



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, April 19, 2016

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

5:30 pm City Council Work Session

7:00 pm City Council Regular Meeting

URA Board of Directors Work Session
(Following the City Council meeting)



Home of the Tualatin River National Wildlife Refuge

5:30 PM WORK SESSION

- 1. Industrial Use Code Update (Julia Hajduk)
- 2. Possible Amendment to Noise Ordinance (J. Soper)
- 3. Update Kruger/Elwert Intersection Improvements (B. Galati)

REGULAR SESSION

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

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

6. PRESENTATIONS

- A. Recognition of Sherwood High School Student Athlete
- B. Employee Spotlight

7. CITIZEN COMMENTS

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 (Tom Pessemier, Assistant City Manager)
- B. Conflict of Interest - Request for Action by City Council (Staff Report Only)(City Manager Joe Gall)

9. CITY MANAGER REPORT

10. COUNCIL ANNOUNCEMENTS

11. ADJOURN to URA Board of Directors Work Session

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

City Council meeting materials and agenda are posted to the City web page at www.sherwoodoregon.gov, by the Thursday prior to a Council meeting. Council agendas are also posted at the Sherwood Library/City Hall, the Sherwood YMCA, the Senior Center, and the Sherwood Post Office. Council meeting materials are available at the Sherwood Public Library. **To Schedule a Presentation before Council:** If you would like to schedule a presentation before the City Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder, 503-625-4246 or murphys@sherwoodoregon.gov

AGENDA

SHERWOOD CITY COUNCIL
April 19, 2016

5:30 pm Work Session

7:00 pm Regular Meeting

URA Board of Directors Work Session
(Following the City Council meeting)

Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
April 5, 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, Council President Harris, Councilors Dan King, Jennifer Kuiper, Renee Brouse and Linda Henderson. Councilor Sally Robinson arrived at 5:40 pm.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Police Captain Mark Daniel, Police Captain Ty Hanlon, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

4. TOPICS:

A. Metro Update

Metro Councilor Craig Dirksen presented information to the Council (see record, Exhibit A). He provided an update on the Southwest Corridor Plan. He said the project work has focused primarily on providing different options for high capacity transit service and how to best service the corridor. He said the committee recently decided to remove downtown Tualatin as the terminus and recommended a terminus at Bridgeport Village. He explained the background in the selection for the recommendation. He said the next committee recommendation will be coming in May where they will identify if it should be light rail or bus rapid transit as the preferred mode, and whether or not to continue the study of an underground tunnel to serve PCC Sylvania or find a surface option. He said they anticipate a tunnel under Sylvania, similar to the tunnel to the zoo, and just the tunnel alone would cost somewhere between \$300-500 million. He said the recommendation that is coming from staff is that it be light rail and no tunnel. He explained the challenges of getting light rail up the hill and an option that was considered. He spoke of the requirements of seeking federal funding and identifying all options. He said the draft environmental impact statement that is the next step in the federal process is expected to begin this fall or winter. Council questions followed.

He explained Regional Snapshots being a new way they share stories and data with the public and decision makers. He said Snapshots are quarterly check-ins on issues that matter to the region such as housing, jobs and transportation. He provided an example of a Snapshot on Jobs (see record, Exhibit B) and said this information is available on their website. He said Metro is in the first phase of a major update to the Regional Transportation Plan. He said they are required to update the plan every four years

and expect to have it done by 2018. He said they had a public comment period in January and February and received more than 1500 responses from the public. He said there will be more public comment opportunities before they finalize the update. He said a focus is high capacity transit. He informed the Council that the first of three regional leadership forums will be on April 22 and will include members from MPAC and JPAC and other community leaders from private sector and non-profit organizations. He said the meetings are open public meetings. He said the meeting locations have not yet been decided.

Mr. Dirksen addressed Regional Flexible Funds and said they go through funding cycles that kind of correspond with the federal government and are in the 2015-2018 cycle. He said they need to come up with what they will be doing next for the 2019-2021 cycle. He said the uses of flexible funds are flexible and most of the money they receive is from state gas taxes or registration fees. He said by law these funds can only be spent on roads and bridges in the right-of-way and most of the federal funding is restricted. He said the flexible funds can be used anywhere for transportation and typically they fund things such as the local match bonding for transit and transit oriented development and regional transit options. He explained regional transit options and said Safe Routes to Schools is funded out of this as well as traffic signal updates and things that make existing systems better. He explained other areas the funds are used for, such as grants for sidewalks and trails. He said one thing they are considering that is a bit different, is the Fast Act, which is the new Federal Transportation Package. He explained their work on projects to be done upfront in preparation of the funds being available. He said they are looking at ways to utilize the flexible funds for identifying and developing a list of projects. He gave examples of projects as the bottle-neck issues at the Rose Quarter, widening of I-205, widening of 217, and how to do the linkage of the auxiliary lanes of I-5 southbound between 217 and I-205. He said funds could not be used for local comprehensive plans and are focused on regional systems. He said the funding cycle for 2019-2021 is about \$1.7 billion and our available regional flexible funds for this period are about \$130 million. He said a portion of regional flexible funds is set aside for local grants and this is the \$38 million referred to in the exhibit (page 7). He said \$48 million is going towards paying off the existing bonds for the light rail system and they are anticipating they will do another \$15 million which would support the Southwest Corridor and the Powell-Division Corridor. He said hopefully they will make a decision on the policy on how to allocate the funds this month and between now and November they will discuss what the criteria will be in selecting the highest priority projects that qualify for funding.

Mr. Dirksen addressed Equitable Housing and affordability issues, and said rent is staggering and home prices are beginning to impact our economic competitiveness. He spoke of our area having some of the cheapest housing on the west coast, but with improvements in the economy, our rents and housing costs are increasing faster than almost anywhere else. He said part of our region's success is our ability to attract a talented workforce looking for a good quality of life with reasonable affordability. He briefed the Council on a housing summit they had in February and the work that led up to the summit. He explained Metro does not have direct housing responsibility or authority in the region, but as the regional government they have the opportunity to bring everyone together and discuss where the deficiencies are with their large staff. He said they can provide resources to smaller communities that don't have the resources. He said strategy information can be found on their website, and recommended searching for Equitable Housing Initiative. He spoke of there not being just one solution as there are multiple challenges such as homelessness, and workforce housing (affordable housing). Discussion followed.

Mr. Dirksen addressed Solid Waste and said in January the Metro Council directed staff to explore two different options that would use the Portland regions garbage as a resource, one option would be burning trash to make electricity and post-collection garbage sorting that could increase recycling. He said over

60% of our trash is recycled and this is higher than anywhere else in the United States. He spoke of an existing facility north of Salem that burns most of Marion County's garbage that then generates electricity. Discussion followed regarding the Covanta site in Brooks and it having the capacity to double in size and this being a consideration. Discussion followed regarding the disposal of Portland's trash. He said the Metro Council has also directed staff to explore Advanced Materials Recovery, which is another name for a process that uses machinery and human hands to help recycle more. He said we are also looking at how we can make better use of the landfill capacity we already have. He said the landfill in Gilliam County has capacity for 110 years' worth of our garbage and Seattle's as well. He said in his opinion, we have 50 years to discover something else. He said another thing Metro wants to do is get more food scraps out of our garbage. He explained the benefits of doing this. General discussion followed.

Mr. Dirksen addressed Parks and Nature System and said Metro as the steward has over 17,000 acres of parks and natural areas across the Portland region. He said the Parks & Nature System Plan spells out Metro's mission and role, and organizes the portfolio of voter protected land into 11 "Nature Hoods". He said it also sets out strategies that we will focus on over the next few years. He said the plan provides clarity for Metro as well as our regional partners. He said major priorities include using science to guide our work, creating welcoming destinations for an increasingly diverse region, supporting partners, knitting together long time destinations, newer natural areas and regional trails into an integrated system and securing stable funding to support Metro's ongoing parks and nature work guided by the plan. He spoke of two bond measures they used to buy land and said they now have a five year serial levy that provides money to do improvements to the land and in many cases restoring the land back to its natural state and finding ways for people to access it. He said the Metro Council has asked the parks and nature team to develop a proposal for asking voters this coming November to extend the existing five year levy for another five years. He said the original was in 2013 and said we really don't need to do it until 2018 but want to do it now as they have programs in place or processes that take time and they want to have surety that they will have funding out further than 2018 before they commit to doing that. He said this would continue the current level of support until 2023. He referred to the exhibit (page 11) and explained the areas, including the parks they run. He referred to page 12 and the divisions of "nature hoods". He said Metro purchased about 1100 acres of land on Chehalem Mountain that is going to be Chehalem Ridge Regional Park and said they are in the process of doing public meetings to gather input on what the area should have; trails, camping, etc.

Mr. Dirksen said the last legal challenge with the Convention Center Hotel has been resolved and they are going through the final agreements with the developer and operator (Hyatt Regency) and hope to issue the bonds and get the project underway this year.

Mr. Dirksen addressed the Oregon Zoo and improvements made to the elephant exhibit. He said by 2020 we would have accomplished the rest of the bond measure projects and said they are currently working on the new education center and have already done the new animal clinic and have redone the penguin area. He said after they complete the education center they will be replacing the polar bear exhibit which dates back to the 1960's, and they will be making improvements to the ape enclosure. He said the hippo space, as we no longer have hippos, will be used to expand the rhinoceros area. Discussion followed. Mr. Dirksen spoke of the zoo admission and said they have adjusted their admissions so that the weekly rate is cheaper and weekend rates are a bit higher.

He briefly addressed the Arts and upcoming events. Mayor Clark thanked Mr. Dirksen for the information and called for a recess at 6:20 pm. The Council moved the next work session topic to the Community Room. Mayor Clark resumed the work session at 6:27 pm.

B. Police Staffing Study

Assistant City Manager Tom Pessemier addressed this topic and said Matrix has just completed the final draft of the Police Staffing Study Report. He said he has not had an opportunity to fully review the final draft and it has not been distributed to the Council yet. He said when the review is completed the report will be posted to the City website. He said this work session is an opportunity for the Council to digest the information and said the City's engagement with Matrix is done at this time. He said if there are additional things the Council wants from Matrix, Matrix would be happy to provide them, the City would just need to increase the scope of work.

Mayor Clark asked if the Council members had questions of staff. With no questions asked, Mayor Clark stated the staffing study was delivered to the Council and she wanted to bring it back to Council as there wasn't any recommendations for adding staff, but there were recommendations in tweaking our services. She said she wanted to talk about this with the Council and hear their thoughts on the recommendations as there was a request for increased services. She said one of the options was to ask Washington County to take our most evening service that has the least amount of calls. She said if we want to do something like this, we would have to make a request to the County. She said they would then come back and either accept or deny the request, and if accepted they would begin the process of making a proposal to the City. She asked staff to confirm if this was correct.

Tom stated he is not aware of what the formal steps would be as there hasn't been a lot of communication, but they would certainly not do something that is outside of what is wanted by the Council or the Sherwood citizens. He said he thinks it could enter into a conversation about what things might look like and at some point in time, this would come to concrete proposals and figuring out what is best for them and for the community, and how to move forward.

Mayor Clark said she would be in favor of asking them to start the process of giving us some information. She asked how the Council left about that.

Councilor Kuiper said we need to be specific about what we request from them so we are comparing apples to apples. She said she believes in the idea of pushing out the proactive time that officers have into the busier hour days. She said we need to give them what we want, for instance, do we want to have County Sheriff employees here in the City limits, using our cars. She asked what would the response times look like, and are they coming from outside the City limits into the City? She said we need to be specific of our requests to the County to maintain the level of service we currently have and not reduce it.

Council President Harris said she agrees and doesn't feel a decision can be made without data. Mayor Clark said this is why she felt it was important to have the meeting right away because it's not something you jump into.

Councilor King asked are you saying you want staff to come up with an outline of things, of what their proposal would be to the Sherriff.

Mayor Clark said she thinks we need to begin asking Washington County and said what is the point of having staff work on it if the County comes back and says they are not interested. She said she would like to make a request asking the County if they would consider taking some of our service, and if they say yes, then we can work with staff.

Councilor Harris said the consultant said the County was willing. Mayor Clark stated but we need to make the request.

City Manager Gall said it would be a formal request to start that process and said there have been initial conversations with the Sheriff's office and they are aware of the recommendation and they will respond to a request.

Councilor Robinson said and what would the cost be and said she would like to see our staff, primarily the Chief, give us information about if in fact we were to go down that road what could we do with our existing staff as far as funding the SRO that was also recommended. She said would that in shifting just the people we have, would that be possible? She said the school district has indicated they are not interested in sharing the cost of a second SRO, and would we have enough funding to keep that second SRO without school district contributions.

Councilor King said he believes the big advantage of shifting our staff to the two 10-hour shifts and letting the County do the night shift, is we can take the resources that we do have and focus them into the areas that we want. He said even though we could hire more people, it would take more time to get up to that speed or level of service that we want. He said being able to shift people to the higher use time zone would be more efficient.

Councilor Robinson said she would be interested in learning whether or not the night positions could also help the detective that we have in funding some of that. She said she thinks there was a desire that we could be more proactive in investigation of online crimes and things of that nature, and would we be able to do that with our existing staff, if we just shifted things.

Councilor Kuiper said she is hearing two questions; A) Is Washington County interested and if so, B) these are the things that we are going to ask for and then to arrive at the expected outcomes, which are more available time for our proactive time, which is between 9-5, potentially can we push that out to get a second SRO and then more time for the detective to do investigations of online internet crimes. She asked if this is what she is hearing.

Council President Harris said these are two different things and said what the Chief does with his staff is what he does with his staff, kind of not our business, but sort of.

Tom Pessemier clarified, the Council would like staff to approach the Washington County Sheriff's office and ask about this, and he is also hearing that the Council wants to ensure they are able to have a good response time in Sherwood, similar to what we are currently getting, and our levels of service are not going down just because we are bring in the County for that period of time. He said the Council probably wants them to do some type of evaluation indicating if they did a certain scenario this is the level of service we can expect. He said staff can start having this conversation and said this is going to come down to what they can provide and what it will cost. He said and then how do we reallocate our resources, which will entail Chief Groth, the Council and others. He asked if this is correct.

Councilor Kuiper said to clarify, when she means “reallocation”, based on what the study says, and Chief Groth can manage whatever is needed, but based on the outcome of the study. Tom replied he did not think anybody was in as good a position as Chief Groth to figure this out.

Councilor Brouse asked what is the percentage of the investigation time that our current officers are spending, not just the detective, but the rest of the officers, doing their own investigative work. She asked Chief Groth what his thoughts were on the results of the survey.

Chief Groth said the percentage question is hard to answer and said he would need to go back and see if he could assign a percentage to it. He said he can tell the Council that our patrol officers are investigating anything from easy thefts, which you would expect a patrol officer to investigate, to significant frauds when they occur and lots of stuff in between. He said he would say roughly of all the cases, if you were to apply a number to those to require follow up investigation, he can safely tell the Council that the vast majority of those are being done by patrol officers, as opposed to our detective. He addressed the second question and said you’re asking for my input on the entire study and report? He said he would not know where to begin and it certainly would not be a negative response. He said it would be easier to respond if it were something specific.

Councilor Brouse said she would narrow it down and referred to the Council discussion of asking Washington County to come in and work a shift and taking that officer and potentially putting them into a second shift, and moving to 10-hour shifts. What are your thoughts about this?

Chief Groth replied anytime you free up, within a 24 hour clock, chunks of time within that clock, there are resources that can be moved to other places. He said the thoughts and assumptions that are being discussed are right on. He said we would sit down, he and the police captains and build models. He said there are lots of way to do that and look at exactly what we could do by that reallocation.

Councilor King said he assumes this would be a positive thing as far as resources. Chief Groth replied yes and said when you talk about trying to address additional areas that you can’t, there are lots of ways to do that, and one way is to address the resources and how you want to allocate them. He said no matter what you do, he believes everyone agrees that you’re looking at additional resources of some level and it’s how you choose to allocate them. He said that raises to a policy level, a decision that states this is how we want to allocate resources and then it’s his job to take those resources and decide how best to police the community based on all the information received from the community and from the Council and what we identify as needs.

Council President Harris commented regarding the elephant in the room and the comments in social media about having Washington County takeover the police and what a ridiculous idea this is and we will have terrible service response times, and it’s cheaper to stay with the current service. She said she thinks that part of this is normal, but believes this is also people’s emotional attachment to the Sherwood police department, which she also has. She said she believes looking to Chief Groth and his staff to have an opinion on the information received and ask if they think it’s a terrible idea or a great idea. She commented regarding hearing a lot of talk before she was a Councilor about going to Washington County and it was an all or nothing talk and what a terrible thing it was. She said when she heard about this, it seemed like a great way to utilize our amazing officers and assets at the time that we need them and at the time that we need them less, maybe we can give them a break. She shared a personal experience

with her spouse working a nightshift and the difficulty on their family. She said the idea of moving officers into a dayshift where they could have better work-life balance and be better officers is appealing to her, without losing our personal police department that we all love and are emotionally attached too. She asked how the police officers are feeling about this.

Chief Groth said he is not sure anybody knows what to think. He said there has been so much bantering for quite a while that until some decisions are made, he doesn't think the staff knows what to think. He said Councilor Harris mentioned different reactions and he believes every one of these are at play, depending on how the conversation is going at that particular time.

Tom Pessemier said the reality is, what he is not hearing from the Council tonight is that we are going to make a rash decision, the Council wants more information and wants it to be studied well and wants a conversation and dialog to make sure we understand. He said we don't know from a service or cost perspective if this will work or if it makes sense in the long run. He said he is not hearing decisions being proposed by the Council, but wants staff to look at the first steps. He said there is plenty of time to have those conversations if this make sense or not. He asked if this is a fair assessment.

Mayor Clark said we want to provide the best police service, we meaning everyone, the police department, the Chief, the Council and the citizens. She said how do you do that, by having an independent police staffing study and you take that information and gather more information if that is what the study says to do. She said that is what we are proposing to do and believes this is the right way to handle information. She said Tom summed it up very well and we are here to work together to solve the problem and give the best services we can.

Councilor Kuiper stated we spent \$38,000 on a study and she believes it left us with some good parameters to move forward and believes this is what we are doing. She asked staff to clarify how much time is typical for a police officer to spend on investigations, and said she didn't want to go down this path thinking traditionally police officers don't do their own investigations.

Chief Groth stated the notion that patrol officers would spend a portion of their time doing follow up investigations is not new, and this is all he has known in his career. He said it is absolutely typical and what we have been doing in this police department for the past eight plus years he has been with the City. He said it is common and typical. He said how much time, depends on the patrol officer and the case. He said it has to be monitored and gave an example of an officer working a case that requires him/her to leave the City to perform follow up, and this resulting in the loss of a patrol resource. He said the act or process of case management tells you what types of cases should be assigned to a patrol officer to follow up on, as well as several other things.

Councilor Henderson referred to page 8 of the executive summary which listed four recommendations; School Resource Officer, Community Service Officer, additional Police Officer and a Sergeant. She asked why are we focusing only on the Washington County aspect when that is a way to shift resources to day time activities, for example, drug enforcement, investigation, drug prevention, and student resource officer. She said when she thinks about the information that she would like to have she is also conscious of the fact that we are entering into a budget cycle. She said she would like to spend more time focusing on those four recommendations and whether or not this is something the Council would move towards because those are the positions that are going to spend time doing investigations, SRO and the time that the County may or may not be patrolling for us. She said those are individuals who probably would not be

following up on investigations and would probably pass it along. She said she is still trying to understand if we want the best public safety, then why would we not hire our own officers to do this work. She said she understands they might not want to work nights, but they already rotate the schedule. She said she is not for or against Washington County in any way, however we don't control their training, their staffing, levels of experience and she is not saying it wouldn't work, but doesn't understand the objective advantages to hiring someone else to patrol our City, even though it was recommended as an option. She said if she had the choice of hiring her own employee or a temporary employee, she would hire her own employee, especially when talking about public safety. She said the Washington County inquiry is something that she is curious about, but this is not actually tackling the concerns that the public has conveyed in the survey and in the open house. She said it's like a band-aid or a stop gap. She referred to last year's police department budget and the request for an admin and it being denied because of budget constraints. She said an admin would free up the Chief or the Captains or the officers to do more of the work that Councilor Brouse spoke about, yet it was denied because we have to have a rational, clear and responsible discussion about how we would pay for these things. She referred to the estimate provided by Matrix of \$362,000 and said this is not that large of a number considering the department budget is \$3 million, of which \$80,000 is going towards overtime. She said she would like at least equal consideration and information about the other recommendations that are actually people in the job doing the work. She said she doesn't disagree that the School Resource Officer is number one on the list.

Council President Harris said she agrees with Councilor Henderson and believes it's two-fold, and by having Washington County you free up three people to fill those positions. Comments were received that it's two positions at night.

Tom Pessemier clarified regarding the reference made to page 8 and said these were to address comments by the citizens as you noted, but the last two, the additional police officer and the additional sergeant were specifically if we went to the 12-hour shift program. He said those were resources that were necessary because of that change to a 12-hour shift program.

Council President Harris stated she would not want the 12-hour shift option.

Councilor Kuiper stated making a request from Washington County does not preclude us from also looking at this and would expect and anticipate that we would look at this as well, otherwise we are not really playing with a full deck and we need to have all the information that is out there.

Mayor Clark stated this is also a step two, because according to the study these what you call "recommendation", were not his recommendations. She said his recommendations were that we are currently policed at a "high" level of efficiency and we do not need any additional, and by asking Washington County to give us some information perhaps we might be able to free up some resources, because the recommendation, these were requests from 328 citizens that they (Matrix) spoke with, out of a population of 19,000 plus people. She said these are wants and are not recommendations and in order that we might be able to give our citizens the wants that aren't something that should be allocated in the budget due to the need, then maybe we can do that by looking at Washington County, we can open up resources that might have not been there. She said we won't know until we hear back, it's kind of a step one and a step two.

Councilor Robinson stated she saw the same process as occurring that we had to go look outside for Washington County estimate before we can further talk about the options that we want to explore. She

said separate from that, she asked the Chief and referred to the report and said she was surprised that there was a level or decrease of what she would say moral, in the study and kind of got that impression, and doesn't recall exactly where it was in the report. She asked since the study has been published have you undertaken anything with your own staff to discover more about why they have a decreased moral and what could they do to improve it, and if we can as a Council do anything to help improve that, she is not sure. Councilor Henderson interjected and said she believes the page in the report being referred to is page 20. Councilor Robinson stated she was surprise that it was lower than what she would have expected.

Councilor Robinson said one of the questions in the report was, "do I the staff, feel like we are utilizing our resources and equipment availability" and said there was a large percentage that said no. She said on page 20, item number 24, the question of, "we have sufficient supervision in the field", and said 68% of the staff felt that that was not the case.

Chief Groth said he would try to address the questions and referred to the supervision component, and said when he first met with Mr. Matthews from Matrix and had his interview, Mr. Matthews told him that the police department did not have enough sergeants. He said to properly provide the supervision coverage you have to have five sergeants and the department has three. Chief Groth stated Mr. Matthews discussed the importance of supervision, but it all gets linked to adding a sergeant on the 12-hour shift to make four teams, each having a sergeant. Chief Groth said if he had one disappointment in the report that would be it. He said for some reason what Mr. Matthews told him did not transcend into the report. Chief Groth said supervision is a critical component for risk mitigation, liability reduction etc., and what you're seeing in question 24, when Mr. Matthews posed that question to staff, the result is a fair representation of staff and they do not feel there are enough supervisors. He said we see on evaluations consistently feedback that an officer works only one day with a supervisor in a work week and it would be nice to have a sergeant present more often. He said this is something that we need to try and address.

Chief Groth addressed the moral question and said this was question 26 on page 26 and said the statement reads, "generally my moral is good" and said 77% agreed compared to 14% disagreed. He said he can tell the Council this is a concern to a leader, but when you think about it, it's kind of like a moving target and is personally defined that is really difficult, and there are a lot of leadership theories that address moral, from one extreme that states "moral is an individual choice and each employee in any organization determines their own moral" to the other extreme which is "you have to do everything you can to keep people happy". He said he can't give the Council an intelligent answer because moral is one concept that has been used for years and you don't know what it applies too. He said from a general perspective 77% agree that moral is good and this is a fair number.

Councilor Robinson said she was comparing it to number 27, which states, "department moral" remains high and said only 55% agreed with that. Chief Groth said he can't speak to why people answered that question, but it's a conundrum, because on the question before, they stated "my moral is high, but I think everybody else's is low". He said as the Chief and leader for this department, he doesn't want to misinterpret ones moral, as it does matter, and is not an easy concept to wrestle with.

Councilor Brouse said moral is important and referred to questions 28 and 29, "I plan to make a career at the Sherwood Police Department", 82% agreed and the question, "I would recommend Sherwood Police Department as a place to work in law enforcement", 86% agreed. She said as Councilor Henderson was saying moral is more of a snapshot, but the real answers are here.

Chief Groth referred to their vision statement and said a component of that is that the Sherwood Police Department is a place of destination, and if you look back at the history of our hires and our retention rate in the last eight years, we have a very high retention rate and the few folks that have left did so for appropriate reasons, such as being closer to their home or going back to a department they left. He said we have attracted people from bigger departments and from across the country.

Councilor King said this is a complement he wants to give to Chief Groth and said on a previous Council that was a main objective, to transform this department from being a stepping-stone to being a destination. He said frankly, all the money we spend on training and hiring is more valuable than letting them go. Chief Groth stated retention brings exponential financial benefits.

City Manager Gall referred to Councilor Robinson's question regarding moral and said to think about what's happening across the nation in law enforcement. He said it's a tough job and it's got to wear down on officers.

Mayor Clark stated the Council needed to move onto their regular meeting and asked if staff had sufficient direction. Tom Pessemier replied he believes so and thinks we have a good plan and doesn't think it should take too long to get the conversation started and see where we're at.

5. ADJOURN:

Mayor Clark adjourned the work session at 7:05 pm, took a short break 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, Sally Robinson, Dan King and Jennifer Kuiper.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Police Captain Mark Daniel, Police Captain Ty Hanlon, Public Works Director Craig Sheldon, City Engineer Bob Galati, Community Development Director Julia Hajduk, Library Manager Adrienne Doman Calkins, 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: FROM COUNCILOR HENDERON TO APPROVE THE AGENDA, SECONDED BY COUNCILOR BROUSE. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

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

5. CONSENT AGENDA:

- A. Approval of March 15, 2016 City Council Meeting Minutes**
- B. Resolution 2016-013 Authorizing the City Manager to enter into a Professional Services Contract with DKS Associates for Langer Farms Parkway pedestrian crossing plans, specifications & estimate**
- C. Resolution 2016-014 Authorizing the City Manager to execute a construction contract for the Tualatin Street and Highland Drive Storm Sewer and Pavement Rehabilitation Project**
- D. Resolution 2016-015 Appointing Rose Hulett to the Library Advisory Board**

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

Mayor Clark addressed the next item on the agenda.

6. PRESENTATIONS:

A. Recognition of Eagle Scout Award Recipient

Mayor Clark recognized and congratulated Mitchell Cluff for obtaining the rank of Eagle Scout. The scout was not present and Mayor Clark indicated the certificate would be mailed.

B. Proclamation, National Library Week April 10-16, 2016

Mayor Clark read the proclamation and noted libraries support democracy and effect social change through their commitment to provide equitable access to information for all library users regardless of race, ethnicity, creed, ability, sexual orientation, gender identity or socio-economic status. She encouraged all residents to visit the library this week and explore what's new, and engage with your librarian. She proclaimed April 10-16, 2016 as National Library Week.

C. Proclamation, Arbor Week April 3-9, 2016

Mayor Clark read the proclamation and stated trees properly planted and cared for are a source of community environment that assists in mental and peaceful renewal and provides many comforts such as shade, clean air, beauty, and increasing property values. She proclaimed April 3-9, 2016 as Arbor Week 2016 in the City of Sherwood, and called upon the citizens of Sherwood and the surrounding community to celebrate Arbor Week, to support efforts to protect our trees and woodlands, and to plant trees that promote the well-being of this and future generations.

D. Proclamation, Volunteer Month April 2016

Mayor Clark read the proclamation and noted volunteering of an individual's time and resources is an essential part of the Sherwood community spirit. She honored, celebrated and thanked those volunteers in our community who share their time, energy, knowledge, and abilities by proclaiming April 2016 as Volunteer Appreciation Week in Sherwood. She called upon all citizens to help to renew and sustain the Sherwood community spirit by committing themselves to address the needs of our community through voluntary action.

Mayor Clark asked Council if City Manager Gall could introduce new employees at this time as opposed to waiting for City Manager Report. No objections were received and Mr. Gall asked Public Works Director Craig Sheldon to introduce his new employees.

Mr. Sheldon introduced Christine Armstrong, the new Utility Billing Technician. He stated that Ms. Armstrong has 15 year experience in accounts payable, receivable billing, and customer service. Council welcomed Ms. Armstrong.

Mr. Sheldon introduced Tanner Steffens. He stated that Tanner was a Seasonal Maintenance worker for the City and became a full time employee on February 16 as a Maintenance Worker 1. Council welcomed Mr. Steffens.

Mayor Clark addressed the next agenda item.

7. CITIZEN COMMENTS

Gail Cutsforth, Sherwood resident and volunteer YMCA Board member approached the Council and said success drives the YMCA partnership with the City of Sherwood. She said in the 18 years since the Sherwood voters invited the YMCA to our community the YMCA has established itself as the community hub. She stated the YMCA provides over \$300,000 annually in free or reduced services to over 1,000 low income neighbors. She said they offer swimming lessons, sports camps, exercise programs for seniors, programs for those with special needs, diabetes prevention, a teen center, cardio, free weights and group exercise classes. She said it is an inclusive environment founded on the principles of love, respect, responsibility, honesty and service. She noted the best part about the partnership is that the services are provided at no cost to the local taxpayers. She commented on the City exploring the idea of ending the contract with the YMCA and running the facility itself and said the Council should remember why the City and Sherwood residents invited the YMCA to operate the facility in the first place. She stated City government has neither the expertise nor the budgetary resources to add managing a recreational facility to its responsibilities. She noted most often when cities run such facility the taxpayers subsidize the operation. She said Portland governments that run local community centers spend an additional 58% more in taxpayer dollars than if they contracted with an organization like the YMCA. She in 1996 the City's elected officials decided that it was not a good idea for the City to take on the responsibility and the Mayor, City Council and citizens of Sherwood hired the YMCA. She said it is estimated that a City run facility will add at least \$1.5 million to the FY 2015-16 budget which is a 5% increase. She noted this does not include facility upgrades, equipment upgrades, expansion projects or an emergency fund. She said the City faces tough budget decisions and asked if it makes sense to add a recreational facility when the YMCA has a successful track record of adding value to the community. She stated the YMCA provides the best service at the lowest possible cost. She said it is in the best interest to the citizens of Sherwood to continue the contract with the YMCA.

Jeremy Nuckolls, Sherwood resident came forward and said his neighbors are growing marijuana and continually smoking marijuana. He said he lives in a leased townhome that is physically attached to his neighbors and he has no legal recourse to defend his family against this. He asked the City to consider an ordinance for odor control. He said he has no way to protect his family and he is locked into a lease. He said his family is subjected to this constant odor. He stated they cannot close the windows because the odor is coming from the walls. He said they are being imposed upon by their neighbors. He noted the recent legalization of marijuana has imposed this issue and he can no longer guarantee that his family

has a safe and healthy environment. He commented that the police are unable to help. He asked the Council to consider an ordinance to impose a daily fine on something that is considered a nuisance and something that will ultimately violate the health and safety of his residence. He asked Council to consider a \$100 a day fine and reimbursement for any expenses related to vacation of property during remediation.

Councilor Robinson encouraged Mr. Nuckolls to attend the Planning Commission meetings where restrictions on recreational marijuana are being discussed. She said his testimony would be valuable and encouraged him to continue to voice his concerns.

Tess Keis, Sherwood resident approached the Council and thanked them for approving Resolution 2016-013 which will improve the pedestrian crossing on Langer Farms Parkway. She said this is important to Jeff Old's family.

Tony Bevel, Sherwood resident came forward and commented on SB 1573 and the direct implications with the Brookman Road annexation. He referred to the effects this bill has on Sherwood's Home Rule. He said citizens are asked to be responsible and vote and Sherwood has voted 3 times to reject the Brookman Road annexation. He said now the Oregon Legislature had an emergency session and passed SB 1573 which strips the Sherwood citizen's right to decide its future. He said the City of Corvallis is going to attempt to fight this issue and he encouraged the Council to consider something similar. He provided the Council with a handout containing information from the City of Corvallis.

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

8. NEW BUSINESS

A. Resolution 2016-016, Approving Ballot Title and Explanatory Statement and submitting to the voters Ordinance 2016-003, Imposing a Three Percent Tax on the Sale of Marijuana items by a Marijuana Retailer

City Attorney Josh Soper stated under House Bill 3400 (2015), cities may impose up to a 3% local tax on sales of marijuana items made by those with recreational marijuana retail licenses. He said in order to do this the City has to pass an ordinance and refer it to the voters at a statewide general election and the first opportunity for such an election is November 2016. He said the Council adopted such an ordinance imposing a 3% tax on January 19, 2016 and because this ordinance by law must be referred to the voters, staff has prepared a ballot title and explanatory statement. He said this resolution approves the ballot title and explanatory statement and formally refers the matter to the November 2016 election. Subsequent to Council adopting Ordinance 2016-003, the Oregon Legislature approved Senate Bill 1601, which allows recreational marijuana retailers to sell marijuana items to medical marijuana patients without collecting any state or local taxes. He said the attached ballot title and explanatory statement therefore clarify that the local tax would apply only to recreational marijuana sales by recreational marijuana retailers. He noted that State law also provides a mechanism for prohibiting the establishment of certain marijuana businesses via an ordinance that must also be approved by the voters, but states that a city that adopts such a prohibition may not also impose a local tax. He said an ordinance creating such a prohibition is also before the Council for approval of a ballot title and explanatory statement, and formal referral to voters. He stated the proposed tax ordinance therefore will not be effective if the prohibition ordinance is approved by voters, even if the tax ordinance is also approved.

Councilor Kuiper asked if 3% is the maximum. Mr. Soper said yes.

Councilor Henderson said the ballot title states that the tax will be collected at the point of sale and remitted by the retailers and asked if that is gross sales and what is the process. Mr. Soper said he left this language broad to allow for implementing regulations after the fact. He said the tax is on the price paid for a marijuana item excluding the tax by or on behalf of the consumer of the marijuana items, so it is the gross receipts. He stated he did not want to get into the nuances of how the tax was collected and that is a good thing because at the time the law stated that the City would have to administer the program. He said in 2016 the State Legislature allowed for cities to have an IGA with the Department of Revenue to collect the tax on our behalf.

Councilor Henderson asked who pays for the processing of the collection. Mr. Soper said that would depend on the IGA which would probably include an administrative fee. He said the primary advantage would be an economy of scale.

With no further questions, Mayor Clark asked for a motion.

MOTION: FROM COUNCILOR HENDERSON TO APPROVE RESOLUTION 2016-016, SECONDED BY COUNCILOR KING. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

B. Resolution 2016-017, Approving Ballot Title and Explanatory Statement and Submitting to the voters Ordinance 2016-002, Declaring a Ban on Recreational Marijuana Producers, Recreational Marijuana Processors, Recreational Marijuana Wholesalers, and Recreational Marijuana Retailers

City Attorney Soper stated this legislation declares a ban on specified categories of recreational marijuana-related businesses. He noted that State law allows cities to do the same thing for certain categories of medical marijuana facilities but this only applies to recreational facilities.

Councilor Henderson referred to language in the explanatory statement that reads that if this measure is approved the City will be ineligible to receive the distribution of state marijuana tax revenue and unable to impose a local tax. She asked how the state tax is determined and distributed. Mr. Soper said currently the state sales tax is 25% on the early sales of marijuana in the medical dispensaries and will be 17% for the sales at recreational facilities starting this fall. He said there is a formula for how that is divided into a number of categories: 40% to the common school fund, 20% to mental health, alcoholism and drug services, 15% to State Police, 5% to OHA, 10% to cities and 10% to counties. He said the 10% to cities will be earmarked to assist in performing law enforcement duties in relation to Measure 91. He said that 10% is allocated to the cities and in terms of how much each city receives will initially be based on the population of the city and starting on July 1, 2017 it will be based on the number of marijuana licensed facilities.

Councilor Kuiper referred to the 40% for schools and asked if that will be allocated depending on whether a city decides to ban recreational marijuana sales. Mr. Soper said it just goes into the common school fund and is divided accordingly.

With no further questions, Mayor Clark asked for a motion.

MOTION: FROM COUNCIL PRESIDENT HARRIS TO APPROVE RESOLUTION 2016-017, SECONDED BY COUNCILOR KING. MOTION PASSED 6:1. (COUNCIL PRESIDENT HARRIS AND COUNCILORS HENDERSON, BROUSE, KUIPER, ROBINSON AND KING VOTED IN FAVOR, MAYOR CLARK VOTED AGAINST).

C. Resolution 2016-018, A Resolution opposing Ballot Measure No. 34-244

Mayor Clark asked for public comment.

Sean Garland, Sherwood resident came forward and stated he is in favor of the resolution. He stated the requirement of the ballot measure is that any additional fees over 2% will require a double majority vote in order to be approved. He explained that a double majority requires more than 50% of the citizens to vote in favor and have more than 50% of registered voters vote in the election. He said that does not happen in elections in Sherwood and would make it difficult to approve even popular fee increases. He said the Councilors are elected representatives and we should trust them to understand the issues. He commented on the amount of work the Council does to understand all of the fees and structures. He said he trusts the Council to know what is best for Sherwood. He noted if this passes and a fee is proposed for more than 2% it would require a special election which is estimated at \$10,000 per special election. He stated he does not understand the logic of this measure and is opposed to the measure and supports Resolution 2016-018.

Alan Pearson, Sherwood resident approached the Council and said he has written extensively on the issue. He commented on the importance of having a strong community and the quality staff in Sherwood. He referred to the staff and noted that recently Community Development Director Julia Hajduk and Senior Planner Michelle Miller applied for a grant and received \$68,000 from Metro. He stated that he votes for school bond issues to improve the quality of the schools even though he has no children in the school system. He said this indirectly benefits him in terms of his home value increasing. He stated Sherwood is one of the most affluent communities in the state. He referred to the Council recently telling a private enterprise that they can't raise their fees 10% and noted that the Council is fiscally conservative and understands that when they raise taxes they are raising their own taxes as well. He said thanks to the due diligence of Mayor Clark the 4% water fee increase is not going to happen because she found information that was not presented. He thanked Mayor Clark and the rest of the Council for doing the job that they are elected to do and stated this ballot measure is an insult to the Council.

Councilor Kuiper thanked Councilors Robinson and Henderson for adding their input. She said she prepared this resolution in order to have a public conversation to discuss the measure and come to a collective understanding. She noted this measure requires a double majority and she referred to a recent Senate Bill 2177 which would require that anyone getting a driver's license could automatically be registered to vote. She said this means that the pool of voters will increase in Sherwood which will make getting a double majority more difficult. She stated that she researched Sherwood election results and found that in May 2003 there was a 33% turnout, in November 2003 there was a 34% turnout, in November 2001 there was a 36% turnout, in March 2000 there was a 40% turnout, in November 1998 there was a 58% turnout, and in May 1998 there was a 29% turnout. She said she will continue to do research to determine how many times there has been a double majority.

Council President Harris stated that she is in favor of the resolution and opposed to the ballot measure for all the reasons that have been stated. She thanked Mr. Pearson for his compliment to the Council and noted that they too are affected by fee increases. She said the Council carefully considers fee and tax increases. She stated that this ballot measure could be a disaster for Sherwood and at a surface level it looks good but if the voters don't understand the double majority consequences and the consequences of not being able to increase a tax or a fee based on a perceived need. She noted there will be representation for the citizens when taxes and fees are considered by the Council.

Councilor Robinson said she helped Councilor Kuiper with the language of the resolution and tried to explain to the average citizen what it means for the future. She said one aspect of the measure that is not generally understood is the funding sources for the City and how the City operates. She said the General Fund covers all of the administrative functions and is not allocated to anything in particular. She commented on dedicated funds and if those funds need more money and the City is unable to pass a rate increase above 2% the funds will be taken from the General Fund which will take away from other projects. She said this will not give the citizens a say in tax and fee increases because the measures will never be able to pass with a double majority and this will stall the City by an inability to adequately fund something that is necessary. She agreed with Council President Harris that the fee increases affect them personally. She stated she is proud of the Council and the amount of time they spend on issues regarding rate increases. She said they question the increases and think of options and analyze the information. She stated she does not like to pay the increasing water rates but stated there is a \$29 million facility that will have to be built. She said if we are going to provide our citizens with the same amount of service with a higher population then we have to find a way to fund it. She said \$29 million coming out the General Fund will bankrupt the City. She stated this measure is an awful way to gain public participation and she would much rather have citizens attend work sessions and meetings and ask questions and challenge the conclusions. She encouraged citizens to email the Council and comment on surveys that are available on the website. She said the Council is not acting frivolously and takes the role of representative seriously and wants to be fiscally responsible. She provided examples and said the Council has been doing a good job and will continue to work for the citizens. She asked the citizens to continue to rely on the Council to be their representatives without having to send proposed increases to special elections at the cost of \$10,000 per election. She said this does not make sense and encouraged voters to vote no on the ballot measure and stated that she supports the resolution.

Mayor Clark thanked Council Kuiper and stated that she supports the resolution. She commented that no one likes to pay fees and provided examples of what the fees pay for in our community such as the Library, streets, parks, etc. She said the City works hard to provide great services. She stated that fiscal responsibility is her top priority and she will look at every fee increase in detail. She noted that the Council has denied fee increase requests in the past. She commented on the need to solve problems and work together. She said the City of Sherwood wants amenities and great services.

Councilor Henderson said she agrees with the previous comments. She commented on solving problems and saving money and provided the example of installing the bathrooms at Stella Olsen Park. She said this ballot measure is a tax limitation measure that is solely residential based and she is concerned from an economic standpoint. She said this measure could deter businesses from coming to Sherwood for fear of the tax implications because 80% of the funding comes from residences and 20% of the tax base is other. She referred to Mr. Pearson's comments that the value of our home is related to the value of the community and how well it is maintained. She said if this measure passes property values would decrease which would hurt schools. She stated this is called compression and this measure would

accelerate compression. She noted that Sherwood has made significant investments in the infrastructure and livability as well as economic development and we have the benefit of a well performing Urban Renewal District. She said on the surface there could be grave consequences such as businesses deciding to leave so they are not at the liability of increased taxes. She said obviously this Council would not be changing the taxation but the next Council may not have a choice especially since there is no emergency provision in the measure. She referred to the unknowns such as whether this measure would apply to bonds. She said she is in support of the resolution opposing the measure because she does not know the long term effects and said it will hinder Sherwood's ability to grow economically and would hurt schools and school funding. She thanked Councilor Kuiper.

Councilor King said this measure will cause frustration and will cost more than the benefits. With no other Council comments the following motion was received.

MOTION: FROM COUNCIL PRESIDENT HARRIS TO APPROVE RESOLUTION 2016-018, SECONDED BY COUNCILOR HENDERSON. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

9. CITY MANAGER REPORT:

City Manager Gall said he had nothing to report and reminded the Council that there will be an Executive Session following this meeting.

Mayor Clark addressed the next item on the agenda.

10. COUNCIL ANNOUNCEMENTS

Mayor Clark announced that today is the Mayor and County Day of Recognition for National Service which is a nationwide bipartisan effort to recognize the positive impact of national service in counties and to thank those who serve and to encourage citizens to give back to their communities. She thanked those that serve in Sherwood. She announced that tomorrow at 1:30 pm is the Arbor Day tree planting and she encouraged people to attend. She said she attended the Metro meeting last week and announced that Sherwood received a \$68,045 Nature in the Neighborhood grant and thanked Senior Planner Michelle Miller and Community Development Director Julia Hajduk for their efforts. She stated that she attended the Chamber grand opening of Baja Fresh. She said she attended the Pride Disposal 30 year Anniversary celebration and thanked them for their service. She announced that she met with the Governor's Regional Solutions Team to advocate for state funds and support projects in Sherwood. She said the Planning Commission approved the Community Garden Plan and the plan will be on the City website soon. 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. She referred to Ordinance 95-996 which addressed a Parks and Recreation tax rate levy and the citizens opposed the measure by 548 to 527. She said on September 17, 1996 a Sherwood General Obligation Bond for \$7,900,000 went before the voters for an indoor and outdoor recreational facility including a swimming pool. She noted that measure passed 1127 to 785. She said Sherwood now has a population over 19,000 and the Council wants to provide the very best recreational services to the citizens.

Council Kuiper asked if the dog park is open. Public Works Director Craig Sheldon said it will open tomorrow. She said the Sherwood Robin Hood Festival Association has a rendering of the next mini float for the Rose Festival parade. She said the City of Sherwood is providing some of the funding. She said the Robin Hood Festival Association is now accepting applications for the Maid Marion Court. She announced that the High School is performing Guys and Dolls this month.

Councilor Brouse said she is a member of the League of Oregon Cities Community Development Committee and will be attending the next meeting on Friday. She attended a For Kid's Sake meeting which is focused on after school programs for children. She announced the Chamber breakfast is Tuesday at the Sherwood Police Department. She announced that the Sherwood Rotary Tree Sale starts on April 16 and goes through May 8. She said Neighbor to Neighbor Day is May 7 and Trashpalooza is April 23. She announced that Relay for Life is August 6 and they are looking for teams to participate.

Council President Harris said the Library had 30,000 checkouts and 2,000 eBook checkouts in March. She said there were 140 entries for the 6 word story contest. She said thanks to the CEP Grant the Library completed a 3 part open mic series. She said the Summer Reading Program starts on June 1. She reminded citizens that the Library provides homework help. She said the Center for the Arts provided winter classes in drawing, painting, performing arts and writing. She said 16 classes were offered and 86 students registered. She stated spring classes are starting and include drawing, painting, performing arts, ceramics, writing, photography and puppet camps. She commented on the economic impact of these courses. She said she attended the first annual Friends of the Center for the Arts Gala. She said the funds raised were for programming and scholarships for classes and to purchase a riser or a stage for the Center. She said they raised \$9,425 and ticket sales were \$4,000 with 92 attendants. She announced the Edy Ridge carnival is Friday at 4 pm.

Councilor Robinson said there is a Budget Committee meeting on Thursday at 6 pm and said they will be discussing the effects of PERS. She said the budget will be released on April 29. She stated there will be 3 Budget Committee meetings and encouraged the public to attend. She announced that the Old Spaghetti Factory will be opening on April 18.

Councilor Henderson said she received a request from the Senior Center to post a link to their Facebook page on the City website. She said the Volunteer Appreciation Dinner is April 11 at the Center for the Arts. She thanked staff and the volunteers for their work on the Center for the Arts Gala which she attended. She said the attendees raised \$1,300 on a paddle raise and the Sherwood Foundation of the Arts will match up to \$2,500 and she also met a couple that will match the difference.

Mayor Clark clarified that the Edy Ridge carnival is April 15 and the Hopkins Hoop D Do is April 8.

With no further announcements, Mayor Clark adjourned the meeting.

11. ADJOURN:

Meeting adjourned at 8:48 pm and convened in an Executive Session.

EXECUTIVE SESSION

1. CALL TO ORDER: Mayor Krisanna Clark called the meeting to order at 8:56 pm.

2. COUNCIL PRESENT: Mayor Krisanna Clark, Council President Harris, Councilors Linda Henderson, Sally Robinson, Dan King and Jennifer Kuiper. Councilor Brouse was not in attendance.

3. STAFF PRESENT: City Manager Joe Gall, Assistant City Manager Tom Pessemier and City Attorney Josh Soper.

4. TOPICS:

A. ORS 192.660 (2)(f), Exempt public records.

5. ADJOURN:

Mayor Clark adjourned the executive session at 9:35 pm.

Attest:

Sylvia Murphy, MMC, City Recorder

Krisanna Clark, Mayor

TO: Sherwood City Council

FROM: Kristen Switzer, Community Services Director
Through: Joseph Gall, ICMA-CM, City Manager

SUBJECT: Resolution 2016-019, reappointing Shelly Lamb to the Cultural Arts Commission

Issue:

Should the City Council reappoint Shelly Lamb to the Cultural Arts Commission?

Background:

Shelly Lamb was appointed to the Cultural Arts Commission by Resolution 2014-001 and has served one 2 year term. The Cultural Arts Commission currently has 2 vacancies and Shelly Lamb has requested reappointment.

Council Liaison Jennifer Harris and the Chair of the Cultural Arts Commission Vicki Poppen, with assistance from staff, are recommending Shelly Lamb for reappointment.

According to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2016-019, reappointing Shelly Lamb to the Cultural Arts Commission.



RESOLUTION 2016-019

REAPPOINTING SHELLY LAMB TO THE CULTURAL ARTS COMMISSION

WHEREAS, Shelly Lamb was appointed to the Cultural Arts Commission by Resolution 2014-001; and

WHEREAS, the Cultural Arts Commission currently has vacancies and Shelly Lamb has requested reappointment; and

WHEREAS, Council Liaison Jennifer Harris and the Chair of the Cultural Arts Commission Vicki Popen, with assistance from staff, are recommending Shelly Lamb for reappointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

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

Section 1. The Mayor is authorized to reappoint Shelly Lamb to a two year term, expiring April 2018.

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

Duly passed by the City Council this 19th of April, 2016.

Krisanna Clark, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Kristen Switzer, Community Services Director
Through: Joseph Gall, ICMA-CM, City Manager

SUBJECT: Resolution 2016-020, reappointing Vicki Poppen to the Cultural Arts Commission

Issue:

Should the City Council reappoint Vicki Poppen to the Cultural Arts Commission?

Background:

Vicki Poppen was appointed to the Cultural Arts Commission by Resolution 2014-002 and has served one 2 year term. The Cultural Arts Commission currently has 2 vacancies and Vicki Poppen has requested reappointment.

Council Liaison, Jennifer Harris, with assistance from staff, is recommending Vicki Poppen for reappointment.

According to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2016-020, reappointing Vicki Poppen to the Cultural Arts Commission.



RESOLUTION 2016-020

REAPPOINTING VICKI POPPEN TO THE CULTURAL ARTS COMMISSION

WHEREAS, Vicki Poppen was appointed to the Cultural Arts Commission by Resolution 2014-002; and

WHEREAS, the Cultural Arts Commission currently has vacancies and Vicki Poppen has requested reappointment; and

WHEREAS, Council Liaison Jennifer Harris, with assistance from staff, is recommending Vicki Poppen for reappointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

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

Section 1. The Mayor is authorized to reappoint Vicki Poppen to a two year term, expiring April 2018.

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

Duly passed by the City Council this 19th of April, 2016.

Krisanna Clark, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Joseph Gall, ICMA-CM, City Manager
Tom Pessemier, Assistant City Manager

Through: Josh Soper, City Attorney

SUBJECT: 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

Issue:

Shall the City Council direct City Manager to begin conversations with Washington County to provide law enforcement services between the hours of 1:00 am and 6:00 am?

Background:

The City of Sherwood police department currently provides local law enforcement throughout the City at all times of the day and night. The City of Sherwood hired Matrix Consultants to prepare an independent evaluation of staffing levels and make recommendations of changes to be considered. During that evaluation Matrix Consultants identified a time period between 1:00 am and 6:00 am where the calls for service average less than one per day and the average proactive time is approximately 90%. Matrix Consultants recommended that the City contact the Washington County Sheriff to collectively explore the Washington County Sheriff's Office ability to provide patrol coverage of Sherwood during the 1:00 am to 6:00 am timeframe. Matrix Consultants noted that the type of arrangement could allow the City to reallocate existing positions to other Sherwood Police Department Assignments which would provide additional resources that were recommended in the report while meeting the current overall response times experienced in Sherwood with a different set of resources.

At the April 5th Council work session, the City Council discussed their desire to begin conversations with Washington County and the Washington County Sheriff's office to explore the recommendation presented by Matrix Consultants and indicated they were supportive of such discussions beginning promptly. However, the Washington County Board of Commissioners has a board policy that requires a City to pass a resolution clearly indicating positive support for pursuing a contract with the County.

This resolution has been put together to meet the requirements of Washington County and to document the direction discussed by City Council.

Financial Impacts:

Unknown at this time. There are potential costs associated with contracting services with Washington County or with following other recommendations in the report. These conversations are meant to identify those costs and any potential savings from contracting with the Sheriff's office.

Recommendation:

Staff respectfully recommends City Council approval of 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.



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

WHEREAS, The City of Sherwood police department currently provides local law enforcement throughout the City at all times of the day and night; and

WHEREAS, The City of Sherwood hired Matrix Consultants to prepare an independent evaluation of staffing levels and make recommendations of changes to be considered; and

WHEREAS, Matrix Consultants identified a time period between 1:00 am and 6:00 am where the Calls for Service average less than one per day and the average proactive time is approximately 90%; and

WHEREAS, Matrix Consultants recommended that the City contact the Washington County Sheriff to collectively explore the Washington County Sherriff Office ability to provide patrol coverage of Sherwood during the 1:00 am to 6:00 am timeframe (5 hours); and

WHEREAS, Matrix Consultants noted that the type of arrangement could allow the City to reallocate existing positions to other Sherwood Police Department Assignments which would provide additional resources that were recommended in the report; and

WHEREAS Matrix Consultants believes that high levels of service that meet the current overall response times in Sherwood could potentially be provided by the Sheriff's office with a different mix of resource than is currently being provided; and

WHEREAS at the April 5th Council work session, the City Council discussed their desire to begin conversations with Washington County and the Washington County Sherriff's office to explore the recommendation presented by Matrix Consultants and indicated they were supportive of such discussions beginning promptly; and

WHEREAS, the Washington County Board of Commissioners has a board policy that requires a City to pass a resolution clearly indicating positive support for pursuing a contract with the County.

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

Section 1. The City Manager or their designee is directed to discuss with the Washington County Sheriff's Office and Washington County as necessary to determine if contracted Sheriff Patrol services could replace service provided by the City of Sherwood between 1:00 am and 6:00 am.

Section 2. The City Manager or their designee is directed to report back to Council the results of those discussions and to begin Contract negotiations, if directed by Council.

Section 3. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 19th day of April, 2016.

Krisanna Clark, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Joseph Gall, ICMA-CM, City Manager
Through: Josh Soper, City Attorney

SUBJECT: Conflict of Interest - Request for Action by City Council

Issue:

Shall the City Council delegate authority to handle enforcement of the City's solid waste ordinances with regard to Valet Waste as outlined in SMC 8.20.130 from City Manager to Assistant City Manager due to a Conflict of Interest?

Background:

The City of Sherwood has a long-standing franchise agreement with Pride Disposal to provide solid waste and recycling services within the City. The rules and regulations for this franchise agreement are outlined within Chapter 8.20 (Solid Waste Management) of the Sherwood Municipal Code (SMC). As part of this chapter, the enforcement officer is clearly defined as the City Manager in SMC 8.20.130. The City Manager is responsible to enforce this chapter and rules and regulations.

Recently, the City Manager has received two separate requests from different parties both requesting the City Manager exercise his authority outlined in SMC 8.20.030. The first request is from Valet Waste and asks for the City to take a position on the question of whether our local ordinance applies to services that are provided by Valet Waste to the residents of Sunfield Lakes Apartments. This 200-unit apartment complex is located at 16100 SW Century Drive in Sherwood. The second request is from Pride Disposal to take enforcement action or authorize Pride Disposal to exercise their private right of action against Valet Waste as outlined in SMC 8.20.130(B)(1). Copies of both requests are attached to this staff report.

Upon receiving these notices, the City Manager brought potential ethics issues to the attention of the City Attorney for research and guidance. The primary reason is that the City Manager is currently a resident of the Sunfield Lakes Apartments and is a beneficiary of the services provided by Valet Waste. Specifically, there is a "potential conflict of interest" as outlined in ORS 244.020(12) and a "use of position or office" issue under ORS 244.040 for the City Manager. When faced with such ethics issues, the City Manager is required under ORS 244.120(1)(c) to (1) notify the City Council in writing, (2) state the nature of the conflict, and (3) ask Council to either make a decision on the matter itself, or to designate an alternate to make decisions on the matter.

Financial Impacts:

There are no anticipated financial impacts from the City Council making a decision on this specific issue.

Recommendation:

Staff respectfully recommends City Council delegate authority to handle enforcement of the City's solid waste ordinances with regard to Valet Waste as outlined in SMC 8.20.130 from City Manager to Assistant City Manager due to a Conflict of Interest.

Exhibits:

- Copy of Email to Josh Soper from Dean Kent, Attorney for Valet Waste
- Copies of Various Correspondence from Pride Disposal to Joseph Gall

Joseph Gall

From: Josh Soper
Sent: Wednesday, April 13, 2016 8:45 AM
To: Joseph Gall
Subject: FW: Valet Waste/Pride Disposal/Sherwood
Attachments: Pride Disposal Company Cease of Service.pdf

Here's the message from Valet Waste.

Josh Soper
City Attorney
City of Sherwood
22560 SW Pine St., Sherwood, OR 97140
Phone: (503) 625-4235 | Fax: (503) 625-5524
www.sherwoodoregon.gov

From: Dean A. Kent [mailto:DKent@trenam.com]
Sent: Tuesday, March 15, 2016 10:41 AM
To: Josh Soper <SoperJ@SherwoodOregon.gov>
Cc: Patricia A. Holliday <PHolliday@trenam.com>
Subject: Valet Waste/Pride Disposal/Sherwood

Mr. Soper:

I understand you are the City Attorney for Sherwood, Oregon. I am an attorney for Valet Waste, LLC, the nation's leading provider of doorstep trash and recycling services to multi-family communities. Notably, Valet Waste is not a waste hauler nor does it seek to provide waste hauling services. Valet Waste does not haul trash or remove trash from multi-family communities, but rather takes them from containers provided to each resident to centralized, on-site dumpsters or compactors. Valet Waste's business is providing for a safe, convenient and steady stream of trash to be removed from the door of apartments to the property owners' dumpster/compactors.

Valet Waste, LLC currently provides service in 37 states and has not had any issues with waste haulers or local ordinances after discussion and education of its service and the benefits achieved thereby. Recently this issue arose with regard to a waste hauler ordinance in the City of Tigard, but after discussions with the City Attorney and City Manager they decided that Valet Waste was not subject to the Code and allowed Valet Waste to continue its provision of services to multi-family communities.

In the attached letter, Pride Disposal Company is threatening Valet Waste, LLC with a lawsuit and I wanted to discuss the City of Sherwood's position on the Code provisions cited therein and this matter before things escalated unnecessarily. We believe the threats from Pride

Disposal Company may stem from a lack of understanding of Valet Waste's services and business model. One of Valet Waste's employees spoke with Craig Sheldon (sp) regarding these matters, but I wanted to formally bring them to your attention.

Some of the benefits from the provision of the doorstep trash removal services are:

- Steady stream of trash/ potential combustibles leaving the building 5 days a week vs being held inside a unit for 5 days;
- Residents not walking up and down stairs with trash risking slips and falls;
- Amenity to residents to not have to take trash to localized dumpsters;
- Valets on site each night in uniform and reflective gear and flashers on their vehicles preventing potential unscrupulous behavior;
- Trash cans out for a predetermined amount in uniform sized waste receptacles of time vs bags of trash out ALL of the time in breezeways;
- Cleaner compactor/dumpster areas and breezeways reducing rodent issues;
- Employment of dozens of Oregonians and the increase of tax dollars; and
- Asset appreciation/preservation for property owners

Please let me know if you have some time to discuss these issues in the next few days.

Thanks,



DEAN A. KENT | ATTORNEY

Dir: 813-227-7423 | Cell: 813-785-8917 | Fax: 813-227-0423 | [email](#) | [vcard](#) | [bio](#)

101 East Kennedy Boulevard, Suite 2700, Tampa, FL 33602

Main: 813-223-7474 | www.trenam.com

Confidentiality Notice: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by reply e-mail, or by telephone at the direct dial number above and destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

Joseph Gall

From: Kristin Leichner <kristinl@pridedisposal.com>
Sent: Wednesday, March 23, 2016 11:00 AM
To: Joseph Gall
Cc: Mike Leichner
Subject: Sunfield Lakes and Valet Waste
Attachments: 1.8.15 Sunfield Lakes - Valet Waste-City of Sherwood.pdf

Joe,

Some time ago we discussed the Valet Waste company operating at Sunfield Lakes. Craig sent a warning letter back in January 2015 to Sunfield Lakes letting them know about the violation. We discovered they were still operating at Sunfield Lakes (and at another complex in Tigard) and wanted to move forward with legal action. We realized we did not have a 3rd party authorization letter from you, authorizing us to take action to enforce the solid waste ordinance. Is that something you could send over to us so we could move forward?

I've attached the January 2015 letter for reference.

Kristin Leichner
Office Manager
Pride Disposal Co.
(503) 625-6177 *1124
www.priededisposal.com
[Facebook](#)
[Twitter](#)



SERVICE OF PROCESS RECEIPT

3/9/2016

Tara Kidd
Valet Waste, LLC
100 S. Ashley Dr.
Suite 700
Tampa, FL 33602 USA

NOTICE OF CONFIDENTIALITY

This notice and the information it contains are intended to be a confidential communication only to the individual and/or entity to whom it is addressed. If you have received this notice in error, immediately call our SOP Department at (888) 705-7274.

RE: Valet Waste, LLC

This receipt is to inform you that Registered Agent Solutions, Inc. has received a Service of Process on behalf of the above-referenced entity as your registered agent and is hereby forwarding the attached document(s) for your immediate review. A summary of the service is shown below; however, it is important that you review the attached document(s) in their entirety for complete and detailed information.

SERVICE INFORMATION

Service Date: 3/9/2016
Service Time: 9:33 AM PST
Service Method: Mail (Certified)

RASi REFERENCE INFORMATION

Service No.: 0051420
RASi Office: Oregon
Rec. Int. Id.: BEF

CASE INFORMATION

Case Number: N/A
File Date: 03/07/2016
Jurisdiction: CIRCUIT COURT, WASHINGTON COUNTY, OREGON
Case Title: RE: PRIDE DISPOSAL COMPANY VS. VALET WASTE, LLC

ANSWER / APPEARANCE INFORMATION

10 days (Be sure to review the document(s) for any required response dates)

AGENCY / PLAINTIFF INFORMATION

Firm/Issuing Agent: KELL, ALTERMAN & RUNSTEIN, LLP
Attorney/Contact: WAYNE D. PALMER
Location: Oregon
Telephone No.: 503-222-3531

DOCUMENT(S) RECEIVED & ATTACHED

Complaint
Notice: AND DEMAND TO CEASE PROVIDING SERVICES

ADDITIONAL NOTES

Questions or Comments... Should you have any questions or need additional assistance, please contact the SOP Department at (888) 705-7274.

You have been notified of this Service of Process per your default account instructions. RASi offers several methods of notification including Telephone Notification, Email Notification, Online Insta-SOP Delivery, and FedEx/US Postal Service Delivery. If you would like to update your account's default notification methods or view Service of Process information, log into your online account at www.rasi.com.

Thank you for your continued business!

KELL, ALTERMAN & RUNSTEIN, L.L.P.

SCOTT J. ALDWORTH
SUSAN T. ALTERMAN **,****
JOHN P. ASHWORTH **
GARY P. COMPA ‡
ROBERT E. KABACY **
LEE DAVIS KELL * **
MATHEW W. LAURITSEN **
ROBERT B. LOWRY **
WAYNE D. PALMER
EMILY C. RAKE **
PAUL A. RANEY ***
THOMAS R. RASK, III **
ROBIN M. RUNSTEIN
TED E. RUNSTEIN
DENNIS STEINMAN
RAGNA TENEYCK **** ‡
ZACHARY WALKER **
BETH ZILBERT

ATTORNEYS AT LAW
SUITE 600
520 S W YAMHILL STREET
PORTLAND, OREGON 97204-1329
TELEPHONE (503) 222-3531
FACSIMILE (503) 227-2980
WWW.KELRUN.COM
E-MAIL: wpalmer@kelrun.com

RAYMOND M. KELL
(1911-1991)
CLIFFORD B. ALTERMAN
(1925-1995)
ALSO ADMITTED IN
*CALIFORNIA
**WASHINGTON
***GEORGIA
****COLORADO
++OF COUNSEL
‡LL.M. IN TAXATION

March 7, 2016

Via Regular Mail and Certified Mail - Return Receipt Requested

7015 0640 0004 7088 7548 and 7015 0640 0004 7088 7555

Patrick Handrahan, President,
Valet Waste, L.L.C.
100 S. Ashley Drive, #700
Tampa, FL 33602

Patrick Handrahan, President,
Valet Waste, L.L.C.
c/o RA: Registered Agent Solutions, Inc.
8130 SW Beaverton-Hillsdale Hwy
Portland, OR 97225

Re: **Violation of Sherwood Municipal Code Chapter 8.20.020**
Our File No.: 4850\160

Dear Mr. Handrahan:

This firm represents Pride Disposal Company. Our client is a franchised solid waste service provider who has the exclusive right to provide waste management services within the City of Sherwood, Washington County, Oregon.

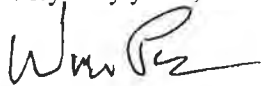
Valet Waste has been previously warned by our client that its doorstep valet trash and recycling collection at the Sunfield Lakes Apartments in Sherwood, Oregon violates the Sherwood Municipal Code because Valet Waste is not a franchised service provider within the City of Sherwood.

This letter is formal notice to Valet Waste and a demand that it cease providing services to the Sunfield Lakes Apartments within ten days of the date of this letter. If Valet Waste does not cease providing waste management services within ten days, our client will be filing suit in Washington County Circuit Court. A copy of our draft complaint is enclosed for your review.

Please note that the liquidated damages in this matter are substantial.

We look forward to discussing the matter further with you or your attorney soon.

Very truly yours,



Wayne D. Palmer

WDP:lkr
Cc: Pride Disposal Company
Enclosure

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6 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
7 **FOR THE COUNTY OF WASHINGTON**

8 PRIDE DISPOSAL COMPANY, an Oregon
9 Domestic Business Corporation,

10 Plaintiff,

11 v.

12 VALET WASTE, L.L.C., a Foreign Limited
13 Liability Company,

14 Defendant.

Case No.

COMPLAINT

Claim Amount: \$391,000

**Fee Authority: Or Laws 2012, ch. 48,
sec. 2; ORS 21.160(1)(c)**

**NOT SUBJECT TO MANDATORY
ARBITRATION**

15 Plaintiff alleges as follows:

16 **FIRST CLAIM FOR RELIEF**

(Breach of Sherwood Municipal Code, chapter 8.20.020(B).

17 1.

18 At all times material herein, Plaintiff was and is now, an Oregon Domestic Business
19 Corporation and a franchised solid waste service provider who had the exclusive right to provide
20 services in the City of Sherwood, Washington County, Oregon.

21 2.

22 At all times material herein, Defendant was and is now, a Foreign Limited Liability
23 Company organized in Delaware with its principal place of business in Tampa, Florida and doing
24 business in Oregon

25 ///
26

1 3.

2 At all times material herein, Defendant was not a franchised solid waste service provider
3 in the City of Sherwood, Oregon.

4 4.

5 Beginning on or about January, 2013, and continuing thereafter, Defendant provided
6 solid waste services in the City of Sherwood at the Sunfield Lakes Apartments, 16100 SW
7 Century Drive, Sherwood, Oregon, 97140.

8 5.

9 The solid waste services that Defendant provided without a franchise included the
10 collection, transportation, storage, transfer, disposal of, or resource recovery of solid waste,
11 including solid waste management. "Solid waste management" includes the prevention or
12 reduction of solid waste, management of the storage, transfer, collection, transportation,
13 treatment, utilization, processing and final disposal of solid waste; or resource recovery from
14 solid waste and facilities used for those activities as defined in Sherwood Municipal Code
15 8.20.030. Defendant advertises its services as the nation's leading provider of doorstep trash and
16 recycling collection services to multifamily housing.

17 6.

18 On or about January 8, 2015, the City of Sherwood authorized Plaintiff to take third-party
19 action in Washington County Circuit Court against Defendant for the solid waste services it
20 provided without franchise. Under the provisions of the Sherwood Municipal Code Section
21 8.120.130. A copy of the City of Sherwood's January 8, 2015, authorization letter is attached
22 hereto as Exhibit 1.

23 7.

24 On and before March 7, 2016, Plaintiff's warned Defendant about the need for a
25 franchise to provide solid waste services within the City of Sherwood. The last warning
26 occurred through Plaintiff's attorney. A copy of Plaintiff's attorney's last letter dated March 7,

1 2016 is attached as Exhibit 2.

2 8.

3 Plaintiff is entitled to liquidated damages in the amount of \$500 for each day that
4 Defendant violated Sherwood's Municipal Code pursuant to chapter 8.20.130(B)(2)(c). Through
5 February, 2016 Plaintiff's liquidated damages are approximately \$391,000 and increases at \$500
6 per day that Defendant provides the doorstep collection service described above.

7 9.

8 Plaintiff is entitled to recover its reasonable attorney's fees pursuant to the City of
9 Sherwood's Municipal Code, chapter 8.20.130(B).

10 SECOND CLAIM FOR RELIEF

11 (Injunction)

12 10.

13 Plaintiff realleges and incorporates all matters stated above.

14 11.

15 Sherwood Municipal Code chapter 8.20.130(B) provides for injunctive relief.

16 12.

17 Defendant's continuing course of conduct of providing solid waste services in the City of
18 Sherwood without a franchise will cause Plaintiff substantial hardship and irreparable harm.

19 13.

20 Plaintiff is entitled to a permanent injunction, restraining and enjoining Defendant, its
21 agents, employees, officers, directors, affiliates and subsidiaries from providing solid waste
22 services within the City of Sherwood.

23 14.

24 Plaintiff is entitled to recover its attorney's fees pursuant to Sherwood Municipal Code
25 chapter 8.20.130(B).

26 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

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1. Liquidated damages in the amount of \$500 for each day Defendant violated Sherwood's Municipal Ordinance, currently estimated to be approximately \$391,000, increasing by \$500 each day.

2. For Plaintiff's attorney fees, costs and disbursements to bring this action;

3. For Plaintiff for a permanent injunction, restraining and enjoining Defendant, its agents, employees, officers, directors, affiliates and subsidiaries from providing solid waste services within the City of Sherwood; and

4. Such other relief as the court may deem just and equitable.

Dated this _____ day of March, 2016.

KELL, ALTERMAN & RUNSTEIN, LLP

Wayne D. Palmer, OSB No. 81331
Telephone: (503) 222-3531
Facsimile: (503) 227-2980
wpalmer@kelrun.com
Of Attorneys for Plaintiff
Trial Attorney: Wayne D. Palmer



January 8, 2015

Sunfield Lakes Apartments
16100 SW Century Drive
Sherwood, OR 97140

RE: Violation of Sherwood Municipal Code Chapter 8.20.020

To Whom It May Concern:

The City of Sherwood has recently been notified that you have contracted with a third party that provides valet waste service to your residents. Please be advised that this is in violation of the City's Municipal Code.

Sherwood Municipal Code Section 8.20.020.B(1)(2) states that "No person shall provide solid waste service, offer to provide service or advertise for the performance of service without having obtained a franchise from the city... Accumulate, store, collect, transport, transfer, dispose of or resource recover solid waste except as in compliance with this chapter, other city ordinances, and Chapter 459 Oregon Revised Statutes dealing with solid waste management, and regulations and amendments promulgated under any of the foregoing."

Violation by any person of the provisions of this chapter shall be deemed to be a misdemeanor and shall be punishable upon conviction by a fine of not more than five hundred dollars (\$500.00) (8.20.170 Violation – Penalty).

To view this section of the City's code in its entirety, please visit our website at <http://www.sherwoodoregon.gov/> and under the "More Resources" link on our homepage you will find our Municipal Code.

If you have questions, please contact me at (503) 925-2310.

Sincerely,

Craig Sheldon
Public Works Director



2009 Top Ten Selection



2007 18th Best Place to Live

Sherwood
2006
All-America City Finalist

EXHIBIT 1

CERTIFIED MAIL

KELL, ALTERMAN & RUNSTEIN, L.L.P.

ATTORNEYS AT LAW
SUITE 600
520 SW YAMHILL STREET
PORTLAND, OR 97204-1326



7015 0640 0004 7088 7548



Patrick Handrahan, President,
Valet Waste, L.L.C.
c/o RA: Registered Agent Solutions, Inc.
8130 SW Beaverton-Hillsdale Hwy
Portland, OR 97225

**RETURN RECEIPT
REQUESTED**

97225\$1845 C041

