



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**April 19, 2016**

**WORK SESSION**

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 5:33 pm.
2. **COUNCIL PRESENT:** Mayor Krisanna Clark, Councilors Dan King, Jennifer Kuiper and Renee Brouse. Council President Harris arrived at 5:40 pm and Councilor Henderson arrived at 5:44 pm. Councilor Sally Robinson was absent.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Captain Mark Daniel, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, City Engineer Bob Galati, Senior Planner Michelle Miller, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

**4. TOPICS:**

**A. Industrial Use Code Update**

Julia Hajduk presented information to the Council (see record, Exhibit A) and said legislation would be coming before the Council on May 3, 2016. She briefed the Council on the process the planning commission went through that led to their recommendation.

She stated the Tonquin Employment Area (TEA) was brought into the urban growth boundary (UGB) in 2002 and the City went through the concept plan process and adopted that in 2010. She said through that process we identified preferred industry targets; clean technology, advanced tech biopharmaceuticals, outdoor gear, and we envisioned flexed space with small-medium sized industrial campuses and business parks. She said what we did at the time was have those uses outright allowed and then have conditional uses for things that could be found to be compatible. She said a problem arose in 2012 when we did our code cleanup project and merged three chapters into one. She said in the translation process from the three codes and what we wanted to see with the TEA into this one code, we discovered that there were quite a few uses that ended up not be allowed in the employment industrial (EI) zone. She said in the current code the uses that are allowed in the EI zone are: limited manufacturing entirely within an enclosed building when secondary to a permitted or conditional use, medical or dental laboratories, non-medical or dental laboratories, distribution, warehousing and storage associated with a permitted use manufacturing, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of pharmaceuticals in facilities up to 50,000 square feet, and renewable energy

efficiency, sustainable environmental products, advanced manufacturing, high tech, biotech, sports apparel and other recreational products. She said what is there are the only industrial uses that you can have in that zone, she referred to the exhibit, and said two of those uses are only when it's related to a permitted use in the zone. She said there are really only three things you can do in the TEA currently. She said this was brought to her attention about six months ago when brokers and developers started looking at the area. She said on October 27 staff presented the issue to the planning commission and received support to move forward with the code update process. She said on December 8 we began discussing with the planning commission the project approach and timeline and at that time the general consensus was that we wanted to focus on being more general with the types of uses that were permitted, and specific with those that were prohibited, to be more responsive to changes in technology and demand. She said we mailed notice to every industrial property owner in the City as well as every property owner in the TEA, and sent a letter explaining our intent and sent a survey to industrial property owners and had a survey on the City's website, which was slightly different than the survey sent to the industrial property owners. She recapped the survey questions and said great feedback was received and we were able to identify some specific issues that we carried forward. She briefly recapped the results of the online survey.

Tom Pessemier stated that some feedback received from the survey indicated having no restrictions, and feedback received from a property owner whose property sits under the power lines, who can't build a structure. Tom said there is quite a bit of land in that area that is restricted in one way or another that will prevent someone from building a structure, but is still usable land. He said this is an area that staff had to look at and think about and said we have started a conversation about this type of land.

Julia stated the survey timeline was December 8 thru January 12 and on January 12 the planning commission held a work session. Julia recapped the public participants that attended and the work session format, which included dividing the commission members into working groups and facilitating discussions. She said after the work session, the planning commission held a regular meeting and provided staff direction to move forward and draft changes. She said they had a desire to have a general list of permitted uses and a more specific list of prohibited uses and they indicated they were not in favor of having more retail in industrial zones. She said when we implemented the TEA, they (planning commission) specifically prohibited warehousing and distribution that wasn't associated with another use. She said the planning commission received feedback from developers and they indicated a willingness to consider warehousing and distribution in the TEA because it was understood that they wouldn't likely be huge because of the proximity to I-5. She said on January 26 staff presented to the planning commission the first proposed staff draft changes and reviewed those in detail and made modification. She said at the February 2 planning commission meeting there was additional information received and changes the planning commission wanted. Julia recapped the public noticing process (see exhibit).

Julia recapped the planning commissions public hearings held on April 12. She distributed a document to the Council (see record, Exhibit B) and explained this is the track-change version of the planning commission recommendation. She explained the difference between the staff recommendation and planning commission recommendation and referred to page 5 of the exhibit. She referred to page 6 and the proposed amendments. Julia referred to page 8 and language regarding landfill and incinerators and testimony received from Pride Disposal.

Julia stated at the Council May 3 meeting they will see the planning commission's recommendations, the clean copy of the proposed changes, the track-change version and a summary of changes and

explanations (see record, Exhibit C). She said the planning commission unanimously recommended the proposed changes. Discussion followed.

## **B. Possible Amendment to Noise Ordinance**

City Attorney Josh Soper provided the Council with a handout (see record, Exhibit D). He said the Council recently addressed amendments to the noise ordinance and are reviewing it now in greater detail. He addressed language in Chapter 9.52 Prohibiting of Noise.

He addressed specific violations, section 9.52.050 Noises Prohibited, page 3 and said he left existing prohibitions for the most part in place and cleaned up the language. He said he removed the time ranges and switch to the terms of “day hours” and “night hours” as defined in the definitions. He said he added prohibitions that are in the model noise ordinance from the LOC (League of Oregon Cities). He reviewed the chapter. Discussion followed regarding timeframes, noise sensitive areas, construction hours, emergency signaling devises and testing, and lawn maintenance equipment.

Police Captain Mark Daniel suggested language for testing of emergency vehicles and Josh stated he would add language in the exemption section.

Josh provided information on Day/Night Hours Comparisons from other jurisdictions (see record, Exhibit E). Discussion followed. Josh suggested minimizing the number of time ranges the City has, and said he has consistently heard we should not have a 7 pm night start time. Discussion followed. Josh suggested 9 pm to 7 am seven days a week, no objections from the Council were received. Discussion followed regarding working hours of landscape companies and garbage collection service and limitations possibly reducing opportunities to provide service. Discussion followed regarding commercial businesses near residential areas and noise from delivery trucks. It was suggested to have a time range of 9 pm to 7 am on weekdays and 9 pm to 8 am on weekends.

Comments were received regarding noise from retail business delivery trucks and exemption, and Josh explained the only specific prohibition the City has is idling engines. Discussion followed regarding refrigeration trucks delivering to Target which is near a residential area, and noise generated by this type of service and what is allowed in the code and if the code is reasonable.

Julia Hajduk stated staff would look at the Target notice of decision as limitations may have already been addressed. Discussion followed regarding noise specific to Target.

Josh addressed the Exemption section of the code, 9.52.060. He explained the proposed amendments. Josh specifically addressed language pertaining to community events and noise from percussions. He said in researching other cities, their language was broader. He referred to a handout, school event comparisons (see record, Exhibit F) and said Sherwood is the only City that limits it to athletic events. Josh recommended language similar to other cities and said if it's a school or City sponsored event, they would be exempted. Discussion followed regarding which code language was the broadest and Josh suggested changing Sherwood language to indicate, “events on public property, sponsored or sanctioned or otherwise approved by the City or the Sherwood school district”. Josh suggested expanding the language to also include, “public property approved by the City, school property approved by the school, private school property approved by the private school”. He said if you're going to have a percussion event on private property that would go through the variance process. Discussion followed.

Josh addressed Variances, section 9.52.080 and said he has heard concerns that it is too complicated of a system and it took a long time to get approved variances if it was a type B or C, and the neighborhood notification part was unnecessarily burdensome. He said he looked at all of these cities noise ordinances and Sherwood has types A, B & C, and B & C go to Council for approval, and to the City manager for a type A. He said no other City he looked at sends these to the Council for approval, they go to the City Manager or his/her designee. He said his recommendation is to have everything to go the City Manager. He said this would speed up the process and people would not have to determine what type of variance they have. Josh stated there is an appeal process that is appealed to the City Council. He said he also set the timeline for the decision making to be the shortest timelines in comparison to other cities. He said it's 10 business days for the City Manager to make a decision from the date of the application, and 10 business days for an appeal to go to the City Council, submitted within 10 business days of the City Managers decision and then it would go to the next City Council meeting.

Josh addressed notice requirements and said in comparison to the other cities, Sherwood is the only City that requires any type of neighborhood notification. He said Sherwood also required notifications for types B & C variances and not type A, and said we have eliminated those distinctions. He asked the Council if they wanted to require neighborhood notifications, and if so under what circumstances, and how much notice is to be provided. He said if the Council is going to require notification he would recommend that it is based on a City Manager evaluation of the anticipated impact of the event on the neighboring property owners. Discussion followed. Josh said what he has noted, for what types of notice has been provided, is based on what we are currently doing. He said it seems like a bit much to him, in particular the newspaper notice, which will slow down the process. He said he doesn't see much value from this and there is a cost associated with it. Discussion followed.

Josh addressed language regarding posting along the boundaries and said this isn't a big burden and seems reasonable if you're going to require noticing. He said what we are currently requiring, although it is not in the code, is contacting property owners. He said the feedback he has received from people that have been through the permitting process, is some prefer to mail a notice and others prefer the option of canvassing because of postage costs. He said he wrote the language as "deliver" written notice to allow people to choose the method. He said within 300 feet is what we are currently doing. Comments were received regarding other distance language. Josh explained we have a few different distance factors, we have amplified sound within 50 feet in a commercial industrial area, and 400 feet for "noise sensitive" areas, and 400 feet for when you're applying for a variance. He asked how Council felt about the noticing requirements. Discussion followed.

Council asked regarding the application fee established by resolution and what the penalties were. Josh and Captain Daniel explained.

Mayor Clark addressed the next subject.

### **C. Update Kruger/Elwert Intersection Improvements**

City Engineer Bob Galati, Patrick Oakes Senior Project Manager with Washington County and Stephanie Serpico Project Manager with HDR Engineering presented information (see record, Exhibit G). Bob explained the information presented was a project update on a joint City/County project through an IGA. He said an open house is scheduled for May 12 and this information would also be presented at that event.

Mr. Oakes recapped the project background and said at the request of the City the project was added to the County's MSTIP Major Streets Improvement Program in June 2012. He said in 2014 the City adopted the STP which included this realignment. He said the current intersection has congestion problems and safety issues and delays, and the new project increases the traffic flow, helps reduce congestion and as a roundabout it creates a feature where people realize they are entering something different. He explained the project description and referred to the proposed intersection map in the presentation.

Ms. Serpico reviewed the map and answered Council questions. Discussion followed regarding future growth and the Sherwood West Concept Plan and the project considering the growth of this area. Discussion followed regarding the project location and property ownership being jointly County and City ownership. Tom Pessemier explained the property that is owned by the City, with approximately 15 acres remaining after the project is completed. Bob Galati noted a portion of this land is wetland. Discussion followed regarding working with ODOT and signal light configurations and queueing of traffic. Bob explained this project is a County project and currently there is another project in the City's TSP which deals with the lane configuration and pedestrian crossing, Hwy 99, and the light structuring based on the Sunset Blvd. side of the intersection and said he will be looking at this to see what can be done.

Ms. Serpico provided the project status and said it's at 30% design and design should be done by July 2016, with construction estimated in 2018-19 and the budget is \$5.9 million which includes engineering, right of way and construction.

Mr. Oakes stated the 30% design coincides with the May open house where this information will be presented to the public and they will be receiving public input. He said after the open house the County will be working with the City and County engineers to receive a blessing of the concept. He explained information can be obtained at [www.co.washington.or.us/transportationprojects](http://www.co.washington.or.us/transportationprojects)

He said City Engineer Bob Galati is the City's lead person and questions can be addressed to Bob, he also offered to answer questions.

**5. ADJOURN:**

Mayor Clark adjourned the work session at 7:00 pm and convened to a regular session.

**REGULAR SESSION**

1. **CALL TO ORDER:** Mayor Clark called the meeting to order at 7:12 pm.
2. **COUNCIL PRESENT:** Mayor Krisanna Clark, Council President Jennifer Harris, Councilors Linda Henderson, Renee Brouse, Dan King and Jennifer Kuiper. Councilor Sally Robinson was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Captain Ty Hanlon, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, Senior Planner Michelle Miller, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

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

**4. APPROVAL OF AGENDA:**

**MOTION TO AMEND: FROM COUNCILOR KUIPER TO AMEND THE AGENDA TO ADD YMCA DISCUSSION TO NEW BUSINESS ITEM C, SECONDED BY COUNCILOR KING. MOTION PASSED 6:0, ALL MEMBERS VOTED IN FAVOR. (COUNCILOR ROBINSON WAS ABSENT).**

**MOTION AS AMENDED: FROM COUNCILOR HENDERON TO APPROVE THE AMENDED AGENDA, SECONDED BY COUNCILOR KING. MOTION PASSED 6:0, ALL MEMBERS VOTED IN FAVOR. (COUNCILOR ROBINSON WAS ABSENT).**

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

**5. CONSENT AGENDA:**

- A. Approval of April 5, 2016 City Council Meeting Minutes**
- B. Resolution 2016-019 Reappointing Shelly Lamb to the Cultural Arts Commission**
- C. Resolution 2016-020 Reappointing Vicki Poppen to the Cultural Arts Commission**

**MOTION: FROM COUNCILOR KUIPER TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR KING. MOTION PASSED 6:0, ALL MEMBERS VOTED IN FAVOR. (COUNCILOR ROBINSON WAS ABSENT).**

Mayor Clark addressed the next item on the agenda.

**6. PRESENTATIONS:**

**A. Recognition of Sherwood High School Student Athlete**

Mayor Clark recognized Sherwood High School student Gaven Jolley. She stated Gaven is the first Wrestling State Champion since 2002 and the only freshmen to win a state title in the history of the Sherwood Wrestling program. Mayor Clark congratulated Gaven and presented him with a Certificate of Achievement. When asked his weight class, Gaven stated 113 lbs.

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

Mayor Clark read a challenge letter from the Sherwood Archers to the Archers of the Nottinghamshire Archery Society representing Nottingham, England. Mayor Clark signed the letter which will be sent to the Archers of the Nottinghamshire Archery Society inviting them to a competition held during the Robin Hood Festival.

**B. Employee Spotlight**

City Manager Joseph Gall stated that once a month the City will highlight an employee. He recognized Senior Planner Michelle Miller for her work on a Community Development project. He said Ms. Miller joined the City in 2007 as an Associate Planner and was promoted to Senior Planner in 2013. He said before coming to the City she worked in both private and public sector and has a Master's Degree in

Urban Planning from Portland State University and a Law Degree from Willamette University. He noted she received her AICP Certification in 2009. He stated she is the project manager for the Cedar Creek Trail Project and recently helped the City obtain a \$68,000 grant from Metro to add additional amenities to the trail. He said she also assisted in the grant writing for the Washington County Tourism Grant which will bring an additional \$30,000 in funding for the trail project. He said she is always looking for new opportunities to leverage this project and obtain additional funds to support the community. He acknowledged Ms. Miller's hard work and thanked her for her service to the City.

Mayor Clark addressed the next agenda item.

## 7. CITIZEN COMMENTS

Tracie Butterfield, Sherwood resident and YMCA member and volunteer on the Board of Trustees for the YMCA Columbia-Willamette. She said the City and the Columbia Willamette YMCA have a unique partnership that has served the community well. She said the contract that has guided the partnership since 1988 has enabled the YMCA to provide comprehensive health and wellness programs to local residents without competing for taxpayer dollars that fund public services provided by the City. She said nearly two years ago the City requested and funded a report by TKW which made several recommendations for clarifying the contract terms. She stated local residents, who overwhelmingly voted to bring the YMCA to Sherwood, deserve to know why the City has not followed through on the recommendations outlined in the report. She said the first recommendation is for the City to undertake a formal review and revisions to the current agreement. She stated since the TKW report was released in 2014 the YMCA continues to request opportunities to meet and work with staff to conduct such a review and to make any and all changes necessary. She stated the City has not responded to these requests and instead staff has made piecemeal changes that leave many of the most important contract clarifications unresolved. She said the piecemeal approach continued last week as the City proposed to amend the current contract on a couple of points without a commitment to constructively resolve important outstanding issues. She said given our historic voter sanctioned contract, the YMCA Columbia-Willamette believes it is in the community's best interest to review all outstanding contract recommendations in the TKW report. She stated the review should be comprehensive and conducted soon and completed as a matter of public stewardship. She said the YMCA Columbia-Willamette remains committed to serving the Sherwood community and ready to work with staff to make sure the contract is strong. She commented on how she uses the YMCA personally and how there is a feeling of belonging and it is the hub of the community. She said the YMCA is a proven model throughout the country. She asked the Council to ensure that the YMCA is invited to meet with the City and resolve all contract issues this month.

Gail Cutsforth, Sherwood resident came forward and commented regarding comments made by Mayor Clark at the April 5 City Council meeting. She said she sent an email to the Council on April 6 regarding this matter and received a response from one Councilor that stated she found it "frustrating that I continue to make false statements and yet accuse us of not having the correct information please stop making misrepresentations". She referred to the ballot measure from 1996 that included verbiage on the construction and operation of the facility that is now home to the YMCA. She referred to the meeting minutes from April 5 and said the Mayor's comments stated, "She referred to a question about whether the citizens of Sherwood voted in the YMCA and stated that the citizens did vote for a recreational facility but not the YMCA specifically." Ms. Cutsforth stated the Mayor was not responding to a question and just wanted to make a statement. She said it is accurate that the ballot title from 1996 did not state anything

about the operation of the building and just the construction and noted that ballot titles are limited to 175 words. She asked why a city would construct a large recreational facility without an operator in place. She stated that while the information provided about the ballot title was factual, the explanatory statement for the measure was omitted and hopefully that was an oversight and not an intentional omission aimed at misleading the citizens. She referred to the Mayor's comments that the citizens did vote for a recreational facility but not the YMCA specifically and said this is inaccurate. She commented on the explanatory statement which states that the City, the YMCA and the citizens of Sherwood were united in their efforts to bring a recreational facility operated by the YMCA to Sherwood. She read from the explanatory statement: *"Approximately \$5 million has been targeted to build an indoor recreational facility. A joint public-private partnership has been formed between the City of Sherwood and the YMCA of Columbia-Willamette which will allow the YMCA to operate the facility on a day-to-day basis. No additional tax dollars will be required for the operation of the facility."* She stated the voter turnout was 55% with 60% voting in favor. She said another Councilor criticized her for stating that the citizens voted overwhelmingly for this measure and that it does not apply since the population in 1996 was 5,000 and now Sherwood has 18,900 residents. She said she disagrees and the votes from 1996 matter. She stated that a feasibility study should not be done in house and stated this Council only discusses the YMCA in secret closed door executive sessions so she would not trust an in house study to be open, honest, transparent, unbiased or fair. She noted the Council discusses the other City owned buildings and not the YMCA. She commented on how the Council is willing to discuss other events and activities but not the YMCA and said the disparity is glaring. She placed copies of the ballot measure and a document detailing the process up to the grand opening of the YMCA on the meeting sign in table. She said at the end of the explanatory statement it states that "if the bond passes, it is anticipated that the YMCA will be under construction early in 1997". She stated that even the ballot measure refers to the building as the YMCA.

Mayor Clark asked Mr. Gall to provide clarification on the difference between a ballot title and an explanatory statement.

Mr. Gall said the ballot title did not mention the YMCA and that was what appeared on the ballot. He said the explanatory statement was not on the ballot and was in the voters' pamphlet. He said there have been suggestions that the City will not be able to not renew the contract with the YMCA without a public vote because the public voted for the YMCA. He noted that this is semantics but it is important to note what was on the ballot when people voted. He said staff has requested a copy of the ballot and it is his understanding that there was no mention of the YMCA on the ballot. He commented on the implications if the City decides not to renew the contract and is there a need to go back to the public for a vote.

City Attorney Soper added that he has never seen an explanatory statement printed on a ballot and it is always intended for the voter's pamphlet. He stated he verified with bond counsel that from the explanatory statement reference to the YMCA there are no binding requirements in terms of the bonds imposed by that language.

Kurt Kristensen, Sherwood resident approached the Council and discussed the Water Master Plan. He said in 2005 with Mayor Mays and Councilors Henderson, King and Clark voters were told that we need to go to the Willamette River for our water and there would be some costs and benefits involved. He said they were told the water costs would level off and even go down. He said now after 10-15 years the rates are still going up and that is cause for concern. He said before 2005 residents received their water and sewer bill every other month and soon after 2005 the City began to bill residents monthly for about the same amount so in effect the costs doubled. He said in 2015 the City Council approved a resolution to

hire the same contractor that built the \$44 million water system to design and update our Water Master Plan. He stated he reviewed the materials from that meeting and said it looked like a bit of an uncompetitive process and that was a mistake. He said on May 5 Mayor Clark signed Ordinance 2015-004 that amended Chapter 7 of the Sherwood Comprehensive Plan and adopted the Sherwood Water Master Plan and this document commits the City to a number of costly water expansions over the next 10-20 years without clarifying to ratepayers exactly where the funds will come from. He said when you dig into the Water Master Plan the total cost through FY 2034 is about \$25 million and that means the City is going to have to ask for about \$1.5 million per year to fund these projects. He referred to page 90 of Ordinance 2015-004, Exhibits 1 and 2 which states that costs for both projects are allocated 80% to existing customers and the remaining 20% of the cost is allocated to system growth. He said all the expansion costs should be allocated and put in escrow and collected by the City from SDCs not by current residents. He said at the very least the percentages should have been reversed. He said at the same time Governor Brown has signed a water reduction order because of concern for the watershed from the mountains where there is no more snow in the winter. He said this is happening while Sherwood and Washington County are taking water out of the river. He asked the Council and City to be more transparent about how costs are being allocated, bring the Water Master Plan back for another hearing and amend the allocation of costs so that 80% be paid by developers. He commented on raising the water rates 2% a year would double his water bill in 10 years.

Mayor Clark clarified that Mr. Kristensen was referring to her late husband Del Clark who was on Council in 2005. Councilor Henderson clarified that former Councilor Clark did not serve in 2005.

Nancy Taylor, Sherwood resident came forward in support of the Ballot Measure 34-244 putting a 2% water tax cap. She said citizens need to read the Water Master Plan. She commented on the proposed increases over the next 5 years and the information that the YMCA and the City was not paying for water. She commented on the FY 2015-16 budget where 29% of the revenue comes from utility fees. She said property taxes are only 23% of the revenue. She said this will give the voters back the power they had with voting on annexations. She stated that with a 2% tax cap the City will not have the money to annex Brookman and the developer will have to do it. She said the only way to stop development and slow it down is to pass the water tax cap.

Alan Pearson, Sherwood resident approached the Council and said as a member of the Planning Commission he appreciates the work of Senior Planner Michelle Miller. He said she is well prepared, able to answer questions, brings clarity, and is impartial and always willing to help. He commented on the YMCA and said it is a business even though it is a nonprofit. He said nonprofits are in the business to make money and would not be in business if they weren't making money. He commented that the YMCA does not pay property taxes because it is a City building and that is not included in the rent. He noted personally that he resents the implications that the Council is being untrustworthy and doing things behind closed doors. He said he has never seen a more open set of government than in Sherwood. He stated the Council is transparent and always open to the public. He said the Council is taking their time and doing this cautiously, properly and judiciously.

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

## 8. NEW BUSINESS

**A. Resolution 2016-021 directing City Manager to discuss with Washington County and the Washington County Sheriff's Office the possibilities of contracting law enforcement services between the hours of 1:00 am and 6:00 am**

Assistant City Manager Tom Pessemier stated that Washington County has a policy that requires Council to approve a resolution or an order from the jurisdiction requesting law enforcement services to be passed before they enter into conversations. He said this resolution honors the County's request and formalized the conversation from the last meeting.

Mayor Clark asked for public comment.

Tess Keis, Sherwood resident came forward and commented that Sherwood has been rated the 2<sup>nd</sup> Safest Community and is growing. She commented on the resolution proposing to contract law enforcement services between the hours of 1:00 am and 6:00 am and said the Police in our community are well known to the citizen and she hesitates to bring someone in during those hours that is not familiar with our City and our citizens. She said this will be open to rookies who are not experienced enough. She referred to being integrated in the community and the response times in Sherwood. She said she opposes using the City Managers time to look into this possibility and fixing something that is not broken.

Mayor Clark said the Council discussed this issue in a work session and the consensus was to have this option in order to free up funds for the extra policing requested by citizens in the Policing Survey. She said this is an opportunity to get information from Washington County.

Mr. Pessemier said the resolution states that staff will report back to Council prior to entering into any contract negotiations with the County.

Mayor Clark said this is a recommendation from the Police Staffing Study and it is appropriate that Council move forward.

Councilor Kuiper asked if this could be an ongoing conversation and she would like specifics and provided examples. Mr. Pessemier said there will be an initial conversation to see if contracting makes sense. He said the contract negotiations would spell out the details. He offered to keep the Council informed through work sessions or conversations.

Councilor King said he supports the resolution to achieve a short term gain as far as managing manpower. He commented on Ms. Keis remarks and said if Washington County had a presence in Sherwood it would be a benefit over time to have that familiarity.

Council President Harris said Sherwood is in Washington County and those officers come to Sherwood now for backup.

Councilor King said he views this as temporary and with projected growth in the community the Police Department will have to grow.

Councilor Henderson said Matrix provided this as an option and not a recommendation. She stated that she wants Sherwood Police Officers working the night shift and she has no interest in hiring Washington County. She said she understands that this is information but stated that we have no control over who

Washington County hires and how they train and who they send to Sherwood. She said she has spoken with the City of Cornelius. She stated she does not know how we can free up funds if we are paying a third party who pays higher wages to patrol our community from 1 am to 6 am. She noted that data is important and said she has looked at the data. She commented on the caliber of the Sherwood Police Department and she would rather hire someone vested in the community.

Council President Harris referred to the importance of information and the separation between Sherwood and Washington County is small. She said the contract parameters can be negotiated later. She referred to Wilsonville and said they contract with Clackamas County. She stated she supports the resolution.

Councilor Brouse referred to Councilor King's comments regarding how this could build a relationship with Washington County but agrees with Councilor Henderson regarding investing in Sherwood Police instead of Washington County. She said she is a proponent of gathering information but in this instance we are better off staying with Sherwood.

**MOTION: FROM COUNCIL PRESIDENT HARRIS TO APPROVE RESOLUTION 2016-021, SECONDED BY MAYOR CLARK. MOTION PASSED 5:1. (MAYOR CLARK, COUNCIL PRESIDENT HARRIS, COUNCILORS KUIPER, KING AND BROUSE VOTED IN FAVOR, COUNCILOR HENDERSON VOTED AGAINST AND COUNCILOR ROBINSON WAS ABSENT).**

**B. Conflict of Interest - Request for Action by City Council**

City Manager Joseph Gall recapped the staff report and said there isn't a resolution as he is looking for a Council motion. He stated he has a conflict of interest in his role as City Manager. He said in the Solid Waste Code the City Manager is designated as the enforcement officer. He stated there is a dispute between the City's franchise hauler Pride Disposal and a service that is provided where he lives in the community. He stated he consulted with City Attorney Soper to determine if he should get involved with resolving the issue when he is a beneficiary of the service of one of the companies involved in this dispute. He noted that Mr. Soper followed up with the State Ethics Commission and they recommended that the City Manager declare to the City Council that there is conflict and Council can either become the party to enforce the code or delegate someone in this specific instance only. He said he is recommending delegating his authority as City Manager to the Assistant City Manager to deal with this specific issue.

Mayor Clark said she appreciates Mr. Gall's transparency and due diligence. She agreed with Mr. Gall's recommendation to delegate the authority to the Assistant City Manager.

**MOTION: FROM MAYOR CLARK TO ALLOW TOM PESSEMIER TO TAKE OVER THE RESPONSIBILITIES OF JOE GALL IN DISCUSSING THE ISSUE BETWEEN PRIDE DISPOSAL COMPANY AND VALET WASTE LLC AS PRESENTED IN THE COUNCIL PACKET, SECONDED BY COUNCILOR KING. MOTION PASSED 6:0. ALL MEMBERS VOTED IN FAVOR. (COUNCILOR ROBINSON WAS ABSENT).**

Mayor Clark clarified for the public that this authority is now allocated to Tom Pessemier to handle without Joe Gall's involvement.

**C. Sherwood YMCA Discussion**

Councilor Brouse recused herself and stepped down from the dais.

Mayor Clark noted this discussion has been added to the agenda to discuss a letter the City received. She provided the Council with a copy (see Record, Exhibit H). Mayor Clark said the letter will be placed in the record and she read the letter.

*“Good morning Joe and Tom. Because of our agreement with you that we would not discuss the amendments with our board during the negotiation process, it took a few days to process the proposed changes with our policy volunteers. The YMCA of Columbia-Willamette appreciates the City’s proposal to address a couple of the issues in our current 20-year contract that need clarification. However, as City officials know, the TKW LLP report requested by the City in 2014 outlined multiple areas to clarify concerning our contract. After nearly two years, the piecemeal approach to those recommendations now proposed by City staff will still leave several issues unresolved, without a commitment to constructively work with the YMCA toward a resolution. For this reason, the YMCA believes it’s in the best interest of all parties, including our members and Sherwood residents, to review all outstanding contract recommendations in the TKW report, as well as any other issues, in a comprehensive manner. It’s worth noting that since the TKW report was released, the YMCA has requested numerous times the opportunity to work in collaboration with City staff to review our entire contract and make any and all changes necessary. We are still unclear why the City has delayed moving forward with a comprehensive contract review, particularly since it sanctioned the TKW report for the purpose of ensuring the contract is as sound as possible. The YMCA remains as committed as ever to serving the Sherwood community. We very much look forward to working closely with the City to review our contract in a timely manner that reflects our long-standing, mutually beneficial partnership. Please let me know when you would like to get back together again. Sincerely yours, Bob Hall, President and CEO of YMCA of Columbia-Willamette.”*

Mayor Clark asked staff to provide a clarification on the allegations regarding staff not working with the YMCA in the negotiations. She said she requested the number of hours staff has spent negotiating the contract changes with the YMCA.

Assistant City Manager Tom Pessemier said it was over \$9,000.

City Attorney Soper stated the total staff cost was \$9384.72 which breaks down to City Manager 10 hours, Assistant City Manager 82 hours, City Attorney 12 hours and Finance Director 14 hours.

Mayor Clark clarified that those hours were spent negotiating and working on the issues with the YMCA.

Councilor Kuiper said she made a motion to put this discussion on the agenda because both parties are talking passed one another and there is not much clarity. She commented on Section 33 of the contract which addresses subleasing space in the YMCA for other uses and recalled that it was decided through Council and the City to address that section in anticipation of further negotiating at a later time. She said this is how this issue started and referred to the timeline and the results. She stated the other issue at hand is negotiating the contract and the YMCA is ready to negotiate but the City needs to effectively communicate with the YMCA that in keeping with good public stewardship of the building the City has to do some due diligence before they can come to a discussion. She said the City needs to look at the building and do a feasibility study. She asked City Manager Gall for an update.

Mr. Gall said the approved Council goals included a feasibility study to begin in April and be completed by October 1. He said they will be putting out an RFP to hire an independent analysis. He stated next year's budget, if approved, includes funding for the study. He discussed the timeline and reminded the Council that the contract with the YMCA expires October 2018. He said both parties are required to provide a year notice if they will not be renewing the contract so the City must decide by October 2017 whether they want to renegotiate the contract. He commented on the negotiations with the YMCA regarding Section 33 of the contract and stated that the YMCA agreed to the changes. He said it is frustrating to have City staff negotiate in good faith with Mr. Hall and Mr. Hunter and come to an agreement and now the letter states that they do not want to do that. He stated that is not acting in good faith and the City would not have spent nearly \$10,000 of staff time to develop better language to throw it out the window. He said he is looking for direction from the Council.

Councilor Harris said Section 33 affects groups beyond just the YMCA and the City and it was decided to have that section amended to address the issues with the groups that it affects as quickly as possible. She stated the City spent almost \$10,000 getting Section 33 to a place where both parties were in agreement and the groups were able to continue using the YMCA. She said it was her understanding that those negotiations were complete and now the letter from Mr. Hall states differently. She commented on her frustration with the issue and said this amount of money does not show a delay in moving forward or a lack of collaboration.

Councilor Kuiper stated the City has to do some due diligence and do the feasibility study then go to the next step. She referred to an email from Mr. Hall and said that needs to be communicated to the YMCA.

Mayor Clark stated Council has given staff direction to keep moving forward with the feasibility study.

Mr. Gall said the feasibility study will move forward so decisions can be made. He stated he also needs direction on how to respond to the YMCA now. He noted that time and money has been spent negotiating a poor section of the current contract.

Councilor Harris said it is her understanding that they are in breach of the contract.

City Attorney Soper said the reason Section 33 was being renegotiated is because the current activities at the YMCA at the time violated existing language in Section 33. He stated they developed new language that would bring them into compliance.

Mayor Clark asked Mr. Soper for a recommendation on how to move forward since the City has wasted \$10,000 going through with the negotiation process and coming up with a conclusion that has now been summarily rejected with no discussion. She asked for a legal recommendation for an appropriate response.

Mr. Soper said the next step would be for him to advise Council confidentially on what the ramification of holding the YMCA in breach of the contract would be and allow Council to digest the information and make a decision.

Mayor Clark said she is comfortable scheduling that item for the next meeting.

Councilor Henderson asked Mr. Soper if he is assuming that the YMCA is in breach now. Mr. Soper said the issues with Section 33 that arose last fall were in violation of the contract.

Councilor Henderson referred to the RFP and asked Mr. Gall about the scope of the feasibility study and the projected costs. She said she would like to see the study include projections for 5 years as opposed to a snapshot. She stated we need to be proactive and not reactive. She said it can't be myopic. She commented that citizens that use the YMCA are now getting anxious about change and the future of the YMCA facility. She said she would like to see progress that is not in the form of animosity.

Mr. Gall responded that he would foresee a 5 year plan similar to what the City of Wilsonville did. He said the study could be like a business model to determine what it would cost the City to operate the facility. He commented that the building is nearly 20 years old and his proposed budget includes a roof replacement and said there will be maintenance costs. He also noted there is desire for expansion of the facility. He said it is a complex issue and there is unfortunately a lot of emotion and allegations back and forth. He said as a City we need to make an informed decision about what is going to happen with the facility. He expressed frustration on the amount of time spent negotiating Section 33 and he thought the deal was done. He said now they need to put the frustration aside and operate under the current language which is very poor and requires the City Manager to approve every potential use from outside organizations. He stated the current language is terrible and they had a good solution and that is frustrating.

Councilor Kuiper said there needs to be a process to identify the data objectives that need to be in the RFP. She referred to the different options that the RFP should consider.

Mr. Gall said he will provide Council with the proposed scope of work before the RFP is released. He said the proposed budget includes \$45,000 for the study based on what other cities have spent. He stated the facility cost the City \$8 million 20 years ago and there are important decisions to make. He noted the need for an outside analysis and said it is worth the investment.

Mayor Clark thanked Council for their direction and forward thinking. She said this is now a Council goal and was unanimously approved by Council. She stated the study will focus on how we deal with recreation in our City. She said she looks forward to the results of the study and is disappointed that the YMCA has chosen the path of entering into negotiations and then cutting the City off and wasting \$10,000 of the citizen's money, but stated we have to move forward.

Mayor Clark addressed the next item on the agenda.

## **9. CITY MANAGER REPORT:**

Mr. Gall reported the community garden plots are available for reservation on the City website. He said the garden is currently under construction.

Mayor Clark addressed the next item on the agenda.

## **10. COUNCIL ANNOUNCEMENTS**

Mayor Clark announced that May 7 will be the first work party for the Community Garden and it is full. She said the LDS community sent out notice and 50 people signed up. She said there will be a raised bed building work party in early June. She said she attended the Women of Influence luncheon sponsored by Nike and the Portland Journal and was invited to sit at the Nike table with Governor Brown. She announced that Trashpalooza is Saturday from 10 am – noon at the Cannery Plaza. She said wireless printing will soon be available at the Library. She stated the “If I were Mayor” contest deadline is Friday at 5 pm. She said Representative Suzanne Bonamici is having a Town Hall at the Sherwood Center for the Arts May 7 at 2 pm. She announced the Neighbor to Neighbor program will meet at the Newberg Hospital at 8:30 am April 30 for their spring cleanup. She stated that the Council will only meet once in May on May 3 as there will be 3 Budget Committee meetings that month.

Council President Harris said the Library had a 23% increase in card usage for March and there was an increase of 32% for volunteer hours. She said the Library had 70 programs in March with 1700 attendees. She said the registration for the Suicide Prevention Workshop is open and the workshop is Thursday, May 19 from 5:30 – 7:30 pm and is in partnership with the Washington County Mental Health and the Rotary. She said the Friends of the Library meeting is May 5 at 5 pm. She said the Library Advisory Committee meets tomorrow to clarify the exhibit process. She commented on the unique relationship the Center for the Arts has with the Tears of Joy Theater. She said May 14 is the Wacky Circus Fun. She discussed the gallery at the Center for the Arts and the new catalog. She stated the Altered Arts Festival is June 4.

Councilor King referred to the annexation measure signed by the Governor and asked staff if the Charter needs to be changed. Mr. Soper said they do not have to remove any language in the existing Charter. He said the Charter says unless otherwise provided by State law it will be referred to the voters and now State law provides otherwise. He stated that a link to the bill would be put on the City website.

Councilor Henderson said the Police Advisory Board will meet this week and next month is National Police Week and there will be a service in Salem. She said there is a shredding event on Saturday at the Police Department. She announced Guys and Dolls opens at the High School on Thursday and runs two weekends. She said on May 5 she will attend the Meals on Wheels annual luncheon with Community Services Director Kristen Switzer. She said the Missoula Children’s Theater registration is open with a camp in June and August. She stated the Altered Arts Festival is June 4 at Veterans Memorial Park.

Councilor Henderson excused herself at 8:55 pm.

Councilor Brouse announced the Spaghetti Factory is open. She said she attended the School Board meeting and stated there is a potential bond proposed for the November election and there will be more title funding coming to Sherwood students. She said the School Board also had an update on the strategic plan and they are on track. She stated the next Chamber meeting is May 10 and it is Tip a Cop and will take place at Rose’s. She said there is a Chamber mixer tomorrow night at the Refuge. She announced the Rotary Tree sale is open.

Councilor Kuiper announced the Sherwood Mixolydians won first place in the Rose City Sing off and they will be in the Grand Floral Parade. She said the Robin Hood Festival Association will meet on Thursday at 7 pm at the Masonic Lodge. She said 503 Uncorked is having a Wine Festival June 23.

With no further announcements, Mayor Clark adjourned the meeting.

**11. ADJOURN:**

Meeting adjourned at 8:48 pm and convened in a URA Board Work Session.

Attest:

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Sylvia Murphy, MMC, City Recorder

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Krisanna Clark, Mayor