



Home of the Tualatin River National Wildlife Refuge

REGULAR MEETING

1. Call to Order (Chair)

2. Roll Call (Chair)

3. Approval of Meeting Minutes

A. Approval of May 22, 2014 Meeting Minutes

4. Public Comments

5. Committee Discussion

- A. Chapter 1-Names and Boundaries, Section 1-Title**
- B. Chapter II-Powers, Section 6-Distribution, Appointment Authority**
- C. Chapter III-Council, Section 8-Mayor, Order of Business**
- D. Chapter IV-Legislative Authority, Section 16 Ordinance Adoption, Public Hearings**
- E. Chapter VIII-Appointive Officers, Section 33-City Manager, items 33.b and 33.i**
- F. Chapter VIII-Appointive Officers, Section 34-City Recorder, item 34.b**
- G. Chapter VIII-Appointive Officers, Language referencing Employment Contracts**
- H. Chapter VIII-Appointive Officers, Section 35-City Attorney**
- I. Chapter IX-Personnel, Section 37-Compensation**
- J. Chapter XI-Miscellaneous Provisions, Section 42-Solid Waste Incinerators**
- K. Chapter XI-Miscellaneous Provisions, Section 47-Time of Effect**
- L. Other General discussion**

6. Public Comments

7. Adjourn

AGENDA

**Charter Review Committee
May 29, 2014**

6:30 pm Regular Meeting

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

May 29, 2014
Date

Charter Review Comm.
Gov. Body

Agenda Item

A
Exhibit #



SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Oregon
May 22, 2014

1. **Call to Order:** Chair Pat Allen called the meeting to order at 6:32 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, Planning Commission Representative Beth Cooke and Citizen at Large Jennifer Kuiper. SURPAC Representative Charlie Harbick was absent.
3. **Staff and Council Liaison Present:** City Manager Joseph Gall and City Recorder Sylvia Murphy. City Council Liaison Linda Henderson arrived at 6:50 pm.

Chair Allen addressed the draft May 1, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve. Mr. Silverforb indicated there were a few typo's but did not specify. The City Recorder indicated she would review and make corrections.

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

MOTION: From Bob Silverforb to adopt the May 1, 2014 meeting minutes with requested corrections, seconded by Brian Stecher. Motion passed 8:0, all present members voted in favor. (Charlie Harbick was absent).

5. **Public Comments**

No one came forward. The committee discussed the May election results and unofficial passage of all 5 proposed ballot measures amending the Charter. Comments were received regarding the value and importance of clarity in the amendments proposed by the committee.

Chair Allen addressed the agenda and recapped the items for discussion and referred to a track change document provided by the City Recorder, (see record, Exhibit B).

6. **Charter Review Committee Discussion**

A. Chapter VIII-Appointive Officers, Section 35-City Attorney. The Committee discussed the language of the City attorney and the assumption that the office of the City attorney is staffed and the attorney's office hires staff within their own office. The committee discussed the language of being the "chief legal officer" and replacing "officer" with "authority" or "counsel." They agreed to replace "*officer*" with "*counsel*." The committee discussed the language of, "the city attorney *may be* a direct employee" and agreed to change "*may be*" to "*shall be either*." They discussed the remainder of the language and

agreed to amend the sentence to read; *“The office of the city attorney is established as the chief legal counsel of the city government. The city attorney shall be either a direct employee of the council or a firm under contract adopted by the council.”*

The committee discussed the following sentence and agreed to amend to read; *“A majority of the council must appoint and may remove the attorney or contracted firm.”* They agreed to amend the last sentence to read; *“If the City attorney is a direct employee, the attorney must appoint and supervise and may remove any City attorney office employees.”* Discussion followed regarding the employees of the City attorney's office and various scenarios of employment and if the City attorney or a firm has an arm's length relationship with the council and whether or not this is supported. City Manager Gall offered to research and bring back information.

The committee discussed a Hearings Officer and the appointment being made by the council, per the current municipal code. City Manager Gall stated Hearings Officer language generally is not in the charter and is referenced in the code, discussion followed and Mr. Gall offered to research language in other jurisdictions.

Chair Allen addressed Section 37-Compensation. The committee discussed the language and it being more appropriate for Chapter III-Council and the notion that council should not be compensated without a positive vote of the citizens and compensation would not include reimbursement for actual expenses. The committee discussed a new section for Chapter III with language of, *“the mayor and councilors may be reimbursed for actual expenses, no compensation above actual expenses shall be authorized without a prior vote of the citizens.”* The committee discussed simple language of “none shall be authorized”, and it taking a vote to amend the charter to authorize compensation.

The City Recorder asked if the proposed language would create a new Section 15 or would it be added to Section 7. Comments were received that if added to Section 7-Council the charter would not have to be renumbered. Chair Allen stated the language could read, *“The council consists of a mayor and six councilors nominated and elected from the city. Councilors are not entitled to compensation but may be reimbursed for actual expenses.”*

Discussion followed regarding the definition of an “actual expense” and this possibly being established by Council Rules.

Council Liaison Henderson commented regarding her cell phone plan and cost and said she doesn't receive a City reimbursement, although the Mayor does, she said this is not written anywhere. Discussion followed regarding trying to identify expenses and this being a political issue. Language was suggested such as “expenses incurred while representing the council” or “expenses, as established by Council Rules.” Discussion followed regarding the council not establishing what the reimbursement is, but establishing rules of what is considered an “actual expenses”. The City Recorder offered examples of various types of expenses: mileage, meals, cell phone, training, lodging and parking. She said not all elected officials take the opportunity to submit for reimbursement of these expenses and said it makes it difficult to budget.

Chair Allen said he gets nervous when we talk about moving existing language elsewhere or taking existing language and adding language to it as it gets people wound up about something that is already there and has been working and isn't a problem. He suggested leaving the language in chapter 9 and adding to it to read; *“the mayor and councilors shall not be compensated but may be reimbursed for*

actual expenses". Discussion followed and it was asked if there is a standard understanding of what "actual expenses" are.

The City Recorder informed the committee that staff has discussed through the budget process budgeting a set amount for the expenses of elected officials and any amount exceeding this set figure would be out of pocket for the elected, she stated this conversation has been at the staff level and not at the council level. Discussion followed with examples of ways councilors can be reimbursed.

Chair Allen restated the proposed amendment as, "*the mayor and councilors shall not be compensated but may be reimbursed for actual and reasonable expenses.*" He suggested the language remain in Section 37. Discussion followed. Council Liaison Henderson informed the group that state law prohibits elected officials from voting in compensation for themselves while in office. Discussion followed regarding compensation examples from other cities and City Manager Gall provided an example from the City of West Linn where amounts are specified in the charter. Discussion continued regarding the public fear of elected officials voting themselves compensation and comments were received that the current mayor or councilors would probably not vote themselves compensation, but there is no language to prevent it. Discussion followed and Chair Allen said he would like to protect a future council from making the mistake of thinking it would be a good idea to adopt compensation solely on their own authority. He said he would like to protect the community from the potential malpractice and said the best way to do that is to put language in the charter that it requires a vote. Discussion followed and examples were provided on what the intent of the language could be, to prohibit compensation or specify an amount.

Discussion continued regarding compensation and there being a difference between being paid for your time and being paid for the expenses incurred while providing your time.

Chair Allen restated the proposed amendment as; "*the mayor and councilors shall not be compensated but may be reimbursed for actual and reasonable expenses.*" He asked if the language should remain in Chapter 9 or moved to Chapter 3 and explained he would argue to leave the language in Chapter 9 because the only charter change is actually strengthening the prohibition, and if you move it to Chapter 3 it appears we are authorizing things that are already in the charter.

The committee agreed with the suggestion to amend Chapter 9. Discussion followed regarding the potential language of the ballot title and Chair Allen replied it could be, "*Prohibits Council Compensation, Restricts Expenses*".

Mr. Silverforb asked regarding the current process when elected officials submit an expense. The City Recorder explained the expense comes to her and the City Manager approves all entries into the City's financial system. She stated the expenses are already spent and the City Manager is approving something after the fact. The City Manager explained the use of City purchase cards and his approval after the expenditure has been made.

Ms. Kuiper stated it's not a reimbursable. The City Recorder explained that the process is an unwritten process and provided an example and said the current Mayor is issued a City purchase card and other councilors are not. She stated this is based on past practices of the former Mayor and said the former Mayor also received an \$80 monthly cell phone reimbursement and the current Mayor chooses not to. She explained another example of an expense is for mileage when an elected official attends a county meeting, they are reimbursed. She provided another example of an elected official asking her to

register them for a conference in which she would use her City purchase card for the registration fee, she said these expenditures are approved by the City Manager after the fact.

Mr. Silverforb asked if the City Manager ever sees an expense that is above what is reasonably expected. City Manager Gall shared a recent example of an expenditure he did not approve, not due to the amount, but due to his thoughts that it did not meet the intent of the purpose and it wasn't consistent with past practice. He said it was to attend a fundraiser of an organization outside the City that the City is not a member of. He explained he has spoken with other cities on their practices and the guidelines are in their rules not in their charters. Discussion followed.

Mr. Stecher said he would like to see more in the Council Rules to take pressure off the City Manager. Discussion followed and Council Liaison Henderson spoke of a conversation she had with the City Recorder regarding allowing a set amount for each elected official for various expenses and gave examples of current practices regarding attending events. City Manager Gall provided an example from the City of Tigard where the elected officials see each other's expenses and police themselves.

Mr. Stecher reiterated the Council Rules would be a good place for this and said he is against the charter indicating an amount similar to the West Linn example.

Chair Allen suggested when the committee is done with their work on the charter, maybe the committee could look at the Council Rules and offer advisory recommendations to the council for their January review. The committee agreed.

Chair Allen addressed Section 38-Merit System and Council Liaison Henderson stated the council doesn't do any of this.

Mr. Stecher stated he believes the language should read "City personnel" as he believes this is who is being addressed and said this is what the City Manager was hired to do and asked why is the council being asked to address it. Comments were received that this is language from the model charter.

Ms. Vordermark asked if there is a council resolution stating the City Manager is responsible for this? Discussion followed and it was asked if the City Manager's contract is adopted by resolution, Ms. Henderson replied yes. It was asked if the contract provides that he will do these things, Ms. Henderson replied it's part of his day to day management.

The City Recorder reminded the committee they discussed this language previously, and the adoption of the employee manual. Mr. Hoffbuhr asked if the employee manual is adopted by the council, the City Recorder replied not recently within the last 8 years or so.

Chair Allen asked if there is a problem that needs to be fixed. Mr. Stecher replied he believes the language should be deleted and believes the council should not get the idea that they can select an employee and rate their fitness. Discussion followed.

Chair Allen referred to the language of "rules governing" and said he thinks this is what establishes the system, which the City Manager then executes. He said this is the system and not the individual decisions under the system. He said if he had to make the argument if the council has done this, they have by delegating the authority via the contract of the City Manager.

Discussion followed and Mr. Shannon said he is not sure there is a problem and suspects if the committee attempts to delete the language, an argument on a ballot would be difficult. Comments were received to not amend the section.

Mr. Stecher said he was previously thinking the language allowed the council to reach individuals and said they have a right to weigh in on the City Manager's contract and the employee manual.

Ms. Kuiper commented that if Mr. Stecher read the language as he previously had, who's to say that someone else won't read it that way as well. Discussion followed.

Mr. Stecher said he would be happier with language of "the council shall approve the employee manual." City Manager Gall agreed that the employee manual should come before the council.

Mr. Hoffbuhr stated if you wanted to reference it, language could be added at the end of the section to read, "per the City's employee manual".

Mr. Silverforb and Mr. Shannon suggested not amending the language. The committee agreed.

Council Liaison Henderson suggested when the committee reviews the Council Rules, they could suggest the council follow what is listed in the charter by having some rule that reminds the council to review these policies and procedures as related to the City Manager's daily operations of the City.

Chair Allen addressed Section 43-Willamette River Drinking Water and said this was a charter amendment that was passed in 2001 before we connected to the Willamette River System. He said we had a vote and it passed and asked now that we are drinking Willamette River drinking water do we need this provision. City Manager Gall shared language from the City of Wilsonville charter and asked if language could be added to indicate the City voted to approve the use. Discussion followed and reference was made to state statutes where informational notes are added without amending the statutes. The Committee discussed having the City Recorder add similar notes to the charter.

Mr. Shannon asked, as a clean-up, do we want to suggest deleting the paragraph. Comments were received to not delete the language. Discussion followed and the committee proposed to have the City Recorder add information notes to the display of the charter, and not amend the charter, similar to the language currently in parenthesis; (Approved by voters November 2001). The committee agreed to not amend this section of the charter.

Chair Allen addressed Section 42-Solid Waste Incinerators and general discussion occurred regarding the history and age of the language. City Manager Gall stated the language is old and ORS's have possibly changed and if the committee proposes to eliminate the language and the voters say no, the language remains in the charter. Chair Allen asked what the statute is for solid waste incinerators. Discussion occurred regarding current statutes and the current charter language being from 1990. Comments were received that, whether or not the voters approve an amendment to the charter, nothing changes. City Manager Gall replied the description could state the committee is proposing to remove the language because it is outdated or statutes have changed. Discussion followed.

Chair Allen stated the language is an awful charter provision and said it's a perfectly fine thing to want to prohibit.

Mr. Silverforb commented regarding providing an explanation indicating why the committee wants to remove it and letting the people know why, whether it's outdated, etc. He asked why we would want to keep something in the charter that has no relevance and is outdated.

Chair Allen suggested if the committee wanted to attempt the removal of the language to first find out what the state law is. He said if the committee could make an argument that state law prohibits it, then he could make that argument. Committee members agreed and general discussion followed. City Manager Gall offered to research and Chair Allen stated the committee would come back to this section.

Chair Allen addressed item F on the agenda, things not in the charter but flow from it.

City Manager Gall stated the committee previously asked regarding ordinances and said we currently have a process where ordinances can be approved by the council in one night. He provided examples from the City of Lake Oswego (see record, Exhibit C) where adoption could occur in one night, unless there were substantial amendments. He explained the language from West Linn (see record, Exhibit D) where adoption must occur in two meetings, requiring a first and second reading. He stated West Linn also had language indicating adoption could be done in one night. He said he believes the intent is to provide more public process and more public involvement, where laws are not adopted in one night without the opportunity to amend them or get public comments. Discussion followed and Chair Allen stated the committee would review the examples and continue discussion at their next meeting.

City Manager Gall stated he previously provided the committee information on the Multnomah County Charter and referred to language of how a charter is amended and language pertaining to the creation of a charter review committee every six years. He suggested the committee look at the examples he provided. He commented regarding the formation of a committee every 6-8 years to review the charter. Discussion followed.

Mr. Shannon provided topics of discussion noting he wasn't indicating support or lack of support for the topics. He said he spoke with community members after the budget committee meetings and the thought of whether or not a financial officer, Budget Director or CFO, should be employed by the council rather than the City Manager.

Chair Allen asked what was the argument for that. Mr. Shannon replied it's similar to the City attorney where they are highly required and responsible for the operations of the budget over the entire year and whether or not they should be reporting directly to the council with greater control over the budget. Discussion followed with examples of project management and multiple people touching a project budget, corporations having CFO's and who the CFO reports to, auditors and who they report to.

Mr. Shannon stated the other topic was regarding establishing an ombudsman and whether or not the committee wanted to look at opportunities for the public to appeal, discuss or establish another line of communication to the City administration besides going to the City Council.

Chair Allen said one manner to do that would be to identify the City Clerk as the ombudsman. Mr. Shannon stated another thought was the Hearings Officer or the Judge, who are further removed from administration. Discussion followed regarding the Hearings Officer and or Judge who are always attorneys who provide legal advice, are at arm's length from the City Manager and are not employees of the City Manager and are employees of the Council. City Manager Gall asked regarding the purpose

of the ombudsman and possibly hearing concerns regarding staff and said in this case the Supervisor should be addressed, and if concerns were over the City Manager then the Council should be addressed. Discussion followed with various examples of where ombudsmen are utilized and the function they perform and whether or not it's a charter issue. Chair Allen referred to the charter and the language of the City Recorder and adding language that "the City Clerk shall function as the City ombudsman." Discussion followed and other examples of the ombudsman role were provided. The committee asked why the need for the position and if the position would be a paid or volunteer position.

Comments were received that many people play an ombudsman role, and the committee did not show support for the role in a City of our size. Discussion followed regarding some cities providing mediation services and City Manager Gall stated Beaverton provides this service and explained.

Chair Allen mentioned another topic of discussion was run-offs and said now that the changes have been made to the Council positions, he did not believe a run-off situation makes sense. He referred to Mayoral elections and explained current situations and run-off situations. City Manager Gall provided the example of the City of Beaverton holding a primary election and explained. Discussion followed.

Chair Allen asked for other topics, none were mentioned. The City Recorder asked for a recap of the topics for the next meeting.

Ms. Murphy indicated she had listed:

- Section 35-City Attorney and use of the language of "counsel", instead of "authority" and other amended language
- Section 37-Compensation, adding amended language
- Section 38-Merit System, no changes
- Section 43-Willamette River Drinking Water, no changes to charter language, but adding notes and reference to vote date
- Section 42-Solid Waste Incinerators, staff to research current status of state laws
- Discussion of adoption of ordinances, amendment process and periodic review of Charter

Ms. Murphy indicated as the committee gets closer to concluding their work, they will need to look at Section 1-Title and Section 47-Time of Effect. She confirmed the committee wanted similar color coded discussion notes.

7. Adjourn:

Chair Allen adjourned the meeting at 7:50 pm.

Sylvia Murphy, MMC, City Recorder

Patrick Allen, Chair

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

May 29, 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.

5/22 The committee was reminded to address this section at the conclusion of their work.

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.

5) 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 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

Chapter III 3

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~~

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

general election, the council must by resolution adopt council rules.

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.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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

5/22 City Manager Gall provided language examples of 1st and 2nd readings of ordinances from other cities. The committee agreed to review examples and continue discussion of potential amendments at future meeting.

(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 5

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

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

before the council adopts the resolution at a meeting.

(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 6

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 7

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.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

Section 25. Mayor. At ~~each every other~~ general election ~~after the adoption~~, a mayor will be elected for a two-year term. ~~The mayor in office when this charter is adopted is the term for which the mayor was elected.~~

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 27. Qualifications.

- (a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.
- (b) No person may be a candidate at a single election for more than one city office.
- (c) Neither the mayor, nor a councilor may be employed by the city.
- (d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office ~~irrespective of any applicable term limit.~~

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies. The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.
- (4) An election to a different City office.**

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 45 days without council consent, or ~~from three consecutive regular council meetings; all meetings in a 60 day period.~~
- (3) Ceasing to reside in the city
- (4) Ceasing to be a qualified elector under state law,
- (5) Conviction of a public offense punishable by loss of liberty,

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

(6) Resignation from the office, or

(7) Removal under Section 33(i).

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term **or by appointment of the majority of the council if less than 13 months remain within 45 days.** The election will be held at the next available election date to fill the vacancy for the remainder of the term. A mayor or councilor vacancy ~~may~~ **shall** be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until the vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy.

Chapter VIII 8

APPOINTIVE OFFICERS

Section 33. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment ~~or removal~~ must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

*Removal may not be based on political considerations
Signed R.P.*

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) The manager need not reside in the city.

The committee discussed residency requirements and the commonality in the region, and if residency was required it could discourage a candidate for the City Manager position as the candidate may not be willing to relocate their family. The committee agreed not to amend this section.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

(1) Attend all council meetings unless excused by the mayor or council;

(2) Make reports and recommendations to the mayor and council about the needs of the city;

(3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

city decisions;

- (4) Appoint, supervise and remove city employees;
- (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

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

5/1 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.

5/22 The committee had lengthy discussion regarding compensation and potential amendments to be reflected in Chapter III or a new chapter, a new chapter resulting in renumbering of the charter. They discussed definition of “actual expenses” and possibly utilizing Council Rules to define.

5/22 The committee discussed charter language to prevent council from imposing compensation without a public vote. They discussed current unwritten processes and utilizing Council Rules.

5/22 The committee discussed potential language of the ballot title and it was suggested: *“Prohibits Council Compensation, Restricts Expenses”*.

5/22 They discussed and agreed to review Council Rules after concluding their work on the charter and offering advisory recommendations to the council.

5/22 The committee agreed to review amendments as noted in track changes and revisit at their next meeting.

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.

5/1 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 to.

5/22 The committee discussed the responsibilities of the City Manager as a contracted employee, responsibilities delegated to the City Manager per the charter, they discussed the adoption of the Employee Manual.

5/22 The committee agreed not to amend.

Chapter X 10

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.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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 | 1

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 from 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)

5/22 The committee discussed the outdated language from 1990 and the relevance of maintaining it. They discussed ORS (Oregon Revised Statutes) and if still valid and current. City Manager Gall offered to research prior to committee considering amendments.

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)

5/22 The committee discussed the history of prior charter amendments and possible clean-up of this section as the language is not reflective of the City's current use of Willamette River water.

5/22 The committee agreed not to amend this section and suggested the City Recorder add information notes displayed on the Charter as noted above in () to include dates.

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.

May 29, 2014
Date

Charter Review Comm.
Gov. Body

Agenda Item

C
Exhibit #

Utility Advisory Board

A Utility Advisory Board is hereby established. The Utility Advisory Board will make recommendations to the City Council concerning water rates, franchise fees and any intended additional fee to be imposed on City residents. These recommendations shall pertain to those legislative matters to be decided by the City Council.

The City Council may not increase water rates more than three percent annually without a vote of the people. The Council may not declare any ordinance or resolution establishing water rates to be an emergency nor use any other means to prevent a vote of the people.

West Lim / OK City