



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, October 1, 2013

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**

5:30-6:30 pm City Council Executive Session

**Pursuant to ORS 192.660 (2)(I) & (2)(F), Performance Evaluation and Exempt Public Records
(Following the regular City Council meeting)**

6:30 pm City Council Work Session

7:00 pm City Council Regular Meeting

City Council Executive Session-Continued

(following the regular meeting)-Tentative



Home of the Tualatin River National Wildlife Refuge

5:30 CITY COUNCIL EXECUTIVE SESSION

6:30 PM CITY COUNCIL WORK SESSION

1. Solid Waste Rate Review

REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CONSENT

- A. Approval of September 17, 2013 Council Meeting Minutes

5. PRESENTATIONS

- A. Eagle Scout Recognition

- B. Student Recognition, Sherwood High School Track Team State Champions

6. NEW BUSINESS

- A. Resolution 2013-052 Authorizing the City Manager to enter into a contract with Murray, Smith & Associates, Inc. to update the City's Water System Master Plan
(Craig Sheldon, Public Works Director)

- B. Resolution 2013-053 Authorizing the City Manager to purchase playground structure and swing set for Murdock Park (Craig Sheldon, Public Works Director)

7. PUBLIC HEARING

- A. Ordinance 2013-008 Amending the Municipal Code to add Chapter 9.54 Regulating Camping in Areas Open to the Public (Tom Pessemier, Assistant City Manager)

8. CITIZEN COMMENTS

9. COUNCIL ANNOUNCEMENTS

10. CITY MANAGER REPORT

11. ADJOURN TO EXECUTIVE SESSION (Tentative)

12. ADJOURN

AGENDA

SHERWOOD CITY COUNCIL

October 1, 2013

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Pursuant to ORS 192.660 (2)(I) & (2)(F)
Performance Evaluation & Exempt Public
Records

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Executive Session-Continued
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**Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140**

How to Find Out What's on the Council Schedule:

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To Schedule a Presentation before Council:

If you would like to appear before Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder Sylvia Murphy by calling 503-625-4246 or by e-mail to: murphys@sherwoodoregon.gov



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
September 17, 2013

CITY COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:08 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Bill Butterfield, Robyn Folsom, Krisanna Clark and Matt Langer.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Jeff Groth Police Chief, Julia Hajduk Community Development Director, Julie Blums Finance Director, Kristen Switzer Community Services Director, Craig Sheldon Public Works Director, Bob Galati City Engineer, Michelle Miller Senior Planner, 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 September 3, 2013 Council Meeting Minutes

MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.

Mayor Middleton addressed the next agenda item.

6. **PRESENTATIONS:**

A. Eagle Scout Recognition

Mayor Middleton congratulated Matthew Brooks for earning his Eagle Scout Award. Mayor Middleton asked Matthew to explain his Eagle Scout project. Matthew stated his project consisted of working with the Principal at the Sherwood High School and building longboard skateboard racks at the High School. Mayor Middleton thanked Matthew for his service and contributions and presented him with a Certificate of Achievement.

Mayor Middleton addressed the following proclamation, not on the Council agenda.

B. Proclamation of 20th Anniversary of The Friends of the Refuge

Mayor Middleton stated the City will proclaim September 28-29, 2013 as the 20th Anniversary of The Friends of the Refuge. He read the proclamation which stated the Tualatin River National Wildlife Refuge is a large part of what makes Sherwood unique and one of the reasons Sherwood is amongst the most desirable communities to live in Oregon. He noted the City of Sherwood first proposed the Refuge to the US Fish and Wildlife in the early 1990s, and City elected and appointed officials, City staff, and Sherwood citizens were tireless in their support of this urban natural area. He said the Friends of the Refuge was established in 1993 to expand support for the Refuge, and he encouraged everyone to visit and enjoy the Refuge on this weekend and thanked the Friends for 20 years of efforts. Mayor Middleton presented Cheryl Hart with the Proclamation. Ms. Hart stated she was the President of the Friends and invited the community to a celebration at the Refuge, 11am on the September 28th. She explained the public was invited to participate in a project of constructing a very large Eagles nest structure on the side of a trail. She said the structure will be made of sticks and branches and people of all ages were welcome as this will be a symbol of what our community is, built by the community. She stated their annual meeting will be held that day and original founders of the Refuge will be present.

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

7. PUBLIC HEARING

A. Ordinance 2013-007 an ordinance approving the Sherwood Town Center Plan and amending the Comprehensive Plan Text to reflect the Town Center Plan and establish a vision, policy and strategies to guide future implementation

Julia Hajduk Community Development Director came forward and stated the Council packet contains the Planning Commission recommendation as well as testimony from ODOT. Julia said the City Recorder received written testimony from BPA (see record, Exhibit B) and the testimony indicated they did not have any objections as long as it doesn't affect their facilities. Julia informed the Council it would not. She said we also received a letter from Washington County (see record, Exhibit C) generally concurring with ODOT's comments. Julia presented a presentation (see record, Exhibit A) and recapped what would be discussed tonight: Staff will provide a brief background, review the Plan highlights, discussion on how the Plan has evolved, highlight the Comprehensive Plan changes, review the next steps in implementing the Plan and then hold a Public Hearing. Julia recapped why we are doing a Town Center Plan and stated in the 1990s Metro Council adopted the 2040 Growth Concept that guides regional growth and development for the next 50 years and Sherwood has a designated town center in the vicinity of the 6-corners area but no plan was ever adopted. She said having a plan helps communicate the community's vision and helps focus investments and strategies and tells existing and future residents and businesses what we want to see and what we don't want to see and said why we are doing it now is we received a grant from the State of Oregon to do that and the main components were to evaluate the Town Center boundary, identify opportunities and constraints for successful redevelopment and creating a strategy for the development and re-development of the area. Julia showed a map of the study area that was looked at and said it was much larger than the 6-corners, the Town Center Boundary that was initially identified by the City without a formal public input to the plan

adoption. She referred to the grey-dashed area of the map and said this is what Metro has considered until now as our designated Town Center, because that is what we told them it was. She said when we began the study we looked at a much larger area to have a lot of areas to look at from an opportunities and constraints and evaluation process. She said as part of our development we had a review structure that really included a lot of community participation, we had updates in the Archer and on the website, we had an interested parties list, articles in the Gazette, stakeholder interviews, open houses, survey's and all that input along with a Stakeholder Advisory Committee that consisted of business owners and property owners in the area, HOA's within the study boundary, as well as representation from the School District, transit people, and student representatives were part of this Stakeholder Advisory Committee. She said we had a Technical Advisory Committee comprised of agency staff, Metro, Trimet, ODOT, Washington County as well as neighboring jurisdictions of Tualatin and Tigard. She said they provided recommendations to the Steering Committee, which was the Planning Commission, and all this evolved into the Town Center Plan.

Julia referenced the presentation and stated the Plan boundary, the brown line, is the study area that was initially studied and the sub-districts are the actual boundaries that evolved. She said it includes three sub-districts, and this will be important to recognize as this evolves. She said the Langer Drive District is envisioned to be more pedestrian friendly over time, reorienting the buildings to the streets, rather than parking lots as development and redevelopment occurs. She said looking at parking needs, whether or not we can reduce parking to allow for more infill in those areas, encouraging a mixture of uses, but retaining the visibility on these busy roads.

She said the Central Neighborhood is included because it ties both the Langer Drive Commercial and the Old Town Area together. There are opportunities to have an enhanced pedestrian improvements filling in sidewalk gaps and there is an acknowledgement that we will try and preserve the existing neighborhoods, but there will be infill as allowed now, infill that may happen over time, and we want to make sure as we move forward in implementation that we make sure it continues to be compatible with the existing neighborhoods.

She said the Old Town Overlay area pretty much remains as we currently envision it with preserving the main street character, having the buildings designed to draw people to old town and focusing on the local small scale buildings.

She said another element of the Plan is streetscapes, trails, transit and parking. She said the Plan envisions enhanced streetscapes on Langer and Sherwood Blvd. with wider sidewalks, landscaping, bike facilities, making some streets more bike friendly as we have opportunities. Having more connections throughout the Plan area and having gateways. Julia referenced the presentation indicating the Gateway Concepts to show this is where you're at and said the entire Town Center has elements that are similar, but have unique pieces for each sub-district. She said this will be developed over time, and not everything is known at this stage. She said this Plan provides a vision and said as she speaks of streetscapes and trails, we are not doing anything through this plan specifically. She said we are not saying you shall move the buildings or this is how we are going to design the streets, it is laying out a vision, so as we do the capital improvement planning or as grant funds are available, we have an idea of what we are trying to work towards. She said there will be future opportunities for public input and processes as we move forward.

Julia explained how the Plan was evolved and said the Council and Planning Commission had a joint work session in June of 2013 and said at the time there were still a lot of uncertainties that were discussed from the Planning Commission about the boundary, concerns about the strategies and the action plan items and there was also significant increase in citizen interest. She said Walmart was announced about this time and they had named themselves the Sherwood Town Center and we suddenly had a lot of people paying attention to the Town Center and had concerns about that project but also had concerns about this project. She said it allowed us to get more public input and feedback. She referred to the Council and Planning Commission work session and the questioning of us being ready to move forward. She said she believes we all realized that we were not quite yet ready to move forward. She said the Planning Commission slowed down and we took the time to get more input. She said we had several additional Planning Commission work sessions where we discussed the policies and strategies in depth and we also had a public work session, where the public was invited to come and meet with the Planning Commissioners in small group discussions facilitated by the commissioners. Julia stated that helped inform where we are today.

Julia referenced the presentation indicating the highlighted revisions from what they initially had as she wanted the Council to see what the Planning Commission put forward as their recommendation and said this is a product of a lot of listening and refinement. She said some of the things that were revised from the original plan that was developed by the Stakeholder Advisory Committee and Technical Advisory Committee and the Steering Committee, was removing the Action Plan from the adoption package. She said initially we had envisioned that we were going to have a Town Center Plan and then this adoption package would help guide future actions.

Julia said while we at the staff level understood that wasn't final and there would be future public conversations, it caused a lot of confusion and concern when we were talking about it so we decided not to include that and send that message to the public, that this is where we want to go and we would focus on the policies and strategies, and then will have conversations about all of these, which was intended with the action plan. She said the Action Plan was taken out of the adoption package and throughout the town center policies and strategies we softened the words to make it clearer that there will be future implementation actions and they will be collaborative processes with a lot of public outreach at decision making points. She said they also removed any reference to higher density, as we knew this would be a future conversation and we may not ultimately go there and we wanted to focus on the intent which was the appropriate scale of mixed uses. She said to try and eliminate that concern, we knew there would be additional conversation about this. She said we also eliminated the strategy that called for allowing four story buildings in the old town portion. She said there was very little support and survey information was overwhelmingly negative towards that. She said we modified the parking strategies a little bit to reflect that they would have conversation and not make it seem like there was a forgone conclusion that we were going to reduce parking, but that we would look at it. She said we added a new section to the Comprehensive Plan to acknowledge that future planning was needed for the 6 Corners area and referred to the boundary concerns. She said this allowed a placeholder and acknowledgement that we know there is more to consider beyond the Town Center area. She said they added reference to consider adjacent areas when implementation efforts began and we did that through the Planning Commission hearing process, primarily we received some public input with concerns about impacts on adjacent properties, especially across Tualatin-Sherwood Road. She said the Planning Commission made changes, based on that, they did not take all of the property owner recommended changes. She pointed out the ODOT comments and Washington County comments spoke to that issue, the adjacent concerns.

Julia offered to go through their comments in detail either before or after the public hearing. She stated she believed that it is more of a semantics issues and she believes what the Planning Commission was intending to say is that they acknowledge that there is more to everything we do than just the Town Center and we want to consider how it impacts adjacent areas. She said she believes we could go either way as long as we have a good conversation on what that means to us and a legislative intent and legislative history. She said we can talk about whether or not changes to the policies and strategies based on the additional information we have received, if this is something the Council wants to do.

Julia referred to the project overview and timeline and said the adoption hearing were 3 months later than we originally anticipated because of the slowdown, but we have a better end product. She highlighted the Comprehensive Plan amendments and said we updated Chapter 4 to reflect the Town Center Plan. She said there is a new Chapter 9 which is referred to as the Special Area Plan Section that provides some general policy for all special area plans and lays foundation for Special Area Plans in other areas of the community at a later date, we have a foundation to start from.

She stated we have done a very brief introduction to the six corners commercial district and identified what we mean by that with a map. She said that allows us when implementing the Town Center Plan and the Policies that talk about adjacencies; we have something to work with.

She said the Town Center Plan itself is incorporated in Chapter 9 of the Comprehensive Plan providing an overview of the plan, boundaries, and land use and transportation components and policies and strategies. She clarified that in Exhibit A.2 which is the proposed Comprehensive Plan changes, the last page reads "insert final policies and strategies here", and she explained that rather than reproducing what's in the plan and having that reproduced in the actual Comprehensive Plan changes, in the event that the Council made additional changes we did not do that, but in clarifying for the record, whatever the Council adopts for policies and strategies in the Town Center Plan would become those policies and strategies in the Comprehensive Plan document.

She referred to future actions and stressed that adoption of this Plan lays the foundation for future actions that will be needed and said this doesn't actually make anything happen now, but sets a vision and a tone and tells us what we want to work on as we go forward in other planning activities. She said we know we will need to do additional steps, evaluating the development code language for accessory dwelling units, modifications in the Old Town process, parking requirements and setbacks and probably a few more. She said we are also beginning our Transportation System Plan update and some of these strategies will be folded into that conversation. She said there could be a branding or signage program that may be undertaken but not added to any work program at this time, but we will discuss with budgets and workloads. She said there could be possible zone changes or density changes in the future by an applicant or if the City wants to move forward with additional discussions about that, but all of these actions will have additional public outreach and engagement. She stressed how well responded the public work session was with the Planning Commission and said we envision we will replicate those types of work sessions in the future.

She recommended holding a public hearing to consider adopting the Planning Commission's recommendation that includes the Town Center Plan which includes the boundary, vision, policies and strategies and the Comprehensive Plan amendments to reflect the Town Center Plan, including a new Chapter 9 that identifies special area plans. She noted that she could discuss the policies and strategies if the Council wanted to get into the details.

Mayor Middleton opened the public hearing.

Jim Claus, 22211 SW Pacific Hwy, approached the Council and stated this is the most remarkable transformation he has ever seen. He described Sherwood when he moved here, having a CBG, Central Business District, cannery, banks and restaurants and made reference to the current post office being a meeting place. He said it was low density, diversity architecture and incredibly pedestrian oriented and biking oriented. He said in the time we have developed, we have stopped any form of restoration and you have to rebuild by the fee structure. He said there is no break for restoration, so the restoration that was started on the hotel, the theater and a number of buildings has been all but abandoned because you structurally made it so your staff needs fees so you require tearing down as Lucas did, he said this is junk and is embarrassing and not a good architectural model. He stated you have changed the road structure entirely and you can't get a truck down here anymore and said the traffic circle is dangerous. He said now you have added 50 units per acre, which is the highest density in Sherwood, has been put downtown and said you are intending higher density of the piece you bought. He said now you have a mixture of architecture, a road net that can't be used to deliver things, you have introduced a demographic mix with a parking problem, and now you have brought in Walmart. He stated Walmart, of all the mass merchandisers, they have the lowest income and middle aged group, so now you have changed the demographic mix coming through town. He referred to those calling that a vision and said it is a nightmare, you will have 37,000 cars moving through that and Tualatin-Sherwood Road on a holiday at Walmart. He said you don't have a town center anymore, you have a Los Angeles spread that if you don't make moves to stop you are going to tear this downtown and stop the gentrification if you haven't already and you are going to create a completely demographic mix. He referred to comments made by Councilor Grant regarding retailing not being a zero sum gain. He said you have a zero sum gain in retailing you meet it and you will put somebody out of business and Walmart will put people out of business and that is predatory retail.

Nancy Taylor, came forward and commented on traffic, the plan, the environment, citizens and wildlife. She state Julie was right, the announcement had been made and people have been talking. She said because of what she does as a living, she started digging deeper as she wanted to see both sides and try to weigh and balance them. She said you have a floodplain around here that pretty well protects the citizens at this point, and said she doesn't think it will be there much longer and believes we will see what happened to Tualatin during what occurred with the last big flood, where all the downtown gets flooded. She asked why is that, because you change the geographic pattern of the town, you change the geological pressures. She said that is up to you, you can adopt a plan, bring in higher density growth, lower density growth, you can call it whatever you want to, but when you change a traffic plan in the way that you are doing, and you say in this traffic plan this is sustainable in Sherwood, I don't think so. The 37,000 that was just mentioned probably is much closer to being true than the 1.7 cars per day, this is what I was given when I first came down here and asked about the traffic plan. She stated, on the impact versus the cost that you will gain from it, well I'm not sure, I keep debating that one. She said she thinks the impact to the environment will be horrible and she thinks the wildlife refuge is already sitting on extremely fragile land and finds it humorous that we invite the wildlife in and then have duck blinds so close to kill them. She commented on galvanization and said what did you think, that people wouldn't be angry with the biggest predatory retailer coming into town. She said she noticed not a lot has been happening on the site and hopes it remains that way. She referred to the citizen comments and said we have come down and made citizen comments and they have normally been stopped, because she doesn't think anybody sitting up there, other than maybe the Mayor has cared much about the comments made by the citizens. She reminded the Council that the citizens voices are important in this

town, and said we are taxpayers and homeowners and we do matter. She stated as we go to work and come home, it becomes increasingly harder. She said there is a perception in town and it is only echoed in the newspapers that there is a lot of preferential treatment and believes this is true and on this board there are people who get preferential treatment in this town and believes they get this preferential treatment at the County level and the State level.

Naomi Belov, a Sherwood resident, came forward and asked about the new plan being considered and asked if Phase 7 of the Langer PUD has been included. Julia Hajduk replied the Langer PUD Phase 7 is not included in the boundary. Ms. Belov referred to a slide in the presentation and said it showed the Langer PUD now being included and asked what this was.

Julia asked if the Council wanted staff to respond to the questions, Mayor Middleton indicated we had one minute to respond.

Julia explained to Ms. Belov, this was the study area and referred to what the boundary is and said the Langer PUD was in the original study area which included more than the area that is in the plan. Ms. Belov clarified, that Phase 7 is not considered part of the Town Center Plan, Julia replied that is correct. Ms. Belov said she noticed in the book that there are a number of road projects, reasonably likely transportation projects in the study area and said a lot of these seem to feed directly into that new proposed development and Phase 7 of the Langer PUD, the proposed Walmart site, that is Adam's Ave., now called Langer Parkway, she asked if these are all studies that have been completed or you're planning to spend more tax dollars on in order to benefit this development, or are those things that are coming up in the future. Such as Oregon Street, Murdock Road to Rail Crossing, Adam's Ave. to Gerda Lane, you're planning to construct roads to collector standards. Century Road to Langer Farms Parkway to Tualatin-Sherwood Road, all these roads directly benefit that one retailer and said she doesn't know why our tax dollars should be going to pay for any of this.

Phil Grillo, a land use attorney with Davis Wright Tremaine came forward on behalf of Takfal Properties LLC and stated he wanted to address the issue Julia mentioned, the "adjacent to" language that we proposed initially in front of the Planning Commission and worked with both staff and the Planning Commission to refine that language. Mr. Grillo said what the Council has in front of them is the "adjacent to" language the Planning Commission recommended. He said he believes the language is in Policy 7, Strategy 7.6, Policy 8, Strategy 8, 3 and 8.4 and said there is some related language in Policy 5, which includes both property owners and governmental agencies to actually target investment in regards to Policy 5. He said he wanted to respond to the comments that ODOT made and said we have previously addressed the comments made by Washington County, but ODOT has expressed a concern about "muddying" the boundary of the Town Center by including this language. He said he wanted to make it clear that he did not believe this was the intent of the Planning Commission and it wasn't our intent when this language was proposed. He said originally we asked the Planning Commission to consider actually amending the boundary and they decided they did not want to go in that direction and staff did not want to go in that direction and instead we worked in a more collaborative way to try and articulate that there is an essence, an area of influence around the Town Center boundary. He said this is not an Urban Growth Boundary, it's a planning area boundary and obviously things that happen inside the Town Center will effect uses and activities that are adjacent to the Town Center and that is certainly the case with regard to us, located immediately north of Tualatin-Sherwood Road. He said for us the concern has always been that things that are going to happen as Washington County continues to design that roadway need to be taken into consideration as part of the Town Center Plan because we

have a connection to the Town Center and have a connection to the properties to the south and we obviously influence the Town Center. He said one of the uses that is very important in a Town Center both from the City's perspective and from Metro's perspective is having a cinema in a Town Center. He said that is the kind of use you want to have, he said you don't have a cinema in a Town Center per say, but you do have a cinema adjacent to the Town Center. He said it's important from a planning perspective to consider these areas of influence and that is all we were trying to influence in terms of adding that language. He offered to answer Council questions.

Eugene Stewart, came forward and stated each night as he drives home from work and sits in traffic around six corners, he can't help but think this plan does not help traffic. He said he is befuddled how you can try to plan something when you're not looking at the traffic situation. He said at a minimum we should be looking at a bypass around Sherwood, because 90% of that traffic doesn't want to stop in Sherwood, yet are stopping at every stop light. He said you don't realize the traffic that comes from McMinnville, Dundee, Newberg, comes through Sherwood headed to downtown Portland or to Beaverton. He said 90% of the traffic that comes through downtown, they are not stopping and using it as a thoroughfare to get through Sherwood. He asked how do we stop that and correct it and said planners have not come up with a good plan yet. He said he doesn't believe this plan has been thought out well enough, long enough and needs to be tabled and you need to go back to a drawing board and do something that is more reasonable and will correct some of the traffic problems. He said this is going to compound your traffic problems, and will not cure them. He said he was at a citizen participation meeting and said many more could have been held and you still would not have gotten everything inputted that the citizens would probably like to input.

Susan Claus, came forward and asked Mr. Claus to speak on her behalf as she didn't feel well. Mr. Jim Claus came forward and said what you have done is change the transportation system so that it is no longer a central business district. He said both in the way in which the streets are built, the angles and curvatures have taken away any ability for this to be a central business district. He said with that in mind, you need to be very careful and realize what you have done and said any transportation manual will tell you that you have made this area nonfunctional except for certain types of automobile traffic. He said the second thing that is short sided, he referred to a trip to England and seeing building that were 300-500 years old, yet they were built after the bombing, and built to standards as they do in San Francisco. He said what Susan has done as an appraiser is look at what you have done downtown and you have barred restoration, you can't do it, it's impossible. He said it's what you call a structural decision, you have built it into your fees. He said the staff alleges and uses the word "stakeholder", he said he was assuming the APA for the union and we won when they invented that word, and referenced the Chinese saying there isn't such a word. He said once you define stakeholders you bring in everyone, anybody that can make money off a project, he referred to people making money and claiming to be doing the public good. He said what you have is a class in this town run by Mr. Gall that have a direct financial interest on the way they structure it and you cannot restore this area you have to redevelop it and you can't redevelop it because you put in a median that will prevent you to put in the density you would need to redevelop it. He said you realized these 100 apartments you signed 2.5 years before the public had any idea you were selling it to Capstone are keys who has three times the parking has 40% of the density you have and he has a major traffic problem. He said what Susan is suggesting as an urban land economist is you better come back to reality and better look at what you have done down here and you better look at rezoning it and forget what you are doing, because you have changed the demographic profile and this is not your town center any more, it's going to be demographically a much worse situation.

Meerta Meyer, came forward and stated in listening to Julia's review this evening she is very pleased with a lot of the changes and modifications that have been made, she said she feels citizen participation and involvement was well received by the Planning Commission and by staff and said she is thankful for that. She said she feels like a lot of progress has been made and said she would like to echo concerns made this evening, particularly related to traffic impacts and adjacent uses. She said in an effort to be very succinct, she would share a lot of the concerns that were expressed by the attorney who spoke earlier and would also like to echo concerns about overall traffic impacts within the City of Sherwood, primarily surrounding this boundary. She said in advance of choosing whether or not to move forward with the Town Center Plan this evening, she would hope that you would invoke commentary from our City Manager and get some thoughts from the City Manager on monetary implications on the implementation of the plan so that we can better understand how this will play out so that we can better understand how, if implemented, the policies will be presented to the community, how community comment will be received and how those items will be further considered. She said Julia mentioned this plan as it sits, is a vision of what we would like to see or what staff has reviewed with the public and others in terms of what this Town Center could potentially look like. She said looking holistically at this Town Center Area, she feels like development is going to happen and believes this is a positive thing for our City and thinks that very deliberate development needs to be made and feels like all the implications of zoning and land use and traffic certainly need to be reviewed before any final decisions are made.

With no further requests, Mayor Middleton closed the public hearing.

Councilor Folsom asked Julia if she had thoughts on the public testimony received.

Julia stated she would like to respond to the traffic questions and Ms. Belov's comments regarding the transportation improvements and said she thinks what Ms. Belov was referring to were the improvements that are listed on page 62 of your packet, she believes, and said most of what we have, have been identified, are things that are already in existing plans, Transportation System Plans, the Parks Master Plan and said there are only a few items on page 62, the bold and italicized items, that were specifically called out for, in addition to those improvements. Julia referred to page 67 of the packet, page 19 of the Town Center Plan, there was some analysis that identified.....she said this plan doesn't go as far as originally envisioned to go, so there are no zone changes, there's nothing in of itself that is going to do anything that will trigger transportation planning rule compliance and the need to identify additional transportation improvements. Julia stated on page 67 of the packet, page 19 of the Town Center Plan, it identifies that if you were to do changes to the code and comprehensive plan in such a way that you would increase density as it might be envisioned, there are a few projects that were identified that would be necessary. She said anything that we do moving forward in implementing this plan, because we did not do anything through this plan that triggers the transportation planning rule if we did zone changes, if we did things that will increase density in any way, we will need to make transportation planning rule compliance findings and identify traffic solutions that are necessary there. Julia stated we are just starting to update our Transportation System Plan. The Planning Commission recently had a kickoff meeting at their last meeting and we are advertising for Citizen Advisory Committee members to sit on this committee. She said through this process there are strategies in here that will be folded into the Transportation System Planning, updating process where we will get more in depth at solving transportation problems throughout the City and in this area.

Councilor Folsom referred to page 62 and asked for clarity on what Julia had said. Julia stated the list of 25 projects, the only things that are not already in identified plans are the bold and italicized projects,

she said most of the items on the list are things that already are existing plans. She said we are not doing anything new, except for that.

Councilor Folsom confirmed what Julia stated, is because the plan did not go so far as to change the zoning, it did not trigger certain requirements of the Transportation System Plan to define how those roads would be paid for and built. Julia confirmed this was correct.

Councilor Folsom stated this is a barebones structure that will live and grow as needed as we see and see the growth and development that desires to come, but right now we want to have a vision and a plan for the future. She said if we don't plan and they come, it can be a nightmare and someone else can step in and we wouldn't have any say. Julia replied, this is right and said it gives us, and referred to comments made by Meerta Meyer regarding monetary implications and what is the plan, and said she honestly doesn't know, because it's up to the Council in terms of policies and priorities, we have a lot of things at the community level currently on our plate, we are doing our Transportation System Plan update, so we know we will be able to fold some things into there, we still have some code clean-up action items that we need to work on and we will be able to fold some of these elements into that. Julia stated having this plan allows us to keep this foundation in mind as we move forward. She said if you want to make this the highest priority then we will figure a way to do that. If it's certain elements raised to a higher level, for example the branding and signage that may be something you push to the side or something you want to make a higher priority. Julia said it's a starting point to develop prioritizations from and she doesn't have a recommendation for the Council at this time.

Councilor Folsom stated this is a general structure that we are starting with, knowing that it will change as it needs to, it's a concept plan. Julia confirmed.

Councilor Folsom said she has heard from the citizens' concerns with traffic and said we do know that the improvements that are happening will hopefully help a lot with that. She asked if we have received any additional information on Tualatin-Sherwood Road. Julia replied yes and said her understanding is that the County has made the determination that the signal will come out. She said we did early-on a sensitivity analysis from the traffic standpoint for this plan and said from a traffic standpoint it really doesn't impact the Town Center that much. She said all of these improvements, currently in design and construction and also plans, will certainly help. Julia stated she wanted to stress, the idea of a Town Center is that you have a walkable, pedestrian friendly multi module area where people can get to either by bike or walking or driving to and walking around, the idea of a well-planned and well developed Town Center Plan helps reduce traffic, because you have something that is more appealing to get around in other than in an automobile.

Councilor Henderson asked Julia to address some of the citizens' concerns regarding adjacent properties or adjacent uses and why that might be a perceived concern or a future concern. Julia replied the main issue that was discussed at the Planning Commission level was the concern of having different standards. Julia gave an example of no drive-thru's in the Town Center, that it could look odd, but could also unintentionally detract from the Town Center viability. She said what they wanted to do was acknowledge that this is a Town Center and we want to plan for a Town Center but we also want to consider how it effects those adjacent uses. Julia stated that is what their recommendation does. She said ODOT and the County's concerns, she believes, is not understanding what we mean when we talk about adjacency and concerned about the unintended consequences from a traffic modeling standpoint and from a planning in the future standpoint.

Councilor Butterfield stated he personally thinks we have a traffic problem and he thinks we should put the Town Center Plan on hold until we fix the traffic problem. He said he believes we can spend our money more wisely in taking care of that issue before we move on.

Mayor Middleton stated, this is just a plan and it can be modified later and changed with public input. He said we are facing a timeline and this plan is part of the overall plan that we have to get to be able to receive funding for other projects. Julia replied, Metro created more of a “carrot” that previously when they designated Town Center areas, there was no consequence, and right now they have modified it and have been clearer with what it means to have a Town Center Plan and to adopt a plan and they have tied regional investments to it. Julia stated basically, you can’t get a regional investment if you don’t have a Town Center Plan. Julia added, it does not mean you have to adopt anything or adopt what you want, but we do have a grant and we would need to show some conclusion to this. She said it’s also tied to the Southwest Corridor Planning effort as well.

Mayor Middleton stated we also have the TSP coming up and this is where we will get into the traffic issues as well.

Councilor Folsom clarified that there is possibly a financial benefit to adopting a plan to help with the traffic. Julia replied right now it’s limited with what they define as regional investments, but there is certainly the possibility that they could change that over time and when we apply for regional funding through the MTIP process there are priorities given, if you’re in a Town Center or Regional Center, and if we don’t have an adopted Town Center that could negatively affect us.

Councilor Folsom stated we have been through this with the SE Sherwood Master Plan and when it wasn’t adopted it left us in a bind now and asked if this is something that could potentially happen in the future. Julia replied yeah, and said anytime you start a process and you have the public aware of things and when you don’t do something, it muddies the water and we don’t have a vision. Julia stated she respects what Councilor Butterfield is saying regarding traffic being an impact and said this doesn’t necessarily affect traffic, but it helps us move forward with solving some problems and helps us know what we want to do. She said she has had developers in the past come to the City and ask what the City wants done in a certain area and she can’t tell them because we don’t have a vision or a plan, she can only tell what the zoning allows. She said having a vision helps guide future development and future decisions.

Councilor Clark stated she also feels the concerns about the traffic and said does this plan bind us in any way, adopting a certain traffic plan above all others. Julia replied, no, not at all and this is really where we got to. She said anything that made it sound like we had made a final decision was modified to make it clear that this is a start, the start of a long conversation.

Councilor Clark stated she attended many Planning Commission meetings and open houses on the Town Center Plan and the way she sees this is as a first step forward to creating a vision of what we want Sherwood to be. She said we are not negating that there are issues that are going to develop and that are here and will continue to develop along the way, but if you don’t step forward what are you doing? She commented regarding listening to the public and the Planning Commission and has heard a lot of work going into this, and feels like we need to move forward as a Council and as a City with a Plan that can be modified.

Mayor Middleton stated this is his feeling as well, that it's only a plan and it can be modified and we will not be stuck with anything, as citizens, that we don't want. He said it gives us a basic starting point and blends in with the SW Corridor Plan and other plans will come together. He stated he wanted the public to understand, speaking for himself, that none of this would be done without public involvement. He said the TSP, if people are interested, we are looking for citizen volunteers for that and that will have a lot of impact on the future traffic for this City. He said this is critically important if people are looking to get involved in the traffic issues.

Councilor Langer commented regarding traffic and traffic pollution that have come up in conversation in prior years and some presented by the County in some of their Tualatin-Sherwood-99 meetings. He said he knows when Tualatin-Sherwood Road was built, they built 5 lanes out to Teton and stopped and we know we need it all the way to Hwy 99 and beyond. He said what he heard the county discussing was that, this is in process and they are working on making that connection for us. He said this addresses some of the Tualatin-Sherwood-99 congestion. He said as a Council we made the decision a while back and acquired some property by Elwert and the Elk's and so there is work going on there to help alleviate that problem with a future round-about. He asked Julia to speak on the solutions going on outside of this topic. Julia replied another key project is the 124th Ave. extension which will be a huge relief valve from Tualatin-Sherwood Road. He said all of these projects are funded and assumed when you're doing traffic modeling because you know they will happen. She said those will help improve the transportation system in the future years, she said that's assumed when you're looking at the traffic impacts associated with any development. She said 124th, Tualatin-Sherwood Road widening, the Kruger-Elwert interchange, those will all work together to help solve some of the major transportation problems.

Councilor Folsom asked for the timeline for these. Julia replied she didn't know about Kruger-Elwert, and the Tualatin-Sherwood Road widen project is happening now and believes they are looking at constructing next year and 124th they are looking at 2015 for construction.

Mayor Middleton said he heard Kruger-Elwert was 2017 and Tom Pessemier replied it's in their 6 year funding plan and we are trying to get them to push it up in the funding plan cycle, but now it's towards the end of what they adopted back in 2012 and their cycle for those funds goes through 2018.

Councilor Grant stated he was impressed with what the Planning Commission has put into this and as always, has done a great job. He said it's been heavily vetted already and referred to comments made by Councilor Clark and said he is satisfied with what we are doing here and it doesn't preclude us from making any kind of decision that we might make or future Councils might make with respect to traffic or anything else. He said it's not made to stop us from making a decision, is as much as anything, a message back to Metro and working with them like all other town center's around the Portland area. He said he is satisfied with that.

With no other comments received, Mayor Middleton called for a motion.

MOTION: FROM COUNCIL PRESIDENT HENDERSON TO READ CAPTION AND ADOPT ORDINANCE 2013-007 TO APPROVE THE SHERWOOD TOWN CENTER PLAN AND AMENDING THE COMPREHENSIVE PLAN TEXT TO REFLECT THE TOWN CENTER PLAN AND ESTABLISH A VISION, POLICY AND STRATEGIES TO GUIDE FUTURE IMPLEMENTATION, SECONDED BY COUNCILOR CLARK, MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Middleton said that the Chair of the Planning Commission who was in the audience and thanked the commission members for their work.

Mayor Middleton addressed the next agenda item.

8. CITIZEN COMMENTS

Jeanette Hatcher came forward and commented regarding the committee and said she did not realize citizens had already met for this committee. She thanked the Council for the signs and said she is not sure they are working and she is concerned as people come off Hwy 99 to 12th and Gleneagle and driving fast on the newly paved 12th Street. She said when Walmart comes in there is not a light there. She said she is trying to reach Carol, a Relay for Life coordinator and asked if anyone knew how to reach her. Ms. Hatcher commented regarding “information signs”, big posts on City sidewalks and asked the Council to take them down and said they are not needed. She said she is concerned and wants to be on this committee and is concerned about pedestrians and said she can’t tell the Council how many times she has nearly been killed. She said she used to live in Beaverton a much larger town and felt safer there. She said she loves this town and doesn’t want to move. Ms. Hatcher commended the work of City Engineer Galati and commented regarding his outreach and communication with her. She said she wants to try and make this town better and has met a lot of people in wheelchairs and commented regarding the street curb-cuts not being even. She said she can’t make it to Albertson’s as there is no sign. She commented regarding making this town more accessible for people with disabilities.

Eugene Stewart came forward and reminded the Council to start doing something about the Senior Center and figuring out what the City will do to operate it and get visioning and progress before the contract with Loaves & Fishes on programming runs out. He said we should not leave them in a lurch and we need to know what we are going to do. He suggested getting the volunteers that currently help out and getting other people and with them all, a lot could be accomplished. He commented regarding having an ordinance on evasive weed control and said you’re not following it and said one of the worst offenders is the City. He asked what is the policy and how will we get the berry vines under control. He said they will become a fire hazard after sitting for 5-6 years and said the vines burn hot. He said it’s dangerous and we shouldn’t have to get 3 people complaining about it to get something done. He said it’s something that the staff should be able to figure out and get it taken care of.

Jim Claus 22211SW Pacific Hwy came forward and stated he wanted to make it clear he was going to take a copy of this tape and is going to take a request of Ms. Murphy’s transcription of this, because what he is going to do at some point, on about potential and actual conflict of interest and we will go to the proper authorities for state and federal. He said he is assuming Ms. Beery has looked at the IRS probate ruling we put in, outlining the Langer’s interest in real-estate and said he is assuming you have taken the time to look at those that we put in from the Secretary of State’s office. He said since you have vested yourself continually in this conflict of interest of apparent or actual you have now acted as City attorney on this matter and I’m assuming you have done your due diligence on Mr. Langer’s interests. He said all records of the sign code we have found, Mr. Langer has voted on every single instance of the sign code, has never said I have a potential or actual conflict of interest. He said that takes care of the statute of limitations problem, it’s within the two years and we will use that as a reference manual, because the leagues of cities and towns, which Beery Elsner and Hammond are involved with, makes that as a recommendation. He said there is no question of value of signs, Mr. Langer, in the IRS ruling

and he sells signs, he knows they have an economic value. He said now you get to an interesting question, a question that you allowed him to vote on Dave Zimmer's Sherwood Plaza and that family is the lessor of that land. He said that is the only parcel of ground in Sherwood without frontage on 99w that voted on that sign code. He said the sign code is not being and has not been enforced. He said we will submit documents that show that the forcibility of that document is benefiting Mr. Langer. He said he doesn't think there is any question at this point that there was an actual and a potential conflict of interest and said he will also for the purpose of the other agencies enter a number of court cases where the extreme value getting access to those highways adds to properties is a documented fact. He said among those, Metro Media and certainly in this town, the billboards selling at the price they are selling you know you're dealing with something that is worth a third of the value of that frontage. He said deviated from the potential and actual conflict of interest which runs anytime you vote on something that benefits parcels of land, I would recommend you have a committee spend time with the Secretary of State and IRS Ruling and put them together. He said you will be surprised at the extent of holding of that family, he represents his children and more than that he maybe the general manager, while this is not the current complaint, which we will fill out, think about the budget and ask if in his storage he takes any budget money from somebody you allocate money to and doesn't bring up a potential conflict of interest, because that will be the next complaint.

Mayor Middleton addressed the next agenda item.

9. COUNCIL ANNOUNCEMENTS

Councilor Folsom thanked Eugene Stewart for his diligent work with working on the Senior Center and said this is a priority for her as the liaison to the Senior Center to work with the City Manager and Management team on figuring out that plan. She congratulated Marika Conrad a Hopkins Elementary teacher for her national award. She thanked the School District and the Middle School and referred to the volume of signups for the fall junior musical tryouts and said through the support of a 10 directorial team, Ms. Thunderheid and Ms. Godfrey at the Middleton school and the District Administration they have expanded through the weekend with 6 shows and have doubled casted the show. She said to mark your calendars for October 25th and 26th and November 1st and 2nd. She reported the VPA was awarded a grant from Target that funded the My Oregon Report for 2014 at Archer Glen. She said we were no longer able to fund that because of the need and said we almost reached \$100,000 in the 8 years we have donated back to the schools and community grants and scholarships. She said she met the new School District Maintenance and Transportation Director and commented regarding his openness and willingness to strengthen partnerships. She commended City staff, specifically Lance Gilgan for his communication regarding the use of a school gym.

Councilor Clark reported the American Cancer Society is having a prevention study on October 8-10th at the YMCA and said it's a prevention study for anyone that's between the ages of 30-65 years of age can apply for. She said applying is very easy and explained the process of the study. She highly recommended people sign up at the YMCA or online at the American Cancer Society webpage and said Selma Broadhurst is looking for volunteers for on the 8-10th.

Councilor Langer congratulated Julie Blums as the new Finance Director and asked if we have received the plaque for the financial award. Staff confirmed it has not arrived yet.

Councilor Grant also congratulated Julie Blums and said there couldn't be a better replacement for the job. He said the YMCA is looking amazing and he helped paint on a Saturday and this inspired staff to volunteer their own time and said a lot of volunteer hours have gone into the project.

Mayor Middleton addressed the next agenda item.

10. CITY MANAGER REPORT

City Manager Gall had nothing to report.

With no other business to address, Mayor Middleton adjourned the meeting at 8:40 pm to convene to an Executive Session.

11. ADJOURN

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 8:50 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Bill Butterfield, Robyn Folsom, Krisanna Clark and Matt Langer.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Recorder Sylvia Murphy and City attorney Pam Beery.
4. **TOPIC:**
 - A. City Manager Performance Evaluation, pursuant to ORS 192.660(2)(i) Performance Evaluation and 192.660 (2)(f) Exempt Public Records

5. ADJOURN:

Mayor Middleton adjourned the Executive Session at 10:20 pm and reconvened to the regular session.

REGULAR SESSION

With no additional business to address, Mayor Middleton adjourned the regular session at 10:25 pm.

Submitted by:

Sylvia Murphy, MMC, City Recorder

Bill Middleton, Mayor

TO: Sherwood City Council
FROM: Craig Sheldon, Public Works Director
Through: Joseph Gall, City Manager

SUBJECT: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MURRAY, SMITH & ASSOCIATES, INC. TO UPDATE THE CITY'S WATER SYSTEM MASTER PLAN

ISSUE: Should the City of Sherwood update its 2005 Water System Master Plan.

BACKGROUND: In 2005 the City implemented a new Water System Master Plan to evaluate the future needs of the City. This Master Plan has guided City development since its approval. However, the City continues to grow since 2005 and in 2012 began taking a new water source from the City of Wilsonville.

The Water System Master Plan should be updated every 5 – 7 years. Due to the changes that were going to be implemented, staff held off on updating the Master Plan until the new water source was in place.

Updating the Water System Master Plan will evaluate existing future system conditions, recommend appropriate water distribution/treatment (plant) system improvements, appropriate water rates, and SDCs to support these needs.

In June 2013, the City issued an RFP for On-Call Engineering Services through the Daily Journal of Commerce newspaper with one of the projects identified in the RFP being to update the Water System Master Plan. The City received proposals from four (4) engineering firms.

The City assembled a team to review the proposals and evaluate them based on criteria established in the proposal. The panel consisted of staff members from Public Works and Engineering. During the evaluation process, Murray, Smith and Associates, Inc. (MSA) scored the highest unanimously.

Letters were sent to all firms and no protests were lodged so the City proceeded with negotiations with MSA.

This plan will not update our water management and conservation plan that will be updated in 2017 and will not produce a resiliency plan which will need to be completed separately.

Financials: The City's 2013/14 adopted budget approved \$140,000 to update the Water System Master Plan as identified in our capital improvement plan.

The City has successfully negotiated a contract with MSA for \$102,204. I am requesting 15% contingency for a total of \$117,535.00.

Recommendation: Staff respectfully requests approval of Resolution 2013-052 to enter into a contract with MSA to update the City's Water System Master Plan.



RESOLUTION 2013-052

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MURRAY, SMITH & ASSOCIATES, INC. TO UPDATE THE CITY'S WATER SYSTEM MASTER PLAN

WHEREAS, the project is identified in the City's Capital Improvement plan; and

WHEREAS, City staff utilized a consultant selection process for this project meeting the requirements of the City and state contract rules; and

WHEREAS, Murray, Smith and Associates, Inc. was selected through this process to update the City's Water System Master Plan; and

WHEREAS, anticipated costs for this project is \$102,204; and

WHEREAS, staff recommends a contingency of 15% for a total amount of \$117,535 to cover any unanticipated development costs.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager is authorized to enter a contract with Murray, Smith & Associates, Inc. for updating the City's Water System Master Plan.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 1st day of October 2013.

Bill Middleton, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council
FROM: Craig Sheldon, Public Works Director
Through: Joseph Gall, City Manager

SUBJECT: A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE PLAYGROUND STRUCTURE AND SWING SET FOR MURDOCK PARK

Issue: Should City Council authorize the City Manager to purchase a new playground structure and swing set for Murdock Park.

Background: In the 2013/14 budget, replacement of the existing structure at Murdock Park was removed.

During a council work session in May 2013, Council requested the City Manager to allocate money for replacement of the structure.

The existing playground structure at Murdock Park was constructed in 1998. The City has had safety issues with the structure over the last 8 years. The life expectancy of a playground structure is 12-15 years. In Sherwood we strive to get 15-20 years. We were able to get a longer life from our structure due to routine maintenance and continually replacing parts.

With authorization from City Council to reinstate the money, City staff worked on finding several structures that would fit the needs of the neighborhood park, would fit within the existing playground structure area and would fit within the budgeted amount.

On August 5, 2013 City staff recommended four options to the parks board with the desired outcome being 2 options that we could take to a community meeting for a vote. Parks Board recommended Option 1 and Option 4.

On August 19, 2013 City staff held an open house at Murdock Park from 5:30 to 7:30 with notice sent to approximately 500 residents in the surrounding neighborhood. During the open house City staff along with the Parks Board Chair provided the two options to the neighborhood residents and answered questions that were raised. At this open house, neighbors were asked to vote on their favorite option with Option 1 coming in with 29 votes and Option 4 with 3 votes.

On September 9, 2013 City staff presented the results to the Parks Board and the Parks Board recommended moving forward with Option 1.

A grant was submitted on behalf of the City by the Rotary Club in the amount of \$50,000 to be applied to the playground towards purchase of the playground structure. The grant also includes an additional \$2,000 for surfacing material. The grant application is still being reviewed with a decision expected later this fall.

Financials: The City will purchase this structure from BCI Burke per the State of Oregon Contract in the amount of \$64,304.39. This amount includes the playground structure, the rock climbing structure and the swing set.

By purchasing through the state bid we will have a direct savings of \$7,331.61 than if we purchased directly from the vendor. This amount does not include the savings incurred from staff.

Monies for this project will come from the general fund and if the Rotary grant is awarded to the City this fall, the amount from the general fund will be reduced accordingly.

Installation and removal of existing structures, surfacing material and border are not included in this amount.

Recommendation: Staff respectfully requests approval of Resolution 2013-053 to purchase playground structure and swing set for Murdock Park.



RESOLUTION 2013-053

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE
PLAYGROUND STRUCTURE AND SWING SET FOR MURDOCK PARK**

WHEREAS, The City has a responsibility to maintain the safety, integrity and function of our parks systems; and

WHEREAS, safe parks are an important element of Sherwood's culture and playground structures are a high priority and must continue to be addressed if the City is to maximize the use of the facilities while protecting its assets; and

WHEREAS, City Council indicated that they wanted staff to move forward with replacement of Murdock Park playground structure and swing set in the 2013/14 Budget year.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager is authorized to purchase the playground structure and swing set for Murdock Park in the amount of \$64,304.39.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 1st day of October 2013.

Bill Middleton, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Tom Pessemier, Assistant City Manager
Through: Chris Crean, City Attorney and Joseph Gall, City Manager

SUBJECT: Ordinance 2013-008 an ordinance amending the municipal code to add chapter 9.54 regulating camping in Areas Open to the Public

Issue:

The Special Committee formed by the City Council made a recommendation to adopt a camping Ordinance on properties in the City of Sherwood. This recommendation was presented by the Chair of the Committee, Meerta Meyer, on August 6th, 2013. At the meeting, the Council discussed the recommendation and reviewed the proposed text of the Ordinance. Council indicated that it was favorable to considering such an Ordinance but wanted Legal Counsel and Staff to address a couple of specific items and return with revised language and a recommendation from Staff. The specific items were: 1) to make sure the definition of Area Open to the Public was clear, and 2) to make sure that the Ordinance was clear that this did not apply to residential yards where people may set up tents for family events.

Background: There has been a periodic problem of camping in areas open to the public that was identified as a public safety and welfare problem. The Police Chief indicated that a camping ordinance such as the one proposed would be an asset in dealing with this issue in the future.

Staff has modified the proposed Ordinance language as requested by City Council at the August 6th meeting. Staff also took the opportunity to look more carefully at the Ordinance and has the following suggestions for Council to consider:

- Adding *crime victimization* in the list of activities in section 9.54.010 (Purpose)
- Add to Section 9.54.080 Variance Review language as follows:
*The City Manager, City Manager's designee may grant a Class A variance.
City Council may grant a Class B variance.
If requested by the applicant the City Manager may extend a Class A variance by up to 15 calendar days if Council cannot consider a Class B variance because of scheduling issues.*
- Consider changing section 9.54.110 – Civil Penalties as follows:
A person who violates any provision of this Chapter is subject to a civil penalty (Class C violation) for each day a violation occurs.

Note: Currently a Class C violation is \$100.00

Financials:

There are no financial impacts connected with Ordinance 2013-008 except for periodic enforcement efforts by the Sherwood Police Department to ensure compliance.

Recommendation:

Staff respectfully recommends Council further consider Ordinance 2013-008 to establish camping regulations on Areas Open to the Public after carefully reviewing the suggested Staff changes.



ORDINANCE 2013-008

AN ORDINANCE AMENDING THE MUNICIPAL CODE TO ADD CHAPTER 9.54 REGULATING CAMPING IN AREAS OPEN TO THE PUBLIC

WHEREAS, Sherwood City Council established a special committee for the purpose of developing potential new ordinances to regulate the conduct of individuals and businesses in the City; and

WHEREAS, among the ordinances recommended by the special committee, the committee proposed regulations to address unauthorized camping in areas open to the public; and

WHEREAS, on August 6, 2013, the City Council conducted a public hearing on the proposed ordinances, including the proposed camping regulations, and

WHEREAS, at the hearing the Sherwood Chief of Police testified that the camping regulations would be a useful tool for law enforcement to protect public health and safety; and

WHEREAS, after reviewing the proposed camping regulations the City Council directed staff to make certain revisions to the regulations to clarify that it is not intended to apply to personal use of residential property, including such things as backyard tents for family events; and

WHEREAS, after reviewing the revisions to the proposed camping regulations, the City Council agrees that the camping regulations are in the best interest of the City of Sherwood and the health, safety and welfare of its residence.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Findings. After full and due consideration of the evidence presented, the Council finds that the text of the Sherwood Municipal Code shall be amended to create regulation of camping in Areas Open to the Public; therefore, the Council adopts the amendments contained in Exhibit 1.

Section 2. Approval. The proposed amendment for the Municipal Code Amendment identified in the attached Exhibit 1, is hereby **APPROVED**.

Section 3 - Manager Authorized. The City Manager is hereby directed and authorized to take such action as may be necessary to document this amendment, including necessary updates to Chapter 9 of the Municipal Code in accordance with applicable City ordinances and regulations.

Section 4 - Effective Date, This Ordinance shall take effect 30 days after its approval and adoption.

Duly passed by the City Council this 1st day of October 2013.

Bill Middleton, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Grant	_____	_____
Henderson	_____	_____
Middleton	_____	_____

Exhibit 1:

Chapter 9.54 – Regulation of Camping in Areas Open to the Public

9.54.010 - Purpose.

This chapter is enacted to promote and protect the health, safety and welfare of the City’s residents as well as property within the City through the regulation of Camping on or near Areas Open To The Public as well as on or near vacant lots in order to address the adverse impacts of such activities including littering, public urination, public defecation, public intoxication, theft of water and electricity, verbal and physical assaults, trespass onto adjacent public and private properties, vandalism, property damage, fire hazards, and harassment or intimidation of occupants, employees, and/or customers.

9.54.020 – Definitions

For the purposes of this chapter, the following definitions shall apply:

A. “Area Open To The Public” means an outdoor area on private property within the City and that is intended for public access including but not limited to private streets, alleyways and pedestrian ways, and common areas such as parking lots and picnic areas of schools, medical facilities, apartment houses, office and industrial buildings, service stations, churches and retail shopping centers. An “Area Open To The Public” also includes a vacant or unimproved lot or parcel that, while not intended for public access, is not fenced or otherwise restricts direct public access to the lot or parcel. “Area Open To The Public” does not include those areas of improved private real property that are not open to the public such as a residential property including the yard.

B. “Camp” or “Camping” means the use of an Area Open To The public as temporary quarters for the purposes of living, sleeping or residing. Such activities may include, but need not be limited to any of the following: (1) sleeping or making preparations to sleep, including the laying down of bedding for the purpose of sleeping; (2) the parking of any motor vehicle, including a motor home, recreational vehicle or trailer, for the apparent purpose of occupancy; (3) storing personal belongings; (4) making any fire; and (5) conducting cooking activities.

9.54.030 – Regulation of Camping

Except as otherwise provided in this chapter, a person shall not Camp in any Area Open To The Public. Nothing in this chapter prohibits a person from Camping in an area lawfully designated for Camping including campgrounds or recreational vehicle parks.

9.54.040 - Enforcement Responsibility and Authority.

The Sherwood Police Department and the City Manager, or person designated by the City Manager, are jointly charged with the enforcement of this Chapter.

9.54.050 - Variances.

- A. Any person may apply for a:
 - 1. Class A variance to Camp in an area open to the public for up to fourteen (14) days in duration; or
 - 2. Class B variance to Camp in an area open to the public for fifteen (15) or more days in duration.

- B. A person, entity or organization may apply for a variance under subsection (A) on behalf of multiple individuals or person(s).

- C. Notwithstanding any other provision of this chapter, the Chief of Police, the City Manager or the City Manager's designee may permit a person to Camp in Areas Open To The Public provided: (1) a situation exists that necessitates the need to camp in the Area Open To The Public; (2) the use of the Area Open To The Public for Camping purposes will not, on balance be unduly detrimental to the public health, safety or welfare; and (3) the owner or person or entity legally controlling occupancy of the Area Open To The Public has consented to the Camping.

9.54.060 - Variance Application.

- A. An applicant for a variance shall submit the following information on a form approved by the City:
 - 1. A reference to the provision in this chapter from which the variance is sought;
 - 2. The reason(s) why the variance is necessary;
 - 3. A general description of the physical characteristics of the Area Open To The Public for which a variance is sought;
 - 4. The variance's time period;
 - 5. The signed consent from the owner or person or entity legally controlling occupancy of the Area Open To The Public for which the variance is sought;
 - 6. Any other supporting information the City Manager or City Council may reasonably require to allow consideration of the conditions set forth in Section 9.52.100.

B. The applicant for a Class A variance shall submit the application to the City Manager or the City Manager's designee. The applicant for a Class B variance shall submit the application to the City Recorder, who shall place the matter on the agenda for a forthcoming City Council meeting.

9.54.070 - Public Notification for Class B Variance.

The applicant for a Class B variance shall post notice along the nearest public road at the boundaries of the property containing the Area Open To The Public for which the variance is sought so that the notice is visible from the public road and publish notice thereof in a newspaper of general circulation in the city. Posted notice on the property shall be at least seven days prior to the public hearing with published notice completed at least four days prior to the hearing. Notice under this section shall state the date the council will consider the application, the nature and substance of the variance to be considered, and that written comments on the application may be filed with the City Recorder before the meeting at which the application is to be considered.

9.54.080 - Variance Review.

The City Manager, City Manager's designee or City Council may grant a variance, after considering the written application for variance and any written comments submitted when it appears the following conditions exist:

- A. There are unnecessary or unreasonable hardships or practical difficulties which can be most effectively relieved by granting the variance, and;
- B. The granting of the application will not be unduly detrimental to the public health or safety or welfare.

9.54.090 - Variance Decision.

- A. The City Manager or the Manager's designee shall grant or deny a Class A variance within three days of receipt of a complete variance application, excluding Saturdays, Sundays, and holidays.
- B. The City Council shall grant or deny a Class B variance within thirty (30) days of receipt of the application, and may, on its own motion, hold a public hearing on the application before deciding to grant or deny the variance.

C. The City Manager, City manager's designee or City Council may impose such limitations, conditions and safeguards as deemed appropriate, so that the spirit of the chapter will be observed, and the public safety, health and welfare are secured. A violation of any such condition or limitation constitutes a violation of this chapter.

D. A decision to grant or deny the variance shall be in writing and state the reasons for the decision. The City Council or City Manager shall notify the applicant of the decision and shall make it available to any person who submitted written comments on the application.

9.54.100 - Review.

The decision of the City Manager, City Manager's designee or the City Council to grant or deny a variance is final. Such decisions may be reviewed pursuant to ORS 34.010 to 34.100 (writ of review).

9.54.110 – Civil Penalties.

A person who violates any provision of this Chapter is subject to a civil penalty of no more than one hundred dollars (\$100.00) for each day a violation occurs.