



*Home of the Tualatin River National Wildlife Refuge*

**SHERWOOD CITY COUNCIL MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**August 20, 2013**

**WORK SESSION**

- 1. CALL TO ORDER:** Mayor Bill Middleton called the meeting to order at 5:35 pm.
- 2. COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Bill Butterfield, Matt Langer and Dave Grant. Councilor Krisanna Clark arrived at 5:39 pm. Councilor Robyn Folsom was absent.
- 3. STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Jeff Groth Police Chief, Julia Hajduk Community Development Director, Public Works Director Craig Sheldon, Julie Blums Interim Finance Director, Colleen Resch Administrative Assistant and Sylvia Murphy City Recorder. City Attorney Pam Beery.
- 4. TOPICS DISCUSSED:**

**A. Washington County Vehicle Registration Fee**

Community Development Director Julia Hajduk explained and presented a presentation (see record, Exhibit A). She recapped background, explained the uses for the fees, explained local share and Sherwood's needs. Council discussion followed and staff sought feedback from the Council on whether or not the question of the proposed fee should be put before the voters. Council conceded the voters should decide.

**B. SW Corridor Plan**

Julia Hajduk explained and presented information (see record, Exhibit B). General discussion followed.

**C. Review of City Council Rules**

City Attorney Pam Beery explained the meeting format and Council reviewed their City Council Rules (see record, Exhibit C). Discussion occurred on Section D-Agenda, Section E.3.f and better defining of "extra-territorial", Section E.3.j, changing "will set" to "may set", referring to the Council setting time limits on discussion. The Council discussed "Public Comments" and the public providing name and addresses when coming before the Council to speak. City Manager Gall indicated he had received feedback from the public concerned with providing addresses. The Council agreed to continue discussion of the rules at a future work session.

- 5. ADJOURN:**

Mayor Middleton adjourned the work session at 6:58 pm and convened to a regular Council Session.

## **REGULAR CITY COUNCIL MEETING**

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:03 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Bill Butterfield, Krisanna Clark and Matt Langer. Councilor Robyn Folsom was absent.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Tom Pessemier Assistant City Manager, Jeff Groth Police Chief, Julia Hajduk Community Development Director, Julie Blums Interim Finance Director, Craig Sheldon Public Works Director, Kristen Switzer Community Services Director, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy. City Attorney Pam Beery.

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

### **5. CONSENT AGENDA:**

#### **A. Approval of August 6, 2013 Council Meeting Minutes**

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR CLARK, MOTION PASSED 6:0, ALL PRESENT MEMBERS VOTED IN FAVOR, (COUNCILOR ROBYN FOLSOM WAS ABSENT).**

Mayor Middleton addressed the next agenda item.

### **6. PRESENTATIONS:**

#### **A. Recognition of Sherwood High School Students Academic Achievement**

Mayor Middleton stated Sherwood School Superintendent Heather Cordie was unable to attend tonight due to a prior commitment. The City Council recognized Sherwood High School Students for Academic Achievements, students that received a perfect 4.0 GPA for the 2012-13 school year. Assistant City Manager Tom Pessemier called forward students and the Council presented them with Certificates of Achievement.

Mayor Middleton addressed the next agenda item.

#### **B. Washington County Presentation, Tualatin-Sherwood Road Improvements**

Russell Knoebel Principle Engineer with Washington County Land Use and Transportation Department came forward and presented information to the Council (see record, Exhibit D). Russell explained Tualatin-Sherwood Road is one of the most congested arterials in Washington County with an average of 60,000 vehicles per day, a critical route connecting I-5 to 99W, designated by Washington County as a thru-truck route, with approximately 10% of the 60,000 being heavy vehicles. He said this 10% is a large number for a typical arterial in Washington County as far as truck traffic. He said Tualatin-

Sherwood Road and 99W has a high rate of collisions, ranking in the top 5% of ODOT's Safety Priority Index System List and is currently ranked 21 out of 262 high collision intersections in Washington County. He said there is a significant vehicle queuing and explained queuing as a technical term for indicating how far cars are backed-up. He said we see vehicles queuing in the intersection from past Baler Way, about 1500 feet and at times extending to Old's place, about 2700 feet from the intersection.

He explained project funding and said in 2005 the Washington County Coordinating Committee recommended MSTIP 3c funding for the design and in 2012, the Washington County Coordinating Committee looked at 49 different projects and selected 19 projects, this project being one of the 19 projects selected for construction funding. He said the project will improve traffic flow through the corridor and is planned to provide dedicated bicycle facilities and improve pedestrian circulation and address future anticipated capacity needs. He said currently there is a combination of factors causing delays in capacity; the single west-bound lane through 99W, as you're heading down Tualatin-Sherwood Road towards Roy Rogers Road, there's a single lane getting across 99W. He said there is also a single west-bound lane back at Baler Way, he explained the confusion of the lanes in this area. He said another issue is the signal spacing and said the signals are not adequately spaced distance wise, and overlap from one signal to the next signal, causing backup. He said there are also short turn pockets for cars and not enough room for people to store that do want to take turns.

He stated the project team looked at four options as well as two additional options 2A and 2B after discussion with property owners. Russell referred to Map Option 1 in the presentation and said this would remove the signal at the Albertsons and Theater entrance, leaving a six lane cross section, with two lanes in each direction, plus two left bound turn lanes onto Hwy 99W. He stated Option 2 looked at what it would look like to leave all the signals in place. He said Option 2 created the need for eight lanes, with two additional turn lanes, these lanes would be the left turns into the Theater complex and these would overlap with the left turn lanes onto 99W, creating four turn lanes in that area and two thru lanes in each direction. He said turn lanes are about 14 feet wide and this would mean an additional 28 feet of right-of-way that would be needed, putting you into the buildings and having a larger impact. He stated Option 3 looked at removing the signal at Baler Way. He said this also created an eight lane cross section with the dual lefts overlapping at the signal at Albertsons. He stated it kind of affected the investment the City made in the collector with Baler Way and the connection to the arterial. He stated Option 4, they looked at removing both signals, the one at Baler Way and the signal at Albertsons and placing another one in the middle next to Bank of America and across from the Burger King. He stated this also creates a right-of-way impact, putting you into the Burger King and other businesses there. He said this option had very little public support, if any.

Russell explained the public involvement process and said the County used a range of public involvement activities to educate and involve the public. He said they had an Open House; they sent notices to property owners, posted newspaper ads, invited the Sherwood Town Center Advisory Committee and the Steering Committee and briefed them at two separate meetings in September of last year. He said Washington County released media releases and they had 45 people attend the first Open House. He said they created a website that would allow public access to the project status and opportunities for public involvement and meeting materials. He said we are in the process of scheduling a second Open House this fall.

He said some key themes of the first general public involvement process was to look and try to make vehicle travel times better and said some of the comments were to reduce traffic lights to maximize

capacity, lengthen the traffic light time at 99W for Roy Rogers and Tualatin-Sherwood Rd. He said this is under ODOT's control. He said other comments were to clear up the signage for lane usage and gave examples. He said other standard themes they see are about landscaping and landscaping planters, and said there were positive comments about having more of those and negative comments about the ones that are out there and getting rid of them. He said there were a lot of comments about pedestrian and bike facilities, both pro and cons. He said in addition to this they had specific property owner meetings, eight meetings with commercial property owners, that included Les Schwab, a couple of meeting with them and the Cinemas, with the Jim Morris property and Langer properties and also met with the Sherwood Market Center, which is the Albertsons property and with the Sherwood Cross Road Center, which is the Safeway anchor. He said both of these properties are managed by Regency Center. He said they also met with Target and Sherwood Langer Farms LLC. He said in addition to these meetings they held four additional meetings with the property owners of the Albertsons complex and Theater complex, where we looked at the two extra options under Option 2, options 2A and 2B. He said they had hired a traffic engineer and they looked at some of their traffic analysis and our studies based on their traffic analysis. He said in addition to that, the County decided to hire a facilitator to help with discussions with these two property owners. He said the County hired Jean Lawson and said she worked with these property owners, the City and the County in individual meetings and then we had 3 or 4 combined meetings with all those groups to talk about issues and try to address certain concerns.

Russell said after all this, the design teams recommendation is Option 1, which removes the signal in front of Albertsons. He said our studies reveal this option provides several benefits, including achieving traffic operation, such as the best access spacing and the best traffic time. He said their studies show that by 2035 if you do nothing verses doing Option 1, it's a difference of 15 minutes, with Option 1 saving you 15 minutes through this corridor, verses doing nothing over the next twenty years. He said they talked about the least amount of right-of-way impacts with Option 1, no building or drive through impacts and very limited parking space impacts throughout the area. He said it's the lowest construction cost and pointed out it's very consistent with previous planning work, the I-5/99W Connector Study, Washington County's TSP and the City of Sherwood's TSP, the City's Adam's North Concept Plan and the Sherwood Town Center Plan. Russell referenced the map in the presentation of the recommended option with the removal of the signal in front of Albertsons and the extension of the five lanes to the northwest and passed the future Walmart site to the southeast.

Russell explained the next steps and said they will start undertaking final design and they want to continue coordinating with individual property owners and talk about access to Sherwood Market Place and access to the Regal Cinemas and we are also seriously considering, if not added to the plan a pedestrian crossing to replace the signal we remove at Albertsons and understand there is a transit stop or some type of park and ride on that side of the theater side of the street, therefore a need for pedestrians to cross there. Russell gave an example of a recently installed fully signalized pedestrian crossing on Evergreen in Hillsboro. He said they are also looking at local street types of improvements and an additional Open House this fall and hopefully get construction underway in 2014. Russell offered to answer questions.

Councilor Grant referenced a map in the presentation and asked to confirm he understands; the primary access to the cinema and bank would become the Baler Way signal, going behind the Les Schwab, being the functional in and out.

Russell responded correct, and said the other access would remain in place, but this would be the right-in right-out.

Councilor Grant commented regarding many people using the Albertsons to get to the theater and said he believes this was a huge mistake made a long time ago. He said when Langer Farms Parkway is completed and goes out towards Home Depot, which is currently underway, this will change a lot. He said people traveling north on 99W will go this route and not wait to get to the intersection at 99W. He asked if the change there will be more dramatic than Russell anticipates and cause them to rethink some of their assumptions or do they feel they have certainty of how the change will play out.

Russell responded that there is certainty and they took into consideration throughout their traffic study, and while there are a lot of people turning right at the 99W signal, the majority of that traffic is continuing either onto Roy Rogers Road or taking a left onto 99W. He said the people that will cutoff at Langer Parkway, will definitely help in that access area. He said this is another strategy the County looks at, is trying to get traffic out of busier intersections and local street connections.

Councilor Langer stated people know one of the tougher tasks is accommodating Regency Centers and Juniper Ridge at the theater and restaurants and asked what solutions the County has offered them to accommodate the loss of the left turn movements.

Russell referenced a slide in his presentation and said this is what the County is proposing to do right now, and said we have already had a neighborhood meeting and we will be coming to staff with a TSP amendments, which in the lower section of the slide extends Baler Way to the back of Jim Morris' property. He said Jim has an easement on the back of his property for the theater for that site, this is a potential opportunity for additional access to that site.

Councilor Langer asked regarding allowing U-turns at 99W and Baler? Russell replied, yes and said this is another thing we are continuing to look at, the U-turn at Baler is something we can control and easily do, the U-turns at 99W are tougher as we will have to work with ODOT, but is something we will continue to look at.

Councilor Clark asked in regards to the development in the Albertsons area as well as Regal Cinema development, and referenced the U-turn which is before and asked if the County is making any kind of accommodations for signage issues as the signage will be past the light that is being created so that people know where to turn before they have passed the complex.

Russell replied, yes, and said the County has looked at this and has spoken with City staff and said the County has options with our blue signage. He said with the actual on site marque signage, the County is more than willing to work with the business to help facilitate that, but this will ultimately be the City's call on what those will look like. He said the City has fairly stringent sign codes, but they will have opportunities to work with the businesses and City staff.

Mayor Middleton asked to receive public comments on the presentation.

Phil Grillo and Beth Faherty (spelling?) came forward and provided the Council with a letter (see record). Mr. Grillo stated he was here on behalf of TakFal Properties, LLC, owners of the Sherwood Cinema Centers and Beth is a principle there. He stated the letter he provided outlines some of their concerns

and based on some of the comments, the Council understands some of their concerns. Mr. Grillo stated roughly 75% of all the trips going into our site make a left into the center. He said when the light goes away and left turn movements are prevented, 75% of our business will go someplace else. He said the question is, will the 75% go to the backdoor entrance that the County is talking about and asked is this reasonable commercial access for a center like ours. He said they are certain that it is not and this is why they have tried to work with the County on other options. He said they had two options in front of the County and said he was at the last of the County meetings on this project and said as far as he knows, based upon that meeting, there is no public support for Option 1. He said he has heard this will be a significant impact on the businesses and said he heard that from the planning commission last week when they were before them with the aspect of the Town Center. He said he is asking for solutions and the Councils support to push the County to find better solutions to that the option they are talking about, with the backdoor entrance.

Mr. Grillo stated their first option they spoke with the County about, that Russell spoke of but did not explain, was to remove one of the left turn pockets coming into the center, which would create more right-of-way space, more building space on Tualatin-Sherwood Road that would allow the road to be widened in the westbound direction, where the congestion is in that direction. He said they have worked with traffic engineer Lancaster Engineering and they have a preliminary design for that. He said the County doesn't like that option but has not pointed to any adopted standards that would be violated by what we are proposing, which would reduce delay and increase safety both on that street and at the main intersection. He said the second option, he thinks is more innovative and said that option has three parts to it and is explained in his letter. The first is for the County and the City to work together with ODOT to create access onto 99W, right-in only access, so instead of having to make a left-turn movement in, we can get a right-turn movement off 99W and not have to put all the traffic through the light. He said the second aspect is to have better connectivity to the backdoor, which is what the County has been proposing. He said they don't oppose that, they just can't exist solely on that. He said the third component, in part to protect other turning movement is, that we would under that circumstance agree to a restriction on the left-turn movement into our site, but we would ask that the left-turn movements that go from our site out onto Tualatin-Sherwood Road and from the Albertsons, the left-turn movement in for them, which doesn't really restrict the flow of traffic westbound, that those movements be retained, therefore the signal be retained except the movement left into our site. He said this continues to protect the pedestrian movements and said he stopped at this location today before tonight's Council meeting, for about 20 minutes and counted 23 students, children, crossing that intersection, this number does not include adults. He said there are a lot of kids that cross that intersection.

He stated they need the Council's support and the County's support to work on these and find another option. He said the option the County is proposing is not acceptable and we don't want to have to take other measures to protect our interest, we are trying to work collaboratively, but so far this has not worked.

Beth spoke and stated that she is one of the owners of Regency and said she wanted to provide background on the County's intent to improve Tualatin-Sherwood Road back in November, which consisted of four proposed plans, two of which were absurd and not potentially possible with their \$12 million budget. She said the County's approach to rollout their plan was a divide and conquer approach where they kept the shareholders on the north side of Tualatin-Sherwood Road and the south side separate to create a "just accept it, this is what we are doing" kind of deal. She said it was an awkward situation that elongated the process. She said we have been working hard to be collaborative in this

process and as mentioned by Russell, we did hire a mediator to work with the County and us. She said it resulted in lots of unproductive meetings. She commented about attending City meetings regarding the New Town Center and said with the County's current plan, she sees it making a vacant shopping center and not conducive to what a Town Center should be. She said per the City's TSP and land use approval for our site, the light was a requirement for the land use approval. She said she is aware that there is a City TSP and a County TSP, but currently the City's TSP is to remove Baler and the County's TSP is to remove the one at Regency and Regal. She said to her it suggests that the City and the County need to work together to come up with what is pertinent to the community. She said if the light is removed and the County thinks that might improve the accidents, fender benders, freight and large vehicle access, then wait to the first death of a child or someone crossing to catch a bus because they can't make it down to Baler. She said this will put a freeway through the City, in addition to the one we already have and this frightens her for the community and the people that are running successful business at Regency and Regal.

Ty Wyman and Chris Daniell Regency local Property Manager came forward. Mr. Wyman stated he is the attorney for Regency Centers, and said Regency owns both Sherwood Crossroads which is the Safeway based center as well as the Sherwood Market Center (Albertsons). He stated the time devoted to this issue tonight is not at all what this issue is worth. He said we are talking about an issue that will define this area of the City for many years. He said he fears if this signal is removed the City will spend the next several decades regretting that and trying to get it back. He stated he would add to Mr. Grillo's thoughts, and said his experience and Mr. Grillo's experience is in land use planning and the law in land use planning and commented that Oregon does land use planning. He commented regarding reasons for plans, plans that guide public infrastructure and plans that guide private entities investments in property. He said both of these properties were development with the subject traffic signal shown in the City's TSP. He said the irony is that the City had the cinema install the signal that the County would now remove, killing the cinemas business. He said that the traffic signal still shows in the City's TSP. He said they believe that removing the signal by the City or by the County would be unlawful as it still shows in the TSP. He commented regarding land use planning and coordination between the State, County and the City. He said they would rather not test this in court and would rather sit with everyone and talk through the options. He said the options should be subject to hearings either at this Council or at the County Board. He asked what is the criteria for the removal of the signal if it shows in the City's TSP. He said at some point in time, this Council decided it should be there. He commented that the centers are filled with small businesses and the impact to those people would be utter decimation. He asked Mr. Daniell to describe the impact this would have.

Chris Daniell stated that he is the Property Manager for Sherwood Crossroads and Sherwood Market Center. He asked that the City reevaluate the County's proposed changes to Tualatin-Sherwood Road in light of its impact to businesses and direct contradiction to the proposed Town Center Plan from a pedestrian friendly standpoint. He said it doesn't make commercial real estate sense to limit access, let alone the main entrance of a shopping center that is home to 27 businesses. He said the Burger King franchisee provided a similar example of a location of a store in Las Vegas where the store immediately dropped 30% in sales and was forced to close. He said cross shopping is well known between the Sherwood Market Center and the cinema center and taking away the pedestrian access will not only result in an inconvenience to customers and citizens of Sherwood, but raise clear safety concerns for those not interested in proceeding to either Hwy 99 or Baler Way to cross. He said we have tried to work with the County and reach a mutually acceptable solution for well over a year to no avail and we are

now asking for the support of the City of Sherwood, a place where we do business, offer important neighborhood services, and pay taxes.

Councilor Grant asked for clarification of the pedestrian access, as he heard in the first presentation that they County was going to leave or create a new form of pedestrian access and you (Mr. Wyman) are talking about the County taking away any pedestrian crossing, he asked what the proposal is in Option 1. Mr. Wyman replied what they hear is what the County is "thinking about" and what they know is that the County wants to remove the signal. He said they don't want to remove the signal to enhance pedestrian access to cross the road, they want to do it to increase the flow of traffic. He said we have had no assurance provided, he referenced Barbur Blvd. and said the only assurance they have received is that the signal is going to come out.

Mayor Middleton called to receive public comments.

Stephanie Garrison came forward and asked if anyone considered the Walmart traffic adding to this, as this will be significant. She asked when the Council makes their decision to try and remember where the Walmart traffic will be coming from, Tigard, Tualatin and Newberg. She said she has not heard anything about timing the lights on Tualatin-Sherwood Road and said ODOT told her 5 or 6 years ago that the lights should be timed in about three years and that was 2-3 years ago and they are still not timed. She commented regarding hearing of lights coming in and lights going out and commented regarding getting the lights timed for trucks and gave examples of hitting all the yellow lights. She said what should take her 10 minutes to travel to Tualatin takes her 25 minutes, not because of traffic but because she hits every yellow light. She asked the Council to consider this first when determining what lights to keep or remove.

Eugene Stewart came forward and commented regarding the TSP amendment map and referenced two property owners across Roy Rogers Road from Safeway, and said with this program they are proposing to take away the entrance and there will not be an entrance to the property off Roy Rogers, the suggestion is for them to go down to Tualatin-Sherwood then to have a proposed road that will come back to the property. He said you're creating an island with no access for them. He said the Anderson property has no access from 99W. He asked when are we going to put the road in so the property can be developed, it's a prime corner and how do we approach this. He said it seems to him, that if 90% of the traffic coming down Tualatin-Sherwood Road is then turning left to go down 99W, do they want to stop in Sherwood or just get around Sherwood. He said in the 1980's when they had the chance to build the 205 extension over, they gave that money away for something else and now we are trying to deal with this. He suggested getting them to six corners and then sending traffic down 99W rather than this option. He referenced the increased traffic in the downtown area and said this doesn't stop the traffic it's just trying to get around the mess. He asked how do we look at this analytically. He said Washington County indicated that 10% of the traffic on Tualatin-Sherwood Road was truck traffic and then at the public hearings for the Langer properties the traffic study said it was 5%, this is a big difference. He said this is the only way to get to I-5 until you get to Tigard, in between streets don't allow truck traffic. He said we need to find a better way, we have not come up with a good solution. This may fit the County's pocket book now, but will we spend twice as much down the road. He said it doesn't make sense to him to drive into the Les Schwab, drive to the end and come back into the parking lot to park. He commented regarding speaking with the owner of Les Schwab and they were told at one time to flip their building.



Mr. Russell Knoebel returned and responded to the comments and questions and stated they have worked closely with Cam, and Les Schwab and said they are supportive of the TSP amendment for the Baler extension and understand the impact it will create and are comfortable with the solution.

Russell addressed the pedestrian concerns and said the County is putting in a signal to replace the signal, and the new signal will be a pedestrian only signal, allowing pedestrians to trigger it to stop traffic in both directions and cross safely. He said it will also provide a refuge island in the middle. He said the other options we looked at created two additional lanes for pedestrians to cross, leaving the signal in place, there are now eight lanes for pedestrians to cross.

Russell said another big issue that has come up numerous times is the lack of collaboration and lack of opportunities. He said he spoke of the public process and said it was a lot more extensive that what they typically do. He said we had eight meetings initially with commercial properties in this area. He said we realized that two properties were going to be affected and we had additional meetings with these properties to find out concerns. He said the County typically negotiates with an individual property owner, not two property owners at the same time. He referenced the comments received about the County trying to "divide and conquer" and the County saying they are willing to meet with them on an individual basis to talk about impacts and costs and try to solve. He said they have insisted on keeping both properties owners in the meeting together and the County has not had the ability to enter into a negotiated settlement with them and talk about money, because we can't do that with two property owners at the same time. He said we have continued to meet with the property owners on a general basis to see what we can do to make this work for them. He said the Albertsons business area has five access points, and they are losing one signalized access point, it will be a right-in, right-out and will have four additional access points into that location.

He addressed the comments regarding the signal being required as part of the theater development and said it was also required that they create a secondary access at Baler Way. He said their traffic study at the time said that 60% of their traffic would go out at the signal in front of them and 40% would go out at Baler Way. Russell said they testified tonight saying that 75% of their traffic is going out at the signal in front of them. He said they did not meet their original development agreement to create that easy access at Baler, he said there still is a way to do it, but it's quite convoluted. He said the County is proposing to make that a lot better and to encourage that type of movement along the Baler extension.

Russell addressed the comments regarding signal timing and said the County has implemented a "smart signal system" from Teton to I-5 and we are implementing that same system next year from Teton to 99W. He said it's a very smart signalized system and can do what was asked. He explained how the system works and said the signals have camera's and can readjust each signal cycle to determine the amount of traffic coming through that signal, and adjust the signals ahead so someone can make all the signals. He said the light at 99W will not be part of the "smart system" and they are working with ODOT to try and include the signals throughout Sherwood to try and include them to the County's "smart signal" process on Tualatin-Sherwood Road. He said if we get there, then all the signals will be able to communicate with each other and make it a better system.

Russell addressed the business issues and said there are federal studies that talk about changes in access and how they affect businesses, and most of those studies are done by federal highways so they could be tainted, but the studies do show there is little to no impact to businesses by the access

changes, and they have studied it before and after. He gave an example of the access to the Tualatin McDonalds off Boones Ferry Road and said this is the busiest McDonalds in this region.

Russell offered to answer Council questions; with none heard Mayor Middleton thanked Mr. Russell.

Susan Claus came forward and indicated she wanted to speak on this subject. She told Councilor Langer that he should recuse himself and said all this is being caused by your Walmart and you're directly impacting the existing businesses as well as your own businesses, asking questions and trying to get into the process, you should recuse yourself. She said both the County and the City are admitting that they are revising these existing site plans, violating both sets of their site plans. She commented regarding people having learned to use these business and you're systematically cutting it off. She said there is not even a process for them, you're violating their site plans and have not gone through a process with them and these were part of their agreements to do business in this town. She said what we are trying to do tonight needs to be tabled or wait until you get through this whole process. She said this is too sophisticated for staff to handle and you're taking away driveways and access points and asking staff who has on-the-job training and a contracted attorney to make judgments on this. She commented regarding speaking with the small businesses in these two business complexes and they wanting to come and speak to the Council but fear being victimized. She said you can't fundamentally change our commercial district on the promise, the disaster of Walmart and not acknowledge this is the first level of fallout we are getting from Walmart. She commented regarding an Intergovernmental agreement and potential litigation from the property owners and who will litigate this, the County, Metro or the City and said it usually falls to the City. She commented regarding they being here first and have existing rights and existing site plans and said you can't violate our own land use laws. She commented regarding the Act Three Theater marque being in the front and how would people see this from behind. She said they had from ODOT access when they first went in there and it was bargained away in their original site plan. She referenced comments made by the County engineer and a traffic study from 15 years ago. She said what they are telling us now is the way it is and we need to make sure we are honoring our existing businesses and not for the sake of current development dollars that have come to the staff, cobble all the existing businesses.

Mayor Middleton stated the Council is not making decisions tonight, this was information only. He addressed the next agenda item.

## **7. NEW BUSINESS**

### **A. Resolution 2013-045 Amending the RedFlex contract for the Photo Red Light Enforcement System**

Police Chief Jeff Groth provided the staff report and stated staff identified a need for a contract amendment and said there are two changes; the monthly payment will switch to a flat rate from a per citation amount. He said there is no fluctuation in the amount and this will allow for consistency, billing and budgeting and remove existing burdens on staff and prevents costly programming needed for staff to rectify invoices. He said the second change was, staff added performance clauses, he explained the clauses. Chief Groth recapped the staff report and provided the Council with background history of the contract, fees as indicted in the contract and explained the current process of rectifying invoice. Chief Groth offered to answer questions.

Council President Henderson confirmed the new term of the contract being five years and asked if five years was standard. Chief Groth confirmed the contract term was for 5 years and yes, it is a standard and consistent to what was in the original contract.

Council President Henderson confirmed when an invoice is received by staff it will not have to be audited and asked how much time will be save. Chief Groth confirmed it will not have to be audited and Julie Blums replied it saves her about an hour per month.

Chief Groth clarified that there was previously only a percentage that could be rectified and staff indicated that if they could not rectify the data in the invoice, they were not willing to pay that amount. He said this was causing issues with staff not wanting to pay for the full invoices.

Councilor Butterfield asked if this process doesn't work, will we have the opportunity to renegotiate. Chief Groth replied yes, we've had that opportunity from day one.

Councilor Clark asked if the revenue generated by RedFlex pays for the average of the fee. Chief Groth replied yes, it more than covers it.

Mayor Middleton confirmed the City will go to receiving a flat revenue of \$18,000 per month and asked what had we received in revenue in prior months. Julie Blums replied over the 32 months of having this system in place, our total court revenue is about \$90,000 per month, this includes both RedFlex and regular citations, and would estimate that 75-80% of that is Redflex.

Councilor Clark asked where does the excess go. Julie replied it goes into the General Fund and pays for court staff and additional services.

With no further comments, the following motion was received.

**MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2013-045, SECONDED BY COUNCIL PRESIDENT HENDERSON, MOTION PASSED 6:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILOR FOLSOM WAS ABSENT).**

Mayor Middleton addressed the next agenda item.

**B. Ordinance 2013-005 Amending Section 10.08.070 of the Municipal Code relating to prohibiting parking on certain streets**

Chief Groth thanked the residence that worked with the City on this program and the Mayor and recapped the staff report. He said the Council held a work session in May 2013 and said we have had an ongoing problem in the City with neighborhoods being used for overflow parking, alternative parking areas or drop-off points and or non-residence use. He said the neighborhoods in question have seen a tremendous amount of this, creating issues of congestion, overcrowding and littering. He said staff has created residential parking districts using models from other jurisdictions. He said Exhibit 1 to the Ordinance is the proposed code language and said there was not existing code language. He said this ordinance will allow the Council to add additional parking districts by resolution. He addressed the financial impacts and said each sign will cost about \$200 and the majority of the cost will be offset by residents and or Homeowners Associations in the effected neighborhoods. He said he doesn't have the

costs of permits yet, but it will be minimal and the permits will be simple vinyl window permits and a rearview mirror hanging permit, an insignificant cost borne by our existing budget. He said there has been some staff time, but once the program gets started it will not take much staff time to manage. Chief Groth offered to answer questions.

Councilor Grant asked regarding the staff time of the police department to patrol and check parking permits. Chief Groth replied this is something that they already do.

Councilor Langer referred to the area behind the high school and asked about dealing with the parking and not pushing the issue further out into the neighborhoods, he recalls discussing this in the work session and asked was this vetted out and how would we deal with this. Chief Groth replied we would look at this when we add districts and referred to the resolution the Council will be considering this evening if this ordinance was approved. He said we will have to wait and see and said he believes staff has identified the areas that are most prone to parking and the outer areas are too far and people probably won't be parking there because it's too far to walk. He said there is potential that there will be other areas around the school that can be added in the future and said we are working with another neighborhood to complete that process, and will address those as we need to.

Assistant City Manager Tom Pessemier asked a process question of the City attorney and stated the ordinance declares an emergency with an effective date of August 21<sup>st</sup>, and allowing resolutions to be adopted. He said on tonight's agenda there is a resolution pertaining to this and asked if there is an amendment that needs to be made to this ordinance or is that acceptable.

City Attorney Pam Beery stated the Council can enact the resolution this evening and the resolutions would not take effect until the ordinance takes effect by operational law. She said if it's more convenient for the Council to do that you have the authority.

Councilor Clark commented she recall the school district attending the work session when this was discussed and they spoke of additional ideas they had to help with the congestion issues, she asked if we will be working with them in the future as we create districts to address their issues and student ability to park outside. Chief Groth replied absolutely and said we have stayed in contact with the school district and the information before the Council tonight has been shared with the school district so they can message with parents. He commented regarding the school district doing things within their control, selling their parking permits and what level they want to oversell permits. He said the relationship we have with the school district and the high school staff will allow us to work out any issues and he does not have any concerns.

With no further comments, the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO READ CAPTION AND ADOPT ORDINANCE 2013-005, SECONDED BY COUNCILOR CLARK, MOTION PASSED 6:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILOR FOLSOM WAS ABSENT).**

Mayor Middleton addressed the next agenda item.

**C. Resolution 2013-046 Establishing two (2) residential Parking Districts within the City of Sherwood in accordance with Chapter 10 of the Sherwood Municipal Code**

Chief Groth stated this resolution establishes the first two parking districts in accordance with the ordinance that just passed. Chief Groth explained the exhibits attached to the staff report and said the two parking districts are entitled Woodhaven Phase 1. He explained that in working with the Woodhaven HOA, they identified a desire to do what they believe are the affected areas in two phases. He said they have been working with City staff to put this program together and financially helping to support this program. Chief Groth explained the Woodhaven fact sheet and letter for Phase 1, permit application. He explained exhibits C1 and C2 as the Smock fact sheet and letter. He said we have two forms because the particulars of each district are different. He said the issues in the Woodhaven area are related to school parking and explained the enforceable hours. He said the issues in the Smock area, considering the area is very small, is related to neighborhood and the Snyder Park access area and parking will be prohibited 7 days a week. Chief Groth reminded the Council that any of the forms can be amended as the need arises.

Mayor Middleton asked for Council questions, with none heard he asked for a motion.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT RESOLUTION 2013-046, SECONDED BY COUNCILOR BUTTERFIELD, MOTION PASSED 6:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILOR FOSLOM WAS ABSENT).**

Mayor Middleton addressed the next agenda item.

**D. Ordinance 2013-006 Assessing Sidewalk construction costs on certain lots and parcels in the City and directing the City Recorder to enter such assessments in the City's Lien Docket**

David Janusz Program Coordinator in Public Works came forward and stated as written in Sherwood Municipal Code section 12.08 the city assigns sidewalk responsibility to the abutting property owners. In 2011 the City Council approved the formation of the Sidewalk Repair Assistance Program. He said the program is in no way intended to relieve the property owner of their responsibilities, but rather intended to assist property owners with the cost of repairing and replacing sidewalks. He said the program will assist the homeowners by scheduling and performing all the work required to repair the sidewalk hazard and the City will share the cost of the repair 50/50. He said in 2012 the Public Works department completed a City wide inspection of all sidewalks and identified approximately 1700 sidewalk deficiencies. On August 9 2012 Public Works invited 150 residents to option into the program or perform their own repairs in the allotted 60 days. He said most residents in this first group either participated in the program or performed the repairs themselves. For those that neither participated in the program or repaired the sidewalks, the City repaired the sidewalks on their behalf in April 2013. The homeowners were then issued an invoice in early May requesting payment in full at 100% of the total cost within the next 30 days. He said in accordance to chapter 12.08 of the code, the unpaid balances after 30 days, may be accessed as a lien against the property. He said to date, we have three addresses where the property owners did not participate in the program nor compensated the City for the repairs completed on their behalf. David called out the addresses in question and said staff is recommending to place a lien on the properties identified to recoup costs associated with the program. David said as this ordinance takes effect in 30 days, the City would extend to the owners an opportunity to pay the balance in full within 30 days and prevent the lien process from going forward. He said although not required, a door hanger was provided to the homeowners inviting them to come tonight and offer comments in their own defense.

City Attorney Beery clarified that this is not a public hearing and the Council can offer an opportunity to the effected property owners.

Mayor Middleton asked to receive comments from the affected property owners.

Mike Stewart 22741 SW Martin Court Sherwood came forward (provided a letter, see record) and stated he has had maintenance issues with his home and the street tree issue is the third one. He said when he purchased the home in 1996, he spent three days rehangng the natural gas lines under the house because they were not to code. Mr. Stewart explained the issues with his gas line and said this is the way he bought the home after it was inspected by city inspectors. He said five years ago, he had a water leak with a main supply line under the garage floor and spent \$1200 for a reroute. He explained the copper line and it being soldered at the joints and said code requires that the joints be braised not soldered. Mr. Stewart said the City has an approved list of trees that they require the builders and developers to plant. He said two of the trees he has a problem with, a red maple and an ornamental plum. He explained issues with the fruit tree dropping fruit, tracking into his home and staining the carpet, attracting insects and said it does not belong on a street. He said in regards to the red maple, he has contacted his attorney, Paul Nelson, who has been in contact with the City. Mr. Stewart read from a letter and commented regarding the City not planting the red maple tree and it being planted by a contractor, who selected the tree from a list provided by the City, thus the City having a direct role in the type of tree planted and the City failed to properly research the growth habits of the red maple before including it on the approved list. He said if the City had competently compiled its tree list the maple would have been excluded and the current maintenance issue would have never arisen. He continued and said it's inequitable to expect his client or any other property owners to be responsible for the cure of a problem caused by the City inadequate research of the growth habits. Mr. Stewart said this is where he is coming from, he did not create the defect, as a property owner he expects to be responsible for the normal maintenance and repair of a sidewalk over its service life provided that it has been properly inspected and installed. Mr. Stewart referenced the documents provided to the Council and explained the photos. He said the City's building and maintenance people did not do a review of where they located street trees and street lamps, therefore we have instances like this (referred to photos). He said we don't have competent people doing the job and he is fed up with putting out his money for someone else's negligence or incompetence. He said this is the reason he has not paid this and has spent his money contacting his attorney. He said he expects competent City government and he has not gotten it yet.

Mayor Middleton thanked Mr. Stewart, no other property owners came forward and staff offered to answer questions.

Councilor Grant stated this seems unusual to him, for this to be handled by an ordinance and said he doesn't recall seeing something like this be an ordinance. He said when we put the sidewalk program in place, did we not put remedies in place for staff to handle issues.

City Attorney Beery replied before the City can impose a lien it requires Council action. She said staff has administered the program all the way through to this point, but requires governing body approval by ordinance to impose a lien on the City's lien docket. She said the reason an ordinance is required is because imposing a lien is a remedy the City doesn't take lightly and the ordinance creates the appropriate level of formality and Council approval.

Tom Pessemier added the ordinance that requires this ordinance was put in place a long time ago and we did create a Sidewalk Assistance Program to try and help people who we knew were having problems trying to reach the original ordinance. He said the ordinance was put in place in the 1980's or 1990's and basically outlined this process and we are now at the very last step of what the ordinance requires, we did not make changes to that ordinance.

Council President Henderson referred to Mr. Stewart's cost of repairs \$783 and asked if this is half of the cost of the repairs. David replied no, this is the total cost for all the vendors to perform all the work. David explained the actual repair consisted of the removal of a concrete panel, the removal of a tree, and said the removal of the street tree required an arborist report and a tree removal permit, the cost of the removal of the tree and the cost of the replacement of the concrete panel.

Mayor Middleton asked in regards to the removal of the tree and if we had to remove any other trees in sidewalks performing sidewalk repairs. David replied, yes, there were many trees that were removed as it's designated as the cause of the problem with the sidewalk. He said for those who opted to participate in the program, the costs of the tree are split in half.

Mayor Middleton confirmed Mr. Stewart's full cost of \$783 and asked what he was billed. David replied this is what he was billed, the full amount. David stated there may have been an uplifted panel that could have been shaved down, and asked Public Works Director Craig Sheldon to confirm.

Craig Sheldon stated there were two shaves on the property and the City waived one shave, the tree removal and the permit. Craig explained when the City offered the program, Mr. Stewart did not sign up for the program, he sought legal advice and they contacted our attorney which started a process that's laid out in our ordinance, he said we sent bills and said the city allowed more time than we could have. Craig said Mr. Stewart's attorney has spoken with our attorney and this is the final step in the process for the Council's decision.

Mayor Middleton asked if the City is giving Mr. Stewart 30 days to comply. David replied at this point we have 30 days before we can process any lien at the County, so we are offering during this period of waiting, for homeowners to rectify the balance.

Councilor Langer asked to revisit the fundamental question brought forward by Mr. Stewart as it may have occurred in other places, with knowing the history of not-so-favorable trees planted and we recently revised the tree list, tree canopy requirements, and other code language and asked to hear a refresh on the concept. He said getting to the core, he hears that Mr. Stewart's tree was planted per code and per development and now the homeowner has to deal with fixing it. He said this had to occur in many places across the City.

Craig replied he can't answer all the questions as he was not here when the subdivision went in, and said he assumes the developer of the subdivision probably submitted a set of plans to the City and whoever in the Engineering or Planning departments approved a set of plans. Craig said he can't speak of his waterline or his gas line as this doesn't have anything to do with us. Craig said we do have issues out there with trees that were planted and said if you look at the code, the tree code indicates the property owner is responsible for the trees as well as maintaining them. Craig said we started the tree maintenance program last year because we wanted everything trimmed up with the proper canopy. He

said the sidewalk code says the same thing that the property owner is responsible for the sidewalk in front of their property. Craig said he knows the Community Development department went through a tree process list this last year and a half and cleaned up some of the code. He said under the current code the street trees as well as the sidewalks fall under the responsibility of the property owner and we are just following the process.

Councilor Langer asked what solutions did the property owner have over the last ten years as the tree was growing under and shoving the sidewalk up. Could the homeowner realized the problem and cut down the tree without a permit or would they have gotten into trouble for that.

Craig replied in the past any tree removal went through the Parks Board as there's a tree ordinance, and now, some of the tree things go through the Planning department and this is now a staff decision and a tree needs to be planted off of the tree list if it's removed. Craig said there is a removal process that could have happened.

Councilor Langer said he still sees in town issues with trees planted next to street lights making the light ineffective at night. He said currently if a resident has this problem and comes into the City to go through the process, might that tree be removed and not be replanted because the trees are already too dense.

Craig replied there is a process that not all trees can be removed, there's a process if it's causing damage to utilities and staff can make that decision and we would have an arborist look at that.

Julia Hajduk, Community Development Director added that as part of the Planning Departments code cleanup, they made code amendments that would allow the removal of trees without replacement.

Council President Henderson asked of the 150 residents in this first phase, those people that signed up for the assistance program, for a bill of \$800, what would they have paid. David replied they would have been invoice for \$400 and explained it's a separate bill from a utility bill. He explained a payment or nonpayment of the sidewalk program will not reflect on your utility services. It is a payable amount, available to be paid over a 12 month period and is half of the total cost. He confirmed the City would have taken care of all the repairs and permitting.

Councilor Langer clarified in Mr. Stewarts case, the entire amount was \$783 and if he had signed up for the program, it would have been half of this cost. David confirmed this was correct.

Councilor Langer said he heard staff was going to allow 30 days for the property owners to come in and pay, and asked if they would still get the 50% off. David replied, at this point it's the full amount and said the option to get into the program is within the first 45 days of the 60 day window to repair the sidewalk. He explained this allows us to work closely with our vendors to schedule them to do the work in an area at the same time to be able to lower the cost.

Councilor Langer asked in regards to these three properties, if the vendor returned at an inconvenient time. David replied we scheduled these three repairs in a time that the vendors where in another area of the City and these three owners had not paid the full cost due.

Mayor Middleton confirmed it's not possible to let them join the program now, correct. City Attorney Beery replied not as the ordinance is written.



With no further comments, the following motion was received.

**MOTION: FROM COUNCILOR CLARK TO READ CAPTION AND ADOPT ORDINANCE 2013-006, SECONDED BY COUNCILOR GRANT, MOTION PASSED 6:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILOR FOLSOM WAS ABSENT).**

Mayor Middleton addressed the next agenda item.

**E. Resolution 2013-047 Endorsing the SW Corridor Plan and providing direction for future participation in the implementation of the SW Corridor Plan**

Julia Hajduk Community Development Director stated the Council held a work session this evening regarding the SW Corridor and Council also received an update from Metro Councilor Dirksen a few months ago as part of your regular business meeting under presentations. Julia said for the past two years, staff and former Mayor Mays and current Mayor Middleton have been working on the Plan and the purpose of Plan was to create a framework intended to improve the land use and transportation conditions of the SW Corridor. She said throughout this process we identified existing conditions, opportunities, challenges, goals, worked with all the affected jurisdictions, Portland, Tigard, Tualatin, Sherwood, as well as jurisdictions that touch the SW Corridor area, Beaverton, Lake Oswego, Durham, King City, Washington County, Metro and Trimet. She said through this process a plan was developed and said the SW Corridor Plan identifies some of the things identified through the Plan and up to this stage, that high capacity transit is not an alternative to be considered further in Sherwood at this stage of the implementation, but local transit service particularly between Tualatin and Sherwood is an integral element of the plan.

Julia stated the resolution before the Council will formally endorse the work that has been developed to date which will facilitate moving the project to the next step and it also confirms the City's commitment to remain part of the process. She said one of the reasons why we believe that is important is that it allows us to benefit from funds leveraged with our jurisdictional partners to implement the Corridor Plan, and we would also have the ability to inform future decisions within the region and actively participate in addressing transportation and transit issues important to the local community.

She said from a financial standpoint it will involve staff time, we anticipate 2-4 meetings per month throughout the process as well as the Mayor will be going to some meetings. We also anticipate that Metro will be asking the local jurisdictions to participate in some funding in the next budget cycle, and we don't know what that is yet and we would certainly be able to make decisions on how much we are willing to pitch in as we get further along in the process.

Councilor Butterfield stated he personally does not endorse the Plan, but does see the need to keep our finger on the pulse. He said he is kind of torn, and will await comments from the other Council members.

Council President Henderson stated we have talked about this at a number, 3 or 4 work sessions, and as Julia mentioned, light rail is not an option for Sherwood. She said she has stated, as long term plans, that whatever improvements we get, improve not only residential traffic but commercial traffic. She said having discussed Tualatin-Sherwood Road this evening, and being part of the discussion, we are at the end of the line of the Corridor, and don't want to be the last to be offered a piece of the pie, and sitting at

the table is an important issue. She said she doesn't believe there is anyone in the room that doesn't want improved transportation east-west or who would turn away public transit east-west, which we currently don't have, from Sherwood going east. She said this is what she is hoping for.

With no further comments, the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT RESOLUTION 2013-047, SECONDED BY COUNCILOR CLARK, MOTION PASSED 5:1, (MIDDLETON, HENDERSON, CLARK, GRANT AND LANGER VOTED IN FAVOR, BUTTERFIELD VOTED AGAINST, (COUNCILOR FOLSOM WAS ABSENT).**

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

## **8. PUBLIC HEARING:**

### **A. Resolution 2013-048 Calling an election on and approving a Ballot Title, Summary, and Explanatory Statement for the annexation of 12 tax lots comprising 97.5 acres of land in the Brookman Road Plan Area for the November 5, 2013 Election**

Brad Kilby Planning Manager came forward and made a presentation to the Council, (see record, Exhibit E). He said the Council has before them a request from 12 property owners in the Brookman area to annex their properties into the City of Sherwood and the total acreage of that request is about 97.5 acres. Brad stated he will speak of the differences between this request and the request that was on the ballot in 2011.

Brad stated the request from 2011 was a request to annex the entire Brookman area that was brought into the City in 2002 with the UGB expansion and that would have been 258 acres. It required approval by both the City voters and the voters within the affected area. He said within that affected area, the election went down 78% voting "no" with 38 properties against it and 10 properties for it. Within the City it failed with a margin of 51% to 48%. He said tonight's request would be different because it was brought in under a triple majority method, meaning that the majority of the owners that own the majority of the property, with the majority of the assessed value have requested to be brought into the City and annexed into the City. He said it only requires a vote of the city folks as opposed to the city and the affected area, because the area that would be affected by this annexation, they have all signed on to come into the City. He said the "hatched" area down at the bottom (referencing the map in the presentation) shows the 12 properties that have requested and signed the petition to come in. He said if you choose to put this on the ballot, the City limits would extend to the west side of Brookman Road, and wouldn't be the east side, we would extend it all the way over to the west side to accommodate future improvements if development was to come in.

Brad said in 2009 the Brookman Concept Plan was approved by the Council, which essentially adopted zoning the area and the properties that are affected by this annexation, (Brad referenced the map in the exhibit) property near Ladd Hill and Middleton Road and said this property is all zoned for residential development and is bisected by a large natural resource area, and I would expect upon annexation that it would be zoned Medium Density Residential Low and Medium Density Residential High and any future development within that area would need to accommodate sewer and water access and would

have to be extended and upgraded from the existing City services as well as protect that resource in compliance with our development ordinance and the standards of Clean Water Services. He said Brookman Road would serve as a primary access for future development in this area, secondary road include Middleton, Ladd Hill and Old Hwy 99, but essentially the primary access into this area would probably come from either Middleton or Brookman Road. He said utilities are available (he referred to map in the exhibit) near Ladd Hill and said this is where the sewer would come in, a flag portion along the City limits and that piece of property is where the sewer is expected to come in. He said sewer and water would have to be brought in by future development and it would have to be upgraded. He said property zoned for primarily residential development, 97.5 acres, it's served by Tualatin Valley Fire and Rescue (TVFR) and will continue to be served by TVFR. Police service is currently provided by Washington County Enhanced Sheriff Patrol District and that would go away with this resolution and ultimate approval by the voters and would be picked up by the Sherwood Police Department.

Brad addressed taxes and said it did not change much from the 2011 election; the tax rate is such that people out there will be paying on average of \$429 per \$100,000 of assessed value over what they pay today, if they paid like the taxes that were the full tax on their property. A lot of the properties out there are in some type of tax deferral, whether forest or farmland or some other type. He said they do not lose that deferral if they are annexed into the City, they lose the deferral upon development. He said in 2011 the City Council entertained, a City initiated request, an offer of phasing in the taxes over a period of ten years, this is something that the legislature allows, the applicant did not request it in the application and you might hear them request it tonight.

Brad referred to the presentation and the list of properties and parcel sizes, from less than .5 acres to 15.82 acres, but the overall assessed value of the properties is about \$2,154,880 and all 12 of the properties have a represented signature asking to be brought into the City. Brad stated staff recommends the Council approve the annexation request by adopting a resolution. He said this has to occur tonight in order to get on the November 5, 2013 ballot and if you decide not to take action on this request tonight or want to consider it later, then it probably won't get on until the March 5, 2014 election. He said this annexation request is on the same timeline as the Special Committee and ordinances being discussed.

Brad said Council may amend the resolution to include additional properties, but this is not recommended by staff, they haven't been brought in. Brad referred to the map and said typically we don't like to see islands, and pointed out three properties surrounded by City property, if annexation is successful. He said he believes the applicant has spoken to all the property owners and these folks did not have an interest in coming into the City. Brad said there is a gentleman on the end (referred to map) that is interested in coming into the City, and staff has spoken to the City Attorney, and unfortunately it's a procedural issue, he would not have met the notice requirements to get onto this ballot, and in order to bring him in would negate the request of the 12 other property owners and push it out to a March 5, 2014 election.

Brad offered to answer Council questions, with none heard the Mayor opened the public hearing.

Brad stated written testimony was received today by the Council through the City Recorder, that he wants to enter into the record. An email from Bridgette Storey sent today at 12:29pm (see record, Exhibit F), who lives on Redfern and she had concerns about the extension of Redfern and she would like to see all the properties brought in, if they were going to be brought in at all. Brad said if the Council

looks at the ordinance staff has proposed it has language that does not extend Redfern and therefore takes care of that issue but does not take care of her request to bring in all the properties. We also received a letter from Chris and Meerta Meyer (see record, Exhibit G), who have indicated that they don't believe this annexation is timely, that the 2009 Concept Plan is outdated and needs to be updated before we can consider annexation of this area.

Mayor Middleton opened the public hearing to receive testimony.

Stephanie Garrison came forward and confirmed the properties shown on the map with the hash marks signed something requesting to be annexed. Brad Kilby confirmed. She asked if it was through a realtor. Brad replied it was through a petition. Ms. Garrison said her concern is she knows one of the property owners did not sign anything and is not interested in being annexed. She said if she knows of one that is a personal friend, how many more x's on the map, is staff lying about. Conversation ensued and Mayor Middleton interjected.

Tom Pessemier spoke and asked for a process check. He said this is not a land use hearing, and we typically try and run these similar to a land use process. He said typically we allow the applicant of the proposal to come up and make opening remarks and we usually give them a period of time, due to the late time tonight, 10 minutes could be given to make a presentation, then allow the rest of the public to come up and provide comments and allow the applicant to reserve time to rebut those comments. He said this might add benefit to this process as questions can be answered by the applicant and staff doesn't have to answer some of the questions because they are the applicants to address. Tom suggested inviting the applicant forward to answer questions and avoid the back and forth conversation between staff and members of the audience.

City Attorney Pam Beery stated she concurs and said if folks come up to testify that questions are directed through the Mayor and not directly to staff.

Ms. Garrison stated as a Sherwood land owner she would like to see written evidence that these people signed saying they wanted to be annexed in, she said she is finding it highly doubtful. She said she is concerned about the high density growth in the area and not having good roads, Brookman road does not have a shoulder, a hilly road, hardly any divider on it, people drive 50-55 miles per hour, it's a really dangerous road. She said, if you guys are talking about development wise, and eventually it might get annexed in, in speaking of development, keep this in mind and drive the road and sit in some ones driveway, this is not an easy road to get out of. She said when we drive out on Brookman we get tagged nearly every day. She said she would like to see evidence that people signed up for this and offered to leave her contact number and said to the Council when you consider adopting a plan for this area keep in mind how, what a crappy road Brookman Road is for pull-in pull-out.

Mayor Middleton asked if the applicant was present.

Chris Goodell with AKS Engineering 13910 SW Galbreath Drive, Suite 100, Sherwood, came forward and said we prepared the application and submitted it for the property owners that are included, he commented regarding proceedings being a bit out of order with the applicant typically going first and now we are responding to comments. He said staff can talk about this as well and said the requirement for the triple majority in the annexation is that we get a majority of the property owners and a majority of the registered voters in the affected properties and we have well beyond that with 89% of the property

owners and 90% of the registered voters of the affected area that is hatched in there (referred to the map in the presentation).

He said he thinks, he is guessing, the property that is being discussed is under a split ownership with a 1/3 ownership, 6 owners he believes and said we have 2 out of the 6 owners, 1/3. He said one of the parties signed the petition. He said that issue aside, the application satisfies the annexation requirement criteria as far as the triple majority. Mr. Goodell offered to answer questions regarding the application.

Councilor Grant asked Mr. Goodell to explain the improvements that are to come onto Brookman Road by the time all the property got developed, whenever that is. Mr. Goodell stated staff can probably answer this question better than himself and said the Concept Plan has a list of improvements to intersections and frontage improvements for the properties on Brookman Road. He said the expectations is, Brookman is a County road and would be improved to County standards, curb gutters, sidewalks and said he believes it's a collector street, three lane section.

Mayor Middleton indicated to the Council it was past 9:30pm and said this would be the last order of business for tonight and asked if the Council was okay with that, no Council objections were received.

Tom Pessemier informed the Mayor, if we followed our normal process, we would have other members from the audience come up. He said Chris Goodell has taken 2 minutes of his time, he could provide comments to questions of the audience and could then have dialog with the Council.

Mayor Middleton agreed.

Neil Shannon 23997 SW Redfern Dr. came forward and stated he has been referred to as a citizen activist who you can take your activities back to a starting point, and he takes this back to October 10, 2007, which was a first of a Brookman Road Concept Plan public meetings that I had an opportunity to attend. He commented regarding attending several meetings for Brookman road and said he is very familiar with the program. He said he is in opposition to this annexation and believes the City would be better served to take a look at annexing the entire section of properties as a lump sum rather than take it as piecemeal. He said he is concerned about leaving islands that are not part of the City that would continue to be parts of Washington County rather than the City. He said he knows that there were a lot of problems with that along Tualatin-Sherwood Road at times in the past. He said he is very aware of the election two years ago, and is not surprised that it failed at the time, he personally did not feel that the City was supporting the program very diligently. He said as far as the City not adopting it, there was a Council Charter change as well posed at that election and there was a lot of negativity towards the City at that time, and he is not surprised that the annexation failed. He said as far as the annexation failing from the Brookman Road residents, he said he talked a number of them, and the reason it failed at that time was because of the economy. He said no one there saw any opportunity of selling or developing their property and saw no reason to join the City of Sherwood, even with the ten year grace that was being offered at the time for City taxes and City services. He said he thinks that may be reversed now and thinks this proposal is an indication of that reversal. He said another concern he has is a note on display at the properties, the bottom right hand corner, he would like to double check that it is a property that is being proposed for annexation. He said he has looked at it and has some plot plats, he believes it's labeled as property 105, and it is not listed as one of the tax ID's that are on the table and I see that the owners, this was probably three years ago, the property may have sold, but the owners at that time were listed as John and Denise Hagg and said he did not see them on the

petitioners list either. He said he is concerned and wants to make sure this is accurate. He stated he is in opposition of this annexation and the City would be better served to look at trying to bringing the entire section of properties in. He said Brad mentioned the sewer line coming down the little flagpole and said he is surprised as the City just last year did a major sewer line improvement from Cedar Creek parallel to Redfern and have stubbed out at the stub end of Redfern Drive.

Susan Claus 22211 SW Pacific Hwy came forward and said before, when the Concept Plan was contemplated, all of the annexed properties that were proposed in that whole Concept Plan were supposed to be responsible for the infrastructure, on whatever prorated basis or share. She asked what is the mechanism if it's piecemealed in, are you obligating the people who have already said they don't want to be annexed in, how do those prorated shares go and are we still dedicated to the idea that this group of properties, this concept, that they have to pay their own way for the infrastructure. She said she asked that not only on behalf of the citizens, but especially on behalf of the people contemplating the annexation. No one wants to be presented with an astronomical bill that they did not understand, that they were responsible for the infrastructure that would allow them to come into the town. Including Brookman Road, it is not part of the City, how are they going to improve that and what are we going to do there. She said until we have clarity where everybody understands their obligation, so the citizens are voting on who's responsible for the infrastructure, the annexation people understand and the people who are not being annexed in also understand, we as a city obligate them as a future... their property values are going down tremendously, if there is some way we are obligating them to this whole idea and plan, everybody needs to be aware of that and it should be within the notification of all the people in this district so everyone is on the same page and no one gets surprised by a bill for infrastructure. She said she wants to confirm that even though there are high percentages of people that agree that the registered voters and property owners, that it does take at least 51% of the vote of the city residents. Is that 51% of the residents that vote on that particular time? What does that 51% entail and does that stop everything in its tracks. She stated like one of the other problems, we had either or language that said... maybe that was a scribes error or whatever. She said we have always been dedicated to the fact in the City of Sherwood that the citizens have that vote and it's a majority, not an either or, and if we had 49% or less with the citizens but these guys agreed to it, and because they agree to it can that override, it shouldn't be that way and I want to make sure it's not. She said it's also incumbent on us as if we are preparing the ballot title that we have clear language and don't use double negatives, people aren't voting when they think they are voting no for something they are actually voting yes, please make the language clear on the ballot and any kind of writing that the city does on behalf of that on the ballot language, make it clear, let the voters know because a lot of those people are only going to engage themselves at the time they are going to vote. She said staff has been committed at the metro level to have high density coming into this area, whether it's Brookman or the other side of 99W, if it is true that we are MDRH to MDRL, there should be some kind of notice to the citizens, if you're going to try and jam a bunch of apartments on the south end of town we need to know and that is appropriate and don't do a bait and switch.

Denise Hagg 16655 SW Brookman Rd. came forward and stated we are that property on the far right hand side and that was a mistake, we did not sign a petition, we are not interested in coming into the City.

Mike Walsh came forward and asked regarding process and asked if there is ever a situation that could arise where if this did not come to a ballot that the Council would be able to vote it into annexation or not.

City Attorney Beery asked for clarification on the question. Mr. Walsh stated right now the proposal is to put this to a vote to the citizens of Sherwood, and if it's denied to put on the ballot now or in 2014, would there ever be a situation that would arise where the Council can make that decision to annex or not.

City Attorney Beery stated the City Charter requires voter approval for annexations and there are also state law provisions that dictates who votes and in this case because of the level of consent, it's Sherwood voters and it would take a Charter change to allow the City Council once again to allow annexation.

Mr. Walsh said his understanding of the original assessment of how the property should be zoned and its impact to the community was done back in 2009 and to the point that the letter was proposed, what is the standard timeframe for the city to review these plans to where they are still valid, is there a set timeframe where a study may expire and be required by ordinance to be reviewed again.

Julia Hajduk replied there is no set timeline and when this was adopted and implemented via our Comprehensive Plan, so you have Comprehensive Plan designations in place and it would not expire, that doesn't mean you can't reevaluate in the future or at any time, the zoning of an area and update a plan if you so choose, but there is no expiration to the Comprehensive Plan.

Mr. Walsh stated he would propose that this is postponed from being on the ballot for this year, for a few reasons; from 2009 to current date, seems to him as a fairly large span of time given the developments occurring on Tualatin-Sherwood, with Walmart and the light at Regal Cinema, this needs to be reassessed. And as a citizen of this city, I would like to know specifically what lots are going to be zoned high density, where apartment buildings are going in and would like to have that information so I can make a well informed decision and I don't think that information is being presented currently.

Tim Voorhies PO Box 908 came forward and thanked everyone for their time and effort and asked if this is a land use issue. City Attorney Beery replied this is the Council's determination of whether to send this to the ballot, if it's approved by the voters then the later actions taken to zone it would be land use decisions.

Mr. Voorhies said, but isn't it land use because you're voting to bring it in and stuff and should notifications have been sent out to property owners. Ms. Beery replied, this decision is whether...because we have a voter approval requirement in the Charter, the first step is for the Council to send the question to the voters and if the voters approve it, then it will come back to the city to take those land use actions and at that point notice will be provided.

Mr. Voorhies said the problem he sees with this, directing his comments to the Mayor and said he knows it isn't the Mayor, but after a decision is made by the city or any public comment has been made or anything like that, the decisions have already been made, the plot plans have already been mapped. We as citizens are always behind the eight ball, trying to get caught up. We lose money trying to play with the City and fight with the city and everything else, our tax dollars are paying them to fight with us. My property at SteelTek is probably 750 feet away, and if I had not come down today and read this, I would have not known anything about this until it's too late. He asked what about all the other property owners, what about all those people that have kids in Middleton, Archer Glen, you bring in high density, where are those kids going to go to school. Where are those kids going to go to school with the 102 unit

insta-slum you're putting in, what about the 40 extra apartments that are going in above the commercial that I've heard about at the cannery site. Why bring something in if you don't have the infrastructure to support it, it doesn't make any sense to bring it in. Tax dollars are tax dollars, it doesn't make sense and one property up there is wrong, what it really a "slide of a hand". He stated he doesn't trust the election process, doesn't trust the staff on getting the proper amount of signatures on initiatives, a lot of stuff has gone wrong here and we need to make it right and you all as Council members are the boss for the city. He said he has heard old city managers say it's what you want us to do, we do what the Council says.

City Attorney Beery stated she would like to add clarification on what notice was given to make it clear; she said this is clearly not a quasi-judicial proceeding, which is the kind of proceeding the witness indicated would require individual property owner notice, the city processes these initially as legislative matters because of the size of the proposal and the notice that was given was given in accordance to legislative procedures. Ms. Beery confirmed with Julia Hajduk and Julia said it a process in accordance with Metro and state law for annexations which are different from a traditional land use action.

Comments and questions were heard from the audience and Mayor Middleton requested the audience members not speak from the audience and called forward Mr. Goodell.

Mr. Goodell came forward and stated he believes city staff posted the sign on the site. He said their legal description included in the application did not include the corner property and said Brad can speak as to what happened there. Mr. Goodell said it was not included to be annexed. He said with respect to piecemeal, this is a property owner initiated annexation, the prior go-around was a city initiated annexation, he said it is almost impossible to gather 100% of the property owners in a private property owner initiated annexation, he said it's different, you had a few property owner spearheading the process and got a large group of owners together that wanted to be annexed into the City, aside from the one property in the corner, that is what you see before you, it's owner initiated and not possible to get every single person and it is not required. He commented regarding the high density comments and said this is all medium density and this is a function of the Concept Plan, all the zones have been spelled out for a couple of years is medium density residential, 5000-7000 square foot lots. He said he doesn't know if this is considered high density residential, but it is not per the City's ordinance. He said in terms of traffic and infrastructure, annexation in and of itself has no impact on traffic, you're not going to see a single subdivision as a result of the annexation, you're not going to see new homes built as a result of the annexation, or people hooking up to sanitary sewer connections as a result of the annexation, that is something that would become evident after a zone change application and after subdivision applications were approved. He said in that case, you would have neighborhood meetings, further hearings and a full public process for all those types of activities. Mr. Goodell emphasized, this was a property owner initiated annexation, people that wanted to join the City and this is the impetus behind the application. Mr. Goodell offered to answer questions.

Mayor Middleton closed the public hearing and asked for Council discussion, indicating that Brad Kilby could address the question of noticing.

Brad Kilby stated there is a mapping error on tax lot 105, and said if you notice (referring to the map in the presentation) at the end, all of the property owners that did sign it, 105 is not included, it's simply a mapping error. He said that property is not included in your ordinance to be brought in, it was the actual legal description submitted by the applicant along with those properties that had signed the application. He said you can see this tax lot, which is 9.92 acres tax lot assessed value \$63,900, about half way



down, it says signed petition, 1 of 3, this is what Chris Goodell was talking about with 1 of the 3 landowners signed it. He said this is enough for a majority when you're talking about the whole area. He said it's the majority of the property owners, with the majority of the area with the majority of the assessed value, that's what constitutes a triple majority. Brad said with regards to the notice, state law requires that everyone within 100 feet of the properties proposing to come in be notified, and that notice was sent out and it also required that we post notice in the Tigard Times and we did that for two consecutive weeks, even leading up to this hearing and we also posted the site in two locations, on Middleton and on Brookman. He said it's a fairly large property and these were the two most logical places to post, Brad explained the specific areas of the posting. He said we contacted the School district to see whether or not they had issues with these properties coming in and they were involved in the planning of the 2009 Concept Plan and they did not express any concerns of the capacity at the school.

He said can some of these properties be developed with multifamily structures, he referred to the presentation map and said the bright yellow ones could potentially be with multifamily residential, the tan colored ones are medium density residential low and in the medium density residential low, multifamily dwellings are not a permitted use. He said it's a small portion of that site if they were to be developed multifamily, they could potentially be, but he is not sure of the acres of that area or what NCD's they could get. He said with regards to Brookman Road and future development out there, Brookman would come in with this annexation to the City and would still be a County facility, but would be in at the City to allow City utilities to go down Brookman and it would have to be improved to meet County arterial standards, which at this point is a three land section, similar to what you might see at Day Break on Elwert. He said he thinks there are larger issues with Brookman, but annexation is not necessarily the time to address those, this is how City's grow, you annex property in and as it gets developed, and you already have it concept planned, you know where utilities are coming from, you know your streets and know what your zoning will be and at the point where this comes in, there is a discussion of how the properties are developed and what improvements are required to serve those specific properties. Brad addressed the comments about plan expiration and said this is a 2009 adopted plan and this was brought in in 2002 to accommodate a projected 20 year land supply for the city, under the urban growth boundary amendment. He said we took seven years before we actually planned it and then five years, and it's still within its twenty year plan horizon.

Councilor Langer stated to confirm, this is all private property and all owners, with the exception of two that happen to be on a property where there are three owners, everybody with the exception of those two are requesting and signed for it. Brad confirmed this is correct and said the petitions and signatures were certified by Washington County. Brad provided additional right-of-way information indicating this was public.

Councilor Langer confirmed the schools were involved in the decisions and did not have any capacity issues. Brad replied they were involved in the 2009 Concept Plan and did not raise any issues with capacity and he attempted to contact Heather Cordie, Superintendent on three different occasions and spoke with her Administrative Assistant and she said they had no comment.

Councilor Langer asked the 2009 Plan you're referring to is a 20 year plan. Brad replied he is not sure what the time horizon is, but an urban growth boundary expansion is intended to accommodate a 20 year growth supply, so in 2002 when they made that they said over the next 20 years we expect this area to develop to urban density and the City came in 7 years later and went through the concept planning process to designate and comp plan that area.

Councilor Langer asked how much other similarly zoned properties in Sherwood are available for residential, the majority of this is medium density residential low, is there much other property of that zoning type sitting around the City. Brad replied he doesn't know the exact numbers and there are probably properties along Elwert that would be eligible MDRL and the majority of other properties you might see developed are infill projects that are small, under 10 lots.

Councilor Langer asked if the Brookman area is the next big growth spot for Sherwood. Brad replied it's the area that has been designated for growth since 2002, and there are other areas you might recall, that were brought into the Urban Reserve Area, those are areas that might be considered and are currently under consideration under the appeal that is at the state level, as to whether or not they can be covered as Urban Reserves, potentially those areas could come into the Urban Growth Boundary and be developed prior to this.

Councilor Langer asked if we approve it and let it go to the ballot tonight, this is obviously not the last step past the majority vote of the citizens of Sherwood. Brad confirmed it's up to all of the Sherwood citizens and not up to the people within the area anymore, he clarified the people that are not part of this request will not get to vote on this request because they are outside of the City and their property is not being proposed to be annexed.

Councilor Clark addressed the comments about piecemeal and asked if there is a problem with bringing the property owners in with respect to the Sherwood citizens approval, that want to be in and not including the properties that don't want to be in. Brad replied not specifically related to, what they have assembled here are properties where it is conducive to serve with public utilities extended outside of the City. He said under ideal circumstances you would want the entire area to come in because that makes the most sense to work with all the property owners to bring in services. He said this is a large group of people and it's like herding goats when you're trying to assemble a bunch of property owners that have the same idea and we know from experience that not everybody in Brookman Road agrees that their property should be annexed, so I would highly suspect, unless again you went with a City initiated annexation to annex the entire area, it would have to pass muster again to come in much more than you see today. He said he thinks what you see is something referred to, development follows pipe and pavement, and suspects that once these properties adjacent out here have services available, they will be interested and might try and annex into the City. He said to be clear, nobody in this area is required to develop their property once they are annexed, that is still a property owner decision and when they do decide to develop they will be subject to our standards as opposed to the existing standards of Washington County.

City Attorney Beery added she agrees with what Brad has said and from a legal standpoint there is no limitation other than that the boundary be reasonable and given that public services and facilities are those that have been considered with these, she is certain that the test will be met and this is the legal requirements.

Tom Pessemier added we have studied this area for a long time since 2009 with a concept plan and the proposal is fairly logical when you talk about being able to serve it with utilities, if you were going to stage an annexation proposal, which would make sense in this area, this is the most likely way we would do it if the City were to propose it. He said we would tell you if we did not think it was readily serviceable, and the last thing we want to do is create issues that we will have to live with for a long time

and the Council would have to live with because people can't logically develop their property, this particular configuration of property does make a lot of sense to city staff and the Engineering Department.

Councilor Butterfield stated his vote tonight is going to be to send this to the voters.

Attorney Beery asked Brad, he indicated that the cross-hatching was a mapping error and the legal description that was submitted doesn't include the erroneous cross-hatched parcel. Brad replied this is correct. Ms. Beery confirmed the acreage calculation and everything else was done based on the correct area so that we have a correct ballot title in front of the Council. Brad replied it is correct based on 97.5 acres and 12 parcels.

Mayor Middleton stated he agrees with Councilor Butterfield, that these people brought this to us and we are not out there trying to take their land.

Mayor Middleton asked for a motion.


**MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2013-048, SECONDED BY COUNCILOR LANGER, MOTION PASSED 6:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (COUNCILOR FOLSOM WAS ABSENT).**

**9. ADJOURN:**

Mayor Middleton adjourned at 10:05 pm to a URA Board of Directors meeting and due to the time, the Council did not address Citizen Comments, Council Announcements or the City Manager Report.

Submitted by:

  
Sylvia Murphy, MMC, City Recorder

  
Bill Middleton, Mayor