



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
February 2, 2016

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Clark called the meeting to order at 5:37 pm.
2. **COUNCIL PRESENT:** Mayor Krisanna Clark, Council President Jennifer Harris, Councilors Dan King Linda Henderson, Jennifer Kuiper, Sally Robinson, and Renee Brouse.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, City Attorney Josh Soper, and Police Chief Jeff Groth.
4. **TOPICS:**
 - A. **Exempt Public Records, ORS 192.660(2)(f).**
5. **ADJOURN**

Mayor Clark adjourned the executive session at 6:01 pm and convened to a work session.

WORK SESSION

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 6:05 pm.
2. **COUNCIL PRESENT:** Mayor Krisanna Clark, Council President Jennifer Harris, Councilors Linda Henderson, Sally Robinson, Dan King, Renee Brouse and Jennifer Kuiper.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Operations Supervisor Rich Sattler, Community Development Director Julia Hajduk, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.
4. **TOPICS:**
 - A. **New Water Rate Projections**

Deb Galardi with Galardi Rothstein Group provided a presentation, Water System Financial Plan Update (see record, Exhibit A). Ms. Galardi provided an overview of the background including Master Planning and Financial Planning. She explained the Master Plan was adopted in May 2015 and it identified 20 year capital improvement needs and included rate and system development charge analysis. She reviewed Revised Rates and System Development Charges which were implemented effective July 1, 2015 and included a 4% rate revenue increase. She explained restructuring of irrigation rates and stated they were equal to block 2 residential rates.

Ms. Galardi explained 10 year Capital Project list. Discussion followed. Public Works Director Craig Sheldon explained the costs of WRWTP (Willamette River Water treatment Plant) \$1,186,133 for upgrades to achieve a maximum of 15 mgd, \$2,419,788 for purchase of 5 mgd intake capacity and \$9,313,453 for WRWTP expansion. He stated these costs are the City's costs. Craig explained \$9,481,599 listed for distribution projects. Discussion followed.

Ms. Galardi explained Capital Improvement Plan Phasing to FY 2024-25. She explained the 2015 Recommended Financial Plan and what has changed in revenues and costs (see page 8 of exhibit). Discussion followed.

Ms. Galardi reviewed and explained the revised revenue increase options, Option 1 and Option 2, (see exhibit, page 9) and the current 2015 plan.

2015 Plan: 4% increase for FY2017, 4% increase for FY2018-2020 and a 5% increase for FY2021-2025.

Option 1 suggesting an annual increase of: 2.6% in FY2017, 2.6% increase in FY2018-2020 and a 4.5% increase in FY2021-2025.

Option 2 suggesting an annual increase of: 0% in FY2017, 3.75% increase in FY2018-2020 and a 4.5% increase in FY2021-2025.

She explained future key rate drivers as continued hot/dry summers, deferral WRWTP expansion and future partner funding. She explained upwards rate drivers as reduction in use for current unbilled accounts, continued slow growth and increased cost of borrowing. She recapped residential utility bill comparisons for neighboring jurisdictions. Discussion followed.

Ms. Galardi summarized the various factors contributing to more positive cash flow in the short-term as water sales of existing and new billed customers, flexibility in short-term revenue increases by taking the full benefit in FY2017 or smoothing over the next four years. She stated the City would continue to monitor and adjust incrementally. Discussion followed.

5. ADJOURN:

Mayor Clark adjourned the work session at 6:44 pm and convened to a regular session.

REGULAR SESSION

1. CALL TO ORDER: Mayor Clark called the meeting to order at 7:02 pm.

2. **COUNCIL PRESENT:** Mayor Krisanna Clark, Council President Jennifer Harris, Councilors Linda Henderson, Jennifer Kuiper, Sally Robinson, Renee Brouse and Dan King.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Police Captain Ty Hanlon, Police Captain Mark Daniel, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Library Manager Adrienne Doman Calkins, Administrative Assistant Colleen Resch, and City Recorder Sylvia Murphy.

Mayor Clark addressed the next agenda item.

4. PRESENTATION

A. State of the City Address

Mayor Clark provided a presentation (see record, Exhibit B) and read the following State of the City Address:

Let me start by recognizing my colleagues, your city council - councilors, will please stand for a moment and be recognized. I appreciate all of the hard work and dedication of these fine citizen volunteers and it has been my privilege to work with them this past year. Thank you to staff and council for a great year and to your commitment to the year ahead. I would like to take a moment to recognize all of the elected officials from throughout the region who are with us. Please stand and let's give them a round of applause. Thank you to staff and Council for a great year and to your commitment for the year ahead. It is my great honor, and privilege, to serve as your mayor and I thank you for the opportunity to shout out Sherwood wherever I go. So now, let me give you the State of our City.

I think that the enthusiasm of the intro song is perfect for my talk today, because today I am going to give you a recap of a year that was both invigorating and successful. It was a year where we set great goals for ourselves and achieved results far in excess of what we ever imagined was possible, and I am dedicated to continuing that positive movement forward.

So let's talk about last year - One of the phrases that you have heard me use is - "We are going to get stuff done". And get stuff done we did. What I meant when I said this was that we aren't just going to talk endlessly on about topics, we are going to set goals and to see tangible results from our efforts. Here are a few of the major results from this past year that I am especially proud of as your Mayor.

After nearly a decade from first being envisioned, we opened the Sherwood Center for the Arts last February. This wonderful new addition to Old Town Sherwood has been well-received by the community with many different types of uses in its first year – from performing arts performances to private events such as weddings and charity dinners, to a growing list of arts classes for children and adults.

In March, we upgraded our children's play structure in Stella Olsen Park. I have heard from many parents over the past year that they love the new structure and most importantly, the kids in Sherwood have embraced the upgraded play structure that boasts year round covered play areas for protection from rain and sun alike (even though it is clad in Denver Broncos Blue and Orange colors).

This past fall, we opened our long awaited first dog park in Snyder Park. This is another long-term goal for the City that was first advocated for by former Mayor Bill Middleton. As expected, the park was an instant success with record breaking attendance at the grand opening event! Unfortunately with the record December rains and heavy usage (I know - rain in Oregon- who knew?), the turf at the park got destroyed and a temporary closure is happening. But we will replant the grass this spring and once the turf is reestablished, we will reopen the park. Fear not, I feel great confidence that in the State of Oregon we will be able to grow some grass.

Two of the projects I advocated for last year were our first city sponsored community garden and a bottle recycle program in all of our parks and city buildings. I am pleased to say that we were able to obtain outside funding through a Metro Community Enhancement Grant to pay for both of these great projects. The first phase of the garden project will be completed this spring on an underutilized city property between the Fire Station and Public Works facility. The project is winding its way through the land use approval process with the Planning Commission (yes, even city projects are subject to the same procedures as private development projects). Once approved, the irrigation system improvements will go in and then we will be coordinating a number of community work days where our wonderful volunteers can help build the various raised beds in the garden. I want to support projects that build community and promote the health and welfare of our citizens, and this project fits the bill. Intergenerational interaction through gardening and exposure to healthy produce makes our citizens healthier and our community stronger. I understand that the Sherwood TVFR has already requested two plots to grow produce for their firefighter meals and to share with the Helping Hands food bank.

On the recycling front, we have ordered and received the first recycling bins that will soon be installed at Snyder Park with future bins to arrive soon at high traffic areas such as Hopkins baseball/softball field, Stella Olson and the Field House.

Also this summer in Old Town, a new public parking lot will be constructed by the Urban Renewal Agency adjacent to City Hall. The new paved lot will feature 18 additional parking spaces for the various businesses within our Old Town district. This project is another example of forward thinking and planning.

This year, Councilor Sally Robinson advocated for the removal of the large concrete monuments in downtown. With council support, three intersections in Old Town will be reconstructed along Main Street with the removal of the large concrete monuments at each intersection. These monuments have been controversial since they were originally built in 2005 with many drivers and pedestrians concerned about safety at the intersections. So we are going to finally improve these intersections this year!

Last year we applied for, and received, a WA County Visitors Association grant for \$38,000 for bike safety stations and bike racks and we are currently in the running for a Metro Nature in the Neighborhood grant for \$58,000 for signage along the Cedar Creek Trail. We are looking at outside funding source opportunities to bring great amenities to the City of Sherwood without increasing the tax burden to our citizens.

In the year to come, I will be advocating to do an energy study in our buildings and parks. I was introduced to this concept at the League of Oregon Cities Conference this year and would like to see Sherwood take advantage of the opportunities to provide efficient, cost effective LED lighting in city parks and city buildings. Many other Oregon cities are utilizing companies that provide this service with positive outcomes.

The last project that I want to highlight for the coming year is another long-awaited improvement that had been on the shelf, which is phase two improvements to Woodhaven Park. This popular park will be enhanced with additional off-street parking, permanent restroom facilities, and a basketball court. And don't worry the popular sand pit with Tonka toys will remain as a prominent feature at the neighborhood park.

Another consistent phrase that I stated in my first year as your Mayor was that "We are going to talk about stuff". As a City Council, we are not going to shy away from talking through difficult topics or issues. "Government as Usual" is really not my style. I asked my son once, "Do you know what happens to problems if you ignore them?" He responded hopefully "They go away?" "No" I explained "They grow". Here in Sherwood, we are going to talk about difficult issues and work together to identify solutions to those problems. We are going to continue to look at different ways to provide government services at a reduced cost and/or increased efficiency.

As a very smart political science professor once told me, politics is the management of social conflict, not the resolution of it. So this year we managed social conflict, and we managed it quite well. For example, the Council has been grappling with the various issues related to marijuana regulation in response to Measure 91 being approved in Oregon in 2014. Earlier in the year, we developed new regulations related to where medical marijuana dispensaries can be located in the city. In the upcoming November election, Sherwood citizens will get to vote on whether to ban recreational marijuana businesses within our city limits. If the citizens choose to ban the sale of recreational marijuana in the city, Sherwood will lose all state shared funding that could have been used for increased police patrol and substance abuse education and we will have to provide any additional services that are needed with additional taxation to our citizens. Whether we choose to ban the sale of recreational marijuana in our city or not, it is legal in the state of Oregon and we will need to have a plan as to how we will deal with it moving forward. The choice is yours, our citizens, to make. So be sure to vote this November and let your voice be heard.

Another topic of much discussion and debate this past year was chickens. Boy, oh boy, did we talk about chickens. A big thank you to Council President Jennifer Harris for bringing this long ignored issue forward. We had a healthy debate about the formation of an ordinance to allow residents to raise chickens and reviewed how many of our neighboring cities dealt with this issue. In the end, there was not council support for adding a chicken ordinance in Sherwood, but we had a healthy discussion surrounding this important issue.

Then we talked about water. With our first water rate increase in three years, the topic of our high water rates and the impacts on residents and businesses generated a great deal of discussion this past summer and fall. I discovered an inconvenient truth - when we converted from well water to the Willamette water source, we failed to update our billing system and followed best practices by billing ourselves (city buildings, parks and facilities) and the school district for their use of water. We have notified our affected partners and beginning in the new fiscal year in July, all parties will be paying for their use of water, which will dramatically decrease the previously projected water rate increase to our residents in the future. The projected rate increase before was 4 and 5 percent each year until 2025. Just tonight in a work session with Council, we listened to a presentation of new projections that would be closer to 2.5% over the upcoming four years. This is certainly a step in the right direction. As long as I am fortunate enough to serve as your Mayor, I will continue to push for ways to reduce the need for significant increases in our water rates.

Next month, the results of our Police Staffing Study will be released. This outside independent review of our staffing levels in relation to our low crime rates will certainly contain recommendations that will generate further debate and discussion that may prove to be challenging conversations. I want to reiterate that we will need to be creative and think outside the box when it comes to implementing any recommendations contained in the study. We will be considering all options available to us, including contracting all or part of our police services with Washington County, in order to provide the best service at the lowest cost. Many of our neighbors, such as Wilsonville and Happy Valley have chosen to contract with their county for police services, retaining their city police identity, but expanding officer advancement opportunities and providing the same great service at a lower cost. This is only one of many options available to us, and we will not be afraid to weigh all options before making a decision. That does not equate to “attacking a department”, that is considering all of our options and making a great decision for our citizens.

Another important discussion that will occur this year is planning for the end of the 20 year agreement with the YMCA to operate the Sherwood Recreational Center that is approaching in 2018. Just this past weekend at our City Council retreat, the Council identified the need to complete a feasibility study to determine the viability of the City assuming responsibility of operating our recreational facility in 2019. This is a critical question that needs to be answered before we move forward in any direction regarding the current model. All of council agreed that we want to provide the very best recreational facility to our residents, and the best way to do that is to know all of our options in operation of the facility.

And finally, we are going to talk about the future growth and development of our community. This important discussion will be triggered by our need to update the city’s Comprehensive Plan. Our current plan was approved in 1991 and had a planning time horizon that ended in 2005. Last time I checked, we are now in 2016 and our community deserves an up-to-date Comprehensive Plan to utilize in responding to growth and development pressures in our community.

One of the best aspects of serving as your Mayor this past year has been the opportunity to “Shout out Sherwood”. This is pretty easy to do with all of the positive aspects of this great city. It certainly seems like each week, our city is ranked in various top 10 lists statewide or nationally. Whether it is “the smartest city”, “the safest city”, or “the happiest city”, Sherwood is becoming well-known as a great place to live, work and play. And while this recognition is wonderful in so many ways, it is clear that we have been discovered and many community members are concerned about losing our small-town character.

As your mayor, I continue to remain actively involved with County, Regional, State and National leaders. Sherwood needs to remain at the table in order to position ourselves for outside funding and bring innovative ideas from around the state and nation to improve our city.

One of the more unique and fun ways that we shouted out Sherwood this past year was by our first-ever participation in the Grand Floral Parade in the Rose Festival. Our float, which featured our new Arts Center as its theme, even won first-place in the mini-float category of the parade. Thousands of spectators along the parade route as well as television viewers throughout the West Coast saw a strong Sherwood presence in the parade with our float, the fabulous marching band from Sherwood High School, and the award-winning a cappella group The Mixolydians.

Another important theme that I have stressed this year is the need to “Open the doors to City Hall”. I made a pledge to stop the repeated reappointment process of our board and commissioners and open up the opportunity for all of our citizens to serve. In just this past year alone, we have appointed 23 new citizens to our various advisory boards and commissions. These newcomers have brought fresh perspectives and new ideas to their respective positions and I will continue to seek new people to participate in our local government. In 2016, I will be seeking Council support to create two additional new opportunities for citizens to get involved at City Hall. The first new committee will be a Utility Review Board. This citizen committee will assist the Council and Staff in the various public utilities that we operate, including the water, sanitary and storm water utilities and Sherwood Broadband. The second committee that I am calling to be created is a Youth Advisory Board. I am consistently impressed by the talent and skills of our youth in the Sherwood community and creation of this board will enable the City Council and Staff to better engage with this important segment of our population. These citizens are our future.

And finally, our first ever Citizens Academy will start April 1. I want to thank Councilor Jennifer Kuiper for advocating for and spearheading this effort to create a series of classes for Sherwood citizens to enroll within and learn about the various operations of their city government. I am confident that this academy will be successful in many ways and hope to see it offered again in the future.

Before I conclude, I need to thank all of the people who make it possible for me to do this job. Thank you to all of the neighbors, friends, team parents, church family and family members who help me every day navigate carpools and meeting schedules so that I can serve as your mayor. I couldn't do this without you. I want to give a special thank you to my two children, Alaina and Declan - who I do this with and for. Together we have planted trees at the One Tree for All program, cleaned up garbage at the Trashpolooza and Adopt a Road project and dusted shelves at the Sherwood Library. We have learned that - serving together is growing together - as a family and as a community. Thank you guys for your support and service.

I would like to conclude with one of my favorite quotes from an unknown author “People will forget what you said, people will forget what you did, but people will never forget the way you made them feel.” It is my hope that here, in the City of Sherwood, you feel welcome, valued, appreciated and encouraged. I can't thank you enough for this opportunity to serve as your Mayor. I look forward to the year ahead, and will soon be filing to run in the next election to continue my service as your Mayor. There is so much more work to be done, and it would be my honor to continue, with your support, to move Sherwood positively forward. Thank you.

B. Brief Reception

Mayor Clark recessed the meeting at 7:22 pm to hold a public reception and reconvened at 7:42 pm.

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

5. APPROVAL OF AGENDA:

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

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

6. CONSENT AGENDA:

- A. Approval of January 19, 2016 City Council Meeting Minutes
- B. Resolution 2016-001 Authorizing City Manager to extend the current contract with the firm of TKW for Municipal Audit Services

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

Mayor Clark addressed the next item on the agenda.

7. CITIZEN COMMENTS

Jan Hatcher, Sherwood resident approached the Council and provided an update on her housing situation that she discussed at the January 19 City Council meeting. She announced that her lease will be renewed and thanked the Council. She commented on Mayor Clark's speech and said she supports removing the monuments. She commented on the support she received from the citizens of Sherwood.

Gail Cutsforth, Sherwood resident and member of the YMCA Board of Managers came forward and announced the Dine and Dance will be held on February 16 from 6 pm to 10 pm at the Sherwood Arts Center and the funds raised will support a Stronger Community a Stronger Us. She said citizens have asked her for a status on the discussions between the City and the YCMA regarding the contract and said it is her understanding based on the last City Council meeting that Section 33 of the agreement is close to a draft and noted this section only refers to the language regarding groups that may use the facility for meetings. She said she was wondering why they had not heard a directive from the Mayor to the City Manager to resume discussions on the overall contract and just heard in the State of the City address that Mayor Clark is planning for the end of the operating agreement with the YMCA. She said she is not happy and feels it has been a stall tactic to prevent progress on the matter and noted that she stated she hopes the City will take over the facility and run it as a park and recreation district thus kicking the YMCA out of Sherwood. She provided statics from area park and recreation districts and their funding requirements. She stated East Portland Parks and Recreation requires \$2.3 million which is supported by taxes which is 56.51% of all their operations. She stated Matt Dishman Parks and Recreation requires \$2 million, Mt. Scott Parks and Recreation requires \$2.2 million, Southwest Parks and Recreation requires \$1.9 million, North Clackamas Parks and Recreation requires \$734,000 which is 47% of operations, City of Hillsboro Parks and Recreation requires \$652,000, and City of Vancouver Parks and Recreation requires \$3.3 million which is 42% of operations. She said the Sherwood YMCA is a \$2.5 million operation and asked where that money will come from. She noted if Sherwood follows suit with the neighboring cities it will come from additional tax burden on our citizens. She said there does not appear to be a surplus of millions of dollars in the City budget. She commented on making budget cuts and asked where cuts could be made and suggested the schools and noted they now have a water bill to pay and the classes are already overcrowded. She commented on taking funds from the Police Department and referred to the suggestion to outsourcing the department to Washington County and noted they have no interest in this and they pay their police officers more than Sherwood so there would be no cost savings. She referred to the ballot measure that will appears on the May ballot that will require double majority for any new taxes. She asked when was the last time there was a 50% turnout of voters in Sherwood and commented on the voter apathy. She said this is the exact measure that Council voted last August in a 5:2 deciding not to

refer to the voters and now it will be on the ballot. She said Council Robinson is quoted as saying that she is concerned that if the measure is passed it could bankrupt the City. She reminded the Council that she approved the budget last month for the YMCA and they are in the black and their operating expense is \$2.5 million and asked where that money will come from.

Kurt Kristensen, Sherwood resident came forward and referred to benefits of having disagreements. He suggested that the Council consider passing a resolution to send to State Senator Thatcher, State Representative Davis and State Senator Rosenbaum to express concerns that passing SB 1573 or even introducing it out of the Rules Committee would be very scary thing to do. He said a group has put a proposal before State Senator Beyer to draft a law that would take away the ability of cities like Sherwood to put to the voters anytime an annexation proposal is brought before the Council. He said he realizes that Sherwood has had a number of annexation votes over the past 5 years and commented on the dynamics that have come out of it. He asked Council to take a look at SB 1573 and consider tonight or at the next Council meeting to adopt a brief resolution expressing your concerns as a City Council that if this law is passed there will no longer be the ability for Sherwood voters to vote on annexations proposals.

Tony Bevel, Sherwood resident approached the Council and commented on the ordinance passed at the previous meeting regarding letting the citizens vote on retail recreational marijuana on the November ballot. He thanked Councilor Henderson for recommending Netflix documentary "High Profits". He suggested that everyone should watch it. He said the setting is Breckenridge, Colorado and there are concerns with branding and imaging. He commented on the hypocrisy. He noted that the regulations that Sherwood has in place regarding location of the facilities is adequate. He commented on attending the Police dessert and one of the main concerns was marijuana use in youth and said if it is a problem in the schools he asked why it isn't being policed.

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

9. PUBLIC HEARING:

A. Ordinance 2016-005 Amending Title 9 of the Municipal Code relating to public peace, morals and welfare, Chapter 9.52 Prohibiting of Noise; Declaring an Emergency

City Attorney Josh Soper recapped the staff report and said this is a cleanup of some initial issues with the noise ordinance primarily to address what is now Section 9.52.040 which is the General Prohibit section of the ordinance. He stated this is Phase 1 of a two phase process and Phase 2 will address some of the more complex and policy oriented issues. He said Phase 1 is designed to bring the noise ordinance more closely aligned with the League of Oregon Cities (LOC) Model Noise Ordinance and to address the issue with the questionable language that was previously identified in Section 9.52.040. He stated the ordinance classifies first violations as a Class C which is a \$250 fine and subsequent violations as a Class B which is a \$500 fine, which is the same as the current code. He noted the ordinance includes an emergency clause to allow Council to enact the ordinance in a single hearing and requires unanimous approval by all 7 Councilors. He said if there is not unanimous approval the ordinance can be amended to strike the emergency clause and move it to a second hearing. He said the packet includes a track change document and noted it is confusing because there is some movement of language to bring it into the LOC structure. He said the language that is green double strike through means it was cut and the language that is green underlined means it was pasted. He noted there are areas where language was

moved and not shown in green. He referred to the definitions section under Section 9.52.030 the definitions for “day” and “night” appear to be new language but are actually the existing definition just moved from elsewhere. He asked for Council questions.

With no questions from the Council, Mayor Clark opened the public hearing.

Jeff Roberts, Sherwood resident approached the Council and referred to the email he sent to the Council (see record, Exhibit C which also includes emails from Roger Zumwalt, Nina Parker and Claude Campbell). He thanked the Council for their efforts in keeping the peace in his neighborhood. He said there are a few changes he would recommend but encouraged the Council to pass this unanimously and protect the community. He commented on the importance of enforcement of the ordinance after it is passed.

With no further public testimony Mayor Clark closed the public hearing. With no questions from Council, Mayor Clark asked for a motion.

MOTION: FROM COUNCILOR ROBINSON TO READ CAPTION AND ADOPT ORDINANCE 2016-005 AMENDING TITLE 9 OF THE MUNICIPAL CODE RELATING TO PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.52 PROHIBITING OF NOISE; DECLARING AN EMERGENCY, SECONDED BY MAYOR CLARK. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

B. Ordinance 2016-006 Amending Title 9 of the Municipal Code relating to public peace, morals and welfare by adding a new Chapter 9.64 relating to targeted residential picketing; Declaring an Emergency

City Attorney Soper stated this ordinance will create a new chapter in the Code and is modeled on the ordinance that was upheld by the U.S. Supreme Court in *Frisby v. Schultz* in 1988. He said he reviewed similar ordinances since then and addressed some possible issues that other courts could raise in the future if this were challenged. He said the ordinance closely tracks an ordinance that was provided by the attorney representing the family that is being subjected to targeting residential picketing in Sherwood. He stated it classifies violations as Class A which is a \$1000 fine and creates a private right of action to allow for individuals who are affected by this type of conduct to take civil action. He said it includes an emergency clause to allow it to take affect after a single hearing if approved unanimously by all 7 Council members.

With no questions from the Council, Mayor Clark opened the public hearing.

Tim Baugus, Sherwood resident came forward and thanked the Council for considering these ordinances and said by taking quick action this will help resolve the harassment that has been going on in his neighborhood. He thanked Mayor Clark, Mr. Gall, Mr. Soper and Police Captain Hanlon for the hours they put into these ordinances and their efforts to protect the safety and the welfare of the community. He said he has lived in Sherwood for 19 years and agreed with Mayor Clark that it is a great place to live. He noted that he appeared before the Council on January 5 and described the attacks against his family and the neighborhood that began in April 2015. He said his testimony is part of the record and reminded the Council that he submitted a petition with over 55 names supporting a nonresidential picketing ordinance.

He encouraged the Council to approve the ordinance and said nonresidential picketing ordinances have been passed in other communities and have been upheld by the U.S. Supreme Court. He referred to Justice Sandra Day O'Connor's decision for the majority in *Frisby v. Schultz* which says the ordinance is valid because of the importance of protecting residential privacy against the devastating effects of targeted picketing on the quiet enjoyment of the home. He said she stressed that even a solitary picket can invade residential privacy and emphasized that there is no right to enforce speech into the home of an unwilling listener. He said Justice O'Connor explained that protecting the wellbeing, tranquility and privacy of the home is of the highest order in a free and civilized society. He stated the ordinances are important and this may be the first time Sherwood has experienced this but it will not be the last. He said the ordinances will provide the police officers with clear direction and tools to handle these protesters.

Trent Baugus, Sherwood resident approached the Council and said his family has been the target of these protests and he urged the Council to pass the legislation to keep Sherwood a safe place to live. He commented on the actions of the protesters and having to wait in police cars or their own car until the protesters leave because they are fearful of their safety. He said the protesters wake the neighbors and scare small children and Sherwood is not the type of place for this of behavior.

Lori Baugus, Sherwood resident came forward and thanked the Council for being expedient. She referred to her public testimony on January 5 where she indicated that the picketing that has occurred at her home has also affected neighbors. She said without a nonresidential picketing ordinance this type of disturbance can occur at any home at any time for any reason. She stated this is not the type of city we want to live in and it is the responsibility of the City to protect the citizen's right to tranquility and privacy in our homes. She noted this ordinance would protect all of Sherwood from unwanted and threatening speech that could be targeted at any home. She encouraged the Council to be the first city in Oregon to lead the way and pass this legislation and be an example to the rest of the state. She referred to the Mayor's State of the City Address where she stated that problems do not go away if they are ignored and she agreed. She referred to comments of being a problem solving Council and said this is evidence of being a problem solving Council and urged Council to approve the legislation.

Shelby Baugus, Sherwood resident approached the Council and testified in favor of the nonresidential picketing ordinance. She commented on the uncertainty of whether there will be protesters at her house and the passing of these ordinances is a step to ensuring that residents can be safe and comfortable in their homes. She thanked the Council for their consideration.

With no further testimony, Mayor Clark closed the public hearing. With no Council questions Mayor Clark asked for a motion.

MOTION: FROM COUNCILOR HENDERSON TO READ CAPTION AND ADOPT ORDINANCE 2016-006, SECONDED BY COUNCILOR KING. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

10. NEW BUSINESS:

A. Initiative Petition ISHE2015-1, Proposed Ballot Measure, "*Charter Amendment requiring voter approval of residential taxes and fees.*"

City Attorney Soper recapped the staff report and provided the Council with additional documents which include a copy of the ballot title, explanatory statement and the measure language itself for this ballot measure (see record, Exhibit D). He stated that this is a ballot measure and the Chief Petitioner is Bill Middleton. He noted it is regarding taxes and fees in the City of Sherwood. He said on January 25, 2016 the City received notice from the County that sufficient signatures have been collected and verified to place this measure on the May 2016 ballot. He said when an initiative has sufficient signatures to be placed on the ballot the City Recorder is required to file the petition with the City Council at the next available meeting. He said generally when you have an initiative like this it is an ordinance and the City Council has the option to adopt the ordinance and it goes into effect immediately and there is no need for an election or to reject it and it would go to an election, or to take no action and it would still go to an election. He said in this case it is a Charter amendment and Council does not have the option of adopting it and it has to go to the voters. He stated Council does have the option of voting to reject it and it would still go to the voters or taking no action and it would still go to the voters. He noted the other issue is that Council does have the option of referring a competing measure to be on the same ballot. He said if Council chooses that option the deadline for having a competing measure finalized, approved and submitted is February 26. He stated that staff would appreciate getting that direction tonight in order to put together a draft Charter amendment.

Mayor Clark clarified that Council does not need to adopt this since it has received the required signatures to be placed on the ballot. Mr. Soper stated the only required action is that it be presented to Council at the next public meeting after the signatures are certified.

Councilor Henderson referred to the ballot summary which states that “this proposed Charter amendment will require a double majority voter approval before the City can impose on residential properties occupied by owners and/or occupants: any new tax, charge or fee; or an increase of more than two percent annually” and clarified that this will apply to fees that are on a residential bill or property tax statement. She clarified that this would not apply to businesses or the School District and would only be on homeowners. Mr. Soper stated that is generally the concept and as the ballot title says there are several terms in the proposed language that are undefined that would have to be defined by enacting an enabling ordinance. He said he needs to be careful at this time about speculating what some of the terms may mean as it could be construed as advocating for or against the measure.

Council President Harris referred to the City utility taxes such as sewer which is Clean Water Services (CWS) and asked how those fees will be affected if this measure is approved. Mr. Soper referred to the three documents (see record, Exhibit D) and said the last page is the actual measure language and that is what would go into the City Charter if approved and that is the most important language. He referred to the explanatory statement and said that is a summary of what the measure would do and will go into the voter’s pamphlet. He said the ballot title is an even shorter summary and will be on the ballot. He noted the ballot title was challenged and a modified ballot title was approved by the Circuit Court and one of the changes was a clarification regarding this issue. He said in the first paragraph under the summary section clarifies that this would not include taxes, fees and charges imposed by other governments such as CWS.

Council President Harris referred to the language “included but not limited to” in the measure language and said she would like to know every fee and tax that would be included. Mr. Soper said the controlling language would be the language before “including but not limited to” which is “any new city-imposed tax, charge or fee and any increase to any City utility tax, charge or fee of more than 2%”.

Councilor Brouse referred to the language which states established by the City Council effective July 1, 2015 and asked what the ramifications of that will be. Mr. Soper said staff is investigating to be certain exactly what the ramifications will be and said at this point it appears there have not been any fees or charges imposed since July 1, 2015.

Councilor Robinson asked if there is legal authority or statute or rule or law that says that the petitioner can go back to July 1. Mr. Soper said he is not aware of any in either direction.

Council President Harris said to get perspective she provided an instance of a catastrophic water event and fees needing to be increased to cover that, the Council can increase fees up to 2% and if the fees need to be higher it will need voter approval. She said any immediate need is going to have to wait until an election. Mr. Soper replied there is no emergency provision in the language as presented. Council President Harris clarified that if such a proposed fee increase is not approved by voters the City would need to find other funding assuming there is an emergency situation.

Councilor Henderson asked how this would affect bond measures. Mr. Soper said that is one of the things he is looking into and will defer and get back to the Council. He noted that there have been other communities with similar ordinances and the issue of bonds has been challenged and he will review those court decisions.

Council President Harris clarified that bonds go before the voters. Mr. Soper said it would be more in terms of existing bonds.

Assistant City Manager Tom Pessemier clarified that there are two different types of bonds. He said general obligation bonds go before the voters but there are bonds that the City takes out for loans on capital improvement projects that do not go before the voters.

Councilor Henderson said she understands that West Linn has Charter language that caps at 5% and asked Mr. Soper about other communities that may have comparable language. Mr. Soper stated that Reedsport had one and it appears that part of it has been repealed and Damascus.

Mr. Soper asked the Council if there is any interest in staff preparing a competing measure.

Council President Harris said that is confusing and asked what if both measures pass. Mr. Soper said if they both pass the one that receives more affirmative votes is approved.

Mayor Clark agreed with Councilor Harris and said that would be argumentative and confusing. She said the voters should be allowed to vote. Staff did not receive instructions to preparing a competing measure.

Mayor Clark addressed the next item on the agenda.

11. CITY MANAGER REPORT:

City Manager Gall reminded the Council of the URA Executive Session following this meeting and due to the time he had nothing to report.

Mayor Clark addressed the next item on the agenda.

12. COUNCIL ANNOUNCEMENTS:

Mayor Clark referred to Gail Cutsforth's earlier comments regarding the YMCA. She said in the State of the City Address she noted there was unanimous Council support that the City look into a recreational facility and how to operate it on our own. She said that does not mean that is what is going to happen it just means that the City is looking into it. She stated the City wants to look at all the options all the time and that does not mean attacking anyone. She announced that she will be attending the Sherwood Police Awards Banquet on Friday and is looking forward to it. She said on February 11-13 she will be attending the Smart Growth Conference in Portland along with Council President Harris, Councilor Kuiper and Councilor Brouse. She said it is fortunate that the conference is in Portland and they are taking the opportunity to invite the Planning Commission Chair and Planning Commissioner Alan Pearson along with members of the staff.

Councilor Kuiper announced the Sherwood High School Mixolydians placed 3rd in a regional competition and received a special award for an arrangement. She said she is looking forward to the Smart Growth Conference.

Councilor Brouse announced that on Saturday the Old Town Rotary will be hosting the Princess Promenade at 6 pm.

Councilor Henderson thanked the citizens who attended the Police Advisory Board open house. She said tomorrow night is the Swinging for Spaghetti event at the Sherwood High School at 7 pm. She thanked Kristen Switzer for attending the CDBG Policy Advisory Committee meeting on Saturday.

Council President Harris thanked staff, fellow Councilors and citizens for their support this past year. She said the year ahead will be equally as challenging and is looking forward to the challenges of 2016. She provided updates for the Library and the Center for the Arts. She commented on the Open Mic Night at the Library and said the next Open Mic Talent Slam is February 20 at 7 pm. She announced that February 7 is the Hands on Artist Trading Card workshop at 2 pm. She said on May 19 the Library will be having a Suicide Prevention workshop for those 18 years and older. She said the Center for the Arts is busy with rentals. She said there will be an Arts Gala on April 2 at the Center for the Arts. She commented on the interest for a movement to get public art in Sherwood.

Councilor Robinson said at the last Planning Commission meeting they began the discussion of recreational marijuana regulation and the Tonquin Employment Area and code cleanup for the industrial area to make it easy for businesses to relocate to Sherwood. She clarified that although the Council has voted to allow the voters to consider banning recreational marijuana facilities the City is simultaneously preparing regulations for recreational marijuana facilities in Sherwood in the event that the ban measure fails. She said there is a Planning Commission meeting next week to further the discussion of amending the Industrial and Development Code to help generate business in the Tonquin Employment Area as the new 124th Street in constructed.

Councilor King said he attended the Police Advisory Committee Dessert and reminded everyone to complete the online survey by February 5.

Mayor Clark addressed the next item on the agenda.

11. ADJOURN:

Mayor Clark adjourned the meeting at 8:45 pm and convened to a URA Board Executive Session.

Attest:

Sylvia Murphy, MMC, City Recorder

Krisanna Clark, Mayor