



**SHERWOOD CHARTER REVIEW COMMITTEE**  
**Meeting Minutes**  
**22560 SW Pine St., Sherwood, Oregon**  
**June 26, 2014**

1. **Call to Order:** Chair Pat Allen called the meeting to order at 6:32 pm.
2. **Committee Members Present:** Chair Pat Allen Citizen at Large, Library Advisory Board Representative Jack Hoffbuhr, Cultural Arts Commission Representative Alyse Vordermark, Parks Advisory Board Representative Brian Stecher, Citizen at Large Jennifer Kuiper, SURPAC Representative Charlie Harbick and Budget Committee Representative Neil Shannon. Planning Commission Representative Beth Cooke arrived at 6:34 pm. Citizen at Large Bob Silverforb was absent. Citizen at Large alternate Renee Brouse was present.
3. **Staff, Council Liaison and Legal Counsel Present:** City Recorder Sylvia Murphy and Council Liaison Linda Henderson arrived at 7:12 pm. Bill Kabeiseman with Garvey, Schubert & Barer. City Manager Joe Gall was absent.

Chair Allen addressed the draft June 18, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve.

**Approval of June 18, 2014 Meeting Minutes**

**MOTION: From Neil Shannon to adopt the June 18, 2014 meeting minutes, seconded by Jack Hoffbuhr. Motion passed 8:0, all present members voted in favor. (Bob Silverforb was absent).**

**4. Public Comments**

No one came forward.

Chair Allen introduced Bill Kabeiseman as legal counsel supporting the committee. Mr. Kabeiseman stated he looked through the committee meeting minutes and had initial documents to work from that were provided by staff. He said he worked towards staying within the work limits and adequately identify the question that was being asked and tried to explain where this was coming from and why. He said a general question that applies to all the ballot titles is an effective date. He said this came up with the previous ballot measures and said typically it's 30 days after an election and language has been proposed as January 2015. He said he wanted to see if the committee wanted to make all amendments affective at the same time or stagger them. He offered to talk through the work he did or answer questions and help the committee with any changes.

Chair Allen asked the committee to address the effective date and said his thoughts are if they are all effective January 1, 2015, they all become effective with the new council that is elected in November. Committee members agreed. The committee referred to the draft ballot titles and explanatory statements (see record, Exhibit B).

Chair Allen referred to the language of the seating of a Charter Review Committee and asked if the committee wanted to indicate a date of January 1, 2015. He asked if the committee wanted to consider not specifying an exact date. Discussion followed regarding the newly elected council appointing the committee or the committee being appointed in November or December. The City Recorder explained the process and the timeline to appoint a committee was approximately a 6-8 week process. Discussion followed regarding the language indicated "no later than January 1, 2015."

Chair Allen asked if the committee members cared that the council that appoints the committee is the council that considers the recommendations. Comments were received that it did not matter. Chair Allen commented that he believes the committee members care about the process of a committee review started at about the six year mark.

Ms. Vordermark suggested language of, "the charter shall be reviewed at least every six years." She asked what if the council wants to do a review every four years. Comments were received in favor of the suggested language.

Chair Allen confirmed with legal counsel if this language was specific enough. Mr. Kabeiseman replied he believes so and said this gives the council flexibility to have a review in two or four years.

Chair Allen stated the suggested language as, "*This charter shall be reviewed at least every six years.*" The City Recorder confirmed the committee wanted to retain the remainder of the sentence to read, "*This charter shall be reviewed at least every six years, with the appointment of a charter review committee by the city council.*" The committee agreed.

Discussion followed noting areas of the ballot title and explanatory statement that required amendments to reflect the suggested language.

Prior to addressing the next agenda item, Chair Allen acknowledge the arrival of an audience member and stated the committee had already addressed public comments and offered to receive comments. No comments were received.

Chair Allen addressed the next agenda item.

## **5. Committee Discussion**

Chair Allen recapped the order of business and addressed agenda item:

### **5.A Section 1-Title, Section 47-Time of Effect and Review Period**

Addressed in above comments.

### **5.B Section 6-Distribution**

Chair Allen stated this language deals with appointments to boards and commissions by the mayor with approval by the council. He stated this clarifies the process and firmly states that with this language the mayor positively appoints members to boards and commissions and the appointments need to be effectively confirmed or approved by the council.

Vice Chair Shannon stated after further review, he is not in favor of the proposed amendment. He explained we are giving the mayor too much responsibility, basically the power to appoint everyone on every commission and just based on the approval of the council. He said it leads him to the concept of handpicked committees by a single individual. He said he would leave the charter as it currently reads. He stated he recalls the committee looking at this section originally due to concerns over the language rather than the subject. He said one thing that the language did not address was outside agencies where the City had representation. He said he knows the committee ended up wording this based on the Council Rules. He said by putting this language in the charter we are codifying that the mayor will appoint every member of a board. He said if we don't change this, the council could still by Council Rules say that the mayor makes all the appointments.

Ms. Kuiper asked what is the provision if the council does not consent. Mr. Shannon said he would have to appoint someone else. Ms. Kuiper relied there lies the system of checks and balances, and said she understands what Mr. Shannon is saying. Ms. Cooke replied she would agree with Ms. Kuiper.

Mr. Stecher replied he is not too worried about this and likes that the mayor is the leader of the community and likes having the council needing to consent to his decisions. He said the amendment doesn't bother him with needing the consent of the other six elected officials.

Ms. Vordermark stated in practice it doesn't happen this way and said with the cultural arts commission, everyone is interviewed and a recommendation to appoint is provided to the mayor.

Chair Allen stated his thoughts are either version of the language states someone does not get on a board or commission without a majority vote of the council. He said the thing that bothered him with the language in the current charter is the phrase, "the council appoints." He said he has a hard time understanding what this means, to have a group of people appoint. He said it's clearer to him to state a person appoints with consent.

Mr. Hoffbuhr stated he believes this is a standard practice and said the committee has spoken about this and is comfortable with the changes.

Ms. Cooke stated she is comfortable with the proposed language and believes it provides clarity.

Chair Allen stated after the committee has addressed all the sections he will go back and formally address each section and call for a vote. Chair Allen addressed the next agenda item.

## **5.C Section 7-Council**

Chair Allen said this is the issue of adding the ability of a majority of the council to cause something to be placed on the agenda. He said the way the system works now, the mayor and or the council president, depending on how it's delegated in the Council Rules, pretty much controls the agenda and if a mayor doesn't want something on the agenda, it doesn't get on the agenda. He said this

codifies the notion that a majority of the council can cause something to come to an agenda over the objection of the mayor and the council president. He asked for questions, thoughts or concerns.

Vice Chair Shannon clarified it's for a "future meeting" and said it would prevent someone from hijacking a meeting. Mr. Allen confirmed and stated it also deals with the noticing requirement and if it's an ordinance it allows for dealing with the first and second reading issues.

Ms. Cooke stated she is slightly uncomfortable with this as their needs to be communication within the council and if there is something that is contentious a majority can overrule. She stated they should be able to work together. She said she is comfortable as long as it's a future meeting, but is still fairly uncomfortable implementing the change.

Ms. Kuiper asked about causing an item to be removed from the agenda. Comments were received that a majority of the council could vote against an item. Discussion followed regarding preventing an elected official from removing something from an agenda. The City Recorder explained Robert's Rules of Order allows for an amendment to an agenda with a motion and a second and the Council Rules indicates the council will follow Robert's Rules. Brief discussion followed regarding current council activities.

Chair Allen asked for other comments, with none heard he addressed the next section and asked Mr. Kabeiseman to speak on this section.

#### **5.D Section 16-Ordinance Adoption**

Mr. Kabeiseman stated ordinance adoption is tricky and many cities handle them differently. He said ultimately what seems to drive first is thoughtfulness. He said in most cases two readings must occur. He said the usual default in most cities is the ordinance must be read in full at two separate meetings. He said the language being proposed indicates that a reading can be done by title instead of reading it in full and both readings can occur at the same meeting by unanimous consent. He said in reading the committee's meeting records, it appears the committee wants to ensure there are two meetings. He said you want to preserve the ability if there is a true emergency for a council to be able to act quickly. He said the way you do that is through unanimity, having all seven members of the council voting in favor. He said if any member of the council wants to have two meetings, they can do that under this provision. He said this sets the default first, that an adoption of an ordinance requires the approval by the majority of the council at two separate meetings, separated by at least six days. He said this is the default and something cannot get passed through without having two meetings. He said you would also need to make sure the public is aware of what's in the ordinance so the text would need to be posted at least six days in advance of the meeting, and if the council is going to amend it, it needs to be read in full, stating what the amendments are.

He said he also understood the committee wanted to ensure that all ordinances allowed for public comments and this is included as well as the emergency provision that states if the council has unanimity the council can conduct both readings at the same meeting.

Ms. Vordermark asked if it had to be a unanimous vote of all council members "present."

Mr. Shannon stated he had a similar comment and was thinking language that stated, "of the full council."

Ms. Kuiper asked what would constitute an “emergency” ordinance. Mr. Kabaeisman said that would be up to the council.

Mr. Kabeiseman addressed the question of needing all council members present or all councilors. He said he understands the reason for wanting all councilors at the same time and said if there is a true emergency situation, an earthquake for example, and the council needed to authorize something, there may be some council members that cannot make it and you want to make sure that the business of the city can continue. He said this does leave the possibility open that if you have a bare majority that wants to oppress the minority, there is an opportunity to do that.

Mr. Shannon commented regarding declaring an emergency and the requirement of posting an ordinance for six days. He said the ordinance would still have to be posted for six days, the declaration of an emergency does not change that. He said he would have a problem with four council members being able to adopt something at a single meeting. He said he would like to see language along the lines of a “full council”. He said in his review of the proposed language the language addresses changes he would like to see. He said his only issue is he would like to see an ordinance adopted at a single meeting to require the approval of a full council.

Mr. Harbick asked what happens if a council member is killed in a car accident, we no longer have a full council. Mr. Kabeiseman replied the committee may word the language as “all currently serving” councilors.

Ms. Kuiper replied her concern is there is no intuitive, when you read the language you don’t get an idea that this last sentence is really for an emergency type of setting. She stated what if every ordinance was by a unanimous vote.

Chair Allen replied and gave examples of circumstances where the council wanted to act quickly and not fairly describing something as an emergency and would not raise concerns with the public. He said an action needed by the council without public concern. He provided another example and in conclusion said he is comfortable with the ambiguities knowing there is a mechanism to go back and check.

The City Recorder stated in response to Mr. Shannon’s comments, an elected official can choose not to attend a council meeting when they are not in favor of an ordinance to keep the ordinance from passing.

Chair Allen clarified and stated in the language proposed by Mr. Shannon, lack of attendance of an elected official would halt an ordinance from passage.

Mr. Stecher replied he thinks this is fine and the council can choose to pass an ordinance in two meetings, regardless if the elected official wanted to attend or not. Mr. Shannon replied all we are doing is making the council wait a week.

Chair Allen polled the committee members to see if they were in favor of “all present” or “all councilors”.

Mr. Hoffbuhr indicated all councilors.

Ms. Vordermark indicated all councilors, Mr. Stecher agreed as did Ms. Kuiper.

Mr. Harbick indicated all present and Ms. Cooke indicated all present and stated just in case it was a true emergency and not all councilors could attend the meeting. Chair Allen indicated he was in favor of all present.

Chair Allen stated the proposed language needed to remove the word “present and voting”.

Mr. Kabeiseman stated he would need to review the language to ensure the dead councilor scenario mentioned earlier was addressed and it might be language of “all siting councilors” or something similar. Mr. Shannon reminded of the language of, “the full council.”

Chair Allen confirmed language of, “by unanimous vote of all siting councilors” and Mr. Kabeiseman replied something like that.

The City Recorder asked in regards to language of an emergency clause and Chair Allen confirmed with the committee members that a definition of an emergency was not needed. Chair Allen addressed the next section.

#### **5.E Section 33-City Manager, subsection i**

Chair Allen stated this is the issue where we have a unique provision that states a majority of the council can remove the mayor or a member of the council for violating the charter provision about attempting to coerce City employees. He said the discussion was the provision has never been exercised in recent years that anyone is aware of. He said he believes it’s undemocratic that four members of the council can decide that someone has violated the charter and can remove them, as opposed to having a recall process.

He asked if the committee had concerns over the language as presented. No concerns were voiced. He addressed the next agenda item.

#### **5.F Section 35-City Attorney**

Chair Allen stated this is language that provides grammatical clarity to an issue we all agreed was already there, which was the City attorney can either be an employee of the City as an attorney or can be a contracted law firm. He said the committee discussed this and has always been authorized but this change ensures the grammar of the charter clarifies it. He asked if the committee had questions or concerns with the proposed language. No comments were received and he addressed the next section.

#### **5.G Section 37-Compensation**

Chair Allen stated the committee proposed changes to make it a charter provision that councilors cannot be compensated. He said in practice what this means is if at some point there was a desire to compensate council it would require a vote of the people via a charter amendment. He said the committee reviewed the language regarding actual expenses and proposed “actual and reasonable” expenses. He said the committee discussed what is reasonable and if it was defined sufficiently. He

said the committee wanted the language to be a bit tighter than any actual expense, but not prescriptive enough to get into definitional issues.

Vice Chair Shannon added that the committee recognized that the council rules established better procedures for council to identify expenses and seeking reimbursements.

Chair Allen asked for questions or concerns on the proposed language. No comments were received. He asked the City Recorder and legal counsel if there were any issues the committee had not addressed and needed too.

Mr. Kabeiseman said he had thoughts regarding the reasonableness of expenses and after reviewing the meeting minutes there was discussion of the council rules specifying how things should be and what is expected to be reimbursed or not. He said it does a good job when addressing reasonableness.

Chair Allen stated the committee discussed "reasonable" and said it is not a phrase foreign to judges in terms of interpreting.

Chair Allen asked to receive public comments on the proposed amendments.

## **6. Public Comments**

Tony Bevel Sherwood resident came forward and stated he has seen the City council on numerous occasions use a conference call system and said in the case of an emergency, giving that the telecom is working, there is no reason for someone not to have input.

With no other public comments received, Chair Allen asked to take a committee vote on the seven proposed amendments. He said the vote was to recommend the changes to the council and asked the committee members to address each section.

**Section 1-Tile and Section 47-Time and Effect and Review Period.** Vice Chair Shannon moved to recommend to the city council revisions to Section 1-Tile and Section 47-Time and Effect and Review Period. Seconded by Ms. Vordermark. Motion passed 8:0 (Bob Silverforb was absent).

**Section 6-Distribution.** Mr. Hoffbuhr moved to recommend to the city council revisions to Section 6-Distribution as amended. Seconded by Ms. Vordermark. Motion passed 7:1 (Mr. Shannon was opposed and Mr. Silverforb was absent).

**Section 7-Council.** Vice Chair Shannon moved to recommend to the city council changes in effect to Section 7-Council. Seconded by Mr. Hoffbuhr. Motion passed 7:1 (Ms. Cooke was opposed and Mr. Silverforb was absent).

**Section 16-Ordinance Adoption.** Mr. Stecher moved to recommend changes to Section 16-Ordinance Adoption. Seconded by Neil Shannon. Motion passed 8:0 (Mr. Silverforb was absent).

**Section 33-City Manager, subsection (i).** Vice Chair Shannon moved to recommend changes to the council to subsection (i). Seconded by Mr. Hoffbuhr. Motion passed 8:0 (Mr. Silverforb was absent).

**Section 35-City Attorney.** Mr. Hoffbuhr moved to recommend to the city council the changes to Section 35-City Attorney. Seconded by Ms. Cooke. Motion passed 8:0 (Mr. Silverforb was absent).

**Section 37-Compensation.** Vice Chair Shannon moved to recommend to the city council the changes to Section 37-Compensation. Seconded by Mr. Hoffbuhr. Motion passed 8:0 (Mr. Silverforb was absent).

Chair Allen asked if there were any further actions needed tonight. No comments were received. He addressed the committees next meeting date and the committee agreed to cancel their next meeting and said the next meeting would be a work session with the city council on July 15<sup>th</sup>.

Chair Allen said he was glad to work with the committee members and believes the committee has done good work and is happy with the results, he thanked the committee members.

With no other business to address Chair Allen adjourned the meeting.

## **7. Adjourn:**

Chair Allen adjourned the meeting at 7:15 pm.

---

Sylvia Murphy, MMC, City Recorder

---

Pat Allen, Chair