



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
October 3, 2023

WORK SESSION

1. **CALL TO ORDER:** Mayor Rosener called the meeting to order at 5:32 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Councilors Kim Young, Renee Brouse, Doug Scott, Taylor Giles, and Dan Standke. Council President Keith Mays arrived at 5:35 pm.
3. **STAFF PRESENT:** City Manager Keith D. Campbell, City Attorney Ryan Adams, IT Director Brad Crawford, Planning Manager Erika Palmer, Senior Planner Joy Chang, Community Development Director Eric Rutledge, Economic Development Manager Bruce Coleman, Police Chief Ty Hanlon, HR Director Lydia McEvoy, City Engineer Jason Waters, Land Use Legal Counsel Carrie Richter, and City Recorder Sylvia Murphy.
4. **TOPICS:**

A. Discuss Sherwood West UGB Expansion Proposal

Community Development Director Eric Rutledge presented the "Sherwood West UGB Expansion" PowerPoint presentation (see record, Exhibit A) and outlined that this was the second work session on the topic and recapped previous work session discussions. He explained that this work session would focus on master planning, annexation policy, and middle housing. He noted that an open house would be held at the Ridges Elementary on October 4th and stated that a questionnaire would be provided to attendees. Discussion regarding the questionnaire content and open house format occurred. Mr. Rutledge explained that the open house feedback would be processed and given to Council prior to the November 7th work session where Council would also provide direction to staff on the letter of interest (LOI) to Metro. He reported that the LOI needed to be completed by December 1st if the city wished to submit the letter to Metro. Mayor Rosener confirmed that submitting a LOI did not obligate the city to complete a UGB expansion request application. Mr. Rutledge replied that was correct. He outlined key questions raised by Council and the Planning Commission regarding Sherwood West on page 3 of the presentation as: Could Cottage Cluster and Middle Housing-only zones be created in Sherwood West? What were the benefits of a city-led master plan for portions of Sherwood West and how would HB 2001 be implemented through a master plan? How could annexation agreements or policies be used to achieve the city's desired outcomes for Sherwood West? He added that Council had also requested a map of the vacant residential land and a developmental phasing map. Mayor Rosener asked that Hospitality zoning also be discussed. Community Development Director Rutledge provided an overview of the vacant residential land map on page 4 of the presentation and explained that the green color represented vacant residential properties and the red color represented vacant commercial properties. He noted that there were approximately 1,404 units in residential zones, the majority of which were located to the south. He stated that the majority of commercial zones were located along Highway 99W and explained that if residential in commercial zones were approved by the Planning Commission and City Council, there was a capacity of approximately 916 units in

commercial zones. Mayor Rosener asked how many housing units existed currently. City Manager Keith Campbell replied that he believed approximately 6,600 units. Mr. Rutledge provided an overview of the infrastructure/development phasing map on page 5 of the presentation. He explained that the map was drafted based on location and physical attributes for the location of the utilities that were likely to develop first. He referred to annexation and orderly growth and explained that a similar approach was used for the development of the TEA. Mayor Rosener asked if including Sherwood North in the expansion request was an option. Mr. Rutledge replied that including Sherwood North was not an option. He provided an overview of the planning and development timeline on page 6 of the presentation and explained that if Metro approved the city's application, the next step would be to complete the Metro-funded comprehensive planning process where zoning, development code, public facility master plans, and annexation policy would be addressed. Councilor Giles referred to Metro funding the comprehensive planning process for the area and asked if the funding came with stipulations that the city was required to follow. Mayor Rosener replied that Metro would not have any additional control over the comprehensive planning process other than the power already granted to them through Metro ordinances. Mr. Rutledge added that it was possible that Metro could condition their approval of the city's application. Mayor Rosener commented that he felt that annexation policies, agreements, and legislation needed to be completed prior to starting the comprehensive planning process because of the uncertainty of potential annexation legislation from the state. Legal Counsel Carrie Richter clarified that Council wished to have the annexation code in place prior to starting work on the comprehensive plan. Councilor Scott commented that he wanted to update the annexation code before anyone could apply for annexation. Community Development Director Rutledge replied that Council and staff were on the same page regarding updating the annexation code. Ms. Richter recommended that Council create new annexation policies that would apply city-wide over the next six months, ensuring that comprehensive plan work could begin as soon as possible. Mr. Rutledge added that staff had drafted an annexation policy that had been modeled on local jurisdictions with strong annexation policies and commented that staff could bring that forward to Council soon. Mayor Rosener referred to HB 3414 and commented that he wanted the city to be ready. Councilor Scott and Councilor Brouse commented that they were in favor of updating the city's annexation code soon and then updating the code as needed. Mr. Rutledge stated that work on a city-led master plan could begin after the comprehensive planning process was complete and before the work on annexation began. Councilor Scott asked if a developer-led master plan process or a developer and city partnership master planning process was an option. Mr. Rutledge replied that a developer-led master plan would need Council approval and Ms. Richter said staff would circle back around at a later time. Mr. Rutledge stated that cottage cluster and middle housing-only zones were possible for Sherwood West. He explained that city staff had spoken with the DLCD and explained that HB 2001 only required that middle housing be included in single-family zones but not the other way around. He added that according to the DLCD, there currently were no other cities with middle housing-only zones. Councilor Giles asked if middle housing zones could have separate design standards. Ms. Richter replied that that was an option, but those standards had to be clear and objective. Discussion occurred and Council commented that they did not want to be overly prescriptive in the design standards so as not to hinder development. Mayor Rosener referred to Hospitality zoning and Mr. Rutledge replied that Hospitality zoning could be discussed at the next work session. He addressed the question of the benefits of a city-led master plan for certain portions of Sherwood West and how HB 2001 would be implemented through a master plan and explained that the state had adopted administrative rules that stipulated how a jurisdiction could regulate middle housing. He explained that the city had updated their middle housing code in 2021 and the city did not have any adopted master plans that modified those regulations, but the OAR allowed for that. He explained that the city could regulate the location and design of middle housing in Master Planned Communities through implementation of one or more of the following actions: plan to provide urban services to accommodate 20 units per acre within the Master Planned Community; provide a variable rate SDC for middle housing within the Master Planned Community (i.e. reduced rate for middle housing units); or require a mix of residential types including at least two middle housing types other than duplexes within the Master Planned Community. Council referred to the 20 units per acre stipulation and Ms. Richter stated if the city chose the first option, then the city should plan for 20

units per acre and clarified that that was for the total Master Plan area. She commented that the city should not pursue the first option. Council asked if the city already offered the variable rate SDC for middle housing and Community Development Director Rutledge replied that staff would investigate further. Ms. Richter voiced that the purpose of the variable rate SDC for middle housing was to incentivize the development of middle housing. Councilor Scott commented that it was to also lower the price of the units to make them more affordable. Councilor Scott expressed his concerns over HB 2001 and middle housing in Sherwood West. Ms. Richter explained Master Planned Community zones would be separately identified in the Master Plan and those separately identified communities were where the city could implement one of the three options discussed earlier. She added that the city could still have single-family residential zones with no middle housing as long as the city also allowed duplexes. Mr. Rutledge outlined that the minimum master plan area was 20 acres, and the zoning must allow for duplexes where single-family was permitted. Councilor Scott confirmed that this would also allow the city to stipulate and plan where certain amenities would be located, such as parks and roads. Ms. Richter replied that was correct. Councilor Young asked what the drawbacks were for completing a master plan. Ms. Richter replied it was a time intensive process for staff and discussion occurred regarding not wanting to be overly prescriptive and hinder development when creating the master plan. Council President Mays commented that the SDC fee structure could be designed in a way that reimbursed the city for any infrastructure the city had paid for. Councilor Standke asked if there was a maximum area that could be master planned, and Mr. Rutledge replied that he did not believe that there was a maximum area. Mr. Rutledge addressed the question of what specific area would have a master plan and explained that it was ultimately a Council decision. He stated that residential zones, mixed residential/commercial zones, and mixed-use zones were the most logical areas to complete a master plan for. He reported that the Sherwood West Concept Plan had identified different planning areas and explained that the west district would be ideal for a Master Plan Community because the area contained the nearby high school, a variety of zones, parks, the Chicken Creek greenway, etc. Mayor Rosener asked if the master plan area had to be contiguous. Ms. Richter replied that the definition did not state whether or not the area had to be contiguous, but that she believed that it was expected to be contiguous. Councilor Giles asked if the city could do more than one master plan. Staff replied that that was an option. Discussion regarding the master planning process occurred and Council and staff discussed the need for continual input from developers, property owners, and Metro throughout the master planning process. Mr. Rutledge addressed the question of how annexation agreements or policies could be used to best achieve the city's desired outcomes for Sherwood West. He explained that annexation was currently regulated by the city's Comprehensive Plan, Metro, and state law. He recommended that the city also adopt an annexation policy as part of the Development Code and explained that this could also include a requirement for an annexation agreement. He reported that SB 1573 did not prevent the city from having a strong annexation policy that ensured orderly development and adequate provision of public infrastructure. Mayor Rosener asked what the permissible provisions and scope of an annexation policy were. Mr. Rutledge stated that as a part of the annexation code, it could be required that the property owner and city have an annexation agreement. He recommended a stipulation that a transportation analysis be completed prior to a finalized annexation agreement which stated that developers could not develop more than the capacity shown in the transportation analysis. He explained that this was a valuable tool that the city did not currently have but could have for Sherwood West. Councilor Brouse asked if master plans were typically only done for residential zones. Ms. Richter replied that the city would have a stronger justification as to why it did not allow middle housing in single-family zones if a variety of zones were included in the master planned area, not just residential zones. Councilor Scott commented that he felt the west district option shown on page 10 of the presentation was the best option for master planning because of the variety of zones in the area. Mr. Rutledge commented that it would be good to address compatible development for the mixed-employment zone in the north via the Development Code and explained that completing a master plan for that area should be done at a later date so as not to cause delays to the current timeline. Mayor Rosener asked how a change in property ownership could impact annexation agreements. Ms. Richter replied that typically, property agreements were recorded and reported that development agreements were typically valid for 10 years. She explained that once someone

was annexed into the city, they could not be forced out even if they did not complete everything stipulated in the annexation agreement. City Attorney Ryan Adams asked what legal option the city could have in such a case and Ms. Richter replied that it would likely be a civil breach of contract suit. She commented that because annexation agreements had very specific terms, such a situation was unlikely to occur as it was unlikely that anyone would engage in annexation agreement negotiations if they were not serious about following through. Mr. Rutledge addressed the question of if an annexation agreement could require single-family only and replied that the answer to that question was unclear. He voiced that the best way to get the kind of development the city was seeking was through the master planning process. Ms. Richter outlined that HB 2001 stated that local governments must allow for the development of middle housing. As an alternative to that, local governments could do Master Planned Communities. She explained that HB 2001 did not state a third alternative in which an owner agreed not to exercise those rights, and because HB 2001 did not state that, that it appeared to her that a homeowner should be able to exercise those rights. She commented that given the current legislative environment for housing, any effort that could be perceived as trying to constrain choices would be a difficult case to win. She referred to PUDs and explained that there was the possible option for a city to be able to put stipulations about certain housing types, such as only allowing for single-family duplexes but not triplexes or quadplexes. She explained that she was unsure if that was a viable option, but the middle housing rule did not state anything about "alternative track choices" that applicants may make. Mayor Rosener asked about the possibility of a developer of a previously approved PUD coming back and saying that because of HB 2001, they had changed their mind on what they would be developing. He asked that in such a case, which situation would trump the other. Ms. Richter replied that the development of middle housing would likely take precedent and clarified that such a situation had not been tested in court yet. She added that currently, the rule says that master planning was exempt. Mr. Rutledge reported that the next work session on this topic would be held on November 7th. Council asked Mr. Rutledge to look into Hospitality zoning, including getting feedback on what other partnering agencies thought of the idea and defining what a Hospitality zone was. Mr. Rutledge added that Economic Development Manager Bruce Coleman, City Manager Keith Campbell, and himself had heard a lot of support for a Hospitality zone, including feedback from Metro.

Record note: Community Development Director Eric Rutledge emailed Council Sherwood West materials in preparation for the work session (see record, Exhibit B).

B. Police Department Policy Updates

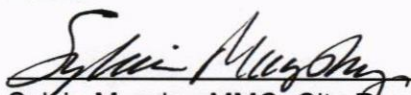
Police Chief Ty Hanlon referred to the policy updates he had sent to Council prior to this work session (see record, Exhibit C) and explained that all of the changes and updates were recommended from Lexipol. He addressed Policy 303.7, "Crowd Control Guidelines" and explained that this policy was created as a part of the reaction to riots over the last few years. He explained that the Sherwood Police Department did not have a crowd control team, but relied on Washington County if crowd control was needed. He addressed the Wellness Program and commented that Sherwood was "ahead of the curve" and that the city had already implemented many of the features of the Wellness Program cited in the policy update. He commented that Sherwood's program and the Lexipol Wellness Program were very similar, and he liked what Lexipol had put forward. He addressed "Vehicle Pursuits" and reported that the policy had not changed but had been reorganized within the document. He addressed "Briefing" and explained that much of the trainings could be easily incorporated by the Sherwood Police Department. Mayor Rosener asked Chief Hanlon to clarify Sherwood's vehicular pursuit policy. Chief Hanlon explained that Sherwood Police Officers would not pursue anyone unless that person was a major threat to the safety of officers or citizens. He explained that "time, place, and manner" were factored into the decision about whether or not to pursue a vehicle. He referred to the use of the term "excited delirium" in the "Medical Aid and Response" chapter and explained that the term had been updated to include descriptive behaviors. He addressed "Vehicle Towing" and reported that nothing had changed in this chapter as Sherwood was covered under Washington County's towing policy. He addressed the "Investigation and Prosecution" chapter and policies

for interacting with juvenile witnesses or suspects and reported that the Sherwood Police Department had been following the new policy for several months. He clarified that the policy covered: "Where we can talk to them; How we talk to them; Questions we can ask; The environment we set them up in." and depending on the situation, contacting their parents. He explained that the policy was to help make it so that juvenile witnesses or suspects did not feel compelled to answer questions because they were speaking to the police. He continued that the policy was a safety mechanism to ensure that juveniles had all of their rights afforded to them. Councilor Giles asked if there was a separate protocol for when the juvenile was being asked questions about their parent/guardian and Chief Hanlon confirmed that there was a separate protocol for those situations. He addressed Chapter 1011, "Personnel Complaints" and referred to "presumptive sanctions" for certain types of misconduct and stated that the changes were to hold the police officers to higher standards and would give police departments better credibility. Councilor Standke referred to Chapter 300.10 "Use of Force Analysis" and asked who reviewed that report and was the report made available to the public. Chief Hanlon replied that it was not publicly available, but it was a part of the Police Department's process for accreditation. Councilor Giles asked if the report could be requested under the FOIA. Chief Hanlon replied that he believed that it could be. Councilor Scott asked for an estimate of the average number of times force was used by the Sherwood Police Department. Chief Hanlon replied he estimated that it was "less than one hundred" uses of force per year and clarified that there was "maybe a dozen" instances of "major" force used per year. He clarified that major uses of force included using a taser or the use of bodily force to gain control of the situation. Councilor Young asked for City Attorney Ryan Adams's opinion on if the use of force analysis would be subject to public disclosure via a records request. Mr. Adams replied that it was likely that the report would need heavy redaction prior to being sent out with the goal of providing the requestor with the information without disclosing sensitive information. Councilor Scott commented that he would like to have a summary of the use of force analysis shared periodically with Council. Discussion of public records law occurred, and City Attorney Adams commented that each request was reviewed on a case-by-case basis and denials could be appealed to the District Attorney. Councilor Standke referred to section 305.10.1 and asked why the entire section had been removed but the section number remained. Chief Hanlon replied that that was an error. Councilor Standke identified the remaining uses of "he/she" in place of "officer" in the draft policy. Councilor Giles referred to "crowd control" asked if the term "crowd" had been defined. Chief Hanlon replied "crowd control" pertained to behavior of a group of people that had turned violent. He outlined that these new policies would be placed on an upcoming Council agenda under consent and asked for feedback on this format for reviewing police policy updates. Council agreed that they liked this format and that the proposed policy updates could move forward to the consent agenda. Councilor Standke asked what the process was for reviewing these types of policy updates. Chief Hanlon explained that he compiled the policy changes and brought them to the Police Advisory Board for review after which the draft policies were presented to Council for review. After Council had reviewed the policies, they were placed on a future City Council meeting agenda. Councilor Young clarified that the Police Advisory Board was not responsible for crafting the policies, since most policy updates were state-mandated.

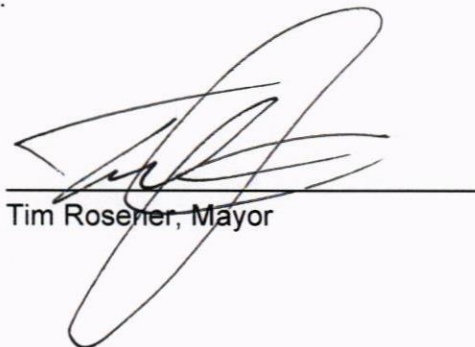
5. ADJOURN:

Mayor Rosener adjourned the work session at 6:57 pm.

Attest:



Sylvia Murphy, MMC, City Recorder



Tim Rosener, Mayor