



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

**WORK SESSION**

1. **CALL TO ORDER:** Mayor Mays called the Work Session to order at 5:05pm
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
3. **STAFF AND LEGAL COUNSEL PRESENT:** Finance Director Craig Gibons, Community Development Director Tom Pessemier, City Engineer Bob Galati, Rich Sattler Operations Supervisor and City Recorder Sylvia Murphy.
4. **MEDIA PRESENT:** Ray Pitz with the Sherwood Gazette.
5. **TOPIC DISCUSSED:** Capital Improvement Project Plan, Craig Gibons lead the discussion and briefed the Council on a power point presentation (see record, Exhibit A). Craig provided the Council with a Recommended Capital Improvement Project list for FY 2011-2012 (see record, Exhibit B). City Engineer Bob Galati and Tom Pessemier explained the exhibit, followed by Rich Sattler briefing the Council on the water projects listed. Discussion followed.
6. **ADJOURNED:** Mayor Mays adjourned the Work Session at 6:00pm and convened to an Executive Session.

**EXECUTIVE SESSION**

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:03pm
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Attorney Paul Elsner, no staff was present.
4. **OTHERS PRESENT:** Annelies Kloosterman with Capacity Consulting, Oregonian Reporter Eric Florip and Ray Pitz with the Sherwood Gazette.
5. **TOPIC DISCUSSED:** City Manager 360 Review, pursuant to ORS 192.660(2)(f), Exempt Public Records. Ms. Kloosterman briefed Council on her report.
6. **ADJOURNED:** Mayor Mays adjourned the Executive Session at 6:55pm and convened to the regular Council Session.

## REGULAR COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:05pm.
2. **PLEDGE OF ALLEGIANCE AND ROLL CALL:**
3. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
4. **STAFF PRESENT:** Community Development Director Tom Pessemier, Police Captain Jim Reed, Finance Director Craig Gibons, Planning Manager Julia Hajduk, Assistant Planner Zoe Monahan and City Recorder Sylvia Murphy.

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

### 5. **CONSENT AGENDA**

- A. **Approval of January 15, 2011 City Council Minutes**
- B. **Approval of January 18, 2011 City Council Minutes**
- C. **Approval of January 22, 2011 City Council Minutes**
- D. **Resolution 2011-010 Establishing a deadline date for filing Declaration of Candidacy form or Nomination Petition for the May 17, 2011 Election**

**MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCIL PRESIDENT DAVE GRANT, ALL COUNCIL MEMBERS VOTED IN FAVOR.**

### 6. **PRESENTATIONS**

- A. **Recognition of Eagle Scouts.** No Scouts were present.

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

### 7. **PUBLIC HEARINGS**

- A. **Ordinance 2011-001 Amending multiple sections of the Zoning and Community Development Code including Divisions II, III, V, and VIII**
- B. **Ordinance 2011-002 Amending Title 12.12 and 12.20 of the Municipal Code relating to trees on other public property and Homeowner's Association authorization to review tree removal**

Zoe Monahan, Assistant Planner came forward and stated the presentation staff will be presenting contains information for both ordinances on the agenda. Zoe briefed the Council on the presentation (see record, Exhibit C) and recapped the following areas.

## **Background:**

- Started discussion of the Code Update Project in April 2010
- Phase I (Application Submittal, Public Notice & Simple Fixes) was completed in October 2010
- Phase II began in July 2010
- Due to time concerns Planning Commission recommended that staff move forward with the street tree and fence portion of the Phase II topics as "Phase 1.5"
- To have the standards in place by Spring of 2011
- Planning Commission held a public hearing December 14, 2010 and continued the public hearing to January 11, 2011
- Planning Commission has forwarded their recommendation to City Council to be heard on February 1, 2011
- City Council work session held on January 18, 2011

## **Outreach:**

- Survey questionnaires were available on the website and at city hall (46 were submitted)
- Listening Session was held on September 14, 2010
- Regular updates were placed in the Sherwood Archer and Sherwood Gazette, regular e-mail updates were sent to the HOA's and interested parties list
- Regular updates to the Parks Advisory Board
- Notice of public hearings were published & posted
- Courtesy notices sent to HOA's and interested parties
- Website updated

## **Planning Commission Recommendation Includes:**

- Updates to fences and walls
- Updates to street tree removal and replacement
- Updates to the recommended street tree list

## **Fences:**

**Issue:** What is a fence? Walls, screening, vegetation, etc.?

**How addressed:** Provides clear definitions (fences, walls, etc.); Removes hedges and other vegetation. Zoe explained "hedges and other vegetation" was removed and staff has prepared draft language to propose to Council

**Issue:** Should residential and non-residential uses have the same height limit?

**How addressed:** Separates residential and non-residential requirements; Allows non-residential fences to be eight (8) feet tall for additional security

**Issue:** Is there a better way to regulate fences on corner lots?

Currently larger corner lots are not able to use much of their yard and the fence requirements are not consistent with accessory structure setback requirements.

**How addressed:** Modifies corner lot requirements, allows more use of yard while continuing to maintain vision clearance

**Issue:** How are fences measured? Sloped lots or with retaining walls?

**How addressed:** Clarifies where, how fences are measured

### **Street Trees:**

**Issue:** Can the spacing standard be improved?

Currently, 1 street tree for every 25' of frontage is required. (Driveways, light poles, utilities, etc. are not factored into the required number of trees.)

**How Addressed:** The canopy spread of the tree will determine the spacing to ensure that there is room for healthy trees to grow without impacting utilities, etc.

**Issue:** Some of the trees on the Recommended Street Tree list are causing problems, should they be on the list? What about similar trees that are not on the list, how are these addressed?

**How Addressed:** Fruit bearing trees; trees with a canopy spread over 40' and problem trees have been removed from the list; prohibited tree list has been updated; alternative street tree process has been added.

### **Exemptions to replacement:**

- Applies to street trees that were planted in compliance when they were planted and are no longer required by the spacing standards.
- Exemption only applies at the time that the tree removal is being reviewed.
- They must submit:
  - A letter from a certified arborist meeting the removal criteria
  - The letter must describe why the tree cannot be replaced without continued damage that cannot be prevented with reasonable maintenance.

Zoe stated currently the Parks Advisory Board reviews street tree removals and this was problematic as they meet once a month and there was uncertainty on whether it was a land use decision or not. Zoe stated the Parks Advisory Board will maintain their ability to review trees on other public property and that language is being moved from Chapter 16 to Chapter 12. Zoe explained the following tiered system.

## **Street Tree Removal – Tiered System**

- Tier 1
  - Under 5 inches DBH (Diameter at Breast Height)
  - No review or permit required
- Tier 2
  - Between 5-10 inches DBH
  - Type I land use review
  - A sign is posted near the tree for a 10 day period, no public notice is required and there is no discretion in the decision
  - Does not require a letter from a certified arborist,
    - Unless requested during 10-day waiting period
- Tier 3
  - Over 10 inches DBH
  - Type I land use review
  - A sign is posted near the tree for a 10 day period
  - Requires a letter from a certified arborist

Requires applicant to submit a statement that they have talked to the HOA, Neighbors and City about opting to retain the tree.

Councilor Luman asked for clarification on Diameter of Breast Height and Zoe replied the definition was added to the standard and generally its approximately 4.5' up the tree.

Zoe stated during the Planning Commission public hearing process, it was heard that Homeowners Association (HOA) be able to review trees in their neighborhoods and the Planning Commission has proposed that a HOA process be put in place. Zoe stated this would be a Type 4 review in order to be granted the authorization to approve the street tree removal by the Planning Commission.

### **Street Tree - HOA Authorization:**

- Gives Homeowner's Associations the ability to seek the authority to review street tree removal requests for their neighborhood.
- Provides for a Type IV land use process to authorize the HOA's ability to regulate street trees.(Chapter 16)
- Chapter 16 amendments outline the process to delegate authority:
  - Application requirements, criteria for the approval and minimum conditions of approval
  - The City's ability to cancel the approval
  - The approval is valid for 5 years – The HOA must seek a renewal of the approval at that time
- Chapter 12.20 – Outlines the requirements and appeal procedures after land use approval
  - Provides guidelines for HOA administration of the program and process for appeal of the HOA decision.
  - The HOA decision can be appealed to the city manager
  - The HOA decision is not a land use decision

Zoe explained the next steps in the process.

### **Next Steps:**

- Public Hearing February 1, 2011 to consider proposed changes to Chapter 16 (Ordinance 2011 –001) and Chapter 12 (Ordinance 2011-002)
- Fee for tier 2 and 3 will need to be established through the budget process

- Outreach to educate the public about the updated fence and street tree code language.

**Recommendation:**

- Adopt changes to Chapter 16 via Ordinance 2011-001 as proposed or amended.
- Adopt changes to Chapter 12 via Ordinance 2011-002 as proposed or amended.

Zoe informed the Council on page 29 of their meeting materials in Section “D Exemptions from Replacing Street Trees” there is a typo in the language in Section 1, the error is the language “or Type II”, and said this language should not be there. Julia Hajduk stated staff is recommending the amendment and removal of this language if Council chooses to adopt the ordinance.

Zoe informed the Council staff has drafted proposed language defining hedges. Mayor Mays asked staff to proceed with the definitions of hedges and said he believes definitions are needed and the Council can either act on it tonight or continue the hearing to allow Council to consider the hedge language. Zoe explained the following definition on hedges and stated staff is proposing the following language.

**Proposed Hedge Definition:**

- Definition:
  - 16.58.030.B.6. Hedge: A line of closely spaced evergreen shrubs planted and trained in such a way as to form a barrier to mark the boundary of an area or visually screen an area.
- Location – Residential
  - 16.58.030.D.6. Hedges up to 10 feet tall are allowed in required side and rear building setbacks.
- Location – Non- Residential
  - 6.58.030.E.3. Hedges up to 12 feet tall are allowed in non-residential zones. When the non-residential zone abuts a residential zone the requirements of section 16.58.030.D.6. shall apply.

Mayor Mays asked if there was overriding language in the event a side yard is of a visual concern and there’s limitations on fences and is there overriding language that would override a 12 or 10 foot....Julia replied visual clearance supersedes the other height standards.

Councilor Henderson referenced page 19 of the Council packet, Section 16.58.030, Section D referring to Flag Lots and said this language was crossed out. Zoe replied the language has been removed from this section and relocated to a more appropriate location and referenced page 23 of the Council packet and said there was a few updated to the language when you get to “parking and loading” areas.

Councilor Henderson stated she lives on a flag lot and gave examples of her situation on that property and asked for clarification on hedges. Julia replied and clarified.

Councilor Henderson asked why 10' was proposed. Zoe replied this was staffs proposal and staff thought it was appropriate as it was higher than the 6' fence standard and allows for some screening without blocking solar access.

Councilor Butterfield referenced the Tier III language and said the language states to talk to the HOA and neighbors and asked why would a property owner want to talk to his neighbor about his own tree. Zoe replied the idea with Tier III, because it's a larger more mature tree, the idea behind this is to see if one can't retain the tree and have the community work together to save the tree. Discussion occurred with the need to get neighbors who may be opposed involved and the decision being the decision of the property owner. Julia replied the idea is not that the neighbors have the opportunity to say you can't do it, there's no formal comment period, there's a sign posted next to the tree stating it's happening. Julia further explained and gave examples of communicating with neighbors to help potentially save a tree and said it's not a requirement.

Councilor Butterfield expressed concern with the language and said he was not in support of the language of communicating with neighbors but supports the language of communication with the HOA. Tom Pessemier, Community Development Director further explained the proposed language and said it is a communication tool and the neighbor can't deny a property owner the ability to remove a tree.

Councilor Butterfield stated he wanted to see language stating that one can communicate with the neighbor but the neighbor can't stop the property owner from removing a tree.

Mayor Mays clarified and said the language would be more for informational purposes and noticing. Councilor Butterfield agreed.

Councilor Folsom asked in regards to the definition of a hedge and the language of "evergreen" and asked if there was a reason for the reference to an evergreen. Julia stated staff looked at other jurisdictions and Webster's Dictionary and came up with this definition as evergreens will be year-round. Julia stated staff can remove this reference if Council desires.

Mayor Mays stated he proposes, considering new language on hedges is being presented, that the Council takes time to review the language until the next Council meeting.

Mayor Mays opened the Public hearing to receive testimony on Ordinance 2011-001.

No testimony was received and he closed the public hearing.

Mayor Mays open the public hearing to receive testimony on Ordinance 2011-002.

No testimony was received and he closed the public hearing.

Mayor Mays asked to receive Council comments or questions. Mayor Mays recapped prior comments and concerns of Council members; Councilor Butterfields comments regarding communication with neighbors on Tier III; stated there was a typo mentioned by staff; and staff had presented information on definitions of hedges. No additional comments from Council were received.

Mayor Mays stated he previously spoke with staff and requested the definitions on hedges and stated he believes the language needs to be in the ordinance. He commented regarding the 10-12' hedge requirement and said violations are complaint driven and the City will not be out

patrolling. Discussion followed with enforcement of the code and the role of the City Manger to enforce it.

Mayor Mays asked for Council comments regarding the need for hedge definition language in the code.

Council President Grant stated if the hedge is being mentioned it needs to be defined and said as previously mentioned by Councilor Folsom in regards to the reference to evergreen shrubs, and said there are bamboo hedges, arborvitae hedges and we might as well include everything if we are concerned about it. Council discussion followed and Mayor Mays suggested continuing the business to the next Council meeting.

Councilor Butterfield commented regarding Council not spending a lot of time deliberating over hedge definition.

Councilor Henderson said she believes a 10' residential hedge is a lot and expressed concern with lack of solar access and said she support the definition being more general and having an 8' maximum for residential.

Council discussion occurred regarding the planning commissions' discussion on hedge definition. Julia stated the planning commission did not in great length discuss the definition and said staff deals with community questions of hedge definition and finds it difficult to define and said this gets staff a bit closer to definition.

Mayor Mays stated the following motion:

**MOTION: TO CONTINUE ORDINANCE 2011-001 AND ORDINANCE 2011-002 TO THE FEBRUARY 15<sup>TH</sup> COUNCIL MEETING AND ASK STAFF TO INTEGRATE THE PROPOSED HEDGE DEFINITION, FURTHER DEFINING HEDGE SO THAT IT'S NOT JUST EVERGREEN, PUT IN THE RESIDENTIAL SECTION THE HEIGHT OF 8' AND LEAVE NON RESIDENTIAL AT 12', MAKE SOME LANGUAGE CHANGE THAT WAS MENTIONED BEFORE REMOVING TYPE IV AND TYPE II, AMEND THE LANGUAGE A BIT FOR COUNCILOR BUTTERFIELD' CONCERN ON INFORMING NEIGHBORS OF TYPE III TREE ISSUES, AND BRING THIS BACK FOR COUNCIL DELIBERATION. SECONDED BY COUNCIL PRESIDENT GRANT. ALL COUNCIL MEMBERS VOTED IN FAVOR.**

Mayor Mays thanked staff and addressed the next agenda item.

## **8. CITIZEN COMMENTS**

Neil Shannon 23997 SW Redfern Drive, Sherwood came forward and commented regarding the City's Emergency Management Plan and expressed concern that the City wasn't moving forward now that the plan has been adopted. Mr. Shannon stated the Council does not recognize the Cert Program and has not implemented it as established in the Plan.

## **9. CITY MANAGER REPORT**

Tom Pessemier Community Development Director filling in for City Manager Jim Patterson stated Captain Jim Reed had information to report to the Council.

Captain Reed informed the Council of an award received by the City from Oregon Special Olympics for being in the top category for fundraising for Oregon Special Olympics. Captain Reed said this is through the Tip a Cop Fundraiser held at Red Robin. Captain Reed informed the Council this is the 5<sup>th</sup> year Sherwood has been on the Honor Role and in the top 5 fundraisers. Captain Reed said the next Tip a Cop event is scheduled for March 26<sup>th</sup>.

## 10. COUNCIL ANNOUNCEMENTS

Councilor Folsom stated she has spoken with staff and reported an Oregon firm has been hired to produce a Business Plan for the Machine Works Project. Ms. Folsom stated there were 6 applicants and thanked Bob & Brian from the Steering Committee for their time and expertise. Councilor Folsom reminded of the upcoming School District Budget listening session to be held on February 15<sup>th</sup>. Ms. Folsom shared a personal experience and encouraged parents to speak to their children regarding crosswalk safety as she had witnessed a near accident with a child crossing the street on a bicycle in the crosswalk and the child did not stop to look for oncoming traffic.

Councilor Henderson reported on the Community Arts Center Business Plan and said their first meeting is scheduled for February 10<sup>th</sup> at 6:30pm, to be held at City Hall. Ms. Henderson reported on a free concert scheduled for March 18<sup>th</sup>, with the Air Force Brass Band out of Travis Air Force Base, performing at the Sherwood High School PAC, event jointly sponsored by Voices for the Performing Arts, the City of Sherwood and the Sherwood School District. Ms. Henderson stated the Travis Brass Band will be holding a clinic with the middle school and high school brass band players the afternoon of the 18<sup>th</sup>. Ms. Henderson said the time of the concert had not been determined yet, but it could be 7:00pm or 7:30pm and thanked City Manager Patterson for his assistance in coordination.

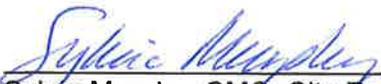
With no other business to conduct, Mayor Mays adjourned the Council meeting.

**11. ADJOURNED:** Mayor Mays adjourned at 7:50pm.

Attest to Executive Session Minutes:

  
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Paul Elsner, City Attorney

Submitted by:

  
\_\_\_\_\_  
Sylvia Murphy, CMC, City Recorder

  
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Keith S. Mays, Mayor