



Home of the Tualatin River National Wildlife Refuge

SHERWOOD CHARTER REVIEW COMMITTEE

Meeting Minutes

22560 SW Pine St., Sherwood, Oregon

May 29, 2014

- 1. Call to Order:** Vice Chair Neil Shannon called the meeting to order at 6:35 pm.
- 2. Committee Members Present** Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Cultural Arts Commission Representative Alyse Vordermark, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, Citizen at Large Jennifer Kuiper and SURPAC Representative Charlie Harbick. Chair Pat Allen and Planning Commission Representative Beth Cooke were absent.
- 3. Staff and Council Liaison Present:** City Recorder Sylvia Murphy and City Council Liaison Linda Henderson. City Manager Joe Gall was absent.

Vice Chair Shannon addressed the draft May 22, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve.

Approval of May 22, 2014 Meeting Minutes

MOTION: From Bob Silverforb to adopt the May 22, 2014 meeting minutes, seconded by Jack Hoffbuhr. Motion passed 7:0, all present members voted in favor. (Pat Allen and Beth Cooke were absent).

4. Public Comments

No one came forward.

5. Charter Review Committee Discussion

Vice Chair Shannon addressed the agenda and referred to a City Charter provided by the City Recorder with track changes and discussion notes from the committee's last meeting, (see record, Exhibit B). He said the committee's goal is to review the document and resolve questions, language or issues and clarify any open research items for staff. He suggested the committee look at the areas of the charter where amendments would be proposed and identify logical sections and grouping the language in preparation of ballot measures to try and identify the number of ballot measures.

He addressed Chapter I-Names, Boundaries and Title and referred to a communication from the City Recorder regarding amending the revision dates of the Charter, specifically **Section 1-Title and Section 47-Time of Effect**. Ms. Murphy referred to Section 1 Title and the current reference to 2005 and asked if

the committee wanted to continue to indicate a year or have the language read the "Sherwood City Charter".

Mr. Hoffbuhr indicated the latter suggestion and said the date can be indicated in Section 47.

Vice Chair Shannon asked if the 2005 reference was deleted, if this is something that needs to go before the voters. Ms. Murphy indicated yes. He said this is probably a clean-up issue that we would look at along with other clean-up issues that we can bundle together. He suggested amending Section 1-Title by removing "2005" and considers this as part of the clean-up. No objections were received.

Mr. Shannon referred to **Section 2-Name and Section 3-Boundaries** and stated there were no changes.

He referred to **Section 4-Powers and Section 5-Distribution** with no changes to these sections.

He referred to **Section 6-Distribution** and the track change language of "*subject to consent of the City Council by resolution.*" Discussion followed regarding the intent of the language. It was suggested to add "as" to the end of the proposed language to read, "*subject to the consent of the City Council by resolution, as established by ordinance or resolution.*" No objections were received.

Mr. Shannon referred to **Section 8-Mayor** and recapped the discussion notes and the proposed language of, "*A majority of the council may cause an item to be added to the agenda for any meeting or to the agenda of a future meeting if needed to meet requirements for public notice*". He said currently the Mayor establishes the agenda and this rule would allow the council by a majority to add an item to the agenda. He asked if this was something that was recently added to the Council Rules, and said this would basically codify the language in the charter.

Ms. Kuiper asked what do the Council Rules state. Council Liaison Henderson referred to the Order of Business in the Council Rules and said the language basically states the agenda will be established by the Mayor and the Council President with the assistance of staff and that once an agenda has been published to the public, that amendments cannot be made without consulting the Mayor and the Council President and making sure we have time for adequate 24 hour notice.

Mr. Hoffbuhr stated he thought the question was to leave the language in Section 8 or move it to Section 7.

Mr. Shannon stated he doesn't know if this needs to be codified if the Council is happy in the manner they establish their own rules. He asked the committee if this is language that needs to be added to the charter.

Discussion followed regarding what is specifically in the Council Rules and the fact that the rules can change. Mr. Shannon said it is a question of whether or not there is a concern with someone taking over the Council Rules. Council Liaison Henderson explained the current process of council members adding business to the agenda, scheduling business and the Council following Robert's Rules and a majority of the council being able to make decisions pertaining to an agenda.

Mr. Stecher commented regarding the Council Rules and their review of the rules after every general election and this giving the council the opportunity to setup their own rules to their liking, whether or not they want this sentence in the charter. He said he did not believe it needed to be in the charter.

Mr. Shannon stated he did not see the language adding anything to the charter or the council. Mr. Stecher stated it appears we are bringing up the agenda and Section 7 and 8 do not talk about setting the agenda.

The City Recorder asked if the track change language suggested in Section 8-Mayor is something the committee wants to consider. Mr. Shannon replied he did not believe the committee needed to, as far as

the current attending members, and said we are satisfied with the current language. He stated the committee had good discussion on this section but does not believe they need to continue to track this.

Vice Chair Shannon addressed Chapter IV-Legislative Authority, Section 16-Ordinance Adoption and public hearings. He stated in previous discussions there were a few issues, one being whether or not we would request a public hearing for an ordinance as it currently is not required. He said ordinances carry the power of law. He said the other portion of the discussion was the concept of a first reading done at one council meeting followed by a second reading at a following meeting, and not being able to adopt the ordinance at the first meeting unless it was declared an emergency. He asked for committee comments.

Mr. Hoffbuhr stated he supports the two reading concept as this is what he is most familiar with. He said he thinks it makes sense and stated the City Manager was going to provide examples. He suggested delaying this until they could see examples and said he is in favor of a two reading process. He commented regarding the emergency and said most of the ordinances have caveats in them for an emergency. He said he believes it is cleaner than trying to do a 7 day waiting period as we currently have written in the charter.

Council Liaison Henderson asked if the committees concern is motivated by the fact that ordinances do not require a public hearing? She said only land use requires a public hearing. She commented that the council normally always has a public hearing but this doesn't mean that every council will. She asked if the committee wanted a 1st and 2nd reading or a public hearing?

Mr. Shannon replied he would be in favor of both and explained a 1st and 2nd reading allows for noticing the public, and allows someone to read the meeting agenda and even though they cannot attend, to at least know that something is coming up on the agenda.

Council Liaison Henderson confirmed the process of drafting an ordinance, having a 1st reading and a public hearing and then a 2nd reading that could incorporate public comments or concerns and then adopt.

Mr. Shannon replied he thought more of a 1st reading to put people on notice that the business is coming up and then a public hearing at the 2nd reading. Mr. Hoffbuhr replied this was his thought as well. Ms. Kuiper replied this makes sense.

Mr. Shannon referred to the redlined proposed language and Mr. Hoffbuhr replied he did not believe the text had anything to do with a 1st and 2nd reading, he said the committee spoke of the process and a suggestion was received to have a 1st and 2nd reading and this is when City Manager Gall offered to review language from other cities.

Mr. Shannon said he believes the committee wants to revisit this section. He referred to the proposed amendment to Section 16.a and stated the changes are not bad and said the question of what type of language is needed for a 1st and 2nd reading he is not sure of and will wait for the City Manager to provide information.

Ms. Kuiper pointed out that there were two changes noted in red track changes and said the second section follows the language in Section (a). Mr. Hoffbuhr replied the committee could have another rewrite after they saw information. Mr. Shannon stated the committee would revisit this section and await information from the City Manager.

Ms. Vordermark reminded the committee that the City Manager provided the committee with examples from the City of West Linn and Lake Oswego and said after reading through them neither of the examples

are specific as to what the committee is looking for as far as a 1st and 2nd reading. She said she is not sure if the City Manager has additional information more specific to what the committee is talking about.

The City Recorder noted with the committee's next meeting scheduled in three weeks, this would allow staff time to come back with something other than examples, language that is more concrete as she believes staff understands the committee's intent of a two reading process within a two meeting process with a public hearing at the 2nd meeting. The committee confirmed this was correct.

Mr. Shannon stated the next scheduled meeting was June 19th.

Mr. Shannon addressed Chapter VIII-Appointive Officers, Section 33-City Manager, specifically 33.b and 33.i. He said 33.b speaks to appointment and additional language of "or removal" and said he believes this is cleanup and not a big change to the charter. Discussion occurred regarding the language of "removal" and it was asked how could the council remove based on education and experience, they can appoint based on education and experience and the manner the sentence was structured with the addition language of "removal" didn't make sense.

The committee discussed adding a new sentence regarding the removal and the City Recorder stated she would delete the text in track changes "or removal" and asked for suggested language. The following was suggested, *"The removal must be made without regard to political consideration and solely based on performance"*. Discussion occurred regarding adding this sentence to **Section 34.b under City Recorder** as well. The committee agreed.

Mr. Shannon asked if the same language would be added to the language pertaining to the Municipal Court Judge in Section 36.

Mr. Silverforb referred to the additional sentence regarding "removal" in Sections 33 and Section 34 and said it would read, "without political considerations and solely on the basis of performance" and said there could be other reasons for removal other than performance. Discussion followed regarding additional language such as "job performance" or "for cause" and it was asked if there was an understanding of how "cause" would be defined? Discussion occurred with the use of "cause" and if there was a predefined definition.

The committee discussed contractual issues and the language in the City Manager's employment agreement.

Mr. Harbick stated he missed the last meeting and asked what the committee was trying to do and referred to the current language of "the majority of the council must appoint and may remove the manager" and asked why this wasn't good enough. Discussion followed and the committee discussed the language of "political consideration." Discussion followed regarding adding the same language to the City Recorder section. The committee discussed the language regarding the Municipal Judge and no changes were suggested.

Mr. Shannon addressed Section 33.i and the language of *"No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any City employee, or in administrative decisions. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing."* He said the committee discussed the deletion of the language, *"Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing."* He asked does the council have the authority to remove a council member from office if they determined that they violated that condition. He asked for committee comments.

He asked Council Liaison Henderson and she said currently the council can remove a council member after censure in a public hearing. Mr. Shannon asked if this was based on Council Rules, Ms. Henderson confirmed.

Ms. Henderson asked if the committee understood what “coerce” meant. Discussion followed and examples were provided. Ms. Henderson shared an experience with the committee of a former City Manager claiming he was coerced. Mr. Shannon asked if Council Liaison Henderson thought the issue was adequately addressed in the Council Rules. Discussion followed regarding the job and responsibilities of the City Manager.

Ms. Kuiper asked if the Charter has language that refers to consequences or prohibitions on actions.

Mr. Harbick asked if this issue has even come up with the council voting out a member for this. Ms. Henderson replied not during her tenure. Mr. Harbick stated it’s been around for a long time and he has never heard of it.

Ms. Kuiper replied she believes this is why the committee suggested removing it, as this is the only place in the charter where there is some sort of action against the rules not being followed.

Mr. Harbick stated he did not see the point of removing the language if it is not something that comes up, he said it’s similar to the Mayor’s veto power.

Ms. Vordermark stated she would hope the council would consider how egregious a coercion would be. Discussion followed with various examples of coercion.

Mr. Shannon stated the charter is clear that the council is not allowed to do this and trying to set the punishment for that is the question. Discussion followed that the language is from the model charter. Mr. Shannon stated if the committee decided to leave the language as is, it doesn’t change anything because it goes back to a majority of the council under the Council Rules.

Mr. Shannon suggested to the City Recorder that the language remain and await future discussion with Chair Allen and Beth Cooke present. Mr. Shannon said the thought currently is not to amend.

Mr. Shannon addressed Section 34-City Recorder, Item 34.b, and said the committee already addressed this. Ms. Henderson informed the committee Council Rules are on the City website.

Mr. Shannon addressed Chapter VIII-Appointive Officer, language referencing Employment Contracts. Mr. Shannon suggested looking at **Section 35-City Attorney** and the discussion of appointive officers and the lack of language for these positions. Ms. Shannon said he believes the committee was looking for examples to be provided by the City Manager.

The City Recorder directed the committee to the discussion notes from their May 1st meeting and said the discussion was regarding the lack of language pertaining to contracted employees and she did not believe the committee questions have been answered yet. She said if the committee wants additional language examples for contracted employees, for the committee to consider that language for the municipal judge. She reminded the committee they spoke of the Hearings Officer and they decided not to address this position as it was in the code.

Mr. Shannon asked for committee comments regarding the language. Ms. Vordermark stated the only place that might be necessary to talk about contracts is under the City Attorney section where we have discussed having a contract confirmed. She said she did not know why contract language was needed in the City Manager or City Recorder sections.

Mr. Hoffbuhr replied he believes the only reason the committee addressed this was to make it clear that the City Attorney could be either a City employee or a contracted position and the City Council still had the authority to remove the firm or the individual. He said he did not know if the committee wanted to get into details about contracted employees, it was to clarify the situation of the City Attorney.

Mr. Shannon referred to the redlined language and said the language looks good to him and read the suggested language, *"The office of the City attorney is established as the chief legal counsel of the City government. The City attorney shall be either a direct employee of the council or a firm under contract adopted by the council. A majority of the council must appoint and may remove the attorney or contracted firm. If the City attorney is a direct employee, the attorney must appoint and supervise, and may remove any City attorney office employees."*

Mr. Silverforb stated he believes this is exactly what was agreed to at the last meeting.

Mr. Stecher asked the City Recorder if this is the way it really works with the City attorney appointing his staff, if his staff are outside the firm that he works for.

Ms. Murphy replied currently the City is contracted with an attorney firm and the employees of those firms, neither the City or the Council would not have jurisdiction over. She said we have not had the scenario where the City contracted an individual attorney where that attorney would have staff that he supervises and determines who that staff is and if he chooses to fire the assistant that is his sole discretion. She said this is what the current language is stating and we have not experienced that because we have always used a firm and the council does not have jurisdiction over the employees of that firm.

Mr. Stecher said what the last sentence in that section is saying, is if the City attorney is an individual he or she could go out and hire their own paralegal or legal secretary. Ms. Murphy replied to some degree, yes.

Mr. Shannon replied it would have to be budgeted and if the council budgeted for staff, the attorney would be the approver of that staff. He said the staff would still technically be a City employee reporting to the City Manager. He said he sees the reasoning behind this, in case there was conflict of interest. He provided an example.

The City Recorder provided a scenario as, the City Council decides to contract with an attorney, the attorney is a one attorney firm and he has a paralegal and a secretary in that firm and the attorney no longer wants to pay his lease at his office and wants to occupy office space at City Hall. The attorney brings his staff with him and supervises and manages his staff and those staffers are considered City employees receiving benefits. She said the question is do those employees fall under a labor agreement and would the City attorney determine that versus the council. She said those employees that came with the attorney are under the attorney's jurisdiction.

Mr. Shannon confirmed the suggested language as amended in Section 35 still remains.

Mr. Shannon addressed Section 37-Compensation and asked for comments.

Ms. Kuiper asked to be reminded of how the committee determined what "reasonable" would be and asked if it was even discussed. Discussion occurred regarding the prior meeting discussion.

Ms. Henderson read from the Council Rules, under expenses, "the council will follow the same rules and procedures for reimbursement as City employees". She said this is currently not happening or we have not been trained on purchasing. She said she never submits anything after the fact and provided an example of her attendance at a regional meeting.

Ms. Vordermark asked what the process is for City employees and asked if they receive approval in advance. Ms. Murphy replied generally approval is done through their supervisor, resulting in mileage reimbursement and the City paying the conference registration fee. Ms. Vordermark commented regarding the Council being trained in the process. Ms. Murphy replied she believes the council knows the process and said there is not a lot of outside council activity by all seven members. She said in past practice the mayor attended regional meetings and had a monthly standard expense report, and the other council members did not attend those meetings. She said in this case we have more council members participating in regional and county meetings who are submitting expense reports and the rules don't say they can't. She explained the council members are eligible for reimbursements and some choose to submit an expense report and other do not.

Mr. Silverforb asked whatever amounts are submitted would be reasonable. He asked if this is a fair statement for them to get approved. Ms. Murphy replied correct and said as the City Manager mentioned at the previous meeting it would be up to the City Manager to determine what would be reasonable. She explained examples of attending events that were not connected to the City or attending an event that did not benefit the City, or attending an event where you did not go to represent the City.

Mr. Silverforb gave the example of an individual attending a 3 day conference in Salem or Eugene, spends the night, having hotel and meal expenses. He said he has the background of what the government would allow. He said if the government allows a particular expense to a certain amount that is what gets reimbursed. He asked if this is similar to what happens. Ms. Murphy replied, yes, the reasonable expense. She gave an example attending a conference and having the option of two hotels with two very different costs and the approver of that expense questioning the more expensive choice and if the more expensive hotel was a reasonable expense. She provided another example of attending a conference in Eugene and Eugene having an airport and the elected requesting to fly to the conference verses driving, and the flight being an unreasonable expense in someone's determination. She posed the question of who determines what is unreasonable and reasonable. She said the discussion at the previous committee meeting suggested this being defined in the Council Rules, whether it be a set budgeted amount or a type of training or conference, and having this defined in the Rules verses the Charter allows for amendments to the Rules when there is a change in the elected body.

Discussion followed regarding the Council Rules indicating what a reasonable expense would be based on the standards of a federal employee. Ms. Murphy replied the definition of "reasonable" is not defined. She said the City follows the federal per diem for meal and mileage reimbursements. Mr. Shannon provided another example of an elected attending a wine festival and tourist board meeting. He said the Council would have to determine if this was reasonable.

Mr. Shannon suggested leaving the term "reasonable" in the charter and allowing the council to decide what "reasonable" is in the Council Rules. Mr. Silverforb agreed and said he did not think it was possible to include every scenario in the charter or any other document. Comments were received regarding reimbursing for meals and mileage, budgeting a certain amount for elected officials, current participation of elected officials at local and regional meetings and the inconsistency of submitted expense reports. Comments were received that conference expenses should require preapproval. Discussion followed and examples were provided by Ms. Kuiper of what occurs in the private industry.

Mr. Harbick asked why the committee was considering "reasonable" instead of "approved". The City Recorder asked who would approve? Mr. Harbick asked who is currently approving and comments were received that the council approves. Ms. Kuiper asked if these were approved at the beginning of a budget year. Ms. Murphy replied, not really, she sets the annual budget based on prior year expenses and history.

Mr. Harbick stated the approval can remain after the fact and Mr. Stecher said the question remains who will approve. Comments were received that currently the City Manager approves the expenses.

Mr. Harbick stated "reasonable" is confusing and Ms. Henderson replied it's too subjective.

Mr. Shannon said he can accept the language of "approved" versus "reasonable" and said it makes it clearer and the elected is not going to get compensated for possibly everything they submit even though they consider it to be reasonable, they would be compensated for what has been or will be approved.

Mr. Silverforb asked how will it be determined what to approve, Mr. Shannon replied through the Council Rules. Mr. Silverforb replied that is fine if there is a specific amount noted or a parameter. He said if he was to approve a person's trip without parameters, how would he know what to approve it for. He said he likes the term "reasonable" and said he thinks anybody can determine what is reasonable for expenses. He said federal guidelines will provide a good parameter.

Ms. Henderson quoted language in the Council Rules under expenses and said, "the council will follow the same rules and procedures for reimbursement as City employees". She said employees have a federal standard that is followed and that would be the reasonable in this test. Discussion followed regarding the reimbursement process and the City Recorder explained the process. Discussion followed with examples of expenditures, what is reasonable, following federal guidelines, and someone at a management level having the over sight to manage expenses. Ms. Murphy said currently this is managed by the Senior Management staff at the department level but it currently isn't managed at the Council level.

Mr. Stecher replied this is why he likes "reasonable" versus "approved", as the City Manager works for the elected officials, for him to approve council expenditures and determine what is reasonable. Mr. Shannon commented that he agreed with the language of "reasonable." Discussion followed.

The committee decided to leave the suggested track changed language as is.

Mr. Shannon addressed Section 42-Solid Waste Incinerators and said the City Manager was going to research to see if there were state laws that covered this.

Council liaison Henderson informed the committee that the City received a Browns Field Grant for \$200,000 to go towards cleanup efforts for the former tannery site.

The City Recorder confirmed the committee would revisit Section 42.

Mr. Shannon addressed **Other General Discussion** and asked for committee comments.

Mr. Harbick asked why the committee was not considering the removal of the Willamette River language. Mr. Shannon said because it's a hot button. Comments were received from the committee on their reasoning and former discussion to leave the language as is. Discussion followed and Mr. Shannon said the committee discussed what if the public vote is not to change the charter, then what is done.

Ms. Kuiper said two versions of measures could be posed to the public, one asking if the language should be removed in its entirety and another asking we keep the language and add text indicating the voters approved the use of the Willamette on said date. The committee members informed Mr. Harbick that the committee previously discussed not changing the charter and adding footnotes. Mr. Harbick said he understands why the language would be retained and is okay with that.

The City Recorder distributed a document to the committee (see record, Exhibit C) provided by Mayor Middleton that referred to a Utility Advisory Board, she said Mayor Middleton was present if the committee

had questions. Ms. Murphy indicated the example language pertains to utility boards in West Linn and Oregon City.

Mr. Harbick asked how many people would be on the advisory board. Mayor Middleton explained the Council spoke of a Utility Advisory Board as part of their goals. He said the language is a rough draft and it would be one of the few boards that would be in the charter. He said it's in the charters of the other cities, either West Linn or Oregon City.

Ms. Vordermark referred to the West Linn Charter and read, "a utility advisory board is hereby established. The utility advisory board shall make recommendations to the City council concerning rates for water. These recommendations shall pertain to those legislative matters to be decided by the City council concerning or affecting rates, such as master facility plan and service levels as they relate to rates. The utility advisory board may also make recommendations regarding such other City-owned utilities as the City council from time to time may determine. Appointment, terms of office, vacancies and removal, meetings and other organizational matters for the utility advisory board shall be provided for by the ordinance of the City council."

Mayor Middleton stated he believes it was Oregon City that had the maximum 3% lanaguge.

Mr. Shannon asked what would be the advantage of having a board in the charter versus a standard committee like the budget committee.

Mayor Middleton replied he did not know and said they were in the charter and he did not know if it's because it mandates a utility and if that makes it different.

Mr. Shannon said based on the last election what immediately comes to mind is an independent authority board, which is what they tried to do in Portland, taking the water bureau authority away from the city.

Mayor Middleton stated this would be an advisory board and said water is a big issue and commented regarding the council receiving public complaints regarding increasing rates. He commented regarding having a group in between us to explain to the public, appearing more honest and not just raising rates again. He said this was something the council talked about.

Ms. Vordermark stated she believes it is a great idea to have a board like this, and commented regarding other boards and commissions not being in the charter. Mayor Middleton replied we would have to look and see if there is a requirement because it is a utility. He commented it might be in there because it was voted in by initiative. Ms. Vordermark indicated the West Linn charter was amended in 1996.

Ms. Vordermark referred to the West Linn charter under Miscellaneous Provisions and a section of language pertaining to Voter Approval of Utility Rates and read, "no utility rate increase may exceed 5% in any calendar year without first receiving voter approval." Brief discussion occurred regarding what city the language originated from, possibly coming from Oregon City.

Mayor Middleton stated we could go either way and he did not think we could agree to get the Council to put any limits on it and this may be a reason why you would want to go to the voters, if you wanted to go to the voters to make a maximum cap, as right now they could go up 300% and there is not a thing anybody can do to preapprove it.

Mr. Shannon commented that actual water rates are not the big cost of the bill that is paid every month and the rest of what we pay every month we have little control over. Ms. Henderson replied, it's Clean Water Services and that bill has gone up 4% every year for the past 5 years. General discussion followed

regarding other City fees and Mayor Middleton stated we have a lot of water issues and it would be nice to have a committee that can go to water meetings. He said we have a lot of water meetings that take up a lot of time and they could work with Craig (public Works Director) and said we don't have the time at council meetings to get involved especially with Hillsboro wanting to build a pipeline. He said the council would still be involved but believes they would like others to be involved as well. Ms. Henderson stated the City is on the WRWC (Willamette River Water Coalition) and we are voting members. She said she agreed with the Mayor and Ms. Vordermark that having a Utility Advisory Board would not be just for water, it could be for any fee that is imposed that's for a utility, IE Clean Water Services, franchise fees, street fees etc. She said they would not be setting fees, they would be a sounding board for someone to go to and express concerns and get information. Mr. Shannon added it could include Sherwood Broadband. General discussion followed regarding a recent issue with the City of Portland issuing a boil water notice. Ms. Henderson provided the example of the creation of the Special Committee and this prompting people to get involved.

Ms. Henderson stated she did not know why it needs to be in the charter or why the other cities did that.

Ms. Kuiper added if the utility board was created they could look into rate issues but would not necessarily need to be in the charter. Ms. Henderson stated the City is looking into creating a Police Advisory Board and that is not going to go into the charter.

Mayor Middleton said the council can take this back and do it on their own and Mr. Shannon replied it seems like a good idea and the only reason he would see for putting it in the charter is if you were looking to grant it some sort of authority. Mayor Middleton commented regarding other City boards providing recommendations and that is probably what this board would do. He said if the council doesn't want to do it, it may have to go to the charter if someone brings back a petition.

Ms. Henderson asked if anyone was opposed to the utility board and comments were received that it was a great idea. No opposing comments were received. Ms. Henderson shared information on a recent regional water meeting she attended and general discussion followed regarding people getting involved and wanting to give feedback.

Mr. Silverforb commented that the board would be a catalyst to listen to the public and their sole mission is to look at the fees and understand why they are what they are, and why there are increases.

Mr. Shannon addressed the next agenda item.

6. Public Comments

Bill Middleton came forward as a citizen and said he has problems with the appointment and removal and said the reason for this is we write a very good contract for these employees. He said at the end of their contracts we might not want to renew their contracts. He said this would make us have to go to litigation and believes this would add a problem. He said no one is in jeopardy at this time, but if the council wanted to get rid of the City Manager just because he wasn't doing what the council felt was the direction of the City, if you put in the removal for cause, the end of the contract is not the cause. He asked staff if the committee could be provided with copies of employee contracts, the City Recorder confirmed. He suggested the committee review the contracts before making any moves on the charter language. He said the language is spelled out in the contracts and by adding something to the charter, he did not know if this would cause problems in the legal sense of trying to change directions. He said currently nothing is happening, but in the future it may limit the council on placing or removing that person. He said the contracts have a lot of information and if it's in the charter, he did not know if it would be contradictory. He

said he did not care one way or another, but did not want to put the City in a position of having to go through a protracted legal battle as it's for "cause". He said the question could be asked what's "for cause" and said it's spelled out in the contracts.

Mr. Shannon said one question he would have is whether or not failure to renew a contract is removal. Mr. Middleton replied yes, it's like any contract, if you don't renew the contract, the person is no longer your employee.

Mr. Shannon said the concept of removal would be somewhere in the middle of that contract. Mr. Middleton said you can still do it, but you have to pay compensation as noted in the contract.

Mr. Shannon said we can fire him without cause, if you compensated him for the 6 months.

Mr. Hoffbuhr replied we decided not to put that in there and said all we are doing is saying that it can't be done due to "political consideration". Ms. Kuiper confirmed.

Brief discussion followed regarding political consideration and Mr. Middleton said it's a very vague term. Mr. Hoffbuhr said we agreed and did not add "cause".

Ms. Henderson confirmed Mr. Middleton was speaking about Section 33.b. He confirmed yes, and said he did not know if we want to get into the "removal" part. He said currently we have the "appointment" part and believes the contract explains the removal part. He commented about having a crummy City Manager and people saying he is doing his job and said the Council has to evaluate him every year. He said if the committee wants to do that, that is fine, he just did not want to put us into a position where we could get us into litigation because of charter language.

Ms. Kuiper asked what about "removal in accordance with the contract". Mr. Middleton replied it's up to the committee and said he would like the City Recorder to provide copies of the contracts to the committee to read as the contract is clearer when read in it's entirety.

Mr. Harbick replied the language already indicates "the council may appoint and may remove the manager". He said "remove" is already in there. Mr. Shannon said he believes the only thing they were looking at as the "removal" would be based on nonpolitical consideration. Mr. Middleton commented that the employee could state they were then fired for political reasons and said he is not trying to be the devil's advocate, but we have been sued so many times and a lot of it is based on language, he said it's political and asked how are you going to defend it. He said it is up to the committee if they wanted the language in there, as he is more cautious.

Ms. Henderson said she is not sure why the language is in the charter as politics is not a protected class. Mr. Middleton replied and we are nonpartisan. Discussion followed.

Mr. Silverforb said when a contract expires and it is not renewed, you just terminate the relationship. He asked if Mr. Middleton had a problem with that. Mr. Middleton replied, no, we do that now and we are just renewing his contract.

Mr. Harbick confirmed Mr. Middleton favored not amending the language, Mr. Middleton confirmed and said to put language in for "political reasons", if you look at what people go after you for, it's any little thing they can say. He said he did not know if it would cause a problem or not and said we can't hire for political

reasons, so we can't apparently fire for that. He asked if that places a burden on the council. Brief discussion followed regarding partisan states and cities.

Mr. Middleton addressed the committee's discussion regarding "reasonable expenses" language and said he has no problems with that and he has recommended to the City Manager and it is supposed to start soon, on each monthly report, the City departments report on what training or conferences the City paid for. He said the public needs to know and we have guys in this City going all over the united states, he said he did not like it, but has no control over it, it's the City Manager's responsibility. He said the public has a right to know and some charters have language that out-of-state travel is not permitted without the approval of the council. He said if we put this information on the on-line agenda every month everyone in the City would know what you're doing. He commented regarding a legislator getting into trouble when it was reported he went to Hawaii for a wine conference. He said he wants everyone to know where we go and where we spend our money, it's only fair. He commented regarding the Council sending councilor's to Washington D.C. and it paying off with the recent \$200,000 grant. Discussion followed.

Mr. Middleton addressed Section 33.i and said he got into trouble on this and explained a situation of a resident contacting him to inform him he was in court and observed an officer being abusive to somebody. Mr. Middleton said he then contacted the City Manager to take care of the situation and said about a month later the father of the juvenile called and the resident called again and at this time Mr. Middleton told the staff "you have to do something". He said the staff felt coerced. He said he was threatened with violation of the prohibition and said there was talk about trying to get him removed. Ms. Henderson asked who is "they" and Mr. Middleton replied he did not want to mention the councilors name, but the information was brought back to him by the person upstairs. Mr. Middleton stated he believes this could be used as political motivation to get rid of anyone the council does not like. He provided another example of contacting the Public Works Director regarding a fallen tree in the park, he asked is this coercion if he tells the director to do work, he said technically yes. He said he believes this is where the language is too vague and would like to see it removed.

Mr. Shannon replied it's worth discussing and he would like to look at the current Council Rules and removal for cause of a councilor. Mr. Middleton commented regarding needing a majority of council, having a split council and commented regarding the language being vague and said he believes it is a very dangerous statement.

Ms. Kuiper asked what language Mr. Middleton was referring too. He said, "Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing". He said he did not believe the council would want to go to a public hearing on this. Discussion followed regarding a majority of the council removing someone that was voted in by the people.

Renee Brouse came forward and asked Vice Chair Shannon which has more authority, the charter or the council rules, Mr. Shannon replied the charter. She said having that information, she would suggest going back to Chapter III and the discussion regarding, "a majority of the council may cause an item to be added to the agenda of any meeting or to an agenda of a future meeting if needed to meet requirements for public notice." She said she has heard the committee and Councilor Henderson say the Council Rules can be changed and said she believes this would give it more credence if it were in the charter.

No other public comments were received.

Mr. Shannon referred to the committee's meeting calendar with June 19th being the next scheduled meeting. The City Recorder stated she has scheduled June 19th, June 26th, July 10th and July 15th. Mr. Shannon said the committee has 3 meetings to finalize everything and the 4th meeting would be a meeting with the City council.

Council Liaison Henderson replied she and the City Manager have a conflict on the 19th and cannot attend. The City Recorder shared the polled information she had for June 12th and indicated there doesn't appear to be a quorum. The Committee discussed meeting on the Wed, June 18th and asked the City Recorder to check meeting room availability. Mr. Shannon polled the current meeting attendees and all members were available to meet on June 18th. She confirmed she would leave the 19th and 26th pending on the calendar until she could confirm room availability on the 18th.

The City Recorder asked the committee what they wanted from staff for the next meeting. She asked if they wanted another charter with blue discussion notes or something more concrete. She said Chair Allen indicated as the committee went through this process, he wanted staff to build the ballot titles and she has begun doing that but does not have content yet.

Mr. Shannon replied he did not have anything specific beyond what the committee has discussed and what the City Manager was coming back with.

Ms. Kuiper said she would like to see the Mayors comments and Renee's comments added in as it's important to discuss those. She said also the Council Rules, she said Council Rules can change and if it is important for us to consider putting something in the charter then we can also consider whether or not council rules be changed. The committee discussed obtaining the Council Rules off the City website.

Mr. Stecher asked the City Recorder to share the utility board information with the City Manager and see if he feels it should be in the charter or just having the council approve the board. He said if he is unsure and believes it needs to be run by legal counsel then we should do that. She confirmed she would check with legal counsel to see if it was a charter requirement because it is a utility board.

The City Recorder stated she would draft an agenda based on the public comments, the discussion on the utility and look at the pending legal items the committee is waiting for. She confirmed the color-coded charter would not be amended and staff will come back with information. Mr. Shannon replied that would be fine but to leave the information on the document to be able to receive Chair Allen's opinion.

7. Adjourn:

Vice Chair Shannon adjourned the meeting at 8:25 pm.


Sylvia Murphy, MMC, City Recorder


Neil Shannon, Vice Chair