



SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
April 17, 2014

Regular Session

- 1. Call to Order:** Chair Pat Allen called the meeting to order at 6:40 pm.
- 2. Committee Members Present:** Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke, and Citizen at Large Jennifer Kuiper. Cultural Arts Commission Representative Alyse Vordermark arrived at 7:16 pm. Parks Advisory Board Representative Brian Stecher and Citizen at Large Bob Silverforb were absent. Alternate Citizen at Large Renee Brouse was present.
- 3. Staff and Council Liaison Present:** City Manager Joseph Gall, City Recorder Sylvia Murphy and City Council Liaison Linda Henderson.

Chair Allen addressed the agenda and asked for amendments, with none heard he addressed the draft February 20, 2014 meeting minutes (see record, Exhibit A) and asked for a motion to approve.

4. Approval of February 20, 2014 Meeting Minutes

MOTION: From Neil Shannon to adopt the February 20, 2014 meeting minutes, seconded by Charlie Harbick. Motion passed 6:0, all present members voted in favor (Alyse Vordermark, Brian Stecher and Bob Silverforb were absent).

5. Public Comments

No one came forward.

6. Charter Review Committee Discussion

Chair Allen explained the meeting format to include asking the City Recorder to explain the timeline of placing proposed amendments on the November 2014 ballot, to review sections of the Charter for future discussion and look at the committees meeting schedule moving forward.

Chair Allen asked the City Recorder to explain the timeline to meet a November 2014 ballot. Ms. Murphy stated she needed to file with the County by September 4, 2014 after allowing for the 7 day challenge period of an adopted ballot title. She stated the Council will need to adopt the proposed changes and submit them to her by August 15th.

She explained the Council's meeting schedule and said the committee's recommendations would be in the August 5th Council meeting packet, and if the materials were not ready for the August 5th meeting the Council would need to hold a special meeting.

Ms. Murphy explained if the committee would like to meet with the Council in a work session prior to the August 5th meeting, this would need to occur within the last two weeks in July. She said the Council meets on July 15th as a regular scheduled meeting and this would allow the last three weeks in July for an opportunity for the committee to meet with the Council. She said the committee would need to wrap up their work by July 15th.

Chair Allen stated the committee has before them a City Charter with track changes noting their previously recommended changes, (see record, Exhibit B) and asked the members to review the exhibit by sections.

He addressed **Chapter I, Names and Boundaries** and asked for future discussion of this section, no comments were received.

Chair Allen addressed **Chapter II, Powers** and said he flagged **Section 6-Distribution**, the last sentence of: *"the council appoints members of commissions, boards and committees established by ordinance or resolution"*. He asked for other areas of discussion under Powers, none were received.

Chair Allen addressed **Chapter III, Council** and said the committee just reviewed this section and there were items that were passed over, he asked for committee suggestions on future discussions. None were received and he stated he flagged under the powers of the **Mayor-Section 8**, language of, *"the mayor determines the order of business under council rules"*. He stated he would like to discuss whether a majority of the Council has the ability to put something on the agenda. No other comments or issues were received.

Chair Allen addressed **Chapter IV, Legislative Authority** and said there is no language in this section requiring a public hearing and asked if the current requirements regarding quasi-judicial and ordinances come from state statute.

The City Recorder replied, quasi-judicial land use hearings are required by statute and ordinances that are not land use are at the Council discretion. Chair Allen asked to have future discussions as to what, if anything the Charter should say about when public hearings are required.

Chair Allen asked if land use was the only place where the quasi-judicial power is exercised or are there others. The City Recorder replied land use is the only area she was familiar with.

Chair Allen stated he also flagged, and the committee previously passed it over, language regarding the Veto power of the Mayor. He said he wanted to have future discussion to allow the committee to understand and know what this means, how and when it works.

Vice Chair Shannon referred to language of *"council compel attendance"* in **Section 11-Meetings**, but then redacted his comment and said the committee already discussed this.

Chair Allen addressed **Chapter V, Administrative Authority**, and said his previous suggestion to discuss hearings applied to all three, legislative, administrative and quasi-judicial. No objections or comments were received from the committee.

Chair Allen addressed **Chapter VI, Quasi-Judicial Authority** and asked if the committee wanted to flag anything under this section. No comments were received.

Chair Allen addressed **Chapter VII, Elections** and said the committee dealt with this chapter previously and said there could be lingering issues. No comments from the committee were received.

Chair Allen asked Vice Chair Shannon to take over for a few minutes.

Vice Chair Shannon addressed **Chapter VIII, Appointive Officers**.

Council Liaison Henderson referred to **Section 27-Qualifications** under Chapter VII, item (d), "*Council is the final judge of the election and qualifications of its members.*" She asked if this is speaking to election and electable and gave the example of someone living in the City for a year. Member comments were received that the committee previously discussed this section. Discussion followed regarding the Council being the final to verify and not necessarily the "final judge". Discussion followed regarding the definition and if there is a dispute of the results of an election, or a dispute over whether or not someone is qualified, that it's the Council that is ultimately the deciding body. Discussion followed regarding language of judging, verifying or confirming and Chair Allen stated what we don't know is if "judge" has a specific legal weight. He asked this be a question that is posed to legal counsel to see if it is necessary or if it can be clarified.

Chair Allen addressed **Appointive Officers** and raised a topic that people may want to discuss, residency requirements. He said he is fine with the current language and asked if the committee wanted to discuss it further.

Mr. Shannon replied he would like to discuss it further. Discussion followed regarding the commonality of residency requirements and it was noted that this would be a topic for staff to research.

Ms. Kuiper referred to **Section 33, City Manager**, item (b), "*a majority of the council must appoint and may remove the manager*", she indicated the remainder of the paragraph referred to appointments. She said she believes it needs to be clarified. Discussion occurred regarding what direction does the Council have to remove the manager as the language refers to "appoints the manager" and "may remove the manager", and there is no criteria for removal of the manager.

Chair Allen asked are those restrictions that apply to hiring and are they restrictions that would apply to firing or do we want to have a broader conversation about the Council needing to have cause to remove.

Council Liaison Henderson referred to the Council's contracted employees, (City Manager, City Recorder, Municipal Judge and City Attorney) and suggested having language pertaining to referencing a contract and gave the example if dismissed for cause and asked if remedies are available.

Chair Allen referred to **Section 33.i**, and the language in the second sentence of, "*Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing*". He said his experience with this language as long as he has been a resident has been mischief, and not actual action. He said he would like to discuss this further.

City Manager Gall stated in his research he has not seen this language in other charters.

Chair Allen asked to discuss **Section 35, City Attorney** to allow the committee to clarify the understanding of what the City Attorney is or is not.

Ms. Kuiper asked to discuss **Section 34, City Recorder, item b** regarding the City Recorder and the language similar to the City Manager language in Section 33.

Ms. Kuiper asked to discuss **Section 38, Merit Systems**, *“the council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension layoff and dismissal of City employees based on merit and fitness.”* She asked what constitutes “merit and fitness”. Discussion occurred regarding the language of “the Council adopting a resolution” indicating what the rules are, including these issues of dismissal by merit and fitness. Ms. Kuiper asked how do we ensure that the Council meets to adopt Council rules and this gets included in the rules they will discuss and adopt.

Chair Allen asked if we have a resolution that deals with those rules and City Manager Gall replied that a lot of this is in the employee manual and he has seen other jurisdictions where the Council will approve the employee manual via resolution. He said this language of promotions and transfers etc. are in the employee manual.

The City Recorder informed the committee that she has seen City records indicating the Council adopted employee manuals and labor agreements, and in recent years they have adopted labor agreements but not the employee manual.

Vice Chair Shannon stated he wanted to discuss adding a provision regarding if the Council decides to pay themselves. He said the committee had previously discussed this and it was not illegal to pass an ordinance to establish their own pay. He said he would like to discuss this and placing it in the charter that it would require an election.

Chair Allen addressed **Section X, Public Improvements**, no committee comments were received.

Chair Allen addressed **Section XI, Miscellaneous Provisions** and said the provision on Willamette River Drinking Water (**Section 43**) is superfluous since the vote passed and we are currently doing it. Comments were received to leave the language as is.

City Manager Gall asked in regards to **Section 42, Solid Waste Incinerators** and said this is a similar issue to Section 43.

Council Liaison Henderson stated the language is 24 years old, and comments were received regarding the worthwhileness of addressing this section or not addressing it.

Ms. Cooke suggested to try and address it as it is clean up language. Chair Allen replied he would add it to the list of discussion and see if the committee wants to tackle those issues.

Chair Allen asked for subjects of discussion that were not in the Charter.

Ms. Kuiper asked if the Charter can reference manuals, such as the employee manual and asked if it is advisable.

City Manager Gall replied whether it belongs in the Charter or in an ordinance is a question that comes to mind. He said his experience at another jurisdiction was the employee manual came before the Council as

an ordinance. He commented regarding changes to the employee manual being connected in some manner to the elected officials. Ms. Kuiper commented regarding this being her concern and the adoption of the Council rules.

Mr. Gall stated he would probably not want it in the charter and have it in an ordinance.

Chair Allen stated he has the discussion topics listed and recapped the list:

1. Appointment Authority
2. Control of the order of business
3. The need for hearings
4. Veto power
5. Definition of Judge of Elections and language around it
6. City Manager residency
7. Language in Section 33 and 34.b around restrictions of hiring and firing the City Manager and City Recorder
8. Whether there's a need for reference to employment contracts
9. Language in Section 33.i on removal from Council for interfering in operations
10. The City Attorney topic generally
11. Rules and mechanism related to merit system and other employment terms and issues
12. Council Compensation and the need to require a vote
13. Housekeeping issues on potentially Willamette River Water and Solid Waste
14. Housekeeping issues on Incineration language
15. Things not in the charter but flow from it

Chair Allen asked the committee for other discussion topics, no comments were received.

Chair Allen asked the committee if there were topics where they wanted information from the staff. He said the committee already identified wanting residency requirement for the City Manager and they wanted legal advice on "judge of elections".

Vice Chair Shannon mentioned Council compensation and whether other cities pay their Council members.

Ms. Cooke suggested sample ordinances and Chair Allen asked the committee if they wanted to discuss providing Council compensation that does not involve a vote, and asked or are we mostly going to line up on Council compensation probably should get voted on. He said if this is where the committee ends up, we may not need a lot of staff research.

Discussion followed regarding having current charter language of compensation for expenses and other forms of compensation such as being provided health insurance. Chair Allen asked if the committee wanted information on other types of compensation provided. No directives were given to staff to research and Chair Allen stated the committee would discuss the topic further.

Council Liaison Henderson stated if there was going to be a November ballot, why not ask the question of the voters of requiring the Council to go to the voters if proposing direct or indirect compensation.

Council Liaison Henderson suggested referring to the Newberg Charter under miscellaneous (page 10) language regarding use of public parks that states a City Council cannot sell a public park without going to a vote. Ms. Henderson read the language and stated the reason this is important to her is the City has invested millions of dollars in parks. She stated she liked the provision but is not sure if it is necessary.

Chair Allen stated he will add the topic to the list to discuss.

Chair Allen suggested dividing the list in half and having three meetings in May, June and early July, allowing for discussion of half the list in May, the other half in June and reserving the option for a late June meeting as well as an early July meeting to finalize the committee recommendations and be prepared to go to the Council in a work session on July 15th.

Chair Allen suggested keeping a running log of committee decisions and building potential ballot titles as they proceed through the process.

City Recorder Murphy confirmed her support to the committee being a similar process as previously provided with charter revisions noting track changes. Chair Allen confirmed and suggested adding the process of constructing ballot titles as the committee process progresses to have a work in progress document.

The Committee discussed their meeting schedule for May, June and July. Various members indicated their absences for specific dates.

Chair Allen requested the City Recorder poll members for their availability for meetings on Thursday May 1st and Thursday May 22nd and said the committee would defer items 5 and 6, Judge of Elections and City Manager residency requirements to the second meeting. He said this should give the committee a meeting for June 5th and said maybe hold the 19th just in case.

Discussion followed regarding members availability and Chair Allen asked about June 12th and June 26th, the 12th as a certain meeting and the 26th to hold as a just in case. Comments were received and he stated the 19th for sure and the 26th as a maybe.

Chair Allen asked for member availability for July 3rd, comments were received with some members being out of town. He said July 10th would be the committees final date if meetings occurred on Thursdays, as the committee needs to meet with the Council in a work session on July 15th. He asked for availability for July 10th, one member indicated she was not available.

Chair Allen stated July 10th would probably be a public hearing and vote. The City Recorder stated she would poll the entire committee for all dates to confirm availability.

Chair Allen suggested placing on the first meeting agenda items 1, 2, 3, 4, 7, 8, 9 and 11 (as listed above) and the remainder of the items would be on the agenda for the second meeting. He said the meetings will be 2-3 hours long and the committee would work to suggest actual language as they addressed the topics. No comments or objections from the committee were received.

City Manager Gall stated the committee brought in outside legal counsel in the previous phase of proposed charter amendments and asked if the committee believed it was necessary for this next phase and if so if they wanted to stay with the same attorney. Comments were received to continue with having legal support.

Chair Allen asked for other general committee discussion.

Vice Chair Shannon stated he submitted an op ed (editorial) to the Gazette in response to comments made by Kurt Kristensen in the previous month. He said he wrote it as an individual and not as a committee.

Council Liaison Henderson informed the committee that someone wrote in in regards to the committee's previous work. She said the comments stated the person supported 4 of the 5 proposed amendments and

stated there was a “huge red herring” buried in the 5th amendment that serves only to benefit the City Council incumbents who are known to the community. She said she did not believe this was the conversation the committee had and asked the committee if their “vote by position” proposed language had anything to do with politics. Committee replies were received that it did not and discussion followed that the Council adopted all the recommendations of the committee with minor technical language adjustments.

Ms. Henderson stated she feels strongly that this process has not been driven by politics and said she provided her opinion when asked and other Councilors provided feedback during the work session. She said she did not believe this was a “red herring” and does not believe it was a fair representation of the committees work. Ms. Henderson stated the proposed amendments were not presented as a package deal and this was not the intent. Discussion followed.

With no other business, Chair Allen adjourned.

7. Adjourn:

Chair Allen adjourned the meeting at 7:29 pm.

Sylvia Murphy, MMC, City Recorder

Patrick Allen, Chair