighbors. She asked what is the remedy other than filing a lawsuit for nuisance which can be expensive. Ms. Miller said generally it would be under the typical nuisance requirement and that would either be an infraction that the Police would investigate. She said based on the severity of that investigation they could issue a penalty up to a fine of a Class C violation which is a \$250 fine.

Councilor Harris suggested that chickens fall under the category of animals and animal control would also have some ability to investigate if chickens were being abused and not cared for. Chief Groth responded that the code as written it would be a Class C violation which is \$100. He said if the Police Department receives a complaint they will go investigate and will have the ability to issue a citation. He stated the question for staff is if they fail to remedy the condition. He said the Police could revisit and issue another citation but that does not solve the problem. He said since it is a licensed activity he asked if their license could be revoked which would be the remedy. He commented on Animal Control and said if there are any animals not being cared for the Animal Control and Humane Society will be contacted to take care of the situation.

Councilor Harris stated that Animal Control does have the ability to take the animals which would remedy the situation. She asked who decides what a household pet is. Ms. Miller said a household pet is considered a cat or dog and if there is any question, there is a provision in the development code that has interpretation of similar uses and that would be up to the discretion of the Planning Manager to make the interpretation.

Councilor Harris asked if rabbits are considered household pets. Planning Manager Brad Kilby responded that rabbits are considered poultry by the USDA. Councilor Harris stated that anyone with a rabbit now is violating the permit laws. Mr. Kilby said if the City receives a complaint about a rabbit on the property he would have to make an interpretation and consult with the City Attorney. He said his decision could then be appealed and the appeal would come before an appeal body and they can make that determination. Councilor Harris said the same would be true for parrots, pigeons, pigmy goats, etc. Ms. Hajduk stated the general response is if it is an animal you can find at a normal pet store it is probably a household pet. Councilor Harris noted, it is open to interpretation, what is considered a pet.

Councilor Kuiper referred to location requirements which state that chickens are only allowed on property that is occupied by detached single family dwellings and asked about chickens roaming in the backyard. She said her concern is about chickens being kept in enclosures and the welfare of the chickens in a small enclosure. Ms. Miller responded the chickens need to stay in a fenced enclosed area during the day. She referred to the amount of room the chicken would need to roam and in her research it states chickens need 10 square feet per chicken and even a smaller area within the coup.

City Attorney Soper stated that issue is addressed in the proposed language stating chickens shall be kept within a secure enclosure at night and during the daylight hours within a fenced yard if supervised and not permitted to enter adjoining properties. He said failure to follow this would be basis for a citation.

Councilor Harris referred to Council President Robinson's comments and asked if language could be added to have permits revoked for repeat offenders. Mr. Soper said he has seen that language in other ordinances and it can be done.

Mayor Clark opened the public hearing to receive testimony.

Jim Claus 22211 SW Pacific Hwy Sherwood came forward and stated he is opposed to the way Council is passing a chicken ordinance. He suggested turning this into a public nuisance, because a nuisance is a situation of tort. He said in other words you can do the same thing in one case and there is no nuisance. He said instead of going to the Police with the complaint the neighbor should initially gather 5 classic cases of nuisance which are noise, smell, health problems and drainage and go to the Planning Commission and let them discuss it. He said the issue is not criminal at this point and if they can't come to a resolution have the City Attorney get involved in the legal end of it. He said now it is upside because we are not telling citizens that if they don't comply they will be criminals this approach will tell citizens that they can be part of the village and comply with the principle of courtesy. He said this would change it to a health and safety issue and let the Planning Commission handle the complaints. He said this way the person has the chance to face the accuser and testify.

Amy Zents 23007 SW Main Street Sherwood came forward and spoke in favor of backyard chickens mostly in part to the health and educational aspect. She said participating in the food chain is a way for

children to understand where our food is coming from and how to be involved and understand the connection.

Naomi Belov came forward and provided statistics from other jurisdictions in Washington County which she obtained from the Planning Departments in the respective towns. She commented on the \$4000 conditional use fee for chickens and how exorbitant the fee is. She said the population of Sherwood is around 19,000 and she compared Sherwood to larger jurisdictions in the County. She stated Beaverton allows chickens with a lot size of 5,000 square feet and a maximum of 5 hens and no roosters and the population of Beaverton is 93,000. She said Tigard allows chickens with no cap on the number of chickens and roosters are discouraged and the main rule is the enclosure must be 100 feet from the neighbors dwelling and the population of Tigard is 50,000. She stated Forest Grove allows chicken with up to 4 chickens on a 5,000 square feet lot with a maximum of 12 hens and no roosters. She said Tualatin allows chickens with 4 on one lot with a \$50 permit and no roosters and the population of Tualatin is 27,000. She stated Hillsboro allows chickens with 3 hens maximum depending on the size and a \$25 fee for a permit and no roosters. She said Salem allows chickens up to 6 hens and no roosters and no permit or licenses is needed and the population of Salem is 160,000. She asked the Council to look beyond their personal preferences and do what is best for future generations. She said Washington County 4H has approximately 600 members with 8 leaders and 3 are from Sherwood. She said there are 41 youths that are poultry members and 10 are from Sherwood. She stated we have 4H clubs that offers the poultry project here, there are 6 clubs from Sherwood, called the Chehalem Mountain 4H Club, Golden Fleece 4H, Blooming Livestock and Nibbles & Needles. She stated as a 4H leader and a Superintendent for Washington County Fair she asked the Council to adopt an ordinance which allows students to have a poultry project area. She said because Sherwood is an urban area most 4H animal projects are out of reach for Sherwood residents unless they are able to board their animal at a farm outside of City boundaries. She said this is not ideal due to the day to day care of the animals. She said small animals such as rabbits and chickens are the only animal projects open to 4H students living in urban areas. She stated all towns in Washington County allow poultry. She said in these cities 4H kids can benefit from the daily care of their project animal while living in an urban environment. She explained the education gained goes beyond the care of the animal by allowing kids to take responsibility for caring for an animal under the guidance of trained leaders, they are given a launching pad to learn other skills such as public speaking, leadership, record keeping. She said if we can give our kids the knowledge to grow their own produce, raise chickens which provide eggs and learn handiwork skills such as woodworking skills and fiber art, we are teaching them that self-sufficiency is an attainable skill which provides quality products.

Michael Buffington Sherwood resident came forward and commented that the proposed language does not change the price of \$4,000. He referred to a study that looked at 25 urban cities and focused on the common ordinances related to raising chickens. He said the study found that the most common number of chickens allowed was 3-4 and the City of Portland allows for 3 hens regardless of lot size and if you want more you can apply for a license. He said most cities choose not to allow roosters and those that do treat rooster noise the same as any noise nuisance. He said 10 of the 25 cities studied require permits and of the 10, 3 required fees ranging from \$5 to \$40 and that was only if the number of birds exceeded the base allowed limit. He said 14 of the 25 cities studied required that chickens not be able to run at large. He noted 17 of the 25 cities introduced nuisance ordinances to discourage improper care of the chickens. He said 3 of the 25 cities required chicken coups to be 10 to 90 feet away from property lines and 22 had no distance requirements. He noted most cities seem to be less restrictive than the proposed language. He read a letter his daughter wrote regarding the pros and cons of chickens in Sherwood. She

wrote the pros of chickens are their personality, their eggs, they are fertilizer producers, and they are gentle and cute. The letter commented on the importance of 4H and chickens are part of that.

City Manager Gall clarified the fee issue and said the conditional use permit requirement would be removed with this ordinance. Ms. Hajduk stated currently the only way to have chickens in Sherwood is to go through the conditional use process which costs approximately \$4,000. She said if this alternate language is adopted it would allow chickens through a different process and there may or may not be a fee and that would have to be discussed through a Fee Schedule update and they would recommend that it not be as high as \$4,000.

Terry Miller came forward and stated chickens are carriers of the avian flu, salmonella, staff, listeria, Lyme disease and other diseases that can be passed to humans. He said there is Lyme disease in Sherwood. He stated the Department of Agriculture keeps a record of avian flu outbreaks and versions of the flu have caused recurring epidemics in the near and far east over the last 15 years with a high mortality rate of infected humans. He said over the last several years the virus has reach Europe and the US. He commented on the 1918 pandemic which killed 100 million people and the 1957 Hong Kong epidemic which killed 1 million people with 33,000 in the United States. He said both of these were versions of the avian flu. He said currently a vaccine resistant form of this flu is a serious concern of the World Health Organization and US Center of Disease Control (CDC). He said the virus was first recorded in the US last December in a backyard flock in Douglas County, Oregon. He noted exterminating the flock was the only cure. He said in January the virus affect four more backyard flocks in Washington, Idaho, Oregon and California. He stated that month the CDC received 14 reports of birds infected with the highly pathogenic avian influenza. He said CDC emphasizes an increase likelihood of human infection stating "the virus has been associated with severe sometimes fatal disease usually following contact with poultry". He said at this time close to 50 million birds in the US have been exterminating while trying to contain the virus. He stated 16 days ago the Department of Agriculture issued an emergency alert for the State of Washington to isolate and eliminate infected backyard flocks and the disease has not been contained with its alarming ability to mutate. He said the UN World Health Organization and CDC and several state health departments have received warnings. He said the CDC states "keep baby chicks and adult poultry away from persons with weak immune systems including the elderly, pregnant women, diabetics, patients receiving chemotherapy and people infected with HIV". He stated it also cautions that a household with children less than 5 years old should not keep chickens. He said last month the CDC report noted that live poultry may have salmonella germs in the droppings and on their bodies even when they appear healthy and clean and the germs can also get on cages, coups, plants and soil where the birds live and roam. He said the salmonella germ stays in soil as long as 400 days or more and when rain comes it washes into other properties. He stated the germs can also be found on the hands, shoes and clothing of those who handle the birds or play where they live and roam. He said in 2012 the agency reported salmonella outbreaks in 27 states. He stated the 19,000 residents of Sherwood have the potential to be infected by the proposed measure and put at risk without having a realistic chance to voice an opinion. He referred to the survey where 422 where in favor of more permissive standards for backyard chickens represent only 2.3% of the population. He asked should that small number be allowed to create this possibly dangerous nuisance? He said he has found that few of the remaining 97.3% of the citizens knew little of the chicken issue or the survey. He said this measure could affect everyone and he asked how will chickens be regulated? He asked how much will it cost to handle complaints and ensure bio-safety and cleanliness and how much will it cost to handle lawsuits?

Mayor Clark called for a recess at 8:27 pm and reconvened at 8:35 pm, and continued to receive public testimony.

*Record Note: Councilor King left the meeting during the recess and returned at 8:44 pm.*

Carole Miller 14904 SW Lowell Lane Sherwood came forward and stated viruses are mutating and we can't control them, even by exterminating over 50 million chickens in the Midwest. She asked how can Sherwood keep disease from spreading by allowing backyard chickens? She referred to previous testimony regarding children understanding where their food comes from and asked if the people understand the danger children will be in if they catch a disease from the chickens.

Anthony Bevel Sherwood resident came forward and stated he attended the July 14 Planning Commission meeting and the mentioning of salmonella and avian flu may have scared the Commissioners. He said 5 people attended the meeting and 3 spoke opposed to the issue and no one spoke in favor. He stated the Planning Commission put out a survey that over 500 people responded to and 83% were in favor of backyard chickens with tight guidelines. He said the Planning Commission then held the survey in suspect because wording was similar on the survey. He stated the Planning Commission chose to ignore 83% of the respondents. He referred to the comments on chicken disease and said these are pet diseases. He said according to the CDC in 25 years there have been 53 salmonella outbreaks resulting in 2,611 illnesses, 387 hospitalizations and 5 deaths. He stated the CDC recommends washing your hands after you touch chickens. He referred to comments regarding smell, noise and predators. He commented that the 1000 feet noticing is a lot. He said we need to have common sense.

Nadia Belov Sherwood resident on SW Lincoln Street came forward and stated she is a member of 4H and commented on the benefits of being able to raise chickens in town. She commented on the diseases mentioned and said in 4H they learn about all the diseases and it is not likely that you will get the avian flu from your chicken and there are common sense ways to prevent it such as washing your hands. She said the positive thing about chickens is it teaches you about agriculture and where your food comes from and they make great pets. She said the avian flu affects large commercial chicken operations.

Ryan Weller 15621 SW Bowmen Ct. Sherwood came forward and stated he supports chickens and commented on the benefits of reducing food waste. He said he agrees with the other pro chicken remarks.

Morte Zaaleali Sherwood resident came forward and commented on the \$4,000 fee for chickens and said that is not fair or reasonable. He stated 3 chickens are not enough and the number should be higher. He asked Council to reconsider the fee and the number of chickens. He referred to concerns about diseases and stated that is the result of overcrowded dirty environments not 3 chickens in your backyard. He noted any animal can have diseases and we shouldn't be in fear of chickens.

Lori Randel Sherwood resident came forward and stated she is in support of backyard chickens. She said the High School used to have chickens and it was good for the kids. She asked if the Planning Commission meeting was poorly attended because of the \$4,000 fee. She said if there is a reasonable ordinance in place people will comply.

Shannon Rose a Hillsboro real estate broker came forward and stated she owns backyard chickens and shared her experience. She started raising backyard chickens 5 years ago out of concern for the industrial food supply. She said her doctor asked her to do research because her immune system was compromised. She said according to the CDC there has not been a death from backyard chickens within the last 4 years and conversely there have been two deaths from imported cucumbers. She referred to the avian flu risk and said having 30,000 chickens under one roof will make them susceptible to disease versus 3 backyard chickens. She said the avian flu outbreak will result in more imported eggs and that makes her nervous. She stated the benefits of backyard chickens are, you are not relying on the industrial food chain, saving money, and nutrition. She said it is important that people are able to be self-sustaining. She said professionally she has sold several homes with backyard chicken coups and they sell quickly and are a selling point. She said she has never received complaints about noise or smell. She stated Portland allows backyard chickens and it is one of the fastest appreciating markets in the country.

Naomi Belov came forward on behalf of her neighbor. She read a letter from Karinya Moisan: I appreciate that the Council is taking the time to hear from the community regarding the exorbitant fee associated with the simple pleasure of having backyard chickens. She read, she has lived in Sherwood for 7.5 years and has wanted to have chickens the entire time, however the fear of being fined \$4000 and having my chickens seized has prevented her from enjoying this small farm animal that has so many benefits. She lives on just over a quarter of an acre within the City and would love to be able to teach her daughter about animal husbandry and the trials and tribulations that go along with their day to day care. She has researched the neighboring cities ordinances in regards to backyard chickens and Sherwood is the only City that she can find that has this ridiculous fee. Her family would greatly appreciate if the City could come to a resolution with this issue and join the greater Portland area in its acceptance of backyard chickens. She realizes that there are concerns about mess and noise (she votes for no roosters), however, she think that the City can resolve these issues with moderate and reasonable regulations.

Mayor Clark closed the public hearing and asked for Council comments.

Council President Robinson used a tape measure to demonstrate how far 10 feet is and the proposed language allows chicken enclosures to be 10 feet from the property line and stated that is not very far. She stated that although the enclosure has to be 10 feet from the property line the droppings from the chicken could be right on the other side of the fence if your fence is on the property line if the chickens are allowed to roam free. She said she is not against chickens and raised them as a child. She commented on the mess and odor that occurs over time. She referred to comments she has heard from citizens that have neighbors with illegal chickens and the odor prevents them from opening their windows during the summer. She said they have approached the neighbors and they refuse to do anything about it and that is the scenarios she sees coming forward if a backyard chicken ordinance is passed. She stated Sherwood is a small town and the conditions are tight and she has a significant concern about odor, rodents, health problems, and drainage. She stated she lives on a 5,000 square feet lot and her neighbors water drains into her yard and if the neighbor had chickens the droppings would drain to her yard and she has a dog that could track that in the house. She said she is concerned about the location and creating conflicts with neighbors. She stated she is not concerned with the initial ownership but what happens down the road and how conflicts will be resolved. She said the Code Enforcement Officer is already busy with dogs and cats and chickens would add to that. She commented that there is a farm outside the city limits where you can buy a chicken and get the eggs from that chicken. She said she agrees with incentives to have fresh eggs but said this is not appropriate for the small lots in Sherwood. She referred to the language of the proposed ordinance and said she does not agree that up to 3

chickens should be allowed on 5,000 square foot lots and she does not agree that enclosures should be within 10 feet of the property line. She said any ordinance needs to include a provision that a repeat of violations may result in revocation of any permit that is issued.

Councilor King stated he does not support the ordinance and said he would support having a certain structure for applying for conditional use permit other than \$4,000.

Mayor Clark clarified with Councilor King that he is not in favor of the ordinance as proposed and he would not be against reducing the conditional use permit for chickens. She asked what would be an appropriate fee. Councilor King said that would need to be explored and suggested something around \$250 to have backyard chickens.

Community Development Director Julia Hajduk explained the conditional use process and said the fee for the conditional use permit for chickens is high because it considers the staff time, the attorney time and the hiring of a Hearings Officer. Councilor King said he understands and suggested streamlining the process for this particular use so it would not be so high. Ms. Hajduk stated it would then not be a conditional use process.

Mayor Clark asked Ms. Hajduk if she would recommend having a special category for the special use permit for chickens. Ms. Hajduk said that is a discretionary decision for Council. Mayor Clark asked if that would be a process that could be streamlined. Ms. Hajduk said if we were to create a special process that would require an amendment process that would have to discuss the criteria, the process and how it would be evaluated.

Councilor Kuiper asked what if someone pays the \$4,000 now and asked what conditions are they subject to. Ms. Miller said there is a special chapter in the Code titled Condition Use Permit Qualifications and there are use criteria that are evaluated basically on a case by case basis. She said by having a conditional use permit category it is uncertain to the applicants as to how their neighbors will respond to the situation and what conditions would be imposed. She said the decisions are not made by community members but by an objective Hearings Officer. She stated the conditions would be on a case by case basis.

Councilor King said as a neighbor you would want those issues addressed.

Councilor Kuiper said there would be parameters by which the Planning Department would need to compare to determine if a conditional use permit would be issued. Ms. Miller said it is similar to how they evaluated this proposed code and what was recommended to the Planning Commission. She said they looked at other jurisdictions and other best practices. She said this proposed code language is the combination of their research.

Councilor King said the permit is more proactive in preventing problems rather than having the code in place to enforce.

Councilor Harris referred to the research regarding other cities and asked if other jurisdiction had it under a special use permit. Ms. Miller provided the Council with another handout, "Samples of Surrounding Jurisdiction Chicken Policy" (see record, Exhibit E).

Mayor Clark said the Council received several emails from the public and entered the public testimony into the record.

*Recorder Note: Email from Alicia Tadema, email from Teresa Hetu, 2<sup>nd</sup> email from Teresa Hetu, email from Roxanne Blackwood, email from CJ Braccialini, email from Matthew Young, email from Leo Bartnik, email from Sarah Hagan, letter from Leah Buffington, letter from Mr. and Mrs. Roderick Meserve, email from Teresa Denney, email from Allison Erdman, (see record, Exhibit F).*

Councilor Harris referred to comments regarding diseases and listed several diseases that are passed from cats and dogs to humans. She said we are not concerned about these diseases and don't have a \$4,000 special permit fee for cats and dogs and are not concerned enough to ban cats and dogs. She stated we are at a higher risk from getting sick from our dog or cat than from a neighbors chicken. She said she is in support of allowing chickens and commented on change. She referred to the Planning Commission not recommending the proposed ordinance for a lack of interest and said there is a lot of interest for chickens. She said you can't base a decision on whether enough citizens show up to a meeting. She referred to common sense and the number of other cities that have chickens. She said the negative issues being discussed have not happened and backyard chickens do not cause mass hysteria and death. She said the large factory farms are different than backyard chickens. She referred to Council President Robinsons remarks and agreed that there are not a lot of neighborhood HOA's that will allow backyard chickens. She said there is not a town around Sherwood that bans chickens and has a fee over \$500. She referred to the comments that the 535 survey results were fake and said even if you throw out half of the pros that is still a lot of people who want chickens. She said she is representing people that want chickens and the majority of the citizens in the room and the emails received want chickens and she is supporting chickens.

Councilor King asked how long chickens have been under a conditional use. Ms. Hajduk said at least ten years.

Mayor Clark said there is not a repeated offense clause in the proposed ordinance and asked if staff could construct language to address repeat offenders. Ms. Hajduk said yes and reminded the Council that if you are repeatedly offending you probably don't care if your license is revoked. Mayor Clark stated there would be a fee associated.

City Attorney Soper noted that it would also simplify the enforcement. Mayor Clark referred to comments that the language does not include a repeated offense clause or a schedule of disciplinary action. She referred to a letter from Chief Groth that addressed this and said if something is approved there needs to be parameters of what they should expect.

Mayor Clark stated the proposed ordinance should include language pertaining to fees and referred to the suggestions provided by Ms. Miller. Ms. Hajduk recommended not putting fee language in the ordinance but in the fee schedule. She said if something is adopted staff would need to evaluate what it would cost in staff time and process, and then Council could decide whether they want to charge the full cost or subsidize it. Mayor Clark clarified that if the ordinance is adopted, staff would bring back fee language to the Council.

Mr. Soper stated, in Section 6.03.050(A) of the proposed language it states that a processing fee would be paid. He said the reason they don't put fees in the ordinance itself is they would have to go through a hearing process every time they wanted to change the fee.

City Manager Gall referred to the comparison chart and stated other jurisdictions don't use the conditional use permit for backyard chickens. He said others either allow chickens with regulations or a small fee. He stated Sherwood is unusual by categorizing this as a conditional use permit which is the same kind of permit used for major development applications where the fee is not prohibitive for a developer. He said this was not designed for a chicken and the existing language says raising animals other than household pet, and that is a broad category.

Councilor Kuiper referred to Section 6.03.050(B) of the proposed language that states tenants and renters are permitted to keep chickens only with the written permission of the property owner and asked if that would be submitted as part of an application. She said she is concerned with the number of chickens allowed on 5,000 square feet lot and said those lots are small and she is concerned for neighbors and the health of the chickens. Ms. Miller stated the Planning Commission also had those concerns and said 5,000 square feet is the minimum lot size for any standard single family home in the City.

Councilor Brouse asked what the average size of lot in Sherwood is. Ms. Miller said there is a series of zonings, ranging from very low density residential with a minimum lot size of 40,000 square feet and high density residential with a minimum lot size of 5,000 square feet. She said she does not know the average lot size and noted that all of Woodhaven is considered low density residential within a PUD with a 7,000 minimum square feet lot size.

Councilor Brouse referred to Section 6.03.040(B) of the proposed language which states "Chickens must be kept for personal, non-commercial use only. No person may sell eggs or engage in chicken breeding or fertilizer production for commercial purposes" and asked what is the violation for selling eggs. Ms. Miller said the proposed language includes the penalty for violation of the chapter so any violation of any of the ongoing conditions or criteria would be eligible for the penalty of a Class C violation which is \$250. She said commercial is defined as selling for profit.

Councilor Brouse commented on chicken coups with heaters and the potential for fire and asked if there would be any language which would alleviate that hazard. Ms. Miller said the accessories structures are set up for the distances from the property lines and she suggested that maybe homeowners insurance would cover those types of incidences. Ms. Hajduk said the proposed language does not address this and suggested that if Council approves the proposed language staff could prepare a best practices sheet that could be distributed with the permit. Ms. Miller suggested having an open house with experts on raising backyard chickens to provide advice. She stated the application process in other jurisdiction is elaborate and said she could provide examples of the applications.

Councilor Henderson referred to the distances between the buildings and noted that Tigard, West Linn and Wilsonville allow chickens but require them to be 100 feet from another residents. She asked if you could be 100 feet from another resident on a 5,000 square feet lot adjacent to another 5,000 square feet lot? Ms. Miller replied that would be challenging.

Councilor Henderson commented on the other cities that have been mentioned and said Sherwood is the smallest and said that is the concern people have. She noted that Sherwood has a number of small lots

and the proposed language stated single family homes which would eliminate townhomes. She referred to Section 6.03.050 of the proposed language which states, "Within 14 calendar days following the approval of a license application, the City will provide written notice by first class mail to all property owners immediately abutting the license holder's property. The notice must contain the name and address of the license holder for persons to seek information or file complaints." She commented on due process and asked who do people contact with complaints and said due process is not in the proposed language. Ms. Hajduk commented on the intent of the section and said staff can amend the language with the direction of the Council or Council can send the language back to the Planning Commission for further review.

Council President Robinson asked if Council could direct staff to modify the ordinance to make it a minimum 10,000 square feet lot size and to add a provision about repeated violation. She asked if there would have to be another first reading? Mr. Soper said the Charter does contemplate that you can make amendments and changes to the ordinance without starting the process over. He said Council can direct staff to bring amendments to the next hearing and continue forward with that being the second hearing and possible adoption.

Mayor Clark said should Council pass this to a second hearing she is hearing support for staff to return with a due process for dispute and repeated offense clause or provision. She said chickens have been discussed for a long time and she appreciates the discussion. She commented on the \$4,000 fee and said she is in favor of having this discussion. She noted that she is not a proponent of chickens and does not want chickens in her yard. She referred to comments from Mr. Claus regarding having discourse and discussion with our neighbors and said that is part of being a neighborhood. She said HOAs will have the right to ban chickens and commented on free will, personal liberties, working with your neighbors and having a fair dispute resolution process. She said she does not have an affinity with chickens nor does she have a problem with them. She stated if her neighbor wants to have chickens that is their civil liberty and as long as it does not negatively affect her. She noted there needs to be a stronger due process for disputes. She noted that there are a lot of people in Sherwood now with chickens and she would rather have an ordinance that addresses people having chickens in a nice respectable manner so that the parameters of use are identified. She said this ordinance will clean up an issue that continues to be discussed and never dealt with.

Councilor Kuiper stated she agreed with Mayor Clark and is a believer in discussion and third options. She referred to Councilor Henderson's comments about neighboring cities allowing chickens and said a lot of Sherwood's growth has been under the development of Metro and Metro has kept the density more compact and that should be considered as requirements and the number of chickens that are allowed on different sized lots. She said the best way to address chickens is to discuss and draft an ordinance.

With no further Council discussion Mayor Clark asked for a motion.

Mr. Gall asked Mr. Soper to discuss with Council how to move forward and said staff needs direction and clarity.

Mr. Soper said the motion would be to approve the ordinance and go to the next hearing. He said the next Council meeting may be too soon due to the volume of changes discussed and the October 20 meeting would be more reasonable. He discussed the possible changes and asked for clarity. He asked about provisions for permits being revoked after multiple violations and the Council agreed to direct staff to add

language. He asked for clarification of the process by which a neighbor can file a complaint and the Council agreed and directed staff to add language. He referred to comments about which properties would be eligible, setbacks, number of hens, minimum lot size and minimum size of enclosure based on the number of hens and asked for clarification from the Council on those four subjects.

Mayor Clark said she does not need any of the four subjects addressed. Councilor Harris said she agrees.

Council President Robinson said she would like the minimum lot size changed to 10,000 square feet and above.

Councilor Kuiper said she would support the minimum lot size changed to 7,500 square feet, medium density residential and above.

Ms. Miller said the low density residential minimum lot size is 7,000 square feet.

Councilor Kuiper said she would support low density and above, at least 7,000 square feet.

Councilor Brouse agreed with changing the minimum lot size to 7,000 square feet.

Councilor Harris referred to Councilor Henderson's comments that Tigard, West Linn and Wilsonville required at least 100 feet from residents and said there are six other cities that require 25 feet or less.

Mayor Clark said none of the other cities are requiring a certain lot size.

Councilor Kuiper said some of them are and they may not have too because their development was not subject to Metro growth.

Council President Robinson said she would support 25 feet minimum from another home.

Councilor Kuiper agreed with Council President Robinson.

Mr. Soper clarified that the proposed ordinance requires 25 feet from another home and 10 feet from a property line.

Council President Robinson stated she would support 25 feet minimum from a property line.

Mayor Clark and Councilor Kuiper said they do not need the 25 feet minimum from a property line. Councilor Kuiper said she is more concerned about lot size.

City Manager Gall asked the Council if there was a consensus to change the minimum lot size to 7,000 square feet.

Ms. Miller reminded the Council that the proposed ordinance allows 3 hens on a 5,000 square feet lot and 5 hens on 10,000 square feet lot and asked if they wanted to change the language to state 3 hens on a 7,000 square feet lot and 5 hens on 10,000 square feet lot.

Councilor Harris said if the minimum lot size is increased the number of hens allowed should increase to perhaps 4.

Mayor Clark asked Councilor Henderson if she agreed with changing the minimum required lot size to have chickens increased from 5,000 square feet to 7,000 square feet or larger. Councilor Henderson said she would support 7,000 square feet. She said the coup location does not necessarily matter and provided examples.

Mr. Soper agreed to change the minimum lot size from 5,000 square feet to 7,000 square feet.

Councilor Henderson said she served on the Charter Review Committee with Councilor Kuiper and Councilor Brouse who was an alternate and said the intent of amending the Charter to require a first and second reading was supposed to be for the public. She said the Council is now using the first and second reading to address questions and concerns.

Councilor Kuiper said what Council is doing does not supersede the public.

Councilor Henderson said she does not understand the rationale of voting yes for an ordinance which does not meet her needs just to move forward and make the corrections. She said she would move to continue the hearing. She stated that she will vote against a motion to approve and if the motion fails it defeats the purpose of a first and second reading.

Mr. Soper said he agrees that the process is unusual and the language should be cleaned up at some point.

Mayor Clark clarified that we have an ordinance that requires Council to vote on whether to move it forward to a second reading. Mr. Soper said that is correct and said it is phrased as "approval". Mayor Clark said Council needs to understand that there will be a second reading on the ordinance and staff will be directed to make changes and should a majority of the Council vote against approval, the ordinance will not return for a second hearing. She asked for a motion.

Councilor Harris asked if the ordinance can be tabled and brought back.

Mayor Clark said it would then come back for a first hearing and then a second hearing and she said that is a waste of time.

Councilor Kuiper clarified that the Council would be voting to approve to bring the ordinance back with no edits.

Mr. Soper said Council is voting to approve the ordinance for purposes of continuing to a second hearing.

Councilor Harris said Council should not vote against the ordinance just because they want the public to know they are against chickens even though they might support a more appropriate ordinance allowing chickens.

City Manager Gall asked Mr. Soper if he had clear direction from Council. He responded that he had the high points.

**MOTION: MAYOR CLARK MOVED THAT CITY COUNCIL APPROVE ORDINANCE 2015-007 AMENDING TITLE 6 OF THE MUNICIPAL CODE AND DIVISION II OF THE ZONING AND COMMUNITY DEVELOPMENT CODE AND CHAPTER 6 OF THE MUNICIPAL CODE AS IT RELATES TO THE REGULATION OF BACKYARD CHICKENS AND PLACE IT ON THE OCTOBER 20, 2015 CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION, SECONDED BY COUNCILOR HARRIS. MOTION PASSED 5:2. (MAYOR CLARK, COUNCILORS KUIPER, HARRIS, BROUSE AND HENDERSON VOTED IN FAVOR, COUNCIL PRESIDENT ROBINSON AND COUNCILOR KING VOTED AGAINST).**

Mayor Clark addressed the next item on the agenda.

**C. Ordinance 2015-008 Prohibiting early sales of recreational marijuana by medical marijuana dispensaries**

City Attorney Soper stated this ordinance is before the Council based on the joint work session with the Police Advisory Board where staff was directed to draft an ordinance to prohibit the early sales of recreational marijuana by medical marijuana dispensaries within the City of Sherwood. He summarized the staff report and said there is a version A and a version B of the ordinance. He noted the distinction is version A would be adopted at a single hearing on an emergency clause and effective immediately and requires unanimous approval. He noted the start date for early sales of recreational marijuana is October 1 and if the Council does not follow this procedure they will not have an ordinance in place by October 1. He said the alternative is version B which would adopt an ordinance after two hearings and be effective 30 days after the final approval and therefore would not take effect until October 22 or later giving at least a 3 week period in which recreational marijuana sales could theoretically happen in medical marijuana dispensaries. He said this version would only require a simple majority vote.

Councilor King said he had to leave and said that if he were present he would vote to not allow the sales.

Mr. Soper clarified that the unanimous vote required to make the ordinance effective immediately means 100% of the Councilors. He said the Council could vote now while Councilor King is present. Mayor Clark said there are two requests for public comment and Mr. Soper said the Council must take public comment before voting. Mayor Clark asked Councilor King to stay for the public comment.

Mayor Clark opened the public hearing.

Anthony Bevel, Sherwood resident approached the Council and said recreational marijuana sales are going to happen and he is concerned about the business owner's investment and how it affects them. He said he supports delaying the sales until January to allow the details to be worked out.

Sheri Ralston came forward and said one of the reasons for allowing early marijuana sales is to start to mitigate the black market. She said when discussing recreation sales for marijuana there is concern for safety, crimes, and crowds but there is a growing number of people that use marijuana for other aids which don't qualify them for medical marijuana cards so they buy it on the black market. She said they are not getting a safe product because it is not being tested and that was another reason for allowing early sales. She referred to an article in Time magazine regarding a growing population of senior citizens that are moving to states where it is legal to get cannabis for chronic pain and parents whose children need relief from seizures. She said Council can consider limiting hours and requiring a security guard to make

the community feel safe. She listed the cities in Oregon that are allowing early recreation sales. She said there are projections that the revenue in medical dispensaries will double if they sell recreational marijuana which is equivalent to approximately \$3,000 to \$4,000 a day in sales. She referred to information in the Oregonian regarding Washington’s recreational marijuana dispensaries and they do between \$1 million and \$9 million in sales a year which calculates to \$3,000 to \$5,000 a day. She asked Council to consider this information.

Mayor Clark asked for clarification on the emergency clause. Mr. Soper said there is an emergency clause in version A of Ordinance 2015-008.

**MOTION: MAYOR CLARK MOVED THE CITY COUNCIL APPROVE ORDINANCE 2015-008 PROHIBITING EARLY SALES OF RECREATIONAL MARIJUANA BY MEDICAL MARIJUANA DISPENSARIES, VERSION A.**

Prior to receiving a second to the motion Councilor Henderson referred to Mr. Bevel’s comments that this ordinance would ban the sales until January and said it is a ban until December of 2016. Mr. Soper stated we don’t know exactly when recreational sales at retail outlets will start but it may be in the middle of 2016.

**SECOND: MOTION WAS SECONDED BY COUNCILOR KING. MOTION PASSED 7:0. ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next item on the agenda.

**9. CITY MANAGER REPORT:**

None. Mayor Clark addressed the next item on the agenda.

**10. COUNCIL ANNOUNCEMENTS:**

Mayor Clark requested that due to the late hour Council hold their comments until the next meeting.

Mayor Clark asked for a motion to adjourn.

**11. ADJOURN:**

**MOTION: FROM COUNCILOR KUIPER TO ADJOURN, SECONDED BY COUNCILOR KING, MOTION PASSED 7:0. ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark adjourned the meeting at 10:20 pm.

Submitted by:

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Sylvia Murphy, MMC, City Recorder

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Krisanna Clark, Mayor

**Council Meeting Date:** October 20, 2015

**Agenda Item:** Consent Agenda

**TO:** Sherwood City Council

**FROM:** Kristen Switzer, Community Services Director  
Through: Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Resolution 2015-076, Appointing Roni Zettlemoyer to the Cultural Arts Commission**

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**ISSUE:**

Should the City Council appoint Roni Zettlemoyer to the Cultural Arts Commission?

**BACKGROUND:**

The Cultural Arts Commission currently has 4 vacancies. Council Liaison Jennifer Harris, the Chair of the Cultural Arts Commission Vicki Poppen, with assistance from staff, are recommending Roni Zettlemoyer for appointment.

According to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

**RECOMMENDATION:**

Staff respectfully recommends approving Resolution 2015-076, appointing Roni Zettlemoyer to the Cultural Arts Commission.



**RESOLUTION 2015-076**

**APPOINTING RONI ZETTLEMOYER TO THE CULTURAL ARTS COMMISSION**

**WHEREAS**, the Cultural Arts Commission currently has 4 vacancies; and

**WHEREAS**, the Council Liaison, Chair of the Cultural Arts Commission, with assistance from staff, are recommending Roni Zettlemoyer for appointment; and

**WHEREAS**, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

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

**Section 1:** The Mayor is authorized to appoint Roni Zettlemoyer to a two year term, ending November 2017.

**Section 2:** This Resolution is effective upon its approval and adoption.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**Council Meeting Date:** October 20, 2015

**Agenda Item:** Consent Agenda

**TO:** Sherwood City Council

**FROM:** Kristen Switzer, Community Services Director  
**Through:** Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Resolution 2015-077, Appointing Skye Boughey to the Cultural Arts Commission**

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**ISSUE:**

Should the City Council appoint Skye Boughey to the Cultural Arts Commission?

**BACKGROUND:**

The Cultural Arts Commissions currently has 4 vacancies. Council Liaison Jennifer Harris, the Chair of the Cultural Arts Commission Vicki Poppen, with assistance from staff, are recommending Skye Boughey for appointment.

According to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

**RECOMMENDATION:**

Staff respectfully recommends approving Resolution 2015-077, appointing Skye Boughey to the Cultural Arts Commission.



**RESOLUTION 2015-077**

**APPOINTING SKYE BOUGHEY TO THE CULTURAL ARTS COMMISSION**

**WHEREAS**, the Cultural Arts Commission currently has 4 vacancies; and

**WHEREAS**, the Council Liaison, Chair of the Cultural Arts Commission, with assistance from staff, are recommending Skye Boughey for appointment; and

**WHEREAS**, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

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

**Section 1:** The Mayor is authorized to appoint Skye Boughey to a two year term, ending November 2017.

**Section 2:** This Resolution is effective upon its approval and adoption.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**TO:** Sherwood City Council

**FROM:** Bob Galati P.E., City Engineer  
**Through:** Joseph Gall ICMA-CM, City Manager, Julia Hajduk, Community Development Director and Josh Soper, City Attorney

**SUBJECT: Resolution 2015-078, authorizing the City Manager to execute a contract with FCS Group for updating City Transportation System Development Charge (SDC) Methodology and Rates, and other Street Fees**

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**Issue:**

Shall the City Council approve Resolution 2015-078 authorizing the City Manager to execute a contract with FCS Group for updating the City Transportation System Development Charge (SDC) methodology and rates, and other street fees, after the negotiation of a scope of work and fee amount is completed?

**Background:**

In June 2014, the City Council adopted Ordinance 2014-012 which approved adoption of the updated Transportation System Plan (TSP), bringing the City into compliance with the requirements of the State of Oregon Transportation Plan Rules (TPR) and Metro Regional Transportation Plan (RTP).

With the adoption of the updated TSP, the City's System Development Charges (SDC) became the next step in the updating process. The City's Transportation SDCs are based on a methodology and rate study completed in October 2006 and adopted by Resolution 2006-062. The SDC rates were predicated on the projects identified in the 2006 version of the TSP. Over time many of the projects listed in the 2006 TSP were constructed, and with the update of the TSP a new list of capital improvement projects have been identified.

In February 2015, the City entered into a contract with DKS Associates to review, revise and establish estimated construction costs for the projects listed in the updated TSP. The combination of the TSP project list and estimated construction costs will be the basis in updating the SDC methodology and SDC rates.

Because the economic conditions and TSP projects listing have changed, it is necessary to update the City transportation SDC methodology and rates to ensure that the SDC adequately covers the cost of the identified priority and necessary projects.

In addition, in June 2007, the City Council adopted Resolution 2007-058 which approved establishment of a street utility fee which covers the installation, maintenance, engineering, administration and operation of street lights and annual road maintenance. Additionally, a sidewalk repair fee was established in March 2012 under Resolution 2012-015. These street utility fees have not been evaluated or updated since their establishment.

Evaluating and updating these street utility fees at the same time as conducting the transportation SDC update is an efficient and a timely use of City funds, and provides a complete picture of the City's street funding needs and capabilities.

City staff solicited proposals on August 26<sup>th</sup> and August 28<sup>th</sup>, 2015 and received two (2) qualified consultant proposals. City staff reviewed and scored the consultant submittals in accordance with the selection criteria requirements of the RFP and determined that FCS Group was the best qualified to meet the City's needs. Staff is currently in negotiations for the final Scope of Work description and related fee amount, however in the interest of time, staff is requesting authorization for the City Manager to execute a contract prior to it being finalized. The contract amount will not exceed the budgeted amount of \$70,000.

**Financial Impacts:**

This project has been adopted in the FY2015-16 budget and is funded from the City transportation Improvement SDC fund. No other financial impacts are anticipated by conducting this project.

**Recommendation:**

Staff respectfully recommends adoption of Resolution 2015-078 authorizing the City Manager to execute a contract with FCS Group for updating the City Transportation System Development Charge (SDC) methodology and rates, and other street fees, after the negotiation of a scope of work and fee amount is completed.



**RESOLUTION 2015-078**

**AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FCS GROUP FOR UPDATING CITY TRANSPORTATION SYSTEM DEVELOPMENT CHARGE (SDC) METHODOLOGY AND RATES AND OTHER STREET FEES**

**WHEREAS**, the City has an existing Transportation System Development Charge (SDC) which was originally adopted in 2006 by Ordinance 2006-062; and

**WHEREAS**, updates to the City Transportation SDC rates have been made (Resolution 2007-085 and Resolution 2014-030); however, the changes did not affect to the SDC methodology; and

**WHEREAS**, in June 2014, the City Council adopted Ordinance 2014-012 which approved acceptance of the City's updated Transportation System Plan (TSP), the Transportation Street Functional Classification Map Amendment, and the Comprehensive Plan Text Amendment; and

**WHEREAS**, the economic conditions and TSP project listing have changed, it is necessary to update the City transportation SDC methodology and rates to ensure that the SDC adequately covers the cost of the identified priority and necessary projects; and

**WHEREAS**, in June 2007, the City Council adopted Resolution 2007-058 which established a street utility fee which covers the installation, maintenance, engineering, administration and operation of street lights and road maintenance; and

**WHEREAS**, in August 2012, the City Council adopted Resolution 2012-015 which established a sidewalk repair fee for the repair of sidewalks within the City limits; and

**WHEREAS**, these street utility fees have not been evaluated or updated since their establishment; and

**WHEREAS**, it is efficient and timely to evaluate the Transportation SDC and street utility fees at the same time in order to have a comprehensive funding picture; and

**WHEREAS**, City staff solicited proposals for the Transportation SDC and Street, Sidewalk, and Street Lighting Fees Study through the Daily Journal of Commerce (DJC) on August 26<sup>th</sup> and August 28<sup>th</sup>, 2015; and

**WHEREAS**, the Request for Proposal (RFP) was open to all consultants in compliance with the formal qualifications based selection procedure established by Oregon Administrative Rules (OAR) 137-048-0220 and Oregon Revised Statutes (ORS) 279a through 279C; and

**WHEREAS**, City staff received two (2) qualified consultant proposals; and

**WHEREAS**, City staff reviewed and scored the consultant submittals in accordance with the selection criteria requirements of the RFP; and

**WHEREAS**, City staff have determined that FCS Group was the best qualified to meet the City's needs and are currently in negotiations for the final Scope of Work description and related fee amount; and

**WHEREAS**, it is timely to authorize the City Manager to enter into a Professional Service Contract with FCS Group prior to completing final negotiations because of the tight project schedule of completing the methodology and street fees study and having all necessary City Council legislation completed before the end of the current fiscal year of June 30, 2016.

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

**Section 1.** The City Manager is authorized to enter into a professional service contract with FCS Group after City staff has successfully negotiated Scope of Work and fee amount in accordance with the RFP and Oregon law.

**Section 2.** The approved contract amount will not exceed the project budgeted amount of \$70,000.

**Section 3.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**TO:** Sherwood City Council

**FROM:** Julie Blums, Finance Director  
**Through:** Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Resolution 2015-079, appointing Amy Kutzkey to Budget Committee**

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**Issue:**

Should the City Council adopt legislation appointing Amy Kutzkey to the Budget Committee?

**Background:**

The Budget Committee consists of the City Council and seven Sherwood citizens. There is currently one position open on the Budget Committee. The City received seven applications to serve on the Committee. Andy McConnell, Chair of the Budget Committee, and I interviewed four of the candidates, and Mayor Clark held second interviews with three of those candidates.

Mayor Clark, Finance Director Julie Blums, and Budget Committee Chair Andy McConnell recommend that Amy Kutzkey be appointed to the Budget Committee to serve a three year term ending June 30, 2018.

**Financial Impacts:**

None

**Recommendation:**

City staff respectfully recommends City Council approve Resolution 2015-079 appointing Amy Kutzkey to the Budget Committee.



**RESOLUTION 2015-079**

**APPOINTING AMY KUTZKEY TO THE BUDGET COMMITTEE**

**WHEREAS**, there is one vacancy on the Budget Committee for citizen members; and

**WHEREAS**, the City advertised the vacancy and received seven applications for consideration; and

**WHEREAS**, Amy Kutzkey was interviewed by Mayor Clark, the Council liaison to the Budget Committee, Finance Director Julie Blums, and Budget Committee Chair Andy McConnell; and

**WHEREAS**, Amy Kutzkey was endorsed by Mayor Clark, Finance Director Julie Blums, and Budget Committee Chair Andy McConnell.

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

**Section 1.** Amy Kutzkey is hereby appointed to the Budget Committee for a three year term pursuant to ORS 294.414 (5), with a term ending June 30, 2018.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**TO:** Sherwood City Council

**FROM:** Craig Sheldon, Public Works Director  
Through: Joseph Gall, ICMA-CM, City Manager and Josh Soper, City Attorney

**SUBJECT:** Resolution 2015-080 Assessing Sidewalk Construction Costs on 17818 SW Reisner Lane and 17729 SW Dodson Drive, Sherwood, OR 97140 and Directing the City Recorder to Enter Such Assessments in the City's Lien Docket

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**Issue:**

Should the City place property on the City's lien docket where the owners agreed to participate in the sidewalk assistance program and failed to compensate the City for repairs completed on their behalf?

**Background:**

In May 2014, City staff notified property owners of the addresses listed below of the requirement to repair the sidewalks and invited them to participate in the Sidewalk Repair Assistance Program. The properties identified below signed up for the program and have not remitted the full balance in the allotted 12 months since the initial billing on August 11, 2014.

Property Address:	17818 SW Reisner Lane, Sherwood, Oregon 97140
Property Owner:	Diana Perrault
Amount Owed to City:	\$470.00

Property Address:	17729 SW Dodson Drive, Sherwood, OR 97140
Property Owner:	Daniel Salvey
Amount Owed to City:	\$43.00

Chapter 12.08.090 of the Sherwood Municipal Code (SMC) states: " The notice shall specify the amount of the cost of construction or repair, and state that if the amount is not paid within thirty (30) days after the date of service, the council shall thereafter, after hearing objections, if any, made thereto, by resolution assess the cost of such construction and repairs of such sidewalk or sidewalks upon the lots and parcels abutting such sidewalk and thereby benefited; and the recorder shall enter such assessment in the docket of city liens and shall bear interest at the rate of nine (9) percent per annum from ten (10) days after date of entry in the lien docket. In the manner provided in Chapter X of the City Charter for docketing liens for street improvements, and it shall become immediately due and collectible thereafter and enforced in the manner provided by Chapter X of the City Charter, or as provided by state statute for enforcement of city liens and assessments. Such assessments shall be paid in full."

**Financial Impacts:**

The sum of money to be considered for placement on City's lien docket is \$513.00. This does not include the cost of attorney or staff hours.

**Recommendation:**

Staff respectfully recommends City Council approval of Resolution 2015-080, placing the above property on the City's lien docket until costs are recouped in association with the Sidewalk Assistance Program.



City of Sherwood  
15527 SW Willamette St.  
Sherwood, OR 97140  
Tel 503-625-5722  
Fax 503-625-0679  
www.sherwoodoregon.gov

DIANA PERRAULT  
17818 SW REISNER LN  
SHERWOOD, OR 97140

September 15, 2015

Mayor  
Krisanna Clark

**Re: Sidewalk Repair Payment Required  
17818 SW REISNER LN**

Council President  
Sally Robinson

Councilors  
Linda Henderson  
Dan King  
Jennifer Harris  
Jennifer Kuiper  
Renee Brouse

Dear Homeowner,

City Manager  
Joseph Gail, ICMA-ADM

This letter is to inform you that the City is scheduled to present your address and outstanding balance to the City Council at the **Council Meeting scheduled for October 20<sup>th</sup>, 2015 starting at 7:00 pm.** The City will be requesting that City Council approve placing a lien against your property for failure to remit payment in the amount of Four Hundred Seventy dollars and Zero cents (\$470.00) for work completed by the City to correct sidewalk deficiencies adjacent to your property.

Assistant City Manager  
Tom Pessier, P.E.

You will be permitted to speak on your own behalf at the meeting to express your justification for your refusal to remit. We have included a copy of your signed agreement.



2009 Top Ten Selection

The Sidewalk Repair Assistance Program, in which you agreed to participate with signed documentation, allows the homeowner 12 months interest free to remit the total balance of the repair. **Municipal Code 12.08.090 – Assessment** permits the City to enter the unpaid balance into the docket of city liens.



2007 18<sup>th</sup> Best Place to Live

Remittance in full to the Utility Billing Department prior to the hearing will remove your address from the process.



Thank you,

David Janusz  
Department Program Coordinator  
15527 SW Willamette St  
503.925.2312  
[januszd@sherwoodoregon.gov](mailto:januszd@sherwoodoregon.gov)

One of the following must occur within 60 days of the notification from the City dated **Tuesday, June 25, 2013**. Please initial only one (1) of the three (3) options.

- 1. Opt into the Program. The City will be responsible for coordination of the contractor(s) to ensure work is completed within the timeframe identified through the City's ordinance. You will be responsible for 50% of the total cost of the work.\*
- 2. Replace the sidewalk deficiency(s) yourself OR hire a contractor to replace the sidewalk deficiency(s) without compensation from the program. All work must meet City of Sherwood Standards. You will be required to obtain any/all permits and the work will require inspection by City staff. Work must be complete by **Monday, August 26, 2013**.
- 3. If you choose not to do any of the above within sixty (60) days from receiving notification, the city will correct the sidewalk deficiency(s) at 100% cost to the homeowner, up to and including notice, engineering, advertising and attorney's fees. These charges will be due in full once work has been completed. **Failure to pay may result in a lien being assessed to your property.**

DP

INITIALS

INITIALS

I reserve the right to opt out of the Program pending the quote for the removal or modification to the tree creating the sidewalk condition. I am responsible for 50% of the cost for the Arborist Report and will be billed consistently with the terms of the Program. I am entitled to a copy of the Arborist Report to obtain the required permit.

INITIALS

When you opt into the Program, the City will coordinate all work to be performed. Once the work is complete, we will schedule a final inspection.

An invoice will be provided to you detailing all work performed and the total cost will be provided. The City will pay 50% of the total cost and the remaining balance will be owed by you.

As per the Program, you have 12 months to pay your portion of the work. Once the 12 months has been reached, any outstanding monies owed to the City will be subject to the City's lien process.

ACCEPTANCE:

CITY OF SHERWOOD

HOMEOWNER

Craig Sheldon

Diana Perron

Craig Sheldon, Public Works Director

Signature of Homeowner

August 30, 2013

Printed Name:

Date

Date

8/30/13

Site Address: 17818 SW REISNER LN

Asset #: SDW0657



May 2015 Sidewalk Repair Program

City of Sherwood  
15527 SW Willamette St.  
Sherwood, OR 97140  
Tel: 503-625-5722  
Fax: 503-625-0679  
[www.sherwoodoregon.gov](http://www.sherwoodoregon.gov)

DANIEL SALVEY  
17729 SW DODSON DR  
SHERWOOD, OR 97140

September 15, 2015

Mayor  
Krisanna Clark

**Re: Sidewalk Repair Payment Required  
17729 SW DODSON DR**

Council President  
Sally Robinson

**Councilors**  
Linda Henderson  
Dan King  
Jennifer Harris  
Jennifer Kuiper  
Renee Brouse

Dear Homeowner,

City Manager  
Joseph Gali, ICMA-CM

This letter is to inform you that the City is scheduled to present your address and outstanding balance to the City Council at the **Council Meeting scheduled for October 20<sup>th</sup>, 2015 starting at 7:00 pm.** The City will be requesting that City Council approve placing a lien against your property for failure to remit payment in the amount of Forty Three dollars and Zero cents (\$43.00) for work completed by the City to correct sidewalk deficiencies adjacent to your property.

Assistant City Manager  
Tom Pessemier, P.E.

You will be permitted to speak on your own behalf at the meeting to express your justification for your refusal to remit. We have included a copy of your signed agreement.



2009 Top Ten Selection

The Sidewalk Repair Assistance Program, in which you agreed to participate with signed documentation, allows the homeowner 12 months interest free to remit the total balance of the repair. **Municipal Code 12.08.090 – Assessment** permits the City to enter the unpaid balance into the docket of city liens.



2007 18<sup>th</sup> Best Place to Live

Remittance in full to the Utility Billing Department prior to the hearing will remove your address from the process.



Thank you,

David Janusz  
Department Program Coordinator  
15527 SW Willamette St  
503.925.2312  
[januszd@sherwoodoregon.gov](mailto:januszd@sherwoodoregon.gov)



One of the following must occur within 60 days of the notification from the City dated **Friday, May 2, 2014**. Please initial only one (1) of the three (3) options.

1. Opt into the Program. The City will be responsible for coordination of the contractor(s) to ensure work is completed within the timeframe identified through the City's ordinance. You will be responsible for 50% of the total cost of the work.\* KS DS
  
2. Replace the sidewalk deficiency(s) yourself OR hire a contractor to replace the sidewalk deficiency(s) without compensation from the program. All work must meet City of Sherwood Standards. You will be required to obtain any/all permits and the work will require inspection by City staff. Work must be complete by **Tuesday, July 1, 2014**. INITIALS
  
3. If you choose not to do any of the above within sixty (60) days from receiving notification, the city will correct the sidewalk deficiency(s) at 100% cost to the homeowner, up to and including notice, engineering, advertising and attorney's fees. These charges will be due in full once work has been completed. **Failure to pay may result in a lien being assessed to your property.** INITIALS

I reserve the right to opt out of the Program pending the quote for the removal or modification to the tree creating the sidewalk condition. I am responsible for 50% of the cost for the Arborist Report and will be billed consistently with the terms of the Program. I am entitled to a copy of the Arborist Report to obtain the required permit. INITIALS

When you opt into the Program, the City will coordinate all work to be performed. Once the work is complete, we will schedule a final inspection.

An invoice will be provided to you detailing all work performed and the total cost will be provided. The City will pay 50% of the total cost and the remaining balance will be owed by you.

As per the Program, you have 12 months to pay your portion of the work. Once the 12 months has been reached, any outstanding monies owed to the City will be subject to the City's lien process.

ACCEPTANCE:

CITY OF SHERWOOD

Craig Sheldon, Public Works Director

May 02, 2014

Date

HOMEOWNER

Signature of Homeowner

Printed Name:

5/14/14

Date

Site Address: 17729 SW DODSON DR

Asset #: SDW0901



**RESOLUTION 2015-080**

**ASSESSING SIDEWALK CONSTRUCTION COSTS ON 17818 SW REISNER LANE AND 17729 SW DODSON DRIVE, SHERWOOD, OR 97140 AND DIRECTING THE CITY RECORDER TO ENTER SUCH ASSESSMENT IN THE CITY'S LIEN DOCKET**

**WHEREAS**, pursuant to Chapter 12.08 of the Sherwood Municipal Code, the City undertook improvements to various sections of sidewalks within the City; and

**WHEREAS**, the City notified various property owners of their obligation to complete the improvements themselves or the option of partnering with the City to share in the cost of the improvements; and

**WHEREAS**, the owners of 17818 SW Reisner Lane and 17729 SW Dodson Drive, Sherwood, OR 97140 opted to partner with the City to share in the cost of the improvements, but have failed to remit payment for their respective shares of the costs within the time allotted; and

**WHEREAS**, pursuant to Chapter 12.08 of the Sherwood Municipal Code, the City held a hearing to determine whether to enter liens against the above properties, and afforded the owners with advance notice and a full and fair opportunity to be heard at the hearing; and

**WHEREAS**, after the hearing, the City Council decided to assess the properties for the costs the City incurred in completing the improvements to the sidewalks abutting the properties.

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

Section 1. An assessment in the amount of four hundred seventy dollars and zero cents (\$470.00) is imposed upon the following property: 17818 SW Reisner Lane, Sherwood, OR 97140. The current owner of 17818 SW Reisner Lane is Diana Perrault.

Section 2 An assessment in the amount of forty three dollars and zero cents (\$43.00) is imposed upon the following property: 17729 SW Dodson Drive, Sherwood, OR 97140. The current owner of 17729 SW Dodson Drive is Daniel Salvey.

Section 3. The City Council directs the City Recorder to enter the above assessments in the docket of City liens. The City Council may authorize the enforcement of the liens to collect the amounts assessed in accordance with ORS 223.505 et seq. or other relevant provisions of law.

Section 4. The property owner may discharge the assessment imposed above in accordance with 12.08.090, ORS Chapter 223 or other relevant provisions of law.

Section 5. This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

Agenda Item: New Business

**TO:** Sherwood City Council

**FROM:** Joseph P. Gall, ICMA-CM, City Manager  
**Through:** Josh Soper, City Attorney

**SUBJECT: Resolution 2015-081, Approving Amendments to City Council Rules Pertaining to Agenda Headings**

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**Issue:**

Shall the City Council approve an amendment to the current City Council Rules which would add an invocation at the beginning of each regular business meeting?

**Background:**

At the request of Mayor Krisanna Clark, the proposed resolution is to amend the current City Council Rules to add an invocation at the beginning of each regular business meeting. The invocation would be given after the Call to Order and before the Pledge of Allegiance in terms of meeting agenda. While this practice is not widespread within Oregon cities, initial staff research has identified the cities of Redmond, Estacada, and Bandon that have such a practice at their respective City Council meetings.

The intent of this change to open regular business meetings with a brief invocation is consistent with the words of the U.S. Supreme Court in *Town of Greece v. Galloway*, "lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of higher purpose, and expresses a common aspiration to a just and peaceful society."

In addition to adding this item to the normal agenda within the City Council Rules, staff has developed guidelines for such a program. The proposed guidelines are attached as Exhibit 2 to this staff report. It is important to note that these guideline were drafted guidelines to comply with the law and ensure that the addition of an invocation at each meeting within the guidelines does not constitute an establishment of religion in violation of the First Amendment of the United States Constitution.

**Financial Impacts:**

None Anticipated.

**Recommendation:**

Staff respectfully recommends adoption of Resolution 2015-081, Approving Amendments to City Council Rules Pertaining to Agenda Headings.

## Exhibit 2

### Sherwood City Council Invocation Guidelines

The Sherwood City Council intends to open their regular business meetings with a brief invocation that, in the words of the U.S. Supreme Court in *Town of Greece v. Galloway*, “lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of higher purpose, and expresses a common aspiration to a just and peaceful society.” To ensure that this practice is conducted fairly and achieves the stated purpose, the City Council sets the following guidelines:

1. The opportunity to offer the invocation shall be open to all, regardless of religious affiliation or non-affiliation.
2. A list of individuals interested in offering an invocation shall be assembled by the City by reaching out to local faith communities and also including any others who contact the City and express interest in participation. The City will offer opportunities to offer the invocation to those on the list on a rotating basis, subject to their availability.
3. The language of the invocation shall be selected by the person offering it, with the following guidelines:
  - a. The invocation shall be brief, solemn and respectful in tone. It is intended to invite the Council to reflect upon shared ideals and common ends.
  - b. The invocation shall not be used to proselytize or advance any one, or to disparage any other, faith or belief.
4. The invocation is for the benefit of the Council. Public participation is not an expected part of the invocation process.
5. In the event there is no one present to give the invocation, a short moment of silence will substitute for that meeting.



**RESOLUTION 2015-081**

**APPROVING AMENDMENTS TO CITY COUNCIL RULES PERTAINING TO  
AGENDA HEADINGS**

**WHEREAS**, Section 10 of the Sherwood City Charter states that the City Council must by resolution adopt rules to govern its meetings; and

**WHEREAS**, the current version of the City Council Rules were adopted by Resolution 2014-024 on April 15, 2014; and

**WHEREAS**, the intent of the proposed amendment in Section D. Agenda is to add an opportunity for an invocation to the normal agenda for each Council business meeting; and

**WHEREAS**, the City has drafted guidelines for the invocation process to comply with the law and ensure that the addition of an invocation at each meeting within the guidelines does not constitute an establishment of religion in violation of the First Amendment of the United States Constitution.

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

**Section 1.** The current City Council Rules are amended as set forth in the attached Exhibit 1.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 20th of October, 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

**CITY OF SHERWOOD  
CITY COUNCIL RULES**

**A. AUTHORITY**

City Charter Section 10 provides that the Council must by resolution adopt rules to govern its meetings. The Council will review its rules at its first meeting in January of even numbered years. Amendments will be made as necessary. The Council will have clear and simple procedures for considering agenda matters.

**B. DEFINITIONS** as used in these Rules, the following mean:

- City Committees: All City committees, commissions, task forces, and advisory bodies.
- Council and Council members: The Mayor, the Council President, and the Councilors.
- Councilors: The Council President and the Councilors.
- Mayor: The Mayor or in the absence of the Mayor the Council President or other Presiding Officer.

**C. COUNCIL MEETINGS**

1. Regular Meetings to conduct Council business will be held each month.
2. Work Sessions to develop city policy will be held each month. Work sessions may be held in conjunction with Council business meetings. Work session agendas will be developed by the City Manager in consultation with the City Council.
3. Special Meetings may be called by the Mayor, Council President in the absence of the Mayor or by a majority of the Council.
4. Executive Sessions will be held in compliance with the Oregon Public Meetings law.
5. Minutes will be taken as provided by the Oregon Public Records law.
6. Telephonic/Electronic Meetings may be held in compliance with the Oregon Public Meetings law. Council members may participate and vote in Council meetings via telephone, electronically, or by other means consistent with the Oregon Public Meetings Law.

Exhibit 1

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7. Attendance at meetings is expected of Council members who should use their best efforts to attend all Council meetings.

**D. AGENDA**

1. The agenda headings for Council business meetings are generally as follows:

- CALL TO ORDER
- INVOCATION
- PLEDGE OF ALLEGIANCE
- ROLL CALL
- APPROVAL OF AGENDA
- CONSENT AGENDA
- CITIZEN COMMENTS
- NEW BUSINESS
- BUSINESS CARRIED FORWARD
- PUBLIC HEARINGS
- CITY MANAGER REPORT
- COUNCIL ANNOUNCEMENTS
- ADJOURNMENT

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2. The Mayor, in consultation with the City Council President and City Manager, shall prepare the agenda for City Council meetings. An amendment to a published City Council meeting agenda must be approved by the Mayor and Council President prior to a Council meeting with sufficient time to allow the public to be notified of the change.
  - a. A Council member may propose an amendment to the agenda by motion under "Approval of Agenda." A Council member will endeavor to have a subject the member wants considered submitted in time to be placed on the agenda and attempt to notify the Mayor and City Manager in advance of proposing a change to the agenda.
  - b. A Council member may request through the City Manager that an item be placed on an agenda. The City Manager will place the item on an agenda forecast for the Mayor and Council President to review. Council members will make best efforts to reach consensus on the agenda and should obtain staff input before requesting an agenda item.
  - c. Agendas will generally be set to allow meetings to end no later than 9:30 p.m. If the Council is still in session at 9:30 p.m., then the Council will decide whether to continue with the agenda or move items to a future agenda.
3. City committees will report to the Council during Council work sessions.

**E. COUNCIL DISCUSSIONS AND DECORUM**

1. Council members will conduct themselves so as to bring credit upon the city government by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Council and abiding by all Council decisions, whether or not the member voted on the prevailing side.
2. Councilors will assist the Mayor to preserve order and decorum during Council meetings and may not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Mayor or Council rules. When addressing staff or members of the public, Councilors will confine themselves to questions or issues under discussion and not engage in personal attacks, or impugn the motives of any speaker.
3. The following ground rules will be observed to maintain order and decorum during Council discussions:
  - a. Council members will gather necessary information and ask questions of city staff before meetings.
  - b. Council members will have an opportunity to speak at least once on any pending motion or agenda item, and will speak for themselves and not for other Council members.
  - c. Council members will not speak on behalf of the Council, unless they have been authorized by the Council to do so.
  - d. During public meetings, Council members will not attempt to edit or revise prepared ordinances. Amendments to proposed ordinances may be appropriate, but input from the City Manager or the City Attorney will be sought to accomplish the Council members' objectives.
  - e. Council members will be open, direct and candid in the Council forum. Members should be brief and succinct in stating their views and focus on a single issue or topic at any one time.
  - f. Council members will focus on city issues and avoid becoming involved in "extra-territorial" issues.
  - g. The Mayor will recognize Councilors wishing to speak in the order of their requests. The Mayor will provide a Council member with an opportunity to speak before recognizing another Council member. Council members will not interrupt another Council member who has the floor.
  - h. Council members will not disguise statements as questions or use

repetitions as a way to convince others.

- i. Council members will keep discussions moving and call for a "process check" if the Council becomes bogged down in discussions.
  - j. Council members will set and adhere to time limits on discussions.
  - k. Council members will not criticize or attack each other, city staff or other persons.
  - l. If a Council member wishes to discuss a major policy issue, it will be scheduled on a future agenda and not raised during a current agenda.
4. Public Comment.
- a. Citizen and community group sign-up forms will be available at each regular business meeting. At the time on the agenda designated for public comment and during any public hearing, any member of the public desiring to address the Council must first request to be recognized by the Mayor and then state their name and address for the record. The Council may set time limits for comments. The Council may request that groups with like comments choose a spokesperson to present joint remarks.
  - b. During public hearings, all public comment should be directed to the question under discussion and addressed to the Mayor representing the Council as a whole.
  - c. In general, Council members will not respond to comments made during the public comment agenda time, except to ask clarifying questions. Any public requests for Council action will be referred to staff for review before placing on a future agenda.

**F. MOTIONS**

- 1. General.
  - a. Council member motions will be clearly and concisely stated. The Mayor will state the name of the Councilor who made the motion and the Councilor who made the second.
  - b. The motion maker, Mayor, or Manager should repeat the motion prior to voting.
  - c. Most motions die if they do not receive a second. Motions for nominations, withdrawal of a motion, agenda order, roll call votes, and a

point of order do not require a second. Any motion on which a second is not made but on which discussion begins is automatically seconded by the Council member beginning the discussion.

- d. Discussion of a motion is open to all Council members who wish to address the motion. A Council member may speak more than once on each motion. A Councilor must be recognized by the Mayor before speaking.
  - e. The Mayor will ask for a voice vote for all final decisions. All Council members are expected to vote on each motion unless they are disqualified for some reason. A Council member who does not vote must state the basis for any conflict of interest or other disqualification. The City Recorder will maintain a record of the votes. Any Council member may request a roll call vote on any motion.
  - f. At the conclusion of any vote, the Mayor will announce the results. Council members who wish to explain the reasons for their votes must do so briefly and succinctly.
2. Withdrawal. A motion may be withdrawn by the mover at any time without the consent of the Council.
  3. Tie. A motion that receives a tie vote fails.
  4. Table. A motion to table is not debatable and precludes all amendments or further debate. If the motion prevails, the item may be taken from the table only by adding it to a future agenda for continued discussion.
  5. Postpone. A motion to postpone to a certain date is debatable and amendable. A motion to postpone indefinitely is a motion to reject without a direct vote and is debatable and not amendable.
  6. Call for Question. A motion to call for the question ends debate on the item and is not debatable. Before a Council member calls for the question, each Council member wishing to speak on the item should have at least one opportunity to speak. A second is required for this motion. When the question is called, the Mayor will inquire whether any Council member objects. If there is an objection, the matter will be put to a vote, and it fails without a two-thirds' vote. Debate may continue if the motion fails.
  7. Amendment. A motion to amend may be made to a previous motion that has been seconded but not voted on. Amendments will be voted on first, then the main motion as amended (or not amended). Motions to adjourn, agenda order, table, point of order, take from table, and reconsider may not be amended.

8. Reconsideration. When a motion has been decided, any Council member who voted with the majority may move for reconsideration. A motion for reconsideration may only be made at the meeting at which the motion on the ordinance, resolution, order or other decision was approved.

#### **G. COUNCIL MEMBER CONDUCT**

1. Representing City. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must state:
  - a. Whether the statement reflects personal opinion or is the official position of the City; and
  - b. Whether the statement is supported by a majority of the Council.

If the Council member is representing the city, the Council member must support and advocate for the official city position on the issue rather than a personal viewpoint.

2. Censure.
  - a. The Council may make and enforce its own rules and ensure compliance with city and state laws applicable to governing bodies. If a Council member substantially violates these rules or state law, the Council may take action to protect Council integrity and discipline the Council member with a public reprimand.
  - b. The Council may investigate the actions of any Council member and meet in executive session to discuss any finding that reasonable grounds exist that a substantial violation has occurred. Under ORS 192.660(1)(b), the Council member under investigation may request an open hearing.

#### **H. CONFIDENTIALITY**

1. Council members will keep all written materials provided to them on matters of confidentiality under law in complete confidence to insure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Council members, the City Manager or City Attorney.
2. If the Council meets in executive session, members should attempt to provide direction or consensus to staff on proposed terms and conditions for negotiations. All contact with other parties must be left to the designated

staff or representative(s) handling the negotiations or litigation. Council members may not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

3. All public statements, information or press releases relating to a confidential matter will be handled by designated staff or a designated Council member.
4. Unless required by law, no Council member may make public the discussions or information obtained in executive session. Council may censure a member who discloses a confidential matter or otherwise violates these rules.

**I. COMMUNICATION WITH STAFF**

1. Council will respect the separation between policy making (Council function) and administration (City Manager function) by:
  - a. Working with the staff as a team with a spirit of mutual respect and support.
  - b. Except in a Council meetings, not attempting to influence a city employee or the City Manager concerning personnel matters, purchasing issues, the award of contracts or the selection of consultants, the processing of development applications or granting of city licenses and permits. However, the sharing of ideas on these matters is appropriate.
  - c. Limiting individual contacts with city staff to the City Manager or the Assistant City Manager so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the City Manager authority or to prevent the full Council from having benefit of any information received.
  - d. Respecting roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages.
2. All written informational material requested by Council members will be submitted by staff to the entire Council with a notation stating who requested the information.
3. The Mayor will refer any comments or questions regarding city personnel or administration to the City Manager. The Mayor may redirect other questions to a Council member or the City Manager, as appropriate. Council members may also address questions directly to the City Manager, who may either answer the inquiry or ask a staff member to do so.

**J. MINUTES**

1. Minutes will be prepared with sufficient detail to meet their intended use. Verbatim minutes are not required. The minutes of meetings of the Council will comply with provisions of ORS 192.650 by containing the following information at a minimum:
  - The name of Council members and staff present;
  - All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
  - The result of all votes, including ayes and nays and the names of the Council members who voted.
  - The substance of the discussion on any matter.
  - Reference to any document discussed at the meeting.
2. The Council may amend the minutes to more accurately reflect what transpired at the meeting. Upon receipt of the minutes in the Council agenda packet, the Council member should read and submit any changes, additions or corrections to the City Manager so that a corrected copy may be issued prior to the meeting for approval. Under no circumstances may the minutes be changed following approval by the Council, unless the Council authorizes such change.
3. The City Recorder or designee will make an audio recording of all meetings except for executive sessions. The City Recorder will maintain custody of all tapes, but a Council member may obtain a copy of any tape. A Council member may obtain a meeting transcript or partial transcript if it can be produced with nominal staff time. If a transcript would require a significant amount of staff time, the City Recorder may only produce the transcript with Council approval. The City Recorder is authorized to produce transcripts as required by law.

**K. ADJOURNMENT**

1. Upon motion and majority vote of the Council members present, any meeting of the Council may be continued or adjourned from day to day or for more than one day. No adjournment may be for a period longer than until the next regular meeting.
2. Upon the request of two or more Council members a short recess may be taken during a Council meeting.
3. A motion to adjourn will be in order at any time except as follows:  
When made as an interruption of a member while speaking; or  
while a vote is being taken.

**L. BIAS AND DISQUALIFICATION**

1. Any proponent, opponent or other party interested in a quasi-judicial matter to be heard by Council may challenge the qualification of any Council member to participate in such hearing and decision. Any challenge must state any fact(s) relied upon by the party relating to a Council member's bias, pre-judgment, personal interest or other factor from which the party has concluded the Council member should not participate and may not make an impartial decision. Such challenges must be made prior to the commencement of the public hearing. The Mayor will give the challenged member an opportunity to respond. A motion to accept or deny the challenge will be accepted and voted upon by the Council. Such challenges and the Council's decision will be incorporated into the record of the hearing.
2. In quasi-judicial matters, each Council member must disclose participation in a prior decision or action on the matter that is before the Council. Common examples include when a Planning Commission member is elected or appointed to the City Council or when a Council member testifies at a Planning Commission meeting. The Council member must state whether the member can participate in the hearing with no regard for the prior decision made. If the Council member is unable to be impartial, the member has a duty not to participate in proceedings and leave the Council table.
3. If the Council believes that the member is actually biased, it may disqualify the member by majority vote from participating in a decision on the matter. A Council member who has been disqualified from participating in a decision may participate in the proceeding as a private citizen.
4. Generally, conflicts of interest arise in situations where a Council member, as a public official deliberating in a quasi-judicial proceeding, has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Council member, a relative or a business with which the Council member or a relative is associated. A potential conflict of interest is one that could be to the private financial benefit of the Council member, a relative or a business with which the Council member or a relative is associated. A relative means the spouse, children, siblings or parents of the public official or public official's spouse. A Council member must publicly announce potential and actual conflicts of interest and, in the case of an actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue.

**M. EX PARTE CONTACTS AND DISQUALIFICATION**

1. For quasi-judicial hearings, Council members should refrain from having *ex parte* contacts relating to any issue of the hearing. *Ex parte* contacts are those contacts by a party on a fact in issue under circumstances that do not

involve all parties to the proceeding. *Ex parte* contacts may be either oral statements when other interested parties are not present, or written information that other interested parties do not receive.

2. If a Council member has *ex parte* contact prior to a hearing, the member must reveal the contact at the meeting and before the hearing. The Council member must describe the substance of the contact and the Mayor will announce the right of interested persons to rebut the substance of the communication. The Council member also will state whether such contact affects their impartiality or ability to vote in the matter. The Council member must state whether the member will participate or abstain.
3. For quasi-judicial hearings, a Council member who was absent during the presentation of evidence may not participate in any deliberations or decision regarding the matter, unless the Council member reviews all the evidence and testimony received.

**N. GOVERNMENT STANDARDS AND PRACTICES COMMISSION REQUIREMENTS AND REPORTING**

1. Council members must review and observe the requirements of the State Ethics Law (ORS 244.010 to ORS 244.390) dealing with use of public office for private financial gain.
2. Council members must give public notice of any conflict of interest or potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, Council members will maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the Council.
3. In accordance with ORS 244.195, it is each Council member's responsibility to file annual statements of economic interest with the Government Standards and Practices Commission.

**O. LEGAL ADVICE**

Requests to the City Attorney for advice requiring legal research may not be made by a Council member without the concurrence of the Council. Before requesting research or other action by the City Attorney, the Council members are encouraged to consider consulting with the City Manager to determine if the request or action can be accomplished more cost-effectively. Outside a Council meeting, a Council member should make requests of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and unique/sensitive personal, yet City business-related, requests.

**P. ROBERT'S RULES**

Robert's Rules of Order Revised will be used as the guideline for conduct of Council meetings, except where these Rules specifically apply.

**Q. COMMITTEES, ORGANIZATIONS & MEDIA**

1. Boards and Commissions Appointments

- a. The Mayor will appoint members to City commissions, boards and committees, including ad hoc committees subject to the consent of the City Council by resolution. The Mayor may request assistance from Councilors in making appointments.
- b. Council members will encourage broad participation on City committees by generally limiting the number of terms a citizen may serve on the same City committee.
- c. A citizen may not serve on more than one City committee simultaneously without approval of the City Council by resolution. A citizen serving on two City committees may not be chairperson of both City committees simultaneously.
- d. The Mayor may remove a citizen from a City committee, board or commission prior to the expiration of the term of office subject to the consent of the City Council by resolution.

2. Council Member Participation. Council members shall encourage City committee member participation.

3. Councilor Liaisons.

- a. The Mayor will appoint Councilors to liaison positions to city commissions, boards and committees, including ad hoc or limited term committees, as the Mayor deems necessary, and subject to the consent of the City Council by resolution. The Mayor will consider Council liaison appointments in January of every year or at the Council's annual Goal Setting sessions.
- b. The Mayor will appoint Councilors as liaisons to all non-City commissions, boards and committees as the Mayor deems necessary, subject to the consent of the City Council by resolution.
- c. The role of the liaison member is to convey information from the Council to the commission or committee and from the commission or committee to the Council. The member is not to provide direction to

the commission or committee, but rather to encourage work plans and recommendations for Council approval.

- d. Council members as liaisons will not vote on any issue before the committee.
4. Organizations, Media.
- a. If the Mayor or a Council member represents the City before another governmental agency, a community organization, or the media, the Council member should first state the Council majority position. Personal opinions and comments should be expressed only if the Council member makes clear that it does not express the Council position.
  - b. Council members should obtain the appropriate permission before representing another Council member's view or position with the media.

**R. MANAGER EVALUATION**

- 1. Criteria. The standards, criteria, and policy directives used in the evaluation of the Manager will be adopted at a regular Council meeting in accordance with state law.
- 2. Process.
  - a. The Manager will prepare a written self-assessment identifying major accomplishments.
  - b. Council members will make written comments in response to the Manager self-assessment.
  - c. Evaluation sessions will be scheduled in accordance with the employee's decision on whether to hold the evaluation in open or executive session.
  - d. At evaluation sessions, Council summary comments and individual Council member comments will be made. The Manager will have an opportunity to respond to all comments. The effect of the evaluation on the Manager's employment contract will be discussed. Sufficient time will be allotted for the evaluation discussion with the Manager.
  - e. Council members will then complete their individual evaluations and convene to discuss overall evaluation of the Manager and reach a consensus.
  - f. Council will then reconvene with the Manager to review final

performance evaluation and discuss compensation.

3. Contract. The City Attorney will prepare any employment contract amendments to the Manager's contract. Contracts normally will be approved as a consent agenda item at the next regular Council meeting.

**S. COUNCIL EXPENSES**

1. Reimbursement. Council will follow the same rules and procedures for reimbursement as city employees.
2. Budget. Council will review and discuss its proposed annual budget as coordinated by the Mayor and Council President and as presented by city staff during a public meeting.

**City Council Meeting Date:** October 20, 2015

**Agenda Item:** Public Hearing, Second Reading

**TO:** Sherwood City Council

**FROM:** Michelle Miller, AICP, Senior Planner

**Through:** Julia Hajduk, Community Development Director, Josh Soper, City Attorney and Joseph Gall, ICMA-CM, City Manager

**SUBJECT: Ordinance 2015-007 Amending Title 6 of the Municipal Code and Division II of the Zoning and Community Development Code and Chapter 6 of the Municipal Code as it relates to the regulation of backyard chickens**

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**Issue:**

Should the City Council amend the Municipal Code and Zoning and Development Code to allow raising backyard chickens in the residential zone and establish a license process with fees for the animals?

**Background:**

In March 2015, the City Council directed the Planning Commission to re-evaluate the prior code language concerning raising backyard chickens in the residential zone. The Planning Commission held a work session on May 24, 2015 and a public hearing on July 14, 2015. At the close of the hearing and deliberations, the Planning Commission voted to recommend denial of the proposed code amendments to the City Council. They did not believe that there was enough community support in favor of changing the policy concerning chickens and found the testimony regarding adjacent neighborhood health and hygiene concerns persuasive.

The City Council held a public hearing on September 15, 2015 concerning the proposed amendments and received public testimony. Based on public testimony and Council discussion and deliberations, Council requested that staff amend the proposed language before the next hearing. They requested that staff revise the draft language to include:

- Enlarging the minimum lot size from 5,000 to 7,000 square feet where no more than 3 chickens are allowed to be raised
- Clarifying the language of the neighbor notice requirements
- Specifying that multiple violations of the ordinance could result in a revocation of the chicken license

Staff held an internal meeting that included Police Chief Groth, City Attorney Soper, and other Community Development staff to discuss recommending additional changes to the proposed ordinance to further clarify the rules and make enforcement easier to manage. These changes include:

- A five year time period for which a license is valid
- A penalty provision for someone that does not obtain a license before attempting to raise chickens
- Removing "Backyard" from the title of the chapter
- A provision that entitles the City Manager to adopt rules to implement the chapter

The attached ordinance reflects the Council directed changes, as well as the staff proposed additional changes. The new changes are identified in green track changes for ease of reviewing.

In addition, there seemed to be quite a bit of interest in how this would be implemented. Staff has also included a draft of an application form, and a sample letter that would be mailed out to neighbors when an application has been approved so that Council can have a better understanding of how it is anticipated to work. If approved, the provisions would be in effect in 30 days; therefore, materials would be finalized in the interim.

Since the public hearing on September 15, 2015 and before the date of this report, Council received additional written testimony in the form of several emails concerning the proposed ordinance. The written testimony is attached to this staff report and also included in your packet.

**Financial Impacts:**

If the City Council approved the proposed ordinance, the license fee would need to be adopted into the fee schedule. It is recommended that this fee be initially set at \$50 with the understanding that actual time would be tracked and the fee may need to be adjusted in the future to ensure that it covered the cost of staff review time and processing for the approval of the licenses. The Code Enforcement Officer responds to complaints for violations of the Municipal Code as part of the general duties of that staff position. Initially more time may be allocated to provide education on the new ordinance for those wishing to raise chickens.

**Alternatives:**

The Council has several alternatives to consider at the hearing:

- Accept the Planning Commission recommendation and not approve the Ordinance
- Approve the Ordinance as written
- Approve the Ordinance with modifications
- Send it back to the Planning Commission for further review

**Recommendation:**

Staff respectfully recommends City Council hold a public hearing on Ordinance 2015-007, concerning raising backyard chickens in the residential zones.

## Sylvia Murphy

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**From:** Sylvia Murphy  
**Sent:** Wednesday, September 16, 2015 8:17 AM  
**To:** City Council  
**Cc:** Joseph Gall; Josh Soper; Michelle Miller  
**Subject:** FW: chickens in sherwood-Ord 2015-007

Council Members, see message below, written testimony for Ord. 2015-007. I will compile written testimony and prepare them for the second reading of the ordinance.

Have a great day,

Sylvia Murphy, MMC, City Recorder  
City of Sherwood  
[murphys@sherwoodoregon.gov](mailto:murphys@sherwoodoregon.gov)  
Ph: 503-625-4246  
Fax: 503-625-4254

-----Original Message-----

**From:** charise weller [<mailto:chariserw@gmail.com>]  
**Sent:** Tuesday, September 15, 2015 5:03 PM  
**To:** City Council  
**Subject:** chickens in sherwood

Hi I cannot make it to the meeting tonight but wanted to share my feelings on chickens in Sherwood. My name is Charise Weller and I live on Bowmen court with my husband and kiddos. We were hoping to be able to get a few chickens sometime in the near future so we are all for Yes on Urban Chickens.

Thank you for your time  
Charise Weller  
15621 sw bowmen court  
sherwood  
503-332-8781

## Sylvia Murphy

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**From:** Sylvia Murphy  
**Sent:** Wednesday, September 16, 2015 8:19 AM  
**To:** City Council  
**Cc:** Joseph Gall; Josh Soper; Michelle Miller  
**Subject:** FW: Chickens - Nope-Ord 2015-007

Council Members, see message below, written testimony for Ord. 2015-007. I will compile written testimony and prepare them for the second reading of the ordinance.

*Sylvia Murphy, MMC, City Recorder*  
*City of Sherwood*  
*[murphys@sherwoodoregon.gov](mailto:murphys@sherwoodoregon.gov)*  
*Ph: 503-625-4246*  
*Fax: 503-625-4254*

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**From:** Sara Knepper [<mailto:sara@jumpingink.com>]  
**Sent:** Tuesday, September 15, 2015 5:11 PM  
**To:** City Council  
**Subject:** Chickens - Nope

I know chickens are a hot backyard addition right now and have become quite vogue but please, please, please do not allow them in Sherwood. They are barnyard animals. They smell, they make noise, and they are dirty. Not exactly the kind of thing you hope your next door neighbor has in their yard. If someone wants to raise chickens they should consider exercising their right to move outside city limits where they have more freedom to pursue these types of activities.

There are certain things that just can't happen on a residential city lot when others live in close proximity. Chickens would fall into this category.

Please help keep the peace and neighborhood tranquility. Vote 'no' on city chickens.

Thanks!

Sara Knepper

## Sylvia Murphy

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**From:** Sylvia Murphy  
**Sent:** Wednesday, September 16, 2015 8:20 AM  
**To:** City Council  
**Cc:** Joseph Gall; Josh Soper; Michelle Miller  
**Subject:** FW: Backyard Chickens-Ord 2015-007

Council Members, see message below, written testimony for Ord. 2015-007. I will compile written testimony and prepare them for the second reading of the ordinance.

*Sylvia Murphy, MMC, City Recorder  
City of Sherwood  
[murphys@sherwoodoregon.gov](mailto:murphys@sherwoodoregon.gov)  
Ph: 503-625-4246  
Fax: 503-625-4254*

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**From:** Jaime Thoreson [<mailto:jaitnore@yahoo.com>]  
**Sent:** Tuesday, September 15, 2015 6:38 PM  
**To:** City Council  
**Subject:** Backyard Chickens

Dear Honorable Councilors,

I couldn't make it to the meeting tonight. And I didn't see the notice until today.  
I really hope you will pass/did pass the resolution allowing backyard chickens in Sherwood.  
Thank you.  
Sincerely,

Jaime Thoreson



## ORDINANCE 2015-007

### AMENDING TITLE 6 OF THE MUNICIPAL CODE AND DIVISION II OF THE ZONING AND COMMUNITY DEVELOPMENT CODE AND CHAPTER 6 OF THE MUNICIPAL CODE AS IT RELATES TO THE REGULATION OF BACKYARD CHICKENS

**WHEREAS**, it is necessary for the City to update the development code to ensure that it is clear, consistent, and current; and

**WHEREAS**, the Planning Commission helped guide the development of proposed amendments after public outreach and opportunity for public input; and

**WHEREAS**, the substantive changes specifically seek to allow the raising of backyard chickens in the residential zones, establishing proper licensure procedures for their care and compatibility with other residential uses in the neighborhoods; and

**WHEREAS**, the City Council believes it is in the best interest of the health, safety and welfare of the citizens of Sherwood to establish regulations concerning raising backyard chickens; and

**WHEREAS**, the Planning Commission conducted a public hearing on July 14, 2015, and provided a recommendation to the City Council for the proposed Municipal and Zoning and Community Development Code amendments that regulates backyard chickens, and that recommendation was against approving such amendments; and

**WHEREAS**, the analysis and findings within the Planning Commission recommendation are identified in Attachment 1 of the City Council Staff Report; and

**WHEREAS**, the attached Exhibit A to this ordinance reflects the code amendments; and

**WHEREAS**, the City Council held public hearings on September 15, 2015 and October 20, 2015 and determined that the proposed changes to the Municipal and Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

### **NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1: Findings.** After full and due consideration of the application, the Planning Commission recommendation, the record, findings, and evidence presented at the public hearings, the Council adopts the findings of fact attached as Attachment 1 and determines that the text of the Municipal Code Title 6 and Sherwood Zoning and Community Development Code shall be amended as documented in Exhibit A.

**Section 2: Approval.** The proposed amendments for Plan Amendment (PA) 15-03 identified in Exhibit A are hereby **APPROVED**.

**Section 3: Manager Authorized.** The Planning Department and City Manager are hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCD and necessary updates to Chapters 6 and 16 of the Municipal Code in accordance with City ordinances and regulations.

**Section 4: Applicability.** The amendments to the City of Sherwood Zoning and Community Development Code approved by this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.

**Section 5: Effective Date.** This ordinance takes effect 30 days after passage and approval by the City Council.

**Duly passed by the City Council this 20<sup>th</sup> day of October 2015.**

\_\_\_\_\_  
Krisanna Clark, Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Brouse	_____	_____
Harris	_____	_____
Kuiper	_____	_____
King	_____	_____
Henderson	_____	_____
Robinson	_____	_____
Clark	_____	_____



# Proposed Code Amendment Revised Draft Language October 9, 2015

**Proposed 1<sup>st</sup> Draft language additions are identified in Blue underline**

**Revised 2<sup>nd</sup> Draft is identified in Green Double Underline and any recommended language to be removed language is red strikethrough.**

## **MUNICIPAL CODE TITLE 6-ANIMALS**

### **Chapter 6.03-Backyard Chickens**

**6.03.010 Purpose:** Residents of the City may be allowed to keep chickens, subject to the requirements of this Chapter.

#### **6.03.020. Number of Chickens Licensed**

**A. Up to three (3) hens are allowed on properties at least ~~5,000~~ 7,000 square feet in size.**

**B. Up to five (5) hens are allowed on properties at least 10,000 square feet in size.**

**C. No roosters are allowed within the City.**

**D. Chicks up to 12 weeks old are allowed indoors and are not subject to the limitations of (A) and (B) above.**

#### **6.03.030. Location Requirements**

**A. Chickens are only allowed on property that is occupied by a detached single-family dwelling.**

**B. Chickens are only allowed on property that is the principal residence of the owner of the chickens.**

**C. Chickens and chicken enclosures are not to be located in any area between the primary dwelling and the front property line.**

**D. Chicken enclosures must be at least ten (10) feet from the property line and at least twenty-five (25) feet from any abutting dwelling unit.**

Exhibit A

### 6.03.040. Ongoing Conditions of License

#### A. Chicken Enclosures

1. Chickens must be kept within a secure enclosure at night. During daylight hours, chickens must be kept within a secure enclosure unless under direct supervision within a fenced yard.
2. Allowing chickens to enter adjoining properties is prohibited.
3. Enclosures must be kept clean, dry, in good repair and not cause an odor that is unreasonably offensive or annoying to residents within the immediate vicinity.
4. Enclosures must be designed to prevent the entry of rodents and predators and must effectively contain and protect the chickens.
5. Enclosures must be designed so that they are not a breeding place or likely breeding place for rodents, flies or other pests.

B. Chickens must be kept for personal, non-commercial use only. No person may sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.

### 6.03.050 Procedure for Obtaining a Chicken License

A. In a residential zone, a resident who wants to raise chickens per the requirements of this Chapter must ~~obtain a~~ apply for a license, ~~and~~ demonstrate compliance with the above criteria, and pay a processing fee. The City will issue a license after determining compliance with ~~this Chapter 6.03.020 and 6.03.030.~~

B. Tenants and renters of property are permitted to keep chickens only with the written permission of the property owner ~~and~~ included with the license ~~request~~ application.

~~C. Within 14 days following the approval of a license application, the City will provide written notice by first class mail to all property owners immediately abutting the license holder's property. The notice must contain the name and address of the license holder's contact information for persons to seek information or file complaints.~~

C. Licenses issued under this chapter are issued to a specified individual for the keeping of chickens on specified property where the individual resides, are non-transferable, and are valid for a period of five (5) years. Licenses may be renewed for successive five (5) year terms.

#### D. Neighbor Notice Requirements

1. The City will provide written notice within fourteen (14) calendar days of issuance of a license by first class mail to all property owners and known residents immediately abutting the license holder's property.

## 2. Contents of Neighborhood Notice

a. Name and address of the license holder.

b. A copy of this chapter.

c. Contact information for City enforcement of this chapter and the process for filing complaints.

d. The current dollar amounts for penalties for violations of this chapter.

~~**6.03.060 Penalties:** Violations of this section are classified as a Class C violation punishable by up to a two hundred fifty dollar (\$250) fine.~~

The provisions of this chapter are in addition to and not in lieu of any other requirements imposed under any other code provision, City ordinance, law or regulation having application in the City. If a conflict occurs with another code provision or regulation, the most restrictive provision or regulation shall apply.

A. Violation of this Chapter constitutes a Class C violation, except that keeping of chickens without a license is a Class A violation.

B. Each violation of a separate provision of this Chapter shall constitute a separate violation, and each day that a violation of this chapter is committed or permitted to continue constitutes a separate violation.

C. In addition to any other remedy provided by law, a person that commits more than two violations of this Chapter within any six-month period may have his or her license revoked for up to one year. During the period in which a license is revoked under this subsection, no other resident of a dwelling in which a person whose license has been revoked resides may be licensed to keep chickens under this chapter.

### 6.03.070 Rules

The City Manager is authorized to adopt rules to implement this chapter.

Chapter 6.04 Dogs (existing)

**Title 16 Sherwood Zoning and Development Code**  
**Chapter 16.12 - RESIDENTIAL LAND USE DISTRICTS**

	VLDR	LDR	MDRL	MDRH	HDR
COMMERCIAL					
• Raising of Animals other than Household Pets <sup>5</sup>	C	C	C	C	C
CIVIC					
• Public Recreational Facilities <sup>6</sup>	P	P	P	P	P

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<sup>5</sup> [Except for a limited number of chickens as licensed under Title 6-Animals, Chapter 6.03. Chickens.](#)

<sup>6</sup> Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses.

## Recommendation

The Planning Commission held a Public Hearing on July 14, 2015 to consider draft code amendments concerning raising a limited number of chickens in residential neighborhoods. The Commission deliberated over the proposed language and discussed the various restrictions that could be imposed. The Commission considered the information discussed during the public outreach efforts including the online survey conducted during April and May 2015 and the public testimony provided at the hearing.

Based on the information before them, the Commission recommended denial of the proposed Code Amendments. The Commission recommended denial based on the lack of public support for the proposed amendments through the public hearing process and the corresponding citizens' comments against the proposal. The Commissioners were persuaded by people testifying about their concern about the diseases that may result and the difficulty in enforcing community standards through the current code enforcement process.

Overall, the Commission wanted to make sure that enough people were aware of the proposal before making any changes and that any amendments adequately reflected the community's desires and considered all of the livability issues surrounding raising chickens. They did not believe that they could make that recommendation based on the public testimony presented at hearing as it primarily in opposition to any change to the current regulations concerning backyard chickens.

**The Code Amendments reviewed by the Planning Commission are attached as Exhibit A.**

## Proposal:

The City proposes to amend **Title 6 Animals** and **Title 16, Zoning and Community Development Code** of the Municipal Code to regulate backyard chickens in the residential zones. The proposal includes amendments that allow a certain number of chickens based on the size of the lot. The regulation requires chicken enclosures to be maintained and kept a certain distance from the property lines, as well as adjacent homes. An applicant would apply for a license and adjacent property owners would be notified when a license was granted.

## I. OVERVIEW

- A. Applicant: This is a City-initiated text amendment.
- B. Location: The proposed amendment is to the text of the Sherwood Municipal Code Title 6 (Animals) and Title 16 (Zoning and Development Code) and applies citywide to all property zoned residential.
- C. Review Type: The proposed text amendment requires a Type V review that involves public hearings before the Planning Commission and City Council. The Planning Commission considered the matter on July 14, 2015. The Council hearing is scheduled for September 1, 2015. The Council will make a final decision whether to approve, modify, or deny the proposed language. The Oregon Land Use Board of Appeals would consider any appeal of the City Council's decision relating to this matter.

D. Public Notice and Hearing: Notice on the proposed amendment was published in *The Times* on July 9, 2015 and published in the July 2015 edition of the Gazette. Notice was also posted in five public locations around town and on the web site on June 24, 2015 for the Planning Commission. Notice was published in *The Times* on September 3 and 10, 2015 for the City Council hearing.

E. Review Criteria

The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).

F. Background

The City Council directed the Planning Commission to review the code language pertaining to backyard chickens in the spring of 2015. The Planning Commission held a work session on May 12, 2015. They reviewed the proposed amendments from 2010, compared other jurisdictions' regulations, and considered the most recent local backyard chicken online survey results (over 548 responses at the time of the work session). The Commission discussed the proposed code language during the work session and made some updates based on the survey results and new information. The Planning Commission discussed that residents wishing to raise backyard chickens should fill out an application, pay a processing fee, and agree to adhere to the city regulations. Once approved, staff will notify the property owners who reside near the resident who wishes to raise chickens. They concluded that with those changes, the recommended backyard chicken regulations were ready for public hearing.

The online survey was available for participation from April to May 2015 and ultimately 598 responses were received. The full results are attached as Exhibit E.

The proposed Backyard Chicken Code Amendments include the following rules:

- Allowing up to 3 hens on single family detached lots at least 5,000 square feet in size
- Allowing up to 5 hens on single family detached lots at least 10,000 square feet in size
- Chicken enclosures must be at least 10 feet from any property line and cannot be in the front yard
- Chicken enclosures must be at least 25 feet from any abutting dwelling unit

The purpose of the proposed amendments is to allow residents to raise a limited number of backyard chickens through a licensing process with the City and mitigate any issues through Code compliance. Nearby property owners and residents would be notified that a license has been issued for a particular property.

## II. PUBLIC COMMENTS

Staff published an article in the June/July Sherwood Archer describing the proposed amendments. Staff published notice in the July 2015 edition of the Gazette and in the July 9, 2015, *The Times*. Notice was also posted in five public locations around town and on the web site on June 24, 2015. Notices was again published in the Times on September 3 and 10 in advance of the City Council hearing. Since that date, staff received the following comments.

**Joyce Osborne, 23650 SW Platanus Place**, submitted comments via email indicating that she was concerned about the ability of some residents to maintain chicken enclosures over time. She also expressed concern over the ambiguity of the Code language to determine whether a neighbor's coop had deteriorated to the point to be considered a "nuisance" under the terms of the existing nuisance ordinance and proposed language. Her comments are attached as Exhibit B.

**Steven Hunt, 16958 SW Richen Park Circle**, submitted comments via email indicating that he was not in favor of allowing roosters, but encouraged legislation that limited the number of chickens to no more than five hens that required a permit. He also indicated support for a process to make sure that any residents who have a complaint regarding chickens have appropriate recourse when a neighbor's coop was not being properly maintained. His comments are attached as Exhibit C.

**Terry Miller, submitted a *Citizen's View*** to the ***Sherwood Gazette*** and requested that the editorial comments be submitted to the Planning Commission. Mr. Miller indicated a concern about introducing backyard chickens into residential neighborhoods and that chickens will likely encourage raccoons, coyotes and other "varmints and rodents" into the neighborhoods. He thought that the ten-foot buffer between residences and the chicken enclosures were not far enough to avoid the sounds and smells of the chickens. He also thought that the City's online survey did not accurately reflect a majority opinion concerning backyard chickens and that more time was required to accurately find out how the entire community feels about chickens. His comments are attached as Exhibit D.

**Terry Miller and Carole Miller, Sherwood residents** testified at the July 14, 2015 hearing and conveyed their concerns with raising backyard chickens in the residential zone with the concerns described above. Terry Miller submitted additional written testimony and are attached as Exhibit H.

**Robert J. Claus, Sherwood resident** testified at the hearing and expressed his concern that the local government should not control any regulations concerning backyard chickens and was akin to not allowing people to raise exotic birds in their private residence.

**Staff Response:**

The public comments received thus far reflect the differing points of view that the Commission considered when making a recommendation concerning backyard chickens. Staff recommends that any proposed Code language balance the community's desire for allowing backyard chickens with the concerns addressed in the comments submitted. It is also apparent that the licensing process will need to be clear for the residents wishing to raise chickens and those that will live near those that keep them.

**III. AGENCY COMMENTS**

Staff sent notice to the Department of Land Conservation and Development on May 27, 2015. They have not commented.

Staff discussed the proposed code amendments with Bill Collins, Sherwood Police Department Code Enforcement Officer. He indicated support for clearer descriptions and penalties found directly within the new proposed Chapter 6.03, Backyard Chickens, rather than by reference to Chapter 9.44 Nuisance. Staff revised the proposed code amendments based on this discussion, adding penalty provisions as well as describing the owner's responsibility for maintaining the chicken enclosures in a sanitary and safe manner. The revised proposed code amendments are attached as Exhibit F.

Chief Groth, Sherwood Police Department, offered his assessment of the provisions via email dated July 7, 2015. His comments are attached as Exhibit G.

**IV. PLAN AMENDMENT REQUIRED FINDINGS**

The applicable Plan Text Amendment review criteria are 16.80.030.A and C.

### 16.80.030. A - Text Amendment Review

**An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.**

#### Consistency with State Statutes and Regulations

Raising backyard chickens for eggs has become popular in the region over the past decade. Communities across the metro region have established different policies and rules concerning raising chickens in a residential zone. The City's current regulations do not distinguish chickens from other farm-type animals and anyone wishing to raise a few chickens in any residential zone is required to obtain a conditional use permit. This has been cost prohibitive for many residents and staff is not aware of any conditional use permit applications for raising chickens in the past eight years. However, the Code Compliance Officer has responded to complaints of residents raising chickens without a permit over the years.

The Planning Commission evaluated backyard chicken rules in 2010 during the Development Code Clean Up project in 2010-2011, which included public outreach and made a recommendation to Council who decided at the time, to table the issue. At the March 17, 2015 meeting, the City Council directed the Planning Commission to look at this issue again, consider input from the public and propose recommend changes to the rules concerning backyard chickens.

#### Consistency with the Sherwood Comprehensive Plan

While this specific proposal does not include changes to the text of the Comprehensive Plan, it is a proposal that would amend language of a document that implements the Comprehensive Plan and is reviewed in that light. There do not appear to be any comprehensive plan requirements that would conflict with the proposed code language, as the Comprehensive Plan does not address or comment on specific types of land uses, like raising a limited number of chickens but rather identifies policy goals for the more general residential land uses. The proposed language continues to implement the Land Use goals and policies as they apply to Residential land uses.

#### Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the Comprehensive Plan has been acknowledged by the State, there are no known conflicts with this text change.

Allowing a certain number of chickens in the residential zone has been discussed at several public work sessions over the past several years and most recently on May 12, 2015. Staff has been available to discuss the proposed changes with the public and invited public comments throughout the current discussion. An online survey was available for people to express their opinion concerning chickens and 598 responses had been collected. The responses are attached as Exhibit E. As a whole, the proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (Land Use Planning).

The applicable Statewide Planning Goals include:

#### **Goal 1 (Citizen Involvement)**

Staff utilized the public notice requirements of the Code to notify the public of this proposed plan amendment. The City's public notice requirements have been found to comply with Goal 1 and therefore, this proposal meets Goal 1.

**FINDING:** Based on the above discussion, the applicant satisfies this planning goal.

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**Goal 2 (Land Use Planning)**

**FINDING:** The proposed amendment, as demonstrated in this report is processed in compliance with the local, regional and state requirements.

**Goal 3 (Agricultural Lands)**

**Goal 4 (Forest Lands)**

**Goal 5 (Natural Resources, Scenic and Historic Areas and Open Spaces)**

**Goal 6 (Air, Water and Land Resources Quality)**

**Goal 7 (Areas Subject to Natural Hazards)**

**Goal 8 (Recreational Needs)**

**Goal 9 (Economic Development)**

**Goal 10 (Housing)**

**Goal 11 (Public Facilities and Services)**

**Goal 12 (Transportation)**

**FINDING:** The proposed amendments do not affect the functional classification of any transportation facility within the City, and are therefore considered to be consistent with the "Transportation Planning Rule" which implements Goal 12.

**Goal 13 (Energy Conservation)**

**Goal 14 (Urbanization)**

**Goal 15 (Willamette River Greenway)**

**Goal 16 (Estuarine Resources)**

**Goal 17 (Coastal Shorelands)**

**Goal 18 (Beaches and Dunes)**

**Goal 19 (Ocean Resources)**

**FINDING:** As discussed above in the analysis, there is an identified need for the proposed amendments in order to clarify the process for raising chickens in Sherwood and amending the Sherwood Zoning and Community Development Code to reflect these changes. The proposed amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies should the Council approve the text amendment.

**16.80.030 C - Transportation Planning Rule (TPR) Consistency**

- A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.**
- B. "Significant" means that the transportation facility would change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification, allow types of land use, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility, or would reduce the level of service of the facility below the minimum level identified on the Transportation System Plan.**
- C. Per OAR 660-12-0060, Amendments to the Comprehensive Plan or changes to land use regulations which significantly affect a transportation facility shall assure that**

**allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.**

**FINDING:** The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore, this policy is not applicable to the proposed amendment.

**V. ATTACHMENTS**

- A. First Draft of the Text Amendment dated June 10, 2015
- B. Comments from Joyce Osborne dated June 23, 2015
- C. Comments from Steve Hunt dated June 30, 2015
- D. Comments from Terry Miller as written in the Sherwood Gazette published on July 1, 2015
- E. Tabulated online survey responses concerning backyard chickens
- F. Second Draft of the Text Amendment July 7, 2015
- G. Comments from Chief Jeff Groth, Sherwood Police Department dated July 7, 2015
- H. Additional Testimony from Terry Miller, dated July 10, 2015



Home of the Tualatin River National Wildlife Refuge

Case No. \_\_\_\_\_

Fee \_\_\_\_\_

Receipt # \_\_\_\_\_

Date \_\_\_\_\_

## Application for Raising Chickens

### Owner/Applicant Information:

Applicant: \_\_\_\_\_ Phone: \_\_\_\_\_

Applicant Address: \_\_\_\_\_ Email: \_\_\_\_\_

**If the applicant is not the property owner, permission from the owner must be provided below:**

Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

Owner Address: \_\_\_\_\_ Email: \_\_\_\_\_

Contact for Additional Information: \_\_\_\_\_

**Property Owner's Signature** \_\_\_\_\_ **Date:** \_\_\_\_\_

### Property Information:

Size of Property \_\_\_\_\_

Number of chickens proposed onsite \_\_\_\_\_

### Chicken Enclosure Site Plan:

Please attach a "to scale" site plan that clearly shows: (Example of "to scale" 1 inch = 4 ft)

- Lot dimensions with size and location of house and all existing accessory structures.
- Chicken enclosure structure and areas for the keeping chickens
- Location of fencing used to keep animals contained within the site.

### Neighbor Notification

List the names and addresses of all owners/residents of property adjoining the chicken license holder.

**Names**

**Addresses**

Names	Addresses

**This license is valid for 5 years and may be renewed for an additional 5 years.**

### Authorizing Signatures:

## Standards for Raising Backyard Chickens (Sherwood Municipal Code Chapter 6.03)

I acknowledge that I have read the applicable Standards for Raising Chickens and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.

I certify that my chickens and enclosures will continually conform to the standards of the Sherwood Municipal Code Chapters 6.03. I understand that failure to comply with these standards may result in a fine of \$250 for each violation. Multiple violations may result in a revocation of the license for up to one year.

---

Applicant's Signature

---

Date

## Standards for Raising Backyard Chickens (Sherwood Municipal Code Chapter 6.03)

- Persons wanting to raise backyard chickens within the City of Sherwood must first obtain a license and demonstrate compliance with the criteria and pay a processing fee.
- Chickens are only allowed in the rear yard on property that is occupied in a single family detached home.
- No roosters are allowed within the City.
- Chicken enclosures must be at least ten (10) feet from the property line and at least twenty-five (25) feet from any abutting dwelling unit (on neighboring properties).
- Up to three (3) hens are allowed on properties at least 7,000 square feet in size, up to five (5) hens are allowed on properties at least 10,000 square feet in size.
- Chicks up to twelve (12) weeks old are allowed indoors and are not subject to the limitations above.
- Chickens must be kept within a secure enclosure at night. During daylight hours, chickens must be kept within a secure enclosure unless under direct supervision within a fenced yard.
- Allowing chickens to enter adjoining properties is prohibited.
- Enclosures and the places where the chickens are located must be maintained in good repair, in a clean and sanitary condition, and free of vermin, and offensive smells and substances that create a nuisance for residents within the immediate vicinity.
- Chickens must be kept for personal, non-commercial use only. No person may sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.
- Tenants and renters of property are permitted to keep chickens only with the written permission of the property owner included with the license request.
- Enclosure exceeding two hundred (200) square feet or 10 feet in height must obtain a building permit from the City of Sherwood Building Department.
- Violations of this chapter are classified as a Class C violation.



ADJACENT  
NEIGHBOR NOTICE  
**Chicken License**

Dear Neighbor,

Recently your neighbor, \_\_\_\_\_ at \_\_\_\_\_ received a license to raise \_\_\_\_\_ chickens in their yard. Part of the process includes letting adjacent neighbors/property owners know that a license has been obtained and what the rules are concerning chickens. In general, they are permitted up to \_\_\_ hens (NO roosters), the enclosure must be at least 10 feet from the property line and at least 25 feet from your house. The enclosure must be kept clean and in good repair. We have included a copy of the code language regulating chickens for your convenience.

While we believe that your neighbor will be a responsible owner of chickens, if you believe your neighbor is in violation of any of the elements of the chicken ordinance or any other of the City or County's rules, please contact:

Sherwood Code Compliance Officer: \_\_\_\_\_

Phone: \_\_\_\_\_

Email \_\_\_\_\_

Address \_\_\_\_\_

The Code Compliance Officer will then conduct an investigation and determine whether a violation has occurred. The Officer may be in contact with you to get more information and inform you of the resolution of the matter. Multiple violations of the chicken ordinance could result in a revocation of the license.

If you have general questions about the chicken license or process, please contact the Planning Department at \_\_\_\_\_.

Thank you,

---

City of Sherwood staff



## **Fields and Gyms**

Youth Soccer held their Jamboree on September 12<sup>th</sup> at all the schools and Snyder Park.

Youth soccer also played 23 Classic games at Snyder Park during the month, the 3<sup>rd</sup> grade through H/S Rec teams played 51 games the last two weeks of the month. The numbers for K through 2<sup>nd</sup> grade were not available at the time of writing but I am estimating they played about 54 games.

Youth football played 17 games at the High school on Saturdays during the month and held another 9 flag games for the younger kids on Sundays.

Northwest United Women's Soccer rented 6 hours at Snyder Park for games in September.

Greater Portland soccer district also rented some time for a games at Snyder Park.

Youth Volleyball is practicing 6 hours per week.

Youth Cheer is practicing at Edy ridge and cheering at the youth games on Saturdays.

All the youth BBX tryouts and evaluations have been scheduled.

Fall baseball is playing games at Hopkins on Sundays

## **Field House**

We were closed for 15 days in the month of September to replace our turf and paint the floors.

Rentals should start to pick up next month as well as Preschool play as we our back up to three days a week for Preschool play.

We will have baby boot camp on Mondays and Friday on a trial run.

Men's league will start the first of October.

Respectfully Submitted

Lance Gilgan

October 2, 2015

Sherwood Field House Monthly Report September 2015					
<u>September-15</u>	<u>Sep-15</u>		<u>YTD</u>		<u>Sep-14</u>
<b>Usage</b>		People		People	People
	<u>Count</u>	<u>Served*</u>	<u>Count</u>	<u>Served*</u>	<u>Served*</u>
Leagues	2	221	2	663	210
Rentals	10	150	89	1736	360
Other (Classes)					
[1] Day Use	3	41	16	181	
<b>Total Usage</b>		<b>412</b>		<b>2580</b>	<b>570</b>
<b>Income</b>	<b>Sep-15</b>	<b>YTD</b>			
Rentals	\$730	\$7,460			
League fees (indoor)	\$1,590	\$8,572			
Card fees (indoor)	\$40	\$130			
Day Use	\$135	\$517			
Advertising					
Snacks	\$35	\$172			
Classes					
<b>Total</b>	<b>\$2,530</b>	<b>\$16,851</b>			
<b>FY 14 15</b>					
<b>Income</b>	<b>Sep-14</b>	<b>YTD</b>			
Rentals	\$1,850	\$8,230			
League fees (indoor)	\$4,450	\$10,237			
Card fees (indoor)	\$150	\$230			
Day Use		\$6			
Advertising					
Snacks	\$45	\$205			
Classes					
<b>Total</b>	<b>\$6,495</b>	<b>\$18,908</b>			

Note we were closed for 15 days this month for turf replacement and floor painting.

\*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.