



Home of the Tualatin River National Wildlife Refuge

SHERWOOD CITY COUNCIL MEETING MINUTES

22560 SW Pine St., Sherwood, Or

September 1, 2015

WORK SESSION-Joint Session with Police Advisory Board

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 6:02 pm.
2. **COUNCIL PRESENT:** Mayor Clark, Council President Sally Robinson, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris, Dan King and Renee Brouse.

POLICE ADVISORY BOARD MEMBERS: Chair Laurie Zwingli, Vice Chair Bob Silverforb, Chris West, Diane Foster, Sean Garland, Rich Miller and Amy Miller-Juve.

3. **STAFF PRESENT:** Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Intern Mark Yager, Planning Manager Brad Kilby, Senior Planner Michelle Miller, Police Chief Jeff Groth, Police Captain Ty Hanlon, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

4. **TOPICS:**

A. Best Practices-Citizens Academy's

City Intern Mark Yager presented information to the Council (see record, Exhibit A). He informed the Council that the project of researching a Citizen's Academy/Citizens University was tasked to him by City Manager Joe Gall. He explained the definition of a citizen's university as: Educational programs conducted by cities and counties aiming to create better informed and engaged citizens. He said the information presented was based on best practices from other established programs. He recapped the presentation and responded to Council questions.

B. Recreational Marijuana-Early Sales at Medical Dispensaries

Josh Soper, City Attorney informed the Council of SB460 which allows for early sales of recreational marijuana through the medical marijuana dispensaries starting October 1, 2015 and can continue through the end of 2016. He said the limitations include sales to individuals 21 or older and they can purchase up to ¼ ounce of dried marijuana leaves and flowers per person per day, up to 4 marijuana plants that are not flowering and marijuana seeds. He said the bill also allows for cities and counties to pass ordinances to prohibit recreational marijuana early sales within their jurisdictions. He stated it has to be by ordinance and would ideally be in effect before October 1. He stated this meeting is to explore the Council's and the Police Advisory Board's position on this issue. He addressed a question raised by Mayor Clark regarding the potential effect on tax revenues and said it is an interesting question and it is hard to determine. He

noted the League of Oregon Cities it predicting it will not have an effect on tax revenue and he tends to agree. He said the line in the legislation regarding tax revenues specifically says that if a city or county prohibits the establishment of these facilities completely they would not receive tax revenue and it does not appear that this would rise to that level. He also noted that there will be no tax on recreational marijuana until January 4, 2016.

Council President Robinson said if the Council does not prohibit the early sales is there anything in the law that says our medical marijuana distributor can refuse to sell recreational marijuana. Mr. Soper replied the dispensaries will be allowed to sell recreational marijuana sales but are not obligated.

Mayor Clark asked if it is prudent to allow early sales without a banking mechanism in place and commented regarding safety issues. Discussion followed. The Council and Board members discussed oversight, regulations, increased traffic, and the assumption of sales increasing when recreational sales are allowed.

Council President Robinson stated that the majority of Sherwood voters voted no on Measure 91 and with that in mind she would support waiting.

General discussion followed amongst the Council and Police Advisory Board Members. The business owner of Western Oregon Dispensary, Shari Ralston was present in the audience and provided information on her business.

Assistant City Manager Tom Pessemier discussed the process and asked Council for direction. Mayor Clark asked the Police Advisory Board and the Council if they support directing staff to present Council with an ordinance and they agreed. Mr. Pessemier said there will be opportunities for public comment when the ordinance is considered.

5. ADJOURN

Mayor Clark adjourned the work session at 7:02 pm and convened to a regular Council meeting.

REGULAR SESSION

- 1. CALL TO ORDER:** Mayor Clark called the meeting to order at 7:10 pm.
- 2. COUNCIL PRESENT:** Mayor Clark, Council President Robinson, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris, Renee Brouse and Dan King.
- 3. STAFF PRESENT:** Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

Mayor Clark addressed the next agenda and asked for a motion.

4. APPROVAL OF AGENDA:

MOTION: FROM COUNCILOR HARRIS TO APPROVE THE AGENDA, SECONDED BY COUNCILOR KUIPER. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda and asked for a motion.

5. CONSENT AGENDA:

- A. Approval of August 4, 2015 City Council Meeting Minutes**
- B. Approval of August 11, 2015 City Council Meeting Minutes**
- C. Resolution 2015-072, Appointing Rob Rettig to the Planning Commission**
- D. Resolution 2015-073, Adopting Protocol and an Evaluation Document Containing Criteria for the Review and Evaluation of the City Manager's Job Performance and Describing Process for Obtaining Staff Assessment of Manager's Performance**

MOTION: FROM COUNCIL PRESIDENT ROBINSON, TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR KUIPER. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

6. PRESENTATIONS:

A. Eagle Scout Recognition

Mayor Clark recognized and congratulated Jackson Grubbe for obtaining the rank of Eagle Scout. He was not present and Mayor Clark indicated the certificate would be mailed.

B. Constitution Week Proclamation

Mayor Clark stated the City will proclaim the week of September 17-23, 2015, as Constitution Week. She read the proclamation which stated the anniversary of the signing of the Constitution provides a historic opportunity for all Americans to realize the achievements of all the Framers of the Constitution and the rights, privileges and responsibilities it affords. She urged all citizens to celebrate and to reflect during this week the many benefits of our Federal Constitution and American Leadership.

Mayor Clark addressed the next item on the agenda.

7. CITIZEN COMMENTS:

Nancy Taylor Sherwood resident approached the Council and referred to the Police Blotter section of the September issue of the Sherwood Gazette. She read the information regarding an incident on Friday, July 24 concerning a call of indecent exposure after a resident reported that a neighbor was filming pornographic videos in full view of the resident's teen children. She read that the video maker admitted to the police that he runs an adult website and the Police warned him to keep his shades pulled. She said she is worried and shocked. She commented on the extra police officer and the need to keep an eye out for pornography in Sherwood. She stated there is obviously pornography in Sherwood and nobody is doing anything about. She said she is concerned that if neighbors are exposing themselves and then simply asked to close their curtains.

Mayor Clark asked Chief Groth and Assistant City Manager Tom Pessemier if residents are filming pornographic films for profit if a permit is required or is there code language that has to be followed.

Councilor Harris asked if it was different if it were pornography or gardening.

Mayor Clark restated filming for profit which would be a business that they are conducting.

Chief Groth said one could make the argument that if they are running a business out of the home they would need to have a business license. He said that is as far as they can take it from a code perspective. He stated they have had issues with film productions and getting a permit, but those have been in a public space. He said the issue here is that someone was in their private residence and America allows people to do what they want in their residence. He referred to some allowance of visibility, whether intended or not that occurred, and was addressed. He commented that the indecent exposure law is in ably named because it suggests that if you just expose yourself in some form of undress you have violated that law when in fact that is not what the law says. He said the law regarding indecent exposure has elements that require intentionality and that the exposure is done for a purpose. He noted if it was done unintentionally and was not put on as a display then it would not have violated the law. He said that is his understanding of what happened. He said it would be illegal to display a live show.

Mayor Clark thanked him for the clarification.

Tess Kies Sherwood resident came forward and provided an update on the YMCA. She said the pool is being resurfaced and will reopen on September 14. She stated painting updates will begin in September and the Board was able to reduce the cost and have them paint the locker doors. She said new signage and a reader board will be in place the week of September 14. She noted the new session will begin on September 14 with many new classes. She said the YMCA Columbia Willamette Golf Tournament is September 21 at Pumpkin Ridge. She said the Sherwood YMCA has been selected to offer the enhanced fitness program which will bring arthritis relief to the community. She said the diabetes marking will begin September 14 and that program will begin October 5.

Mayor Clark addressed the next item on the agenda and asked the City Recorder to read the Public Hearing statement.

8. PUBLIC HEARING:

A. Ordinance 2015-006, amending title 9 of the Municipal Code relating to public peace, morals and welfare by adding a new chapter 9.62 relating to graffiti

Chief Groth recapped the staff report and noted that graffiti has not previously been a rampant issue in Sherwood, but lately there has been an increase in the appearance of graffiti and delays in getting it removed from private property. He said Sherwood needs to be proactive and adopt code language. He stated research has shown that graffiti attracts graffiti and needs to be removed quickly. He said communities have had success in reducing graffiti by making sure it is not wanted and won't last. He said this ordinance would establish code language that addresses graffiti and the related aspects including possession of graffiti tools and requirements to report, clean-up and remove graffiti. He said without that language the officers just deal with graffiti under the Criminal Mischief Statutes which make it a crime and said in most instances that is not the effective way of dealing with it. He said this takes the matter out of

local hands and you could potential arrest someone for a misdemeanor. He stated it is more appropriate to deal with graffiti as a local violation and allow the offender to have more options locally and be held accountable locally. He noted if approved by Council tonight the ordinance will be brought back for a second reading and vote in accordance with the Charter.

Council Kuiper asked how long it took to have the recent graffiti removed from Old Town.

Chief Groth said there have been two arrests on separate graffiti issues one of which was the Old Town incident. He said prior to that there was another case. He said unfortunately there is still some graffiti from the first case that needs to be addressed. He said he needs to work with staff to contact the property owner. He said it took at least two weeks to have the graffiti removed from Old Town.

Council President Robinson stated it is a violation to possess and implement and that fee is not to exceed \$100, it is a violation to not clean it up in 4 days and that fee is not to exceed \$100 and the act of graffiti is a Class C violation and asked what the monetary amount is for that violation.

Chief Groth said a Class C violation is \$250 and he referred to establishing consistency in the code language. He said the fines associated with various violations are in a different section of the code.

City Attorney Josh Soper said the way the code is structured is classed violations are located in one section of the code. He said we may need to change that over time. He said there are unclassified violations and those fines are specified in that particular part of the code.

Mayor Clark opened the public hearing. With no public comments received, Mayor Clark closed the public hearing.

Assistant City Manager Tom Pessemier referred to an error on Page 71, Section 9.61.040(2) *"In addition to any fine that may be imposed under section 9.62.030 or 9.62.030."* He stated the first one should be 9.62.020. Mr. Soper said that is correct.

The City Recorder said there is an additional item and provided the Council with an amended Ordinance 2015-006 (see record, Exhibit B) that includes *Section 4: Effective Date*. She said that is standard language and when this ordinance was drafted staff accidentally omitted that section. She said if approved staff will make this amendment to the Ordinance and include this language for the second reading.

Councilor Harris referred to the language regarding graffiti removal and hardship and asked who decides if the hardship is legitimate. Mr. Soper responded the City Manager.

Councilor Brouse referred to language in that same section that states, *"the owner of any property within the City of Sherwood shall report any graffiti applied to the property to the Police Department within 48 hours"* and asked what happens if the property owner is not available to report within 48 hours. Chief Groth said they would use common sense discretion in those incidents. He referred to the intent of the language and provided examples where the property owner may not be aware of the graffiti.

Councilor Harris suggested changing the language to state "knowledge of the graffiti" after the "hours of".

Councilor Kuiper said on page 72 section 9.62.060(4) it states, *“if the owner is unable to remove, or cause to be removed, the graffiti within the four-day period due to a hardship, he or she may apply to the Manager for an extension..”*

Councilor Harris said that is different than the reporting piece.

Mr. Soper said the reporting requirement is an aspirational requirement and the fine only comes into play if they don't remove the graffiti within four days of being notified by the City that they need to remove the graffiti.

Councilor Henderson referred to the removal and said if the City is going to do the notification would it include the Police Department or generated by code.

Mr. Soper said the City Manager orders that it be done, in terms of procedure that would be left up to process.

Councilor Henderson proposed to change the *four calendar days* to *four business days* since it will most affect businesses. She commented that if the graffiti goes up Friday night that only leaves a business two days. She suggested declaring the ordinance an emergency and not waiting 30 days to be effective.

Council President Robinson responded that they have double the time to remove the graffiti from notification by the City to the owner and said the purpose is to remove it immediately. She said if it is not reported for a few days and the owners have 4 business days to remove, which is a week.

Councilor Harris said it might be easier to remove the graffiti when the businesses aren't open.

Council President Robinson suggested keeping the four calendar days.

Chief Groth said the language was drafted to deal specifically with graffiti and the issue of having it removed. He said it is impossible to come up with language that addresses every circumstance without the application of common sense discretion. He provided examples and said the issue is to have graffiti removed as quickly as possible. He emphasized that the point of the ordinance is to have a local tool to address offenders, to establish code language and the intent is not to punish but to proactively address an issue that we don't want to get any worse.

Mayor Clark said graffiti leads to more graffiti and said she agrees with Council President Robinson.

Mr. Pessemier referred to page 73 subsection (4) which states, *“The City Manager may adopt rules and procedures to implement this chapter”* and stated that is typical language and the City Manager typically designates authority regarding notification and implementation. He referred to the suggestion to add an emergency clause and said one of the requirements for an emergency clause is to have a definable reason. He said if there is not a justification the emergency clause cannot be used.

Mayor Clark said that an emergency clause is not necessary at this point. She said there has only been one graffiti sighting and this is being proactive. Mr. Pessemier said that regardless, staff will determine if an emergency clause can be used.

Councilor Harris asked if the Council declares an emergency will there still be a second reading with public comment. Mr. Pessemier said staff needs to determine if an emergency clause can be added.

Mayor Clark said she is fine not using the emergency clause and asked the other Councilors if they agree. Some councilors agreed and Councilor Harris asked if current graffiti will be grandfathered in. Chief Groth said this ordinance would not apply ex post facto. Councilor Harris said then she is fine with not declaring an emergency.

Council President Robinson referred to page 72 the section on removal refers to four calendar days except for section (C) which she proposes to change to four calendar day instead of four business days. Mayor Clark agreed and said that is probably a scribner's error and asked Mr. Soper for his opinion. Mr. Soper said yes, that should be calendar days.

Councilor Henderson asked if this ordinance is modeled from another municipality.

Chief Groth said yes. Mr. Soper said there are a lot of communities in the area that have very similar ordinances and this one is based mostly on Tualatin and Salem. He said the other communities in our area with similar ordinances include Salem, Portland, Troutdale, Tigard, Wilsonville, Beaverton, Cornelius, Damascus, Forest Grove, Gladstone, Wood Village, and Tualatin.

Mayor Clark said an ordinance against graffiti serves our community and citizens well. She said she is in support of the ordinance.

Councilor Brouse said she appreciates the proactive approach but is concerned for the potential hardship on the business. She asked how much time it took Officer Perry to take care of the graffiti in Old Town, how long it took him and approximate cost. She said she knows that the supplies were donated by Home Depot. She said there has been at least one business owner that has shared their concern about this ordinance.

Chief Groth clarified what occurred, and said Officer Perry was the arresting officer on the Old Town graffiti and he was trying to get those folks to clean it up. He said unfortunately, he is dealing with the juvenile system. He said in working in that process he wasn't able to get to the point he desired, meanwhile weeks past and he grew tired of seeing the graffiti and took it upon himself to speak with an owner/manager of the building, and he decided when he came to work to clean up the graffiti. Chief Groth said Officer Perry came into work, went to Home Depot to get supplies on his own initiative while on duty. He said, Home Depot found out what was going on and donated the supplies and Officer Perry cleaned it up. He said specific to the property owners, he has spoken to one of the property owners and managers in Old Town and he shared this idea with him seeking his thoughts and he was in support. Chief Groth said the property owner indicated he owns property in Portland and pays a service to clean up graffiti and said he rarely knows it occurred until he gets a bill.

Chief Groth said the position he is taking, is he believes a property owner is going to want to clean their graffiti up as it diminishes the appearance of their property. He said he doesn't feel with this ordinance that we are putting any additional imposition on the property owner, all we are doing is encouraging them through this legislation to get it done quickly. He said the intent of the ordinance is not to fine someone if they don't get it done in four days, but rather to make sure they get it cleaned up and we are establishing

the language that we want it cleaned up in four days. He said he did not know what the costs were to clean up the graffiti addressed by Officer Perry, maybe \$30-\$40 worth of supplies.

Councilor Harris said this keeps people from putting the clean up on the back burner and commented that many of the buildings in Old Town have multi-tenants and said she did not want people to think the tenants have to clean it up, it's the building owner who is responsible.

Mayor Clark stated that the Police Department is not going to be cleaning up graffiti nor was it authorized and said this is not a process that will be repeated and it is the business owner's responsibility to do that in the future. Mayor Clark stated the following motion.

MOTION: FROM MAYOR CLARK TO APPROVE ORDINANCE 2015-006 AMENDING TITLE 9 OF THE MUNICIPAL CODE RELATING TO PUBLIC PEACE, MORALS AND WELFARE BY ADDING A NEW CHAPTER 9.62 RELATING TO GRAFFITI WITH THE STATED SCRIBNER'S ERRORS AND PLACING IT ON THE NEXT AVAILABLE CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION. SECONDED BY COUNCILOR HARRIS. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.

Mayor Clark stated the Council will see a revised ordinance with language to Section 4 at the second hearing.

Mayor Clark addressed the next item on the agenda.

9. CITY MANAGER REPORT:

Tom Pessemier confirmed City Manager Gall was on vacation and said Mr. Gall sent Portland Western a letter last week asking them to inform the City as to what they will be doing with the trestle. He said he noticed in the newspaper that there was language that a decision will be made in the next few weeks and said he believes it will take longer and the City informed them we wanted to be part of that process.

Mayor Clark addressed the next item on the agenda.

10. COUNCIL ANNOUNCEMENTS:

Mayor Clark reported on August 19 she attended the West Side Economic Alliance Affordable Housing Tour and said it was very interesting to see new and remodeled buildings. She said on August 22 she attended the Growler House live music and said we are very lucky to have several establishments having live music, including 503 Uncorked. She said August 26 was the last Music on the Green and Woody Hite performed and she thanked all the musicians that performed. She said August 28 she attended the Chamber Golf Tournament and participated in a foursome with Washington County Commissioner Roy Rogers and his wife. She reported on August 29 she attended a Town Hall with Congresswoman Bonamici and listened to issues she is addressing on the federal level. She reported yesterday was the Sherwood School District Kickoff and Superintendent Cordie gave a great presentation. She reported she joined the Sherwood Police Department on their ORPAT fitness course and briefly explained the testing tool for police officers.

Councilor Harris reported Arts Education is launching at the Arts Center and they will be releasing a class list on Friday with registration to begin on Monday. She reported classes will include photography, painting and beading. She reported the Art Walk in Thursday the 17 from 6-9 pm. She said the Classic Film Series will begin and will be held the first Thursday of every month and said Family Matinee Series will be coming soon. She said all this information is available on their website. She reported the Library will be conducting a survey to see how people feel about the library and any wanted changes, the survey will be on their website and in paper form. She said Estate Planning is September 9, at 6 pm and is a free class. She reported there is a Backyard Bird Party coming up. She said September is Library Card Signup Month and said she believes a proclamation request will be coming to the Council. She said 1.6 million books are available across Washington County. She said flyers for the Library Levy will be in utility bills soon to educate the public about the levy.

Council President Robinson stated she had no report for the planning commission or the Citizens Advisory Committee as they did not meet. She said she has been busy with football and said the amount of volunteers is amazing. She commented regarding the number of participating kids on the 3-4th grade level and the number of volunteer coaches. She reminded that school starts next week and the speed is 20 MPH in school zones.

Councilor Kuiper thanked the Council for not voting on adding language of "declaring on emergency" on the ordinance. She reported September 12 there is a National Public Lands Day at the Refuge and explained the event and pulling of evasive plants. She said the event is sponsored by REI and they will be giving away t-shirts and coupons for visiting federal public lands. She reported the Parks and Recreation Board did not meet yesterday and they will be touring segment 1 of the Cedar Creek Trail next Monday. She said the plans are nearly complete and the trail won't be completed until 2017. She said this is funded by a \$5 million grant. She reported the Art Walk is looking for volunteers to monitor stations.

Councilor Brouse reported she attended the Sherwood School Board meeting last Wednesday and they reviewed facility planning and an assessment report, which can be found on their website. She said the presentation indicated a potential future bond. She said they introduced new staff, including a new Board President, Jessica Adamson and Eric Campbell is the new Vice Chair. She said the next meeting is September 9. She reported she attended the Sherwood Main Street meeting and said they are planning Halloween activities on October 31 at the Arts Center. She reported she and Councilor Henderson volunteered at the Chamber Golf Tournament and the event was the largest event to date with 63 participants. She reported the next Chamber meeting is September 8 at 7:15 am and the Onion Festival is October 9. She said a new Wine Map has been completed and can be found at the Chamber office.

Councilor Henderson reported the Onion Festival is looking for volunteers. She reported on the 20 the Police Advisory Board met and the Council held a work session this evening with the Board. She reported she attended the Steering Committee meeting at the Senior Center and said they have three new members including a new Chair, Tammy Veal (sp?). She commented regarding the School District and a pending bond and said we live in a wonderful community and have a wonderful school district and we have experienced a lot of growth, anticipated much faster than when the original bond was passed in 2008. She said the high school has 160 students over capacity and the average class size at SMS is 33 and said in some classes there will be 40 students. She said she would be interested in seeing the facilities report.

Mayor Clark asked for a motion to adjourn.

MOTION: FROM COUNCILOR KING TO ADJOURN, SECONDED BY COUNCILOR KUIPER. MOTION PASSED 7:0, ALL PRESENT MEMBERS VOTED IN FAVOR.

12. ADJOURN:

Mayor Clark adjourned the meeting at 8:09 pm.

Submitted by:



Sylvia Murphy, MMC, City Recorder



Krisanna Clark, Mayor