City of Sherwood Oregon

Home of the Tualatin River National Wildlife Refuge

AGENDA

Charter Review Committee
May 22, 2014

6:30 pm Regular Meeting

Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140

REGULAR MEETING

1. **Call to Order (Chair)**

2. **Roll Call (Chair)**

3. **Approval of Meeting Minutes**

   A. **Approval of May 1, 2014 Meeting Minutes**

4. **Public Comments**

5. **Committee Discussion**

   A. **City Attorney general topic, Chapter VIII-Appointive Officers, Section 35-City Attorney**
   B. **Merit System, Compensation and other employment terms and issues, Chapter IX-Personnel, Section 37-Compensation and Section 38-Merit System**
   C. **Council Compensation and the need to require a vote**
   D. **Housekeeping issues on potentially Willamette River Water and Solid Waste, Chapter XI, Section 43-Willamette River Drinking Water**
   E. **Housekeeping issues on Incinerator language, Chapter XI, Section 42-Solid Waste Incinerators**
   F. **Things not in the Charter but flow from it**

6. **Public Comments**

7. **Adjourn**

May 22, 2014 Charter Review Comm.
Date Gov. Body

3.A A
Agenda Item Exhibit #

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City of Sherwood Oregon
Home of the Tualatin River National Wildlife Refuge

SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
May 1, 2014

Regular Session

1. **Call to Order:** Chair Pat Allen called the meeting to order at 6:35 pm.

2. **Committee Members Present:** Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Cultural Arts Commission Representative Alyse Vordermark, Parks Advisory Board Representative Brian Stecher and Citizen at Large Bob Silverforb. Alternate Citizen at Large Renee Brouse was present. SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke and Citizen at Large Jennifer Kuiper were absent.

3. **Staff and Council Liaison Present:** City Recorder Sylvia Murphy, City Manager Joseph Gall arrived at 7:00 pm, and City Council Liaison Linda Henderson arrived at 7:15 pm.

   Chair Allen addressed the draft April 17, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve.

4. **Approval of April 17, 2014 Meeting Minutes**

   MOTION: From Neil Shannon to adopt the April 17, 2014 meeting minutes, seconded by Jack Hoffbuhr. Motion passed 6:0, all present members voted in favor. (Charlie Harbick, Jennifer Kuiper and Beth Cooke were absent).

5. **Public Comments**

   No one came forward. The committee discussed the lack of public involvement and methods of communications they can use to generate interest. Comments were received regarding committee members using facebook to inform the public. Discussion followed regarding people needing to have a personal involvement in issues to generate interest and attendance. Comments were received regarding the May Ballot Measures and seeing if the results indicate the level of public interest. Discussion followed regarding public attendance at other City board & commission meetings.

6. **Charter Review Committee Discussion**

   Chair Allen recapped the meeting agenda topics.

   A. **Appointive Authority, Chapter II-Powers, Section 6-Distribution**
   B. **Control of the Order of Business, Chapter III-Council, Section 8-Mayor and who sets the Council agenda**

C. **Public Hearings, Chapter IV-Legislative Authority, Mayor's Veto Power**
D. **Sections 33 and Section 34, Chapter VIII-Appointive Officers, hiring and firing restrictions for the City Manager and City Recorder**
E. **Language referencing employment contracts, Chapter VIII-Appointive Officers**
F. **Section 33.i Removal from Council for interfering in operations, Chapter VIII-Appointive Officers**
G. **Language regarding merit system and other employment terms and issues, Chapter IX**
H. **Future Committee meeting dates**

Chair Allen addressed item A, Chapter II, Section 6 Appointment Authority and referred to Exhibit B (see record) and the language of, "*the council appoints members of commissions, board and committees established by ordinance or resolution*". He said the committee placed this on the agenda as there has been issues within the last few months. He asked if this language was sufficient or if more structure was needed.

Discussion followed regarding what the issues have been, appointments to City boards, as well as appointments to regional and county committees. The committee asked regarding the Council recently adopting amended Council Rules. The City Recorder explained the Council adopted amended Council Rules indicating appointments would be made via resolution with the consent of the Council. Discussion followed regarding the committee considering adopting the language the Council adopted as a charter provision.

Chair Allen asked if the committee was comfortable having the City Recorder add the adopted language in the redlined version for the committee to discuss. No objections were received.

Ms. Vordermark asked regarding the language for City committees indicating the Mayor appointing commission members. The City Recorder explained there has been inconsistency with processes and language and said there is municipal code language for Planning Commission, the Parks Board and the Library Board, and said there is not code language for Cultural Arts or SURPAC. She said language exists in some areas stating the mayor will appoint. She explained past practice of applications being received, and interviews held with the Chair, staff liaison and Council liaison and the interview panel forwarding a recommendation to the Mayor who sets the agenda. She said the resolution would then come before the full council scheduled on the agenda. Ms. Murphy stated the language stating the "Mayor will appoint" has been misunderstood as the appointment process is not spelled out.

Ms. Vordermark asked if language is indicated in the Charter, do the boards and commissions now need to look at their code language indicating the appointments are made by the council as reflected in the Charter? Ms. Murphy stated staff has discussed the inconsistency of the language in the Charter, Council Rules and Code and said once changes are made potentially in the Charter and Council Rules, staff will be looking at the municipal code to ensure consistency. Discussion followed regarding the Council being the final authority to make appointments.

Chair Allen stated the committee will look at the language adopted by the Council in the Council Rules and see if the committee wants to mirror that language as charter language.

Chair Allen addressed Item B, control of the Order of Business, Chapter III, Section 8, and read, "*the mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council. The mayor must sign all records of council decisions. The mayor serves as the political head of the City government*".

Chair Allen referred to the language of *"determined the order of business under council rules"*. He said the idea was to talk about the notion of the mayor having unilateral authority to control the agenda and asked if the committee is fine with this or do they want to consider some ability, if a majority of the Council wants to cause an issue to come up before the Council, do they have the ability to do that.

Mr. Hoffbuhr asked regarding the Council recently adopting changes to the Council Rules regarding this. Ms. Murphy stated the Rules were changed to indicate the Mayor and Council President would set agendas. She stated there was an amendment as the original language as proposed indicated the Mayor, Council President and City Manager would meet to set the agenda and the amendment was made the night of adoption to remove the reference to the City Manager. Discussion followed regarding Council Rules and they being followed by the Council and rules not taking authority away when granted in the charter.

Chair Allen stated he is bothered by the notion that the majority of the Council cannot cause something to come before the Council if that's what the majority of the Council wants. The City Recorder explained they can and said that process recently occurred with amendments to the agenda made by the Mayor within a day of a meeting and the Council by motion and a majority vote, motioned to add items back on the agenda. She said the Council can by action of a majority request or conduct business. Discussion followed that the charter does not indicate this, and it's Robert's Rules that does, and Robert's Rules would apply when the charter does not specify. Comments were received that the language is authoritarian and being more civil in bringing business to the Council even if someone is against it. Discussion followed regarding charter language superseding Robert's Rules and the process of a majority of an elected body being able to make a decision is a Robert's Rule.

Ms. Vordermark asked if it was reasonable to remove this language and rely on Council rules.

The City Recorder informed the committee that the language of *"determines the order of business under Council Rules"* indicates the Order of Business, being Pledge of Allegiance, Roll Call, Consent Agenda etc. and these are standard items listed on an agenda and are considered the "order of business" and not actual Council business items. Ms. Murphy stated the Council recently discussed revisions to their rules and gave the example of Citizen Comments being listed as an order of business and the Council having the flexibility to determine the order of business on an agenda.

Chair Allen asked how does business get on an agenda. The City Recorder explained the current unwritten process as, the Mayor meets with staff, (the City Manager, City Recorder and Assistant City Manager) weekly and reviews the business that staff schedules on an Agenda Forecast. She said the Agenda Forecast is a shared document amongst all management staff that is a 6 month forecast and when the Mayor meets with staff weekly he determines the business as recommended by staff and sets the Council business agenda. She explained the Mayor asks for work sessions if more information is needed or moves business to a future date if more information is needed. She said the business comes before the Council through the Mayor.

Ms. Murphy explained when Mayor Middleton took office he choose to have an additional Council member with him, the Council President, in the weekly meetings. She said prior to Mayor Middleton this was not the practice, it was solely the Mayor that met with staff.

Chair Allen stated he had a suggestion and said the Order of Business language seems fine as it is and believes the committee should consider adding language of, *"A majority of the Council may cause an item to be added to the agenda of any meeting or to the agenda of a future meeting if needed to meet requirements for public notice"*. He said if four councilors wanted to bring up an issue they can add it to that

agenda or if it was something that required notice, they can cause it to be added to future agenda. Comments were received that this would establish clarity. Chair Allen said whatever the unwritten process is, the unwritten process can't be used to bottle something up and this is his concern. He said this manner allows for a majority of the Council and not any one person. Committee comments were received in support that this adds value.

Mr. Hoffbuhr stated we aren't stating how the agenda is set and doesn't know if it's important to indicate this in the charter. He commented regarding the Order of Business and the unwritten process that is currently in place, he said he is not sure where that language should be. He said setting the agenda is fairly important and can determine the tone of a meeting.

Chair Allen replied the language he suggested probably fits better in Section 7-Council rather than Section 8-Mayor. He suggested the committee look at this language in the redline version and look at if we want to capture language procedurally for setting the agenda. He said as long as we have a safety valve that a majority can get something on the agenda, it almost doesn't matter how the agenda gets set.

Mr. Stecher asked if the Council Rules speak to setting the agenda. The City Recorder replied the recent amendment to the rules specified the Mayor and Council President would set the agenda but the process is not noted in detail. Chair Allen replied two is better than one, but these two can forth will a majority.

Chair Allen addressed Item C, the need for public hearings, Chapter IV-Legislative Authority and asked staff if research was being gathered on this topic. Ms. Murphy replied she did not recall.

Chair Allen said this is the question of; the language does not indicate when a public hearing is required. He said land use is covered by state law and it requires a public hearing, and ordinances and resolutions under the City charter did not have public hearing requirements.

Ms. Vordermark asked if land use was the only area that required public hearings. The City Recorder replied she believes the budget process requires public hearings as does raising of fees or taxes. Comments were received regarding adding language requiring public hearings. Chair Allen referred to Section 16-Ordinance Adoption, subsection (a) language of, *"Adoption of an ordinance requires approval by a majority of the Council at one meeting provided the proposed ordinance is available in writing to the public at least one week before the meeting"*. He suggested adding language at the end of the sentence of, *"and after conducting a public hearing"*.

Ms. Vordermark asked how many ordinances are adopted every year. Ms. Murphy replied about 12-15 potential ordinances per calendar year. She explained the language referred to by Chair Allen is one reading of an ordinance. She said many jurisdictions in the state have a process of two readings of an ordinance, reading the title and having the ordinance available at one Council meeting and holding a public hearing and bringing the ordinance back at a second meeting for consideration of adoption. She said the language in the charter references a 7 day period, and when there is an ordinance on the agenda, she must publically post the agenda 7 days prior to a meeting so the public is aware and she must make the ordinance available if requested, even if the ordinance is in draft form.

Ms. Vordermark asked Mr. Shannon if this is something that he had spoken of before. Mr. Shannon replied he has a strong advocacy of allowing the citizens make the Council approachable. He said ordinances are laws that affect the entire City and believes if people have an issue they want to speak of they should have that opportunity. He said resolutions are basically how we conduct business and gave an example of appointing someone or signing a contract. He said ordinances are enforceable by law and there should be an opportunity to be heard. Discussion followed with the process of the City Recorder providing an

ordinance to the public if requested, even in draft form and the Council generally receiving their complete meeting packets on Wednesday or Thursday prior to a Tuesday meeting.

Mr. Silverforb asked regarding the 7 day period and what is provided in the ordinance. The City Recorder explained the ordinance is usually in draft form, marked draft, it has not been formatted nor a legislative number assigned. She said the language usually stated the general subject and the draft document may still be under legal counsel review.

Chair Allen stated he would be interested in looking at language that would cause Section 16.a to read, *"adoption of an ordinance requires approval by a majority of the council at one meeting provided that the proposed ordinance is available in writing to the public at least one week before the meeting, and further provided the council has conducted at least one public hearing on the matter".*

Mr. Hoffbuhr replied he liked this and said he was more accustomed to the process where a title is published at one meeting and there is a public hearing and it is voted upon at the next meeting.

Chair Allen said what he is proposing would not change the timeline, the 7 day can still be done and a hearing can be held.

Mr. Stecher commented regarding the ordinance being a law and believes a smooth ordinance needs to be available to the public prior to the public hearing by a day or two. He said people should be able to come to a meeting and know what they are commenting on. Discussion followed regarding the 7 day posting and Mr. Stecher stated he did not believe this would be acceptable as the City Recorder is posting a draft document and he is not comfortable with this as lawyers change things. He said he would rather see it in a smooth, completed format after legal review and ready to go to a vote. He said this may slow it down, but ordinances are important.

Chair Allen stated when the ordinance gets posted in draft form, the only thing that changes it would be council action at the meeting where it is being considered. Chair Allen clarified what the City Recorder stated and said it can be changed substantially between the time it is posted and the time the Council considers it. The City Recorder clarified and said she doesn't "post" the draft ordinance, it is made available to her from staff and because of the language in the charter she must have the ordinance available to the public, if requested, 7 days in advance of the Council meeting, she confirmed it may not be a final document.

Chair Allen shared information on the land use process where the actual staff recommendation and report are provided and are posted 7 days before the commission takes up the business. He said the commission may change it, but there is something for the public to see. He asked the committee what practical challenges they saw if this was the standard for the Council when dealing with ordinances.

The City Recorder replied if ordinances needed to be adopted immediately, there is a provision where the Council by emergency can adopt an ordinance and this process usually has legal review. Discussion followed regarding the use of "emergency clause language" and how often this is done by the Council and the Council and or legal being the judge of what is considered an emergency.

City Manager Gall informed the committee that many jurisdictions have two readings of ordinances and said the first reading allows for modifications and then bringing the ordinance back at a second reading, he said this slows down the process and requires two Council meetings to enact laws. He said they can waive this if it is an emergency. He shared his experiences in the City of Fairview and offered to bring back example language from other charters. He said this would be a major shift for Sherwood, but many

jurisdictions have two readings. Discussion followed that a two reading process was a fairer process and a strong consideration.

City Manager Gall offered to bring back sample language from other jurisdictions and Chair Allen suggested bringing back two different ideas; 1) a first and second reading process and 2) stronger language of what gets put out to the public 7 days ahead and if it is the actual ordinance. He said personally he doesn't believe the council needs to read it twice, as long as the public has a reasonable period of time to see the actual ordinance that is being considered.

The City Record suggested language that all ordinances are required to have a public hearing and if additional procedures or timing language is needed it be spelled out in the charter or elsewhere. Comments were received regarding ordinances being laws and the public having an opportunity to provide comments and the method in which this can be done.

Chair Allen stated we know we want to have a public hearing requirement and we want to see example language of what people are able to see, whether it be two readings or notice language.

Chair Allen addressed item D, Mayor Veto Power, Chapter IV-Legislative Authority.

Mr. Hoffbuhr stated if we put the process in place so the public has an opportunity, he did not believe the mayor needed veto authority. Discussion followed regarding the mayor opposing a resolution or an ordinance and it having to pass by a majority.

Ms. Vordermark stated she was okay with leaving the language in and said it's another check and balance and explained.

Chair Allen said it provides a platform for the mayor to send a political message about the strength of his/her feelings about a particular issue and makes the Council consider the legislation again. Comments from the committee were received to leave the language as is.

Chair Allen addressed item E, Sections 33 and 34.b, Hiring and Firing restrictions for the City Manager and City Recorder, Chapter VIII-Appointive Officers. He read, *"a majority of the council must appoint and may remove the manager. The appointment must be made without regard to political consideration and solely on the basis of education and experience in competencies and practices of local government management".* He said the language indicated the appointment must be made without regard to these, and said but evidentially the firing can be made in regards to these. He said he believes this is grammatical and suggested language of, *"the appointment or removal" must be made without regard to political consideration".* Comments were received regarding the removal of the City Manager being for other than political consideration reasons, and the example of for cause of embezzlement was mentioned.

Chair Allen confirmed the addition of "removal" language with the committee for Sections 33 and 34.b of the City Manager and City Recorder.

Mr. Shannon referred to Section 33.c and residency requirements for the City Manager. Discussion followed on the commonality in the region. Mr. Gall stated there are charters that have language "encouraging" residency. Comments were received and examples given from other jurisdictions that residency requirements could discourage City Manager candidates as candidates may not want to move their families. The committee agreed not to amend this section.

Chair Allen addressed Item F, Language referencing employment contracts, Chapter VIII-Appointive Officers. Chair Allen said the notion was there is not language that envisions there being an employment

contract and asked if there needs to be. He noted Council Liaison Henderson brought forward the topic and asked if she thought there should be language of, *"the council may execute an employment contract with appointive officials"* or something like this? He stated for City Manager, City Recorder, Attorney and Judge?

Chair Allen reminded Ms. Henderson she mentioned at the previous Charter Review Committee meeting that there is not language pertaining to employment contracts and if dismissed for cause, what the remedies and such would be.

City Manager Gall informed the committee that he and the City Recorder have contracts and said the City did not have a contract with the City Attorney's office that he could find and said we have used the same firm for many years. The City Recorder confirmed the City does have a contract for the City Attorney.

Mr. Gall said the City did not have a contract for the Judge, that he was aware of, and said the Judge is appointed by resolution. Discussion followed regarding the contract being an employment contract or a contract for services and Chair Allen stated it could be either. City Manager Gall stated the City Manager and City Recorder have individual contracts and the contract with the City Attorney's office, is with a firm.

Chair Allen stated this may have created an opportunity for confusion and said the language reads like the City Manager and City Recorder language, in a singular person context.

Chair Allen suggested language after the first sentence in **Section 35-City Attorney**, "The office of City attorney is established as the chief legal officer of the City government. *The City attorney may be a direct employee of the council or the services may be provided to the City by a firm under a contract adopted by the council".*

Mr. Hoffbuhr replied the current language assumes it is an employee. City Manager Gall informed of criticisms received at the City in regards to a "contract attorney" and criticisms of violating the charter. He said if the charter had this clarity this would not be an outstanding question.

Chair Allen asked if the committee thinks the City attorney should be a City employee as opposed to a contracted firm. Discussion followed with the City having multiple attorney's and Mr. Gall explained Beery Elsner and Hammond provide the basic legal work and said we have a separate labor attorney and a separate bond attorney. Chair Allen replied neither of these attorney's carry the charter authority of the City attorney, Mr. Gall confirmed this was correct.

Mr. Silverforb replied depending on other situations that might arise you might want to use other attorneys in the office. Mr. Gall stated there are other cities that have in house legal staff that still use outside firms.

Mr. Gall offered to bring back examples of language for the committee's consideration. Chair Allen stated the current language is poor language as it is.

Mr. Shannon referred to the confusion in the charter language of, *"the attorney must appoint and supervise, and may remove any office employee".*

The City Recorder informed the committee the Municipal Code refers to the Judge and Hearings officer being appointed by the Council. Discussion followed with the current situation of having a Municipal Judge and two pro tem judges appointed by the Council.

Chair Allen stated the Judge section is extensive and a Hearings Officer section could be more limited. Discussion followed regarding whether or not the City had a contract with a hearings officer and if the City usually uses the same person.

Chair Allen referred to the language in the City attorney section and said it is not clear in the language what the City attorney does. He asked staff to bring back examples of language including language of using a firm under contract authorized by the Council. Mr. Gall stated he believes either/or language is important, Chair Allen agreed. Mr. Gall commented that the cities of Wilsonville, Tualatin and Newberg all have in house attorney's.

Chair Allen recapped and said, the committee wants better City Attorney language that includes the ability to do contracted services, we want to see language regarding a Hearings Officer, and language with flexibility to do contracted services on the Municipal Court Judge. He confirmed with the committee this directive to staff.

Mr. Hoffbuhr asked regarding employment contracts and asked Council Liaison Henderson if she had comments with respect to employment contracts for the City Manager and City Recorder or any other position listed.

Ms. Henderson said she believes if the charter is being amended to keep the language flexible. She stated in many municipalities, the City Recorder doesn't report to the Council, the City Recorder reports to the City Manager. She said she likes it the way it is, but most don't have this situation.

Chair Allen replied in terms of flexibility, not having contracts referenced in the charter is the most flexible, allows the flexibility to have an at-will employee. He confirmed to leave this section un-amended with the possibility of readdressing it later.

Chair Allen addressed Item H, rules and mechanisms related to merit system, Section 37-Compensation and Section 38-Merit System.

Council Liaison Henderson addressed the language of, *"The council must authorize the compensation of City appointive officers and employees as part of its approval of the annual City budget".* She gave the example of the Council having an employee such as the attorney, she said the Council doesn't do this, the Council reviews them once a year and makes a recommendation for salary adjustments. She referred to the second sentence in that section, that reads, *"The Mayor and councilors may be reimbursed for actual expenses".* She said she doesn't know why this sentence is in there and believes it would be covered under Council Rules or under Council and not under compensation as the Council is not personnel.

She said the second sentence is important, but doesn't believe it belongs in this section.

Chair Allen stated discussion on provisions related to compensation of councilors or a prohibition on it without a vote, is discussion the committee has scheduled on a future agenda. He suggested flagging this section to discuss at that time. Comments were received to consider the language be added to Chapter III.

Mr. Silverforb commented the language is probably in this section because the subject of compensation or merit increases are considered personnel or human resources and if you move it and there is no language in this section, the section is not needed.

Chair Allen commented regarding what the City does or doesn't do in terms of compensation of employees, and said this might be a question for legal counsel, does the adoption of a budget, which is developed with the compensation rates of each City employee, and the budget is adopted by the Council, does that constitute fulfilling this. He said he suspects it does, but it may not be specific enough.

City Manager Gall stated the proposed budget that the budget committee and the Council adopts includes proposed salaries for appointive officers based on contract. Discussion followed regarding the current

language of "and employee" being a concern. Discussion followed regarding the budget process, collective bargaining discussions, and a salary schedule being part of the budget document.

Chair Allen suggested getting legal advice on this language and if the Council's adoption of the budget encompasses compensation satisfies this.

Mr. Stecher stated he would like to see less language here as this is the City Manager's job and the City Manager should be the one to dictate the terms of employment, with the exception of the City Recorder, the Judge and City Attorney.

Ms. Henderson stated she did not know why the language was in the charter and said unless you want to reference labor.

Chair Allen said he agreed with Mr. Stecher and suggested leaving the language as is unless they have to absolutely touch it, he said he fears if this is on a ballot the argument could be on a completely different topic. City Manager Gall stated it may be language from the model charter that has not been an issue.

Chair Allen addressed the next item, Section 33.i, the removal from the Council for interfering in operations, Chapter VIII. Chair Allen read the language as, *"no council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any City employee, or in administrative decisions. Violation of this provision is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to City business".* Chair Allen said his concern is the middle sentence.

City Manager Gall said this is unique language and he has not seen this in other charters.

Chair Allen said the first sentence, to the point made by Mr. Stecher, is the way it should be. He asked the committee for their thoughts on removing the language of, "*Violation of this provision is grounds for removal from office by a majority of the council after a public hearing".*

City Manager Gall stated part of the argument is, if a member of the Council is coercing the manager or interfering, that would be a public issue and this is why you have recalls. He said to have a majority of the Council remove an elected officials seems strong to him.

Mr. Shannon commented regarding the Council having the authority to remove the City Manager if they thought the manager was susceptible to coercion. Discussion followed regarding influencing and coercing being very different.

Council Liaison Henderson said she believes this language exists because politicians cross the line, not just with the office of the City Manager, but often with line employees. She gave an example of the current practice of elected officials communicating directly with the City Manager, rather than contacting an employee. She said she believes this is why the language is there and did not believe it was well written. Discussion followed regarding coercion of the City Manager when an elected likes the administrative decisions of the City Manager.

Chair Allen referred to the language of "*Violation of this provision is grounds for removal from office by a majority of the council after a public hearing"* and suggested considering the removal of the language. No objections were received.

Chair Allen address Item I, the committees future meeting schedule and reviewed a list of proposed meeting dates and member availability, (see record, Exhibit C). Discussion followed and the committee

members decided to tentatively schedule meetings on May 22nd, May 29th, June 19th, June 26th. Chair Allen said the committee would also schedule meetings for July 10th and July 15th, with the July 15th meeting being a work session with the City Council.

Chair Allen asked for general committee discussion.

Mr. Shannon asked regarding the committee's discussion of Council compensation. Chair Allen replied it is scheduled on the next meeting agenda. Chair Allen said we would add to that discussion reimbursement of actual expenses.

Mr. Shannon reminded the committee the City Budget Committee meetings will be held this month, and City Manager Gall stated the budget would be released tomorrow and will be available on the City website. Mr. Shannon informed the group that the Sherwood Archer has information regarding links to City budget information.

7. Adjourn:

Chair Allen adjourned the meeting at 7:50 pm.

Sylvia Murphy, MMC, City Recorder

Patrick Allen, Chair

Color Code As of May 1, 2014 meeting:
Red: Actual track changes, discussion of committee to amend
Blue: Discussion notes
Green: Seek legal advice
Yellow highlighted text are proposed changes for May ballot

May 22, 2014 Date
Charter Review Comm. Gov. Body
Agenda Item
B Exhibit #

PREAMBLE

We, the voters of Sherwood, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2005 Sherwood City Charter.

Section 2. Name. The City of Sherwood, Oregon, continues as a municipal corporation with the name City of Sherwood.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. Unless required by state law, annexations may only take effect with the approval of city voters. The city recorder will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically stated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi- judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances. The council appoints members of commissions, board and committees, subject to the consent of the City Council by resolution, established by ordinance or resolution.

Discussion notes: The committee discussed the last sentence in Section 6 as there had been recent issues and discussion at the City Council level pertaining to who appoints and how they are appointed. The City Council discussion resulted in adoption of amendments to Council Rules. The committee agreed to look at amending the charter with similar language adopted by the Council (Res. 2014-024, April 15, 2014).

Color Code As of May 1, 2014 meeting:
Red: Actual track changes, discussion of committee to amend
Blue: Discussion notes
Green: Seek legal advice
Yellow highlighted text are proposed changes for May ballot

Chapter III

COUNCIL

Section 7. Council. The council consists of a mayor and six councilors nominated and elected from the ~~city~~City. ~~by position.~~

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Discussion notes: The committee discussed language of "determines the order of business under council rules" and the mayor having unilateral authority to control the agenda. They discussed considering some ability of the council if a majority of the council wanted to cause an issue to come before the council.

The committee discussed recent council discussion and amendments to the Council Rules (Res. 2014-024) regarding the Mayor and Council President meeting with staff to set the agendas. They discussed the notion that the council cannot cause something to come before the council if this is the desire of a majority. The committee was informed that a majority of the council can cause something to come before the council or can take action as Robert's Rules allows for this. Discussion occurred regarding the charter superseding Robert's Rules and Robert's Rules applying when the charter is silent.

The committee discussed "Order of business" as indicated in the Council Rules and was informed this language pertained to council procedural business, such as Pledge of Allegiance, Roll Call, Consent Agenda etc.

The committee discussed how business gets scheduled on an agenda and staff explained the unwritten process of the current council, informing that past practice under former mayors was different.

The committee discussed not amending the language pertaining to Order of Business and considered adding language of: "A majority of the council may cause an item to be added to the agenda of any meeting or to the agenda of a future meeting if needed to meet requirements for public notice." The committee was supportive of language that added clarity.

The committee discussed the language fitting better in Section 7-Council rather than Section 8-Mayor.

Section 9. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. ~~The council must by resolution adopt rules to govern its meetings~~. In January after each general election, the council must by resolution adopt council rules.

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Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with council rules. The council shall afford an opportunity for general public comment at each regular meeting.

Section 12. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Sherwood ordains as follows:

Section 16. Ordinance Adoption.

(a) Adoption of an ordinance requires approval by a majority of the council at one meeting provided the proposed ordinance is available in writing to the public at least one week before the meeting, and after conducting a public hearing.

Discussion notes: The committee discussed the lack of charter language requiring public hearings, the above language in subsection (a) was suggested as well as an amendment to the entire section of:

Adoption of an ordinance requires approval by a majority of the council at one meeting provided that the proposed ordinance is available in writing to the public at least one week before the meeting, and further provided the council has conducted at least one public hearing on the matter.

The committee discussed ordinances being laws and the council should receive public comments. They discussed a process of having two readings of an ordinance to allow time for the public to be informed, they discussed if a two reading process was necessary. They discussed the 7 day period that the ordinance is made available to the public and the current process of the ordinance being in draft form with the potential for significant changes and not being comfortable with providing a draft ordinance.

The committee agreed to have staff research example of language indicating a two-reading processes and examples

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of public notice language.

(b) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.

(c) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(d) After adoption of an ordinance, the city recorder must endorse it with the date of adoption and the recorder's name and title. The city recorder must submit the ordinance to the mayor for approval. If the mayor approves the ordinance, the mayor must sign and date it.

(e) If the mayor vetoes the ordinance, the mayor must return it to the city recorder with written reasons for his veto within 10 days of receipt of the ordinance. If the ordinance is not so returned, it takes effect as if approved.

(f) At the first council meeting after veto by the mayor, the council will consider the reasons of the mayor and again vote on the ordinance. If four councilors vote to adopt the ordinance, it will take effect.

The committee discussed Mayor veto power and agreed not to amend the language.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption and approval by the mayor, or adoption after veto by the mayor, or on a later day provided in the ordinance. An ordinance adopted by all councilors may take effect as soon as adopted, or other date less than 30 days after adoption if it contains an emergency clause, and is not subject to veto by the mayor.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Sherwood resolves as follows:"

Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at a meeting.

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(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolutions.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Sherwood orders as follows:"

Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII

ELECTIONS

Section 24. Councilors. At each general election~~ after the adoption~~, three councilors will be elected for four-year terms.~~ by position. The terms of councilors in office when this charter is adopted are the terms for which they were elected.~~ No councilor shall serve on the council more than three consecutive terms.

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(5) Organize city departments and administrative structure;
(6) Prepare and administer the annual city budget;
(7) Administer city utilities and property;
(8) Encourage and support regional and intergovernmental cooperation;
(9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
(10) Perform other duties as directed by the council;
(11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge.

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions. ~~Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing.~~ In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

The committee discussed section 33.i, with concerns of, "Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing." The committee agreed to remove this sentence.

(j) The manager may not serve as city recorder or city recorder pro tem.

Section 34. City Recorder.

(a) The office of city recorder is established as the council clerk, city custodian of records and city elections official. The recorder must attend all council meetings unless excused by the mayor or council.

(b) A majority of the council must appoint and may remove the recorder. The appointment or removal must be made without regard to political considerations and solely on the basis of education and experience.

The committee discussed Section 33.b and the language regarding appoint and removal being for the same causes and agreed to add the language of "or removal" to both Section 33-City Manager and Section 34-City Recorder.

(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes vacant, the council must appoint a recorder pro tem. The recorder pro tem has the authority and duties of recorder.

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Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. The City Attorney may be a direct employee of the council or the services may be provided to the City by a firm under contract adopted by the council. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any office employees.

The committee discussed Appointive Officers of the council as the City Manager, City Recorder, City Attorney and Judge, and the lack of language for these positions that references the Council executing employment agreements or contracts.

Staff offered to research and provide examples of language from other cities pertaining to contracted employees of the council. The committee asked for sample language regarding the use of a firm and or a contracted individual for the position of City Attorney.

The committee discussed the confusing language of: "The attorney must appoint and supervise and may remove any office employee."

The committee was informed that the Municipal Code references the Hearings Officer as being appointed by the council and the lack of reference to this position in the charter and whether it was needed or not.

The committee discussed the flexibility of the language with it not referencing "a contract" for the City Manager or the City Recorder and how this allows for flexibility for at-will employees.

The committee requested example language regarding Hearings Officer and language with flexibility to do contracted services with the Municipal Judge.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Sherwood Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:
(1) Render judgments and impose sanctions on persons and property;
(2) Order the arrest of anyone accused of an offense against the city;

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(3) Commit to jail or admit to bail anyone accused of a city offense;
(4) Issue and compel obedience to subpoenas;
(5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
(6) Penalize contempt of court;
(7) Issue processes necessary to enforce judgments and orders of the court;
(8) Issue search warrants; and
(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city appointive officers and employees as part of its approval of the annual city budget. The mayor and councilors may be reimbursed for actual expenses. The mayor and councilors shall not be reimbursed most reasonable expenses.

The committee discussed Section 37-Compensation and the language of "The council must authorize the compensation of City appointive officers and employees as part of its approval of the annual City budget." The question was posed to seek legal counsel opinion regarding, does the councils adoption of the budget which is developed with employee compensation rates, constitute fulfilling this section of language.

Staff to seek legal advice on the above discussion and if the language encompasses the adoption of the budget, and if the language is specific enough.

The committee discussed the provision of compensation of councilors or a prohibition of without a vote of the people. They agreed to discuss this section at their future meeting and look at placement of the language in Chapter III.

The committee heard feedback from Liaison Henderson regarding the language of "reimbursed for actual expenses" and she suggested that this language was better placed in Chapter III, Council or Council Rules.

Section 38. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

The committee discussed less language in this area regarding City employees as this is the responsibility of the City Manager to dictate employment terms. The committee agreed to not amend the language unless they absolutely have too.

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Chapter X

PUBLIC IMPROVEMENTS

Section 39 Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for one year upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI

MISCELLANEOUS PROVISIONS

Section 41. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 42. Solid Waste Incinerators The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. This applies to solid waste defined by ORS 459.005(24), and includes infectious wastes defined by ORS 459.386(2). This prohibition does not apply to otherwise lawful furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used only for energy recovery purposes. Such small-scale incinerators are only exempt from this prohibition if they are ancillary to a city permitted or conditional use, and may not utilize infectious wastes or any fuels derived form infectious wastes. This prohibition does not apply to solid waste incinerators lawfully permitted to operate before September 5, 1990, but does apply to any expansion, alteration or modification of such uses or applicable permits. (Approved by voters November 6, 1990)

Section 43. Willamette River Drinking Water. Use of Willamette River water as a residential drinking water source within the city is prohibited except when such use has been previously approved by a majority vote of the city's electors. (Approved by voters November 2001)

Section 44. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 45. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 46. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 47. Time of Effect. This charter takes effect July 1, 2005.

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CHARTER VIII. ORDINANCES

Section 32. Enacting Clause.
The enacting clause of all ordinances hereafter enacted shall be "The City of Lake Oswego ordains as follows:".

Section 33. Regular Ordinances.
Except as provided in Section 34, the procedure for adoption of a general or special ordinance shall be as follows:

A. Filing: A proposed ordinance shall be filed with the City Recorder at least one week prior to the Council meeting at which it will be considered.

B. Notice: Written notice of the ordinance shall be posted at City Hall and two other public places and published in a newspaper of general circulation in the City at least one week prior to the meeting at which the proposed ordinance will be considered. The notice shall include the title of the proposed ordinance and the date, time and place of the council meeting and shall state that copies of the ordinance are available in the City Recorder's Office.

C. Consideration and Enactment: Except as provided in this subsection, a proposed ordinance may be considered and enacted at single meeting of the Council. If the Council substantially amends the ordinance as presented, enactment shall be continued to a second meeting of the Council to enable preparation and presentation of an amended ordinance. For the purposes of this section, a "substantial amendment" is an amendment that modifies the substantive effect of the ordinance. Correction of typographical errors, procedural modifications and wording or format changes that clarify meaning shall not be considered substantial amendments.

(Amended November 3, 1998.)

Section 34. Emergency Ordinances.
A. Procedure. In an emergency, the City Council may consider and enact an ordinance at single meeting without complying with the requirements of Section 33. An emergency ordinance shall include a description of the emergency and a finding as to why the emergency cannot be adequately addressed by adoption of a regular ordinance.

B. Definition. An "emergency" includes:

i. A situation, condition or regulatory error or inadequacy that threatens imminent harm to life or property; or

ii. A deadline for City action or compliance imposed by a tribunal of competent jurisdiction, the federal government, the state or a political subdivision of the state.

(Formerly Section 35, Amended November 2, 1976; Renumbered & Amended as Section 34, November 3, 1998.)

(4) Ceasing to be a qualified elector under State law;

(5) Conviction of a public offense punishable by loss of liberty; or

(6) Resignation from the office.

Section 31. Vacancies: Filling.

(a) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the remaining Council members. The appointee shall serve the remainder of the unexpired term.

(b) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at the next available May or November election. The person elected shall serve the remainder of the unexpired term. A majority of the remaining Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term. (Amended 09-17-13)

(c) During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the remaining Council members may by appointment fill the vacancy *pro tem.*

Chapter VIII
ORDINANCES

Section 32. Enacting Clause.

The enacting clause of all ordinances hereinafter enacted shall be "The City of West Linn ordains as follows:"

Section 33. Mode of Enactment.

(a) Except as paragraphs (b) and (c) of this section provide to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly in open Council meeting on two different days.

(b) Except as paragraph (c) of this section provides to the contrary, an ordinance may be enacted at a single meeting of the Council by unanimous vote of the Council members present, upon being read first in full and then by title.

(c) Any of the readings may be by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided

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for public inspection at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(d) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(e) Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser's name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of this Charter, shall sign it with the date of its passage and the endorser's name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.

Section 34. When Ordinance Takes Effect.
An ordinance enacted by the Council shall take effect on the 30th day after its enactment. When the Council deems it advisable, however, an ordinance may provide a later date for it to take effect, and in case of an emergency, then it shall include in the ordinance a statement of explanation regarding the basis for the declaration of emergency.

Chapter IX
PUBLIC IMPROVEMENTS

Section 35. Condemnation.
Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by a resolution of the Council describing the property and stating the uses to which it shall be devoted.

Section 36. Procedure.
The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto