



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
August 5, 2014**

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 6:02 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark and Councilor Matt Langer. Councilors Bill Butterfield and Robyn Folsom were absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** Assistant City Manager Tom Pessemier, Finance Director Julie Blums and City Recorder Sylvia Murphy. City Attorneys Howard Rubin and Chris Crean.
4. **TOPICS:**
 - A. Labor Negotiations pursuant to ORS 192.660(2)(d).

5. ADJOURN:

Mayor Middleton adjourned the Executive Session at 6:33 pm and convened to a work session.

WORK SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 6:34 pm.
2. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark and Councilor Matt Langer. Councilors Bill Butterfield and Robyn Folsom were absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** Assistant City Manager Tom Pessemier, Finance Director Julie Blums, Public Works Director Craig Sheldon and City Recorder Sylvia Murphy. City Attorney Chris Crean.
4. **TOPICS:**
 - A. **Water Governance Group Update**

Public Works Director Craig Sheldon provided the Council with an update and distributed a document, Willamette Water Supply Program Timeline (see record, Exhibit A). Craig recapped the document, discussion followed.

5. ADJOURN:

Mayor Middleton adjourned the Work Session at 6:55 pm and convened to a regular session.

REGULAR SESSION

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:02 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark and Matt Langer. Councilors Bill Butterfield and Robyn Folsom were absent.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Assistant City Manager Tom Pessemier, Finance Director Julie Blums, Public Works Director Craig Sheldon, Community Development Director Julia Hajduk, Community Services Director Kristen Switzer, City Engineer Bob Galati, Library Manager Adrienne Doman Calkins, Senior Planner Michelle Miller, Economic Development Intern Emily Leuning, Administrative Assistant Colleen Resch, and City Recorder Sylvia Murphy. City Attorney Chris Crean and Bill Kabeiseman with Garvey Schubert Barer.

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

5. **CONSENT AGENDA:**
 - A. **Approval of July 15, 2014 City Council Meeting Minutes**
 - B. **Resolution 2014-054 Authorizing the City Manager to sign a successor Intergovernmental Agreement (IGA) with the Washington County Consolidated Communications Agency for the purposes of providing public safety dispatch services**
 - C. **Resolution 2014-055 Authorizing partial waiver of Water System Development Charges to allow connection of property to City water for property with a contaminated drinking water well**

MOTION: FROM COUNCILOR CLARK TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR GRANT, MOTION PASSED 5:0, ALL PRESENT MEMBERS VOTED IN FAVOR. (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

Mayor Middleton addressed the next agenda item.

6. CITIZEN COMMENTS

Bob Eddy, Sherwood resident came forward and referred to a request he emailed to the Council and said he is a member of the Sherwood YMCA and is appalled at the blatant attempts of a City Council member and the Mayor to discredit the Y. He referred to the Mayor's public comments following the June 18, 2013 Council meeting. He said he tried to interact with the Mayor via email but was summarily dismissed. He said as a member of the Y he asked for documentation that related to whatever the disputes were about from both the local Y and the Columbia Valley Corporate Y. He noted that at the time he had not previously met Mr. Emmons, Mrs. Brouse or Mr. Hall. He said after reading the documents it was evident that the 32 minute "unnoticed" topic missing from the agenda of the June meeting was orchestrated and it

also became apparent that a couple of our elected officials were using their seats on the dais to attempt to ...

Mayor Middleton interjected and stopped Mr. Eddy and said he is not supposed to impugn the Council and said Mr. Eddy was done speaking. He informed Mr. Eddy if he wanted to continue and speak to his own facts that was fine. Mr. Eddy questioned the prior impugning of a councilor and Mayor Middleton stated impugning of people was being stopped. Mr. Eddy stepped down.

Jim Claus, Sherwood resident approached the Council and said he had a question that he would like answered in writing by the Council. He asked if they signed a contract with the highest density in the history of Sherwood with Cascade Development and asked if that was signed approximately 2 ½ years before this alleged public hearing was held where we were discussing density and design. He said he understands that BEH prepared a contract that was fully executed by this Council selling that for \$5000 a unit when the prevailing price was 10 and he understands that Cascade Development had a consulting contract and he was tipped off that all of this was done in executive session. He asked if Cascade Development was paid a fee and under what grounds of authority did the Council think they could do that. He asked if in the new Walmart if the PUD was parceled and said the Council had an executive session and knew that the PUD was going to be parceled out and allow the land to be sold which would require a cancellation of the PUD immediately. He asked if BEH was involved in drafting those documents that let that abhorrent item occur, i.e. took a PUD, parceled a piece out and sold it to a separate property. He said he remembered in the Planning Commission that Councilor Langer said...

Mayor Middleton interjected and asked Mr. Claus not to use specific Councilor's names and said this question would have to go back to staff.

Mr. Claus said he did not understand and asked the Mayor to shut off the clock if he was going to be giving advice.

Mayor Middleton said it is not advice he just doesn't want Councilor's names mentioned if you are impugning them or accusing them of something and they would rather have the staff take care of it.

Mr. Claus said he was not impugning him it is a matter of public record.

Mayor Middleton responded and said not to bring up certain Councilor's names if they were involved in certain things until we get to the facts. He noted that he wasn't here then and staff would have to address this.

Mr. Claus said of all of the people you should be listening to what is said rather than cutting into my 30 seconds now. Mayor Middleton said he would give him another minute.

Mr. Claus continued that he was at the Planning Commission and it was asked if Walmart was buying that property and the answer was no and if that is true there is no possible way you could have had an executive session where you allowed the staff to deviate from the plans of the PUD. He said in every case massive amounts of public money are involved. He said if Mr. Crean knew what he want to know, and he wants to know if there is any place in the public record where he said there may be a potential conflict of interest and the law firm would draft those documents. He said this is a matter and it appears you had in executive session and you sold that by contract 2 ½ years earlier and he wants to know who drafted the contract and he wants to know if it was the legal counsel that claims to be a public official so

that the proper complaints can be filed with the proper authorities and said that is not impugning anybody's reputation that is asking for facts. He said he wants to know because if that kind of conduct is occurring the citizens are entitled to know. He commented on drafting contracts that are going to excuse ex parte contact which you are denying that you are having then you have someone say on the public record that it is not happening. He said they are entitled to know what went on and can be done for a simple reason and said they have sovereign immunity and you have city county insurance and it will even defend an intangible tort. He said someone can know they are breaking the law and they will still defend that individual at our cost. He commented when you pay 750, 800 million dollars everybody's insurance goes up that is what self-insurance is about, the citizen's pay for it.

Council President Henderson asked if items are covered under executive privilege then they are not things that we talk about in the public or divulge to people that were not in the executive session. She asked if executive session information was disseminated outside of the members of the executive session that would be a violation of executive privilege. She said if Mr. Claus gained executive privilege information then that would be in violation of the laws that govern our ability to what is covered under executive privilege which are real property, personnel, litigation and confidential records. She asked if that is correct. She said if a court of law required the content of an executive privilege session to be divulged for the purposes of a legal proceeding that would be done but if a Councilor talks to a person outside of that executive privilege session then that would be a violation of executive privilege.

City Attorney Chris Crean said what is discussed in an executive session is excluded from disclosure and that is called the public meetings law in Oregon and presumes all public records are subject to disclosure except where there is an executive session which are exempt from disclosure. He said if the executive session privilege is breached then those materials become subject to public disclosure. He stated it would be a breach of an elected official's duty to knowingly breach the executive session laws because only the Council as a whole can agree to waive that exemption from disclosure.

Councilor Henderson clarified that not one individual Councilor. Mr. Crean said yes, not one individual Councilor and that would be a breach of their obligations to the Municipal Corporation.

Councilor Henderson commented that for those that don't know what executive privilege is this should be helpful.

Mr. Crean stated on a few limited exceptions to the general principal that all public records are available and open to the public for disclosure and some of the things you can meet in private about, including buying property, labor negotiations, litigation, but if you start discussing them openly then they are not private anymore and can be disclosed.

Councilor Henderson said that executive privilege allows the press to be present in the room which is a check and balance. Mr. Crean clarified that they can be there but can't report on anything they heard unless the Council waives the privilege and allows those things to be disclosed, and the press can start publishing what they heard in executive session.

Councilor Henderson referred to items discussed that are not covered under the noticing requirement. Mr. Crean commented that Executive Session is very limit and they have to discuss what is posted and cannot discuss other things.

Mayor Middleton said he would have to look over the minutes to see what information could be released to Mr. Claus.

Councilor Clark clarified that he was referring to something that was published as going to be discussed not something that he talked to someone about.

Mr. Crean said a public records request would help clarify.

Assistant City Manager Tom Pessemier said that staff would listen to the tape to get through all the points but agrees that a records request would be the proper way to handle this and said he would contact Mr. Claus to determine what he is looking for.

Council Henderson asked Tom to let the Council know if there is something they can follow up on.

With no other citizen comments, Mayor Middleton addressed the next agenda item.

7. PRESENTATIONS

A. Sherwood High School Student Academic & Athletic Achievement Recognition

The City Council recognized Sherwood High School students for Academic Achievements, students that received a perfect 4.0 GPA for the 2013-14 school year and recognized students for Athletic Achievements, students that placed 1st in State in a sport or art, as a team or individual. Assistant City Manager Tom Pessemier called forward students and the Council presented them with Certificates of Achievement.

B. Introduce new Library Manager, Adrienne Doman Calkins

Kristen Switzer, Community Services Director introduced Adrienne Doman Calkins as the new Library Manager and asked her to tell the Council about herself.

Adrienne Doman Calkins came forward and discussed her background and gave a brief Library update. She said she has spent the last ten years at the Olympia Timberland Library as a Senior Circulation Supervisor and said she is originally from McMinnville. She commented on the experienced Sherwood Library staff and shared some summer success stories from the library.

Community Development Director Julia Hajduk introduced Connie Randall as the new Associate Planner and said she has over 14 years of experience and is a Sherwood resident.

Assistant City Manager Tom Pessemier introduced Emily Leuning as the new Economic Development Intern and said she is splitting her time between Sherwood and West Linn and will be here for 6 months.

C. Sherwood Growth Analysis and Update

Julia Hajduk provided the Council with an update and gave a presentation (see record, Exhibit B). She said the presentation was originally prepared for the Sherwood School District. She said the first purpose of the presentation is to understand the regional context and where Sherwood fits in. She referred to the Metro growth concept map and said the important thing is that while Sherwood is unique it is also part of

a regional government that we are regulated by. She referred to the urban reserves and said they are intended to be a 50 year supply of land. She commented on rural reserves and said they are not to be touched for 50 years. She referred to the areas on the map that are labeled undesignated and said that is land that could potentially be used if they run out of urban reserves. She commented on the areas south of Brookman that were brought in for residential purposes and the areas east for employment purposes. She said when Metro and the City are looking at how to grow and where to grow it has to be land in the urban reserve in order to be developed and has to be determined by Metro to be needed to be brought into the urban growth boundary to meet the 20 year land supply. She said and then when it is in the urban growth boundary it has to be brought into the City limits in order to be urbanized for the most part. She said even when it is in the City limits it will not necessarily be developed. She commented on the land development process and said she wants people to understand that it is long process.

She said Sherwood has a population of 18,575 and approximately 6,700 dwelling units and over 5,000 are single family and over 1,600 are multifamily. She said in 2013-2014 they issued 88 residential building permits and the City is in the process of approving subdivision development which will yield approximately 83 lots which will be developed within a year or so.

She commented on the vision for 2 to 5 years and said they have an idea where there could be potential development and they anticipate approximately another 180 to 225 units will be approved and noted that this does not assume the Brookman Road development because it has not been annexed.

She referred to a map in the exhibit highlighting areas that they feel are the most likely to be developed within the next several years. She commented on the 5 to 10 year vision and said they anticipate Brookman Road will be annexed by then and it has its own capacity of 1088 units based on the zoning and the concept plan but they don't anticipate that all of those lots will be developed within that time period, maybe 300 to 500. She said they also anticipate that they will continue to see infill within the existing lots in the City but there is a limited infill capacity of approximately 500 units.

She said the vision for 10 to 20 years is not as clear and commented on the 1,280 acres in the urban reserves west of Sherwood and 439 areas south of Sherwood and said combined it is estimated these areas could provide an additional 8,000 to 9,600 dwelling units based on the densities assumed by Metro as part of the urban reserve process. She said that is a rough number and is a 50 year supply. She commented on planning and master plans and said as Metro looks at expanding the urban growth boundary we can advocate for or against certain areas and through the annexation process the City has a say in how fast areas develop and in what way through the concept planning process.

She noted they will be starting the concept plan for the area west of Sherwood and it will be about a year process and they will identify what the right use of mixes and the phasing strategy. She said the focus of the presentation was originally for residential growth and the Sherwood west concept plan will include additional planning.

Tom Pessemier commented that in the past they have done economic opportunities analysis which looks at industrial, primarily job creating districts and the last plan was in 2006. He said that plan showed that we have enough land to provide for opportunities. He said the most important thing is community vision and community values and said it is critical in making this work and Sherwood has a unique identity, it is important to remain unique. He said as we work through this 50 year process it is important that we engage the community.

Julia commented on the process of considering growth and the information that is analyzed and said long term we need to continue that discussion of community vision. She referred to the regional and the local needs for housing and jobs and said there may be more of a regional burden on Sherwood because of the way the urban reserves are at the boundaries and we are at the edge of the Metro area but there are tools to help meter the growth to ensure that the community vision is addressed through advocacy and annexation decision and the development code.

She referred to preparation and said they have updated the transportation system plan and will be doing the water system master plan and the storm and sanitary sewer master plan this coming year. She commented on coordinating with other agencies and the resources that are available.

She concluded that growth is going to happen and we need to plan for it, the near term issues and preparing for and preventing long term issues. She said coordination with the City, the School District, the Fire Department, ODOT, Washington County, Clean Water Services, the State, Metro and neighboring jurisdictions and all of this coordination will help manage the growth.

Council President Henderson referred to the urban growth boundary map and asked about the undesignated areas and asked about the process of developing that area.

Julia said that area is undesignated and not in the urban growth boundary and is rural and regulated by the County rural farm rules and that is Clackamas County. She said for someone to develop that area at an urban density would be very unlikely until the urban reserve areas are used up or identified as unrealistic. Tom said Metro's calculations show that they will not need that area within the next 50 years and their intent is to not touch the undesignated areas until the urban reserve areas are used.

Councilor Grant referred to the Brookman Road annexation attempts and pressure from Metro to develop and asked Julia what could happen if annexation attempts continue to fail.

Julia said in Washington County there are options for the County to allow for urban development not in a city which is why she was alluding to tools that give us some control. She said the County is currently not going in that direction but they may have pressure to do that in the future. She said there are certain areas in Washington County that are developed at very urban densities that are not inside a city.

Councilor Langer asked how that would affect property taxes and other services.

Julia gave the example of developing Bull Mountain in Tigard and said it was difficult to have homeowners want to come into the City and pay city taxes but they were so close that they were using city resources.

Tom clarified where citizens could become involved in the process and said there is a lot of time for input. He said the process has changed where before the urban growth boundary changed before you did the concept planning and Metro has changed that. He commented on the urban rural reserve or 50 year plan and said that is mostly done except for the undesignated areas and said the next step is the concept plan which is the process they are now entering with the west Sherwood concept plan and that is looking at a very big area over a 50 year period of time and that will provide information that will help Metro and the City decide what the urban growth boundaries will be. He said there will be opportunities for involvement in the concept planning as it goes forward. He noted annexation is another process where citizen and the

Council have the most control because it requires a vote by citizens and an ordinance passed by Council in order to be annexed. He said he wants people to know where they can get involved in the process.

With no other Council questions, Mayor Middleton addressed the next agenda item.

8. NEW BUSINESS

A. Resolution 2014-056 Authorizing the City Manager to execute a construction contract for the SW Lincoln Street Pavement Rehabilitation Project

Craig Sheldon, Public Works Director came forward and said this is the next phase of the Lincoln Street project and it is the areas from Willamette Street to Division Street. He said the resolution needs to be amended and stated the last whereas should read "City staff recommends City Council to authorize the City Manager to execute a construction contract with the lowest responsive bidder in an amount of \$252,148.81 plus 10 % construction contingency." He referred to Section 1 which should read "The City Manager is hereby authorized to execute a construction contract with the lowest responsive bidder in an amount of \$252,148.81 plus a 10% construction contingency upon completion of the mandatory seven (7) day protect period for the completion of the SW Lincoln Street Pavement Rehabilitation Project." He said they received the bids today and had 5 contractors attend the mandatory bid requirement. He said it is over the engineers estimate but there is work outside the paving alone and it is within the budget he said it is a decent bid to approve.

With no Council questions or comments, the following motion was received.

MOTION TO AMEND: FROM COUNCILOR GRANT TO AMEND RESOLUTION 2014-056 AS STATED BY MR. SHELDON, SECONDED BY COUNCILOR LANGER, MOTION PASSED 5:0, ALL PRESENT MEMBERS VOTED IN FAVOR. (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2014-056 AS AMENDED, SECONDED BY COUNCILOR LANGER, MOTION PASSED 5:0, ALL PRESENT MEMBERS VOTED IN FAVOR. (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

Mayor Middleton addressed the next agenda item.

B. Ordinance 2014-014 Amending Sherwood Municipal Code Chapter 8.08 Alarm Systems

Julie Blums, Finance Director reminded the Council of previous discussions regarding why the City was requiring this permit, and the discussion of was it providing a benefit to the community and was it cost effective. She said they determined the answer was no on all questions. She said they are proposing to eliminate a fee and become more efficient. She stated that alarm permits will no longer be required and the code will be changed to read that if you have more than two false alarms in a calendar year it will become a code violation instead of an invoice from the Finance Department. She said the police will issue a citation and it will go through the municipal court process.

Councilor Clark asked what the difference is in pricing.

Julie said the price of an alarm permit now is \$100 and there is a \$25 renewal fee each year and the fine for false alarms depending on the number is from \$50 and \$500. She said if approved the fine for more than 2 false alarms in a calendar year will be a Class D violation which is \$110.

Council President Henderson clarified that on the third false alarm the resident will be issued a citation and can pay the fine or come to municipal court so the ordinance would take the fee off the fee schedule and put it under municipal court. Julie said that is correct.

Councilor Henderson asked what else is considered a Class D violation. Tom Pessemier said Class D is undesignated to anything that is not a Class A, B or C.

Julie commented that last year we assessed only \$800 in false alarm violations and commented on the cost effectiveness and said we do not have a false alarm issue in Sherwood.

Councilor Henderson asked if this will be the same for residential and commercial. Julie said yes.

With no other questions or comments, Mayor Middleton asked for a motion.

MOTION: FROM COUNCIL PRESIDENT HENDERSON TO READ CAPTION AND ADOPT ORDINANCE 2014-014, SECONDED BY COUNCILOR CLARK, MOTION PASSED 5:0, ALL PRESENT MEMBERS VOTED IN FAVOR. (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

Mayor Middleton addressed the next agenda item.

9. PUBLIC HEARINGS

A. Ordinance 2014-013 Approving a Planned Unit Development (PUD) to be known as Cedar Brook Planned Unit Development including application of a Planned Unit Development Overlay on the Comprehensive Plan and Zone Map and approving the sixty-five lot subdivision – Public Hearing continued from July 15, 2014

Michelle Miller, Senior Planner came forward and updated the Council on what has transpired since the July 15 meeting regarding the Cedar Brook PUD, which is a 65 lot subdivision and said the packet materials include the proposed ordinance, the Planning Commission recommendation and several new exhibits labeled R through U. She said Exhibit R is a staff memo with additional recommended conditions and several comments regarding statements made at the last hearing. She said Exhibit S is an email from Joe Broadhurst and Exhibit T is a revised layout provided by the applicant concerning the water quality facility and Exhibit U is a review of the revised layout by the City Engineer. She said since the packet materials were prepared they received an additional email from Eric Valdez which was sent to the Council referencing the Cedar Brook PUD along with other issues. She said this will be added as Exhibit V (see record).

She referred to the staff memo and the process for the PUD and said this is a subdivision application along with the PUD so Council will be reviewing the PUD along with the subdivision application and if approved they will be approving that preliminary plan. She said if approved it goes back to the Planning Commission for a final development review and said it will be a type 4 process where there will be notice plus the public hearing process. She said at the last hearing the applicant considered changing the water quality facility design for the storm water treatment and convert tract C into the water quality facility from

an open space area. She said they have now officially submitted plans which are Exhibit T and City Engineer Bob Galati has reviewed the plans and that is Exhibit U showing that it is feasible but it changes the area of open space which used to be approximately 21% of the area down to 19% which is still meeting the open space requirement. She said based on that change staff added condition E.9 to the Planning Commission recommendation.

She referred to feeder trails and said the applicant has proposed several areas of feeder trails throughout the project as well as an additional trail along the City property to connect with other local trails. She said the applicant was considering a soft surface trail but our transportation system plan design standards show that the trail would need to be comprised of a hard surface. She asked that this language be added to the proposal which is condition G.7 to read "phase 2 portion of the project consists of design and construction of a hard surface trail." She said after further review of the open space areas staff recommends adding a condition that allows for pedestrian and bicycle access to the public through the site on all of those open space walkways and private streets to improve circulation throughout the site and that condition would be E.10. She said prior to the approval of the final plat, provide pedestrian and bicycle access easement over the entire tract that include a private pathway or private street. She said in addition to that, staff contacted Clean Water Services about the private dog park being located near the vegetative corridor and their response was they have issued a Clean Water Services provider letter and one of their provisions and recommended conditions would be to include signage along the boundary of that vegetative corridor. She said they incorporated that into their recommendations.

With no questions from the Council, Mayor Middleton asked the applicant to come forward.

Steve Miller with DR Horton came forward and said some of the conditions were new and referred to the public access over all of the tracts and requested that the public access be just on the trails and not over the tract as a whole. He said they would have amenities for the residents of the subdivision and the residents will be responsible for maintaining them and they don't want to add that additional burden for them to have to maintain for the public as a whole. He addressed the storm water retention pond and said that is only going to be on a portion of the tract and the tract will still function as open space as originally intended. He requested a copy of the conditions so he can review.

Council President Henderson asked Mr. Miller if he wanted to see a copy of the conditions and postpone a decision. Mr. Miller said he wanted to review the conditions tonight and does not believe the decision has to be delayed.

Julia Hajduk said they would provide Mr. Miller with a copy and then after public testimony he can respond in his rebuttal.

Mayor Middleton recessed the meeting at 8:30 pm to allow Mr. Miller to review the conditions.

Mayor Middleton called the meeting to order at 8:40 pm and opened the public hearing.

With no one coming forward Mayor Middleton closed the public hearing and asked the applicant to come forward for rebuttal.

Mr. Miller approached the Council and stated he met with staff during the recess regarding the conditions and agreed with the conditions.

Michelle Miller referred to the staff memo (Exhibit R) and said the applicant has agreed on the proposed conditions with the exception of condition E.9 and said she would like that changed to E.10 and read into the record the proposed condition. She said it would read "prior to approval of the final plat provide pedestrian and bicycle access easements over all of the pathways within the tracts and private streets that include a pathway or private street". She noted this limits it to the walkways exclusively and not the other areas within the different tracts.

Councilor Henderson referred page 63 in the packet and asked about the condition of hard trail and the final occupancy condition.

Michelle Miller said they created what they are calling a phase 2 because the trail may take some time to get through the permitting and approval process, and this lets the developer begin both processes simultaneously but still requires them to complete everything.

Councilor Henderson clarified that this is not a condition because there is a chance the developer won't do the trail just that the permits may take some time. Michelle Miller said that is correct.

Councilor Henderson asked why the condition is changed to E.10. Michelle Miller said the document was misnumbered and should be E.10.

Councilor Grant asked if Council needs to make a motion to amend for this change.

City Attorney Crean said this is a staff memorandum with proposed conditions and if Council decides to approve they can approve with conditions described by staff on the record and that would pick up the change that was just read into the record.

Councilor Henderson asked if we need to amend the ordinance or just make note.

Tom Pessemier responded that the ordinance refers to Planning Commission Exhibit 1 and these changes are part of Exhibit 1 so if you do what Mr. Crean recommended the changes will get picked up and will be modified. Mr. Crean said that is correct.

Mayor Middleton commented that this is a unique piece of property and this isn't something we will have throughout the City. The following motion was received.

MOTION: FROM COUNCILOR GRANT TO READ CAPTION AND ADOPT ORDINANCE 2014-013 WITH THE CONDITIONS OF APPROVAL DESCRIBED IN THE STAFF MEMORANDUM AND AS DESCRIBED IN THE RECORD TONIGHT, SECONDED BY COUNCILOR LANGER, MOTION PASSED 5:0, ALL PRESENT MEMBERS VOTED IN FAVOR. (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

Mayor Middleton addressed the next agenda item.

B. Resolution 2014-057 Approving Ballot Titles and Explanatory Statements and submitting proposed Charter amendments to City voters

Assistant City Manager Tom Pessemier introduced Attorney Bill Kabeiseman and Charter Review Committee Chair Pat Allen and asked them to come forward.

Bill Kabeiseman from Garvey Schubert Barer introduced himself and reminded the Council that they worked with his colleague Ed Sullivan in a work session previously to review the ballot titles and explanatory statements. He said the information is relatively self-explanatory and are proposed changes to the Charter that the Charter Review Committee developed. He noted there is a new version provided by staff (see record, Exhibit C) as there were a few scrivener errors and asked if there were any questions regarding the changes. There were no questions or comments from the Council.

Charter Review Committee Chairman Pat Allen provided a brief background and said the Council formed a Charter Review Committee about a year ago made up of representatives from the citizen advisory boards and some citizen members. He said they presented a packet of 5 different amendments previously that were on the May 2014 ballot and related generally to the upcoming election and they all passed by substantial margins. He said there are 7 items that represent the remainder of the committee's work which he will present and encourage the Council to put on the ballot.

Mr. Allen briefly explained each item. He said the first proposal changes the title of the Charter by removing the reference to a year and just calling it the City Charter and would require periodic review of the Charter at least every 6 years. He stated the second proposal is to clarify what the procedure is for putting citizens on City boards and commissions. He said currently there are some procedures and historical practices, and some rules and some Charter provisions. He said they tried to clarify that the Mayor makes the appointments to a board or commission and that is subject to a majority vote by the Council. He said this strengthens and clarifies the notion that it is a joint function that occurs. He said the third proposal has to do with setting the agenda and currently the Mayor largely controls the agenda for the Council so they are proposing to add a provision that says a majority of the Council can add an item to a future agenda in order to meet noticing requirements. He said the fourth proposal is concerning adopting ordinances and requires that ordinances have two readings before being adopted. He said it does have an emergency provision so that if the Council unanimously agrees the ordinance may be adopted in one reading. He said the fifth proposal deals with a current provision in the Charter that prohibits Councilors and the Mayor from interfering or placing undue influence on City staff and that will remain the same. He stated there is a provision that states violation of that can cause that member to be removed from the Council if a majority of the Council approves. He said the committee recommended deleting that provision. He said the sixth proposal is a clarification of an issue regarding the City Attorney and said now there is language that needs to be clarified to provide that the City Attorney can either be a City employee or a law firm contracted by the City. He said the last proposal deals with the Charter being silent on pay for Councilor's yet they are entitled to expenses. He said they are proposing to prohibit pay, which will mean to be paid it will need to be done by a vote of the citizens in the form of a Charter amendment. He said the portion regarding reimbursed for expenses would be changed to add the language of "reasonable" expenses which is a known and defined term. He asked if the Council had any questions.

Mayor Middleton referred to typo on page 2 of 2. Mr. Kabeiseman said yes, they changed "confirming" to "conforming", (see record, Exhibit C) corrections to scriveners errors.

Council President Henderson referred to Exhibit B of the Resolution (ballot title and explanatory statement for Mayoral Appointments) which is the appointment to boards and commissions by the Mayor which is a change from the previous language that says the Council appointments members to boards and commissions. She asked how that would affect a new Council in January and said they may want to review that proposed provision. She referred to Exhibit E to the Resolution, about coercion and said that

has never been used in her tenure and her concern is that if there is someone guilty of that there is no other consequence other than censures which are a function of Council Rules which are enforceable by the Council but have no legal binding. She provided an example and said if someone is coercing other employees or other peers that is a liability for the organization and the remedy of that should not take months to resolve. She said removing someone from office would be a last result and commented on the process and said based on the Council Rules the consequence for being proven guilty of coercion would be censure by Council Rules. She said other than that there is no consequence other than the provision in the Charter. She said as a Council it is our responsibility to protect the City from liabilities civil or criminal. She referred to Exhibit G of the Resolution regarding compensation and asked if any members wanted to hear the Charter Review Committee's discussion concerning that proposal.

Mr. Allen noted that the committee consisted of a large and diverse group and there were differing reasons. He said in terms of the Council appointment issue the current Charter language states that a vote by the majority of the Council is needed for an appointment. He said the committee thought it was appropriate to add more form to what was in the Charter and stated that the Mayor and the Council all have a seat at the table for making appointments to boards and commissions but still allowing process leading to an appointment to be handled through Council Rules or customary practices. He stated they did not discuss whether future Council's should consider this because is it a circular argument and he said his argument would be to put it on the ballot and let the citizens make the decision.

Mr. Allen commented on the coercion section and said the biggest challenge by not removing that portion of the provision is it allows four members of the Council to short circuit an election. He said there are recall provisions and a short election term for the Mayor and suggested putting it before the voters to determine if that is a useful tool for a majority of the Council to have.

Councilor Henderson referred to clarifying the process of appointments and said in reality the Council only votes yes or no because the Mayor appoints and controls the agenda to a certain extent and names can be withheld from the agenda because it is an appointment of the Mayor and that is her concern.

Mr. Allen said conversely he is not sure how a Council appoints and it seems the language is unclear and has been the source of some recent confusion about what is the process and the committee tried to capture what is the current process but codify it in the Charter with this proposal.

Councilor Langer said this proposal actually exacerbates the problem because it states the Mayor does the appointing and that was the problem and this makes it worse.

Mr. Allen suggested that they clarified it.

Councilor Langer said for those of us sitting in the middle of this you made it worse.

Mr. Allen suggested that this would be a clear answer to that question and should go before the voters and let them decide how they would like the system to operate.

Mayor Middleton stated it does not preclude the Council from voting no to the nominee.

Councilor Grant said it precludes moving forward in a dead lock and the system we have now with the will of the Council can move forward and this will make it so the will of Council cannot move forward and will be stuck and he agrees that it makes it worse. He referred to difficulties with appointments that they were

able to resolve but this provision would take away the ability to get through it. He said the elected officials on Council should have a way out with the will of Council.

Mr. Allen said you don't have it in the current Charter either.

Councilor Grant said it works and if it is not in the Charter it is the will of Council and the will of Council is making this work now.

Councilor Clark stated she respectfully disagreed with Councilor Grant because the way we moved through it was with an illegal motion according to Mr. Crean so she doesn't think the current way is better than the cleanup proposal. She said the committee did a great job and she doesn't see this as a worsening but a clarification of a situation that is cumbersome.

Councilor Langer said this is not an improvement to the current system.

Councilor Henderson clarified that by replacing the word "council" with the word "mayor" how does that stream line the process. She said currently the process is advertising for board and commissions vacancies, the Chair of the Committee and staff liaison and Council liaison review applicants and make a choice and refer up to the Mayor and the Mayor agrees or disagrees with putting the nomination on the consent agenda for appointment.

Mr. Allen said he would agree that this does not steam line that process it codifies the portion of the process from the recommendation to the Mayor and whatever you do to get recommendations to the Mayor continues to be as it is today some mix of history, tradition and Council Rules.

Councilor Henderson stated that they add the subject to the consent agenda to be approved by the Council.

Mr. Allen said you could lay that process out in a map and say a portion of this process is covered in the Charter and you have not changed the process just moved the amount covered by the Charter one step further in the process.

Councilor Henderson said the difficulty is that sometimes that process is not mentioned in the Charter.

Councilor Clark said that does not negate cleaning up the process.

Tom Pessemier clarified that Mr. Allen in representing a committee that made recommendations to the Council for their consideration and Attorney Kabeiseman is here to answer questions. He said the deliberation process trips over into their time and said if you have questions relative to what they discussed as a committee or the crafting of the legislation now is the time. He reminded the Council that this is a public hearing.

Mayor Middleton opened the public hearing.

Dean Boswell, Sherwood resident came forward and referred to the coercion and said we elect officials and if a council member is using their position to influence he does not see any other way but to remove them. He said if they are not living up to what they promised as an elected official and reminded the

Council that they are elected official and the citizens trust you and if you break that trust we don't want you.

Anthony Bevel, Sherwood resident approached the Council and said there were previously three people nominated for a budget committee and referred to the politics and Walmart and said a number of people are thinking that Councilor Folsom made the motion to table those three citizen nominees from participating in this committee and how does that fit into this discussion. He asked who made the nomination and why were they tabled.

Mayor Middleton said that Councilor Folsom did not say no, she just wanted some questions answered and they are still being answered and once they are answered they have the option of bringing them back.

Mr. Bevel asked if this relates to the discussion and who nominated these three people and who approved them.

Councilor Langer said the Mayor did not talk to anyone and that is a good example.

Mayor Middleton said that is not exactly true, and Councilor Folsom asked for clarification much like he just saw nominations that he was not aware on the next agenda and he was not contacted. He said he takes faith in the committee.

Councilor Henderson referred to the process in the past of advertising for appointments, people apply and a committee which consists of the council liaison, the staff liaison and the Chair of the committee interview everyone that applies and they forward a recommendation for appointment to the Mayor. She said if appointments are on the agenda without the Mayor seeing them then that is a breakdown of the process because the recommendations always go to the Mayor and he has the opportunity to reach out to the nominees with questions. She referred to the budget committee example with Councilor Folsom and said initial interviews were in January and a member was appointed and those people were asked if they wanted their names to stay in the queue for future appointments. She said the other aspect of the process is that when somebody serves on a board or commission and then their tenure is up they are usually offered the opportunity to reapply with the whole applicant pool. She said some of the questions weren't apparent that it had been done and that is why Councilor Folsom asked staff to get back to the Council with those answers. She said that those appointments will be revisited at the August 19 meeting.

Mr. Bevel asked if they interview every candidate for committees. Mayor Middleton said yes. Mr. Bevel said he knows that is not true.

Councilor Henderson said that she is the Council liaison to the Library Board and they had nine people apply and they interviewed all nine people and said she can only speak for herself and said they are interviewing for the Cultural Arts Commission this week and she is assuming that everyone that applied will be interviewed.

Mr. Bevel challenged Councilor Henderson and said he applied for the Charter Review Committee and was never contacted or interviewed.

Councilor Henderson said that was an ad hoc committee that was formed and they did not interview anyone and said three members of the Council and staff made their choice because of the timeline and

the Mayor had his recommendations and they agreed with every appointment except for one and they negotiated. She said because of the time constraints they did not conduct interviews. She stated for a standing board she has always interviewed every applicant. She apologized that Mr. Bevel was not interviewed and asked if he has applied for a standing board. Mr. Bevel said no. She said for an ad hoc committee we were under time constraints and said they had 11 applicants.

Tom Pessemier said the same for the Special Committee which was an ad hoc committee and there were a lot of applicants.

Jennifer Harris, Sherwood resident came forward and said volunteer committees have no prerequisites and asked why they are interviewing them and what are you looking for. She said it may be better to have a lottery. She commented on the division of the Council and the City and said it will always be 2 against 5 and noted that anyone that is considered the other side will never get on a committee. She said she has interviewed for a committee and was not selected. She said maybe she was not qualified but there are no prerequisites for the committees. She suggested there is an issue there and she agrees with the committees ideas and said this is going to turn into the same thing as the Special Committee where they put in all this work to create things for voters and the Council turned them down because they were afraid of the answers. She said the Charter Review Committee was created to take things to voters and the voters should have a say. She said we are hurting our citizens by spending all of this time with committees to create things to go to voters to have the Council just turn them down because it does not benefit their agenda.

Patti Spreen, Sherwood resident approached the Council concerning the committees and the number of committees that have been put together over the past year addressing various issues and significant issues to many of the residents. She noted these were volunteer committees and her and her mother and a handful of people applied and never heard back and through word of mouth heard who was chosen. She recommended follow through to the residents that take the time to apply because there is no prerequisite besides being a resident and you have to care. She said there is no agenda and the whole game of politics is just that, politics. She said it is unfortunate for the community to always sway in one direction. She thanked Mr. Bevel and Ms. Harris for bringing to light that the folks that apply would like follow up and professionalism because she was expecting and looking forward to being interviewed.

With no further comments Mayor Middleton closed the public hearing. The following motion was stated.

MOTION: FROM COUNCILOR CLARK TO ADOPT RESOLUTION 2014-057 AS AMENDED, SECONDED BY MAYOR MIDDLETON. MOTION FAILED 2:3, (MAYOR MIDDLETON AND COUNCILOR CLARK VOTED IN FAVOR), (COUNCILORS HENDERSON, GRANT AND LANGER VOTED AGAINST.) (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

The following motion was stated.

MOTION: FROM COUNCILOR HENDERSON TO ADOPT THE AMENDED RESOLUTION 2014-057 TO APPROVE BALLOT TITLES AND EXPLANATORY STATEMENTS IN SUBMITTING PROPOSED CHARTER AMENDMENTS TO THE CITY VOTERS FOR BALLOTS TITLES AND EXPLANATORY STATEMENTS IN THE ATTACHED EXHIBITS BEING A,C,D,F AND G AND REMOVING B AND E AT THIS TIME, SECONDED BY COUNCILOR GRANT. MOTION PASSED 3:2, (COUNCILORS HENDERSON, GRANT AND LANGER VOTED IN FAVOR), (MAYOR MIDDLETON AND COUNCILOR CLARK VOTED AGAINST.) (COUNCILORS FOLSOM AND BUTTERFIELD WERE ABSENT).

Mayor Middleton addressed the next agenda item.

10. CITIZEN COMMENTS

With no citizens coming forward Mayor Middleton addressed the next agenda item.

11. CITY MANAGER REPORT

Assistant City Manager Tom Pessemier reported that the lights at the school are getting close to completion and asked Public Works Director Craig Sheldon to comment.

Mr. Sheldon said they were digging the holes today and will start installing the lights tomorrow and they are hoping to have the majority of the work done before school starts. He said everything was delivered yesterday.

Tom Pessemier commented on the sign code and noted the election season is upon us and said they have seen signs going up and it seems like everyone wants to follow the sign code and noted a few years ago there were significant changes to the sign code. He said the sign code is in Chapter 16.102 in the Municipal Code and said there is a lot of language there and they have put together a brochure regarding temporary and portable signs that is available. He said it may be beneficial to have an open house in the next week or two and repeating that in early September to let citizens know what is or is not allowed. He said enforcement is something that we take seriously and education is important for compliance.

Councilor Langer commented that there are quite a few signs around town that are out of code and asked about enforcement.

Tom Pessemier said they did a sweep today of signs that were in the right-of-ways and there still may be some that did not get picked up and they try to check around the beginning of every week after the weekend when signs are allowed in the right-of-ways. He said they will deal with the issues as they come up.

Councilor Langer asked about the large ones that are somewhat permanently affixed that are out of code.

Tom Pessemier said if they are in the right-of-way they are picked up and if they are on private property there is a process outlined in the code. He said there is an education process where they work with people to get them into compliance and if they won't there are processes of enforcement.

Councilor Henderson said citizens have asked her for clarification and she met with code enforcement a month ago to understand the sign code and it was her understanding that signs were not allowed in round-abouts because of the safety concern and asked if that is true.

Tom Pessemier read Chapter 16.102.040 5b of the code which reads, signs shall not create a traffic safety or maintenance problem and signs on round-abouts constitute a safety issue so have been determined to be not allowed.

Julia Hajduk said that is correct but may not be clear so through this informational meeting they can make sure that is updated in the brochure. She said people are not wanting to disobey the code is just shows where we need to provide additional information.

Tom Pessemier said that is a good example and that is why we want to educate citizens.

Councilor Henderson commented on the new round-about on Langer Parkway and said it is challenging for driving and signs would be a safety issue. She commented the enforcement must be consistent.

Mayor Middleton reminded Council that was past 9:30 pm and they have a URA Board Meeting immediately following this meeting.

12. COUNCIL ANNOUNCEMENTS

Councilor Grant clarified his vote and commented on the divide and stated there are two ways for things to get on the ballot and one way if for Council to recommend and the other is citizen initiatives. He said both ways are adequate and once things get on the ballot comments will be made and voters expect Council to be putting things forward that are good and Council is recommending something for the citizens. He said there is a lot of true, false or conflicting information during elections and citizens expect that the people they vote on Council are recommending something that is good and something that should be approved. He stated it would be contradictory for the Council to put something on the ballot that would be bad for the City and that is what initiatives are for. He commented on a rogue Council and said that is what recalls, initiatives and future election are for. He said people depend on Council to wade through the garbage and make recommendations of what it good for the town and that is why he voted the way he did. He said he can recommend and stand behind the five ballot titles that he voted for. He said it is not rational and would be confusing to put something before the voters that a majority of the Council did not recommend.

Councilor Langer said he agrees with Councilor Grant. Councilor Langer provided the Chamber of Commerce updates and said the next Chamber Breakfast will be on Tuesday August 12 at 7:15 am at the Sherwood High School commons. He stated the Chamber golf tournament in Thursday September 18 at Meriwether Golf Club. He announced that Starbucks opened today at noon with the drive thru at Parkway Village. He said Walmart's Grand Opening is August 13 at 7:30 am. He said the YMCA had a successful pool dual event that raised a lot of money for their annual campaign. He noted the blueberry picking at Our Table Coop raised over \$600 for the teens. He said the annual triathlon and barbeque in collaboration with the Charter School is August 16 at 10 am and the barbeque goes from 11 to 1 pm. He said the annual pool maintenance is scheduled for August 30 – September 14. He stated the YMCA is developing a new program that will be released soon. He asked about the status of the Police Advisory Board and said he would like an update.

Councilor Clark thanked everyone for participating in the Relay for Life and commented on the event and announced the top participants: Carol Apple raised \$2216 and Cindy Francois raised \$2194.55. She announced the top teams: A Walking Miracle raised \$6714.91 and Run for Remission raised \$5473.05. She thanked the City of Sherwood team leader Sherryl Childers and Julie Blums. She said she will announce in the next meeting the total raised. She commented on the Robin Hood Festival and congratulated Pat Allen and all of the volunteers. She commented on the YMCA triathlon and encouraged everyone to attend the event and said it was a great family event. She said the all-star event is a 100 yard swim, 5 mile bike and a 2 mile run and the Rookie is a 50 yard swim, 2 mile bike and ½ mile run and is

followed by a barbeque. She said the next Main Street meeting is August 21 at 4 pm. She said SURPAC will resume meeting. She stated August 16 is the Football Car Wash and tickets are available from youth players.

Council President Henderson said effective July 1 there is an 8% increase in the Clean Water Services bill and said the City has no control over those rate increases and they are an entity that serves our community. She said the City has not raised water rates and is not planning on raising the rates. She said to contact CWS about the increase. She announced the success of Les Miserables with three performances and thanked those who attended and the volunteers and Public Works Department. She congratulated Kristen Switzer for being asked to serve on a USDA panel and the motivation is that it could lead to grants for our Saturday Market to help with financial stability. She asked to have the Police Advisory Board back on the agenda for the August 19 meeting and asked if we could have the new Police Foundation which is a newly formed 501 foundation to come a make a presentation and it is her understanding that they are interested in funding some of the Youth Substance Abuse task force programs for drug education as well as drug prevention.

Councilor Langer asked if that was a motion and what will it take to get that on the agenda.

Mr. Crean said a Council member may request to the City Manager that an item be placed on the agenda and the City Manager will place the item on the agenda forecast for the Mayor and Council President to review.

Tom Pessemier said he would put the items on the agenda forecast.

Mayor Middleton thanked Pat Allen for all his work on the Charter Review Committee.

13. ADJOURN TO URA BOARD MEETING

Mayor Middleton adjourned the meeting at 9:52 pm.

Submitted by:


Sylvia Murphy, MMC, City Recorder


Bill Middleton, Mayor