



Home of the Tualatin River National Wildlife Refuge

REGULAR MEETING

- 1. Call to order (Chair)**
- 2. Roll call (Chair)**
- 3. Approval of Meeting Minutes**
 - a) Approval of January 16, 2014 Meeting Minutes**
- 4. Public Comments**
- 5. Staff Report (materials requested by the Committee)**
- 6. Continued consideration of election-related charter provisions**
- 7. Public Comments**

AGENDA

**Charter Review Committee
January 30, 2014**

**6:30 pm Meeting
Community Room**

**Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140**

Sherwood City Charter Review Committee Meeting

Date: January 30, 2014

List of Meeting Attendees: ✓

Request to Speak Forms: —

Documents submitted at meeting: ✓

- City Charter with track changes + discussion
points on Sections 31 and 32, Exh. A
- City Charter from May 3, 2005, Exh. B
- Briefing Summary Report (examples - Draft), Exh. C
- Email from Vice Chair Neil Shannon dated Jan 30, 2014
w/ comments for the record for Section 11 and 24, Exh. D

Jan 30, 2014
Date

Charter Review Comm
Gov. Body

5- Staff Reports
Agenda Item

A
Exhibit #

PREAMBLE

We, the voters of Sherwood, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2005 Sherwood City Charter.

Section 2. Name. The City of Sherwood, Oregon, continues as a municipal corporation with the name City of Sherwood.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. Unless required by state law, annexations may only take effect with the approval of city voters. The city recorder will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically stated each of those powers.

Section 5. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances. The council appoints members of commissions, board and committees established by ordinance or resolution.

Chapter III

COUNCIL

Section 7. Council. The council consists of a mayor and six councilors nominated and elected from the ~~city~~ City by position.

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council.

The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 9. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. ~~The council must by resolution adopt rules to govern its meetings. In January after each general election, the council must by resolution adopt council rules.~~

Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with council rules. The council shall afford an opportunity for general public comment at each regular meeting.

Section 12. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 13. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Sherwood ordains as follows:

Section 16. Ordinance Adoption.

(a) Adoption of an ordinance requires approval by a majority of the council at one meeting provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(b) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.

(c) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(d) After adoption of an ordinance, the city recorder must endorse it with the date of adoption and the recorder's name and title. The city recorder must submit the ordinance to the mayor for approval. If the mayor approves the ordinance, the mayor must sign and date it.

(e) If the mayor vetoes the ordinance, the mayor must return it to the city recorder with written reasons for his veto within 10 days of receipt of the ordinance. If the ordinance is not so returned, it takes effect as if approved.

(f) At the first council meeting after veto by the mayor, the council will consider the reasons of the mayor and again vote on the ordinance. If four councilors vote to adopt the ordinance, it will take effect.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption and approval by the mayor, or adoption after veto by the mayor, or on a later day provided in the ordinance. An ordinance adopted by all councilors may take effect as soon as adopted, or other date less than 30 days after adoption if it contains an emergency clause, and is not subject to veto by the mayor.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Sherwood resolves as follows:"

Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at a meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolutions.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Sherwood orders as follows:"

Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city recorder must endorse it with the date of approval and the recorder's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII

ELECTIONS

Section 24. Councilors. At each general election ~~after the adoption~~, three councilors will be elected for four-year terms ~~by position. The terms of councilors in office when this charter is adopted are the terms for which they were elected. No councilor shall serve on the council more than three consecutive terms.~~

Section 25. Mayor. At ~~each every other~~ general election ~~after the adoption~~, a mayor will be elected for a two-year term. ~~The mayor in office when this charter is adopted is the term for which the mayor was elected.~~

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 27. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one city office.

(c) Neither the mayor, nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office irrespective of any applicable term limit.

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the

office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies. The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(4) *election to a different office*

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 45 days without council consent, or from three consecutive regular council meetings,
- (3) Ceasing to reside in the city
- (4) Ceasing to be a qualified elector under state law,
- (5) Conviction of a public offense punishable by loss of liberty,
- (6) Resignation from the office, or
- (7) Removal under Section 33(i).

(b)(2) Remove "from three consecutive regular council meetings" and add "all meetings in a 60 day period" (01.02.14 Minutes Pg. 13-16/Video 01.23 min)

(b)(3) Suggested adding city "limits" (12.19.13 Minutes Pg. 5/Video 45 min)

(b)(8) Add "During a council member's disability to serve on the council or absence from the City the majority of the remaining council may fill the vacancy pro tem" (01.02.14 Minutes Pg. 16/Video 01:25 min)

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term. The election will be held at the next available election date to fill the vacancy for the remainder of the term. A mayor or councilor vacancy may be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until the vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy.

- Add (after 2nd sentence) "or by appointment of the majority of the council if less than 13 months remain" (01.12.14 Minutes Pg. 17/Video 01.32 min)
- Add (end of amended 2nd sentence) "within 45 days" (01.02.14 Minutes Pg. 17-20)/Video 01: 47 min)
- Change (3rd sentence) "may be" to "shall" (01.02.14 Minutes Pg. 17/Video 01:51 min)

shall be

Chapter VIII

APPOINTIVE OFFICERS

Section 33. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

- (1) Attend all council meetings unless excused by the mayor or council;
- (2) Make reports and recommendations to the mayor and council about the needs of the city;
- (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
- (4) Appoint, supervise and remove city employees;
- (5) Organize city departments and administrative structure;
- (6) Prepare and administer the annual city budget;
- (7) Administer city utilities and property;
- (8) Encourage and support regional and intergovernmental cooperation;
- (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
- (10) Perform other duties as directed by the council;
- (11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge.

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) 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. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

(j) The manager may not serve as city recorder or city recorder pro tem.

Section 34. City Recorder.

(a) The office of city recorder is established as the council clerk, city custodian of records and city elections official. The recorder must attend all council meetings unless excused by the mayor or council.

(b) A majority of the council must appoint and may remove the recorder. The appointment must be made without regard to political considerations and solely on the basis of education and experience.

(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes vacant, the council must appoint a recorder pro tem. The recorder pro tem has the authority and duties of recorder.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any office employees.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Sherwood Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:

- (1) Render judgments and impose sanctions on persons and property;
- (2) Order the arrest of anyone accused of an offense against the city;
- (3) Commit to jail or admit to bail anyone accused of a city offense;
- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city appointive officers and employees as part of its approval of the annual city budget. The mayor and councilors may be reimbursed for actual expenses.

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.

Chapter X

PUBLIC IMPROVEMENTS

Section 39 Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for one year upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI

MISCELLANEOUS PROVISIONS

Section 41. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 42. Solid Waste Incinerators The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. This applies to solid waste defined by ORS 459.005(24), and includes infectious wastes defined by ORS 459.386(2). This prohibition does not apply to otherwise lawful furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used only for energy recovery purposes. Such small-scale incinerators are only exempt from this prohibition if they are ancillary to a city permitted or conditional use, and may not utilize infectious wastes or any fuels derived from infectious wastes. This prohibition does not apply to solid waste incinerators lawfully permitted to operate before September 5, 1990, but does apply to any expansion, alteration or modification of such uses or applicable permits. (Approved by voters November 6, 1990)

Section 43. Willamette River Drinking Water. Use of Willamette River water as a residential drinking water

SHERWOOD CITY CHARTER

CHAPTER I INTRODUCTORY PROVISIONS

Section 1.1 Title. This enactment shall be referred to as the City of Sherwood Charter of 1984.

Section 1.2 Corporate Name and Capacity. The inhabitants of the City of Sherwood have been and are hereby constituted a municipal corporation by the name of City of Sherwood and by that name have perpetual succession.

Section 1.3 Boundaries. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified. Unless mandated by State Law, annexations, delayed or otherwise, to the City of Sherwood, may only be approved by a prior majority vote among the electorate. The repository of city records shall include at least two copies of this Charter, each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during regular office hours.

CHAPTER II POWERS

Section 2.1 Vesting, Granting, and Construction of Powers.

(1) Except as this Charter provides to the contrary, all power of the City is vested in the Council, which is the representative legislative body of the City.

(2) The City has all powers that the Constitution or laws of the United States and of this State expressly or impliedly grant or allow cities, as fully as if this Charter specifically stated each of those powers.

(3) In this Charter failure to mention a particular power may not be construed to be exclusive or to restrict the scope of the powers that the City would have if the particular power were mentioned. The Charter shall be liberally construed to the end of its affairs, including all powers that cities may assume under state laws and the provisions of the state constitution regarding municipal home rule.

CHAPTER III FORM OF GOVERNMENT

Section 3.0 Where Powers Vested. Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 3.1 Council Membership. Six councilors and the mayor shall be members of the City Council. (Ord. 00-083 § 1, approved at 5-16-00 election)

Section 3.2 Mayor: Election. A Mayor shall be elected at the first general election after the Charter is adopted. The Mayor will be elected for a two year term and hold office until a successor is elected or appointed.

Section 3.3 Councilors: Election. The term of office of each Councilor in office when this Charter is adopted shall continue until the expiration of the current elected term. At the first general election after the Charter is adopted, three Councilors shall be elected to the three open positions. At each subsequent general election, three Councilors shall be elected, each for a term of four years.

Section 3.4 Council: President. At the first regular meeting of the Council in January following the general election, or as soon thereafter as practical, the Council shall choose one of its members to preside over the Council and perform the duties of Mayor in the absence of the Mayor from the City or in case of the Mayor's inability to act as such. In functioning as Mayor while he or she is absent from the City on leave granted by the Council or after the Mayor is absent from the City for 30 days, the President of the Council has the legal powers and is subject to the legal limitations of the Mayor. The President of the Council shall function as the Mayor until the Mayor resumes office.

Section 3.5 Council: Meetings. The Council shall prescribe times and places for its meetings. It shall meet regularly at least once each month. At a meeting it may adjourn to the next succeeding regular meeting or to some specified time prior thereto. The Mayor or a majority of the Councilors may call special meetings of the Council.

Section 3.6 Mayor: Functions at Council Meetings. The Mayor shall be chairman of the Council and preside over its deliberations. The Mayor shall have a vote on all questions before the Council. The Mayor shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 3.7 Council: Quorum. A majority of the Council constitutes a quorum for the transaction of Council business, except that a lesser number may meet and compel the attendance of the absent members. The Mayor shall be included in the Council for the purpose of a quorum.

Section 3.8 Council: Vote Required. Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the Council.

Section 3.9 Council: Record of Proceedings. The Council shall cause a record of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken and entered in the record. No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 3.10 Council: Committees, Commissions, and Boards. Advisory and statutory commissions, committees, and boards that the Council may establish shall be appointed by the City Council.

CHAPTER IV CITY MANAGER

Section 4.1 City Manager: Appointment and Qualifications. The Council shall hire a City Manager for an indefinite term who shall hold office during the pleasure of the Council and may be removed at any time by a three-fifths vote of the entire Council. The City Manager shall be chosen without regard to political considerations and solely on the basis of executive and administrative qualifications. The City Manager need not be a resident of the City or state at the time of appointment, but within one year thereafter shall become and remain a resident of the City while in office. No Councilor or Mayor may be hired as City Manager until one year after the expiration of that person's service in the office of Councilor or Mayor.

Section 4.2 City Manager: Vacancy. If the office of the City Manager becomes vacant or if the City Manager is absent from the City or disabled, the Council may designate a City Manager Pro Tem.

Section 4.3 City Manager: Pro Tem. The City Manager Pro Tem shall perform the duties of City

Manager, but may appoint or dismiss a department head only with the approval of the Council. The term of office of the City Manager Pro Tem ends when the City Manager returns to the City or takes office.

Section 4.4 City Manager: Powers and Duties. The City Manager shall be the chief executive officer of the City government and shall be responsible to the Council for the proper performance of his or her duties. The City Manager shall:

- (a) Supervise and control all administrative and business affairs of the City;
- (b) Enforce all ordinances;
- (c) See that the provisions of all franchises, contracts, leases, permits and privileges granted by the City are fully observed and enforced;
- (d) Except for municipal court judges, generally supervise and control all employees of the City including, but not limited to employing, disciplining and discharging employees, assigning duties and accounting for performances as prescribed by ordinance;
- (e) Organize, disband or reorganize departments;
- (f) Prepare the annual budget;
- (g) Make all purchases;
- (h) Execute all contracts with Council approval;
- (i) Prepare and furnish reports requested by the Council;
- (j) Devote full time to the office of the City Manager, and
- (k) Perform other duties as the Council directs.

Section 4.5 City Manager: Council Meetings. The City Manager and such other officers of the City as the Council designates may sit with the Council, but may not vote on questions before the Council. The City Manager may take part in all Council discussions.

Section 4.6 City Manager: Interference in Administration. No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the City Manager in the making of any appointment or in the removal of any officer or employee. No Councilor shall attempt to exact any promise relative to any appointment from any candidate for City Manager. If the Council finds, upon a hearing, that a member of the Council has violated the foregoing provisions of this section, the office of the offending member shall be forfeited. Nothing in this section shall be construed, however, as prohibiting the Council, while in session, from fully and freely discussing with or suggesting to the Manager anything pertaining to City affairs or the interests of the City. Neither the Manager nor any person in the employ of the City shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a municipal office.

Section 4.7 City Manager: Ineligible Persons. Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within the third degree may hold appointive office or employment with the City.

Section 4.8 City Manager: Ineligible to be City Recorder. While service as City Manager, the City Manager shall not serve as City Recorder or City Recorder Pro Tem. (Ord. 00-1095 § 1, approved at 11-7-00 election)

CHAPTER V RECORDER

Section 5.1 Recorder. The Recorder shall be appointed by the City Council. The Recorder shall serve as Clerk of the Council, attend all its meetings unless excused therefrom by the Council, keep an accurate record of its proceedings, and sign all orders on the treasury. The City Recorder need not be a resident of the City or state at the time of appointment, but within one year thereafter shall become and remain a resident of the City while in office.

Section 5.2 Elections. The City Recorder shall act as the City officer in charge of elections.

Section 5.3 Absence. In the Recorder's absence, the City Council shall appoint a Recorder Pro Tem who, while acting in that capacity, shall have all the authority and duties of the Recorder, including serving as Clerk of the Council. (Ord. 00-1096 § 1, approved at the 11-7-00 election)

CHAPTER VI MUNICIPAL COURT AND JUDGE

Section 6.1 Municipal Court: Creation and Jurisdiction. The Council may continue the court known as the Municipal Court. The jurisdiction and proceedings of the Municipal Court are governed by the general laws of the State of Oregon for Justices of the Peace and Justice Courts, except as city ordinance prescribes to the contrary. The Municipal Court has original jurisdiction over all offenses defined and made punishable, and over all actions to recover or enforce forfeitures or penalties defined or authorized, by the ordinances of the City.

Section 6.2 Municipal Court: Powers.

(1) The Municipal Court has the jurisdiction and authority of a Justice of the Peace in and for Washington County, in both civil and criminal matters and, when exercising that jurisdiction and authority is subject to the general laws of the State of Oregon prescribing the duties of a Justice of the Peace and the mode of performing them.

(2) The Municipal Judge may:

(a) Render judgments and impose sanctions for the enforcement thereof on persons and property within its jurisdiction;

(b) Cause the arrest of any person accused of an offense against the City;

(c) Commit to jail, pending trial, any person accused of an offense against the City;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify or jurors to serve in the trial of any cause before the Municipal Court;

- (f) Punish witnesses and others for contempt of court;
- (g) Issue any process necessary to carry into effect the judgment of the Municipal Court; and
- (h) Perform other judicial or quasi-judicial functions as the Council prescribes by general ordinance.

Section 6.3 Municipal Judge: Appointment. The Council may appoint a Municipal Judge and such Pro Tem judges as it deems necessary to serve for indefinite terms to hold office at the pleasure of the Council and may remove any of them at any time, with or without cause, by three-fifths vote of the entire Council.

Section 6.4 Municipal Judge: Vacancy. If the office of Judge is absent from the City or disabled, the City Council may appoint an acting Municipal Judge. The term of acting Municipal Judge shall end when the Municipal Judge returns to the City or takes office.

CHAPTER VII MUNICIPAL OFFICERS AND EMPLOYEES

Section 7.1 Qualifications. No person may hold an elective city office unless that person is a legal elector under the laws and Constitution of the State of Oregon; a resident of the city for one year immediately before being elected or appointed to the office; a resident of the city when nominated, elected or appointed and when assuming the office and unless that person received the highest number of votes cast for candidates for the office at the election at which the office is to be filled.

Section 7.2 Certificate of Election. Immediately after the votes at a municipal election for filling an elective office have been canvassed, the City Recorder shall issue a certificate of election to each person declared by the canvassers to have been elected at the election. The certificate shall be prima facie evidence of the facts therein stated, but the Council shall be the judge of the election and qualifications of the Mayor and Councilors, and in case of a contest between two or more persons claiming an elective city office shall determine the contest.

Section 7.3 Terms. The term of city elective offices shall commence upon the swearing in of the officers at the first regular meeting in January following the election.

Section 7.4 Oath of Office. Each elective officer, the City Manager and Municipal Judge, before entering upon the duties of office, shall take an oath or affirmation to support the Constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of the office. The oath of office will be administered at the first regularly scheduled meeting in January following the officer's election.

Section 7.5 Offices: Vacancies.

(1) An office becomes vacant upon its incumbent's death, adjudication of incompetence, conviction of a felony, forfeiture of office by action of the Council, resignation or ceasing to be a qualified elector of the City. An elective city office may be declared vacant whenever its incumbent is absent from the City for forty-five (45) consecutive days without the consent of the Council or whenever the elected city officer has been absent from three regular meetings of the Council without the Council's consent or whenever a Councilor removes his primary residence from the City.

(2) The Council shall judge when an office becomes vacant.

(3) In the event the office of mayor or councilor becomes vacant before the normal expiration of its term, an election shall be held to fill the vacancy for the unexpired term, provided that the unexpired term remaining is not less than thirteen (13) months from the election date described herein. Such election shall be held on the next special, primary or general election date that is not less than 90 days from the date the position is declared vacant. The council may appoint a person to fill a vacancy until the vacancy is filled by the election described herein or for the unexpired term if no election is required. A majority vote of the remaining Council members shall be required to validate the appointment. The appointee's term of office shall begin immediately upon that person's appointment and shall continue until the term expires or the vacancy is filled by the election described herein, whichever occurs first. (Ord. 00-1094 § 1, approved at 11-7-00 election)

Section 7.6 Compensation. Councilors and the Mayor shall receive no pay for their services, but may be reimbursed for actual expenses they incur when performing their duties. The compensation of other officers shall be prescribed by the Council.

Section 7.7 Liability for Unauthorized Expenditures.

(1) A City officer who participates in, advises, consents to, or allows city money to be diverted to any purpose other than the one for which it is raised is guilty of malfeasance and is removable from office as provided by law.

(2) If any city money is diverted from the purpose for which it is raised, if any money is unlawfully used or if any void evidence of debt is paid, any qualified elector or taxpayer of the city may bring a civil action in the name of the city against any officer voting for, approving of, or in any way directing the diversion, unlawful use, or void payment, to recover the amount, with interest, for the benefit of the City.

CHAPTER VIII ELECTIONS

Section 8.1 Elections. City elections, insofar as not governed by this Charter or by city ordinance, shall be conducted as prescribed by Oregon State law governing popular elections.

Section 8.2 Voter's Qualifications. No person may vote at a city election who is not a qualified voter of the state.

Section 8.3 Notice. The City Recorder shall give ten days public notice of each City election. The notice shall state the officers to be elected and the measures to be submitted at the election. The notice shall also state the places for the election.

Section 8.4 Nomination. The Council shall provide by ordinance the mode for nominating elective officers.

Section 8.5 Tie Votes. In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by Council. (Ord. 00-1093 § 1, approved at 11-7-00 election)

CHAPTER IX ORDINANCES

Section 9.1 Ordaining Clause. The ordaining clause of an ordinance shall read: "The City of Sherwood ordains as follows:"

Section 9.2 Mode of Enactment.

(1) Except as paragraph (2) of this section provides to the contrary, every ordinance of the

Council shall, before being put upon its final passage, be read fully and distinctly once in open Council meeting.

(2) Any reading may be by title only (A) if no Council member present at the meeting requests to have the ordinance read in full, or (B) if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection in the office of the City Recorder not later than one week before the first reading of the ordinance, and notice of their availability is given forthwith upon the filing, by (I) written notice posted at the City Hall and two other public places in the City, or (II) advertisement in a newspaper of general circulation in the City.

(3) An Ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

Section 9.3 Attestation and Approval. Upon the enactment of an ordinance the Recorder shall sign it with the date of its passage and the Recorder's name and title of office and submit the ordinance to the Mayor for approval. If the Mayor approves the ordinance, the Mayor shall sign and date his or her signature on the ordinance.

Section 9.4 Veto. If not approving an ordinance so submitted, the Mayor shall, within ten days after receiving it, return it to the City Recorder, with written reasons for not approving it. If not so returned, the ordinance shall have legal effect as if so approved.

Section 9.5 Overriding of Veto. At the first meeting of the Council after the Mayor returns an ordinance not so approved, the City Recorder shall present the ordinance to the Council with the objections of the Mayor. The ordinance shall then be submitted for adoption again and if four-fifths of the entire Council vote in favor of the ordinance, it shall take effect in accordance with Section 9.6 of the Charter.

Section 9.6 Times of Effect. An ordinance takes effect thirty (30) days after its adoption by the Council and approval by the Mayor, or passage over the Mayor's veto, unless it is necessary to have immediate effect for the preservation of the peace, health, and safety of the City, and so states in a separate section the reasons why it is necessary, and is approved by the affirmative vote of three-fifths of the entire Council. In that event, it takes effect immediately upon its adoption by the Council and approval by the Mayor or passage over his or her veto at whatever subsequent time the ordinance specifies.

CHAPTER X PUBLIC IMPROVEMENTS

Section 10.1 Procedure.

(1) Except as provided in this section, the procedure for making, altering, vacating or abandoning a public improvement shall be governed, by the applicable general laws of the State of Oregon.

(2) If, within fifteen (15) days of first publication of notice of intention to make an improvement, the owners of 65% or more in area of the property within the assessment district make and file written objection or remonstrance against the proposed improvement, said remonstrance shall be a bar to further proceedings in making such improvement under the authority granted by this Section, for a period of one (1) year, unless within that period the owners of one-half (1/2) or more of the property affected shall subsequently petition therefore. Further proceedings to make the improvement after expiration of the period of bar shall require republication of notice of

intention to make the improvement, and those proceedings shall likewise be subject to bar by remonstrance pursuant to this section.

Section 10.2 Assessments. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 10.3 Liens. The docket of city liens is a public writing, and the original of a certified copy of any matter authorized to be entered in the docket shall have the force and affect of a judgment. From the time of the Council's authorization of an improvement on account of which an assessment is entered in the docket, the sum so entered is a lien against the property. The lien has priority over all other liens and encumbrances upon the property and may be enforced in the manner authorized by the Council. The Council must notify the property owner by certified mail or process server, thirty (30) days prior to taking action to foreclose a lien.

CHAPTER XI MISCELLANEOUS PROVISIONS

Section 11.1 Indebtedness: Limits.

(1) Indebtedness of the city may not exceed the limits on city indebtedness under state law.

(2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 11.2 Terms, Proceeds, and Retirement of Bonds. Bonds issued as evidence of indebtedness shall have such terms and provisions as shall be prescribed by the Council. Bond sale proceeds shall be kept, invested, disbursed and accounted for and the indebtedness retired in the manner prescribed by the Council.

Section 11.3 Presumption of Validity of City Action. In every proceeding in any court concerning the exercise of enforcement by the City of any of its officers or agencies of any power by this act given to the City or any of its officers or agencies, all acts by the City or any of its officers or agencies shall be presumed to be valid and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage. The court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this Charter Committed to the discretion of the Council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

Section 11.4 Existing Ordinances Continued. All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 11.5 Repeal of Previously Enacted Provisions. All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed. All prior acts of the City pursuant to the Charter provisions hereby repealed, giving rise to vested rights and obligations, are ratified, confirmed, and unaffected by repeal of said prior Charter provisions.

Section 11.6 Initial Elected Officers. The duly elected officers of the City of Sherwood under the Charter provisions repealed hereby shall, upon the effective date of this Charter, become the initial elected officers under this Charter, to serve the remainder of their respective terms of office.

Section 11.7 Time of Effect of Charter. This Charter shall take effect on July 1, 1984.

Section 11.8 Solid Waste Incinerators. The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the City. For the purposes of this Section, solid waste is defined as per ORS 459.005(24), and includes infectious wastes as per ORS 459.386(2). Provided said incineration or burning is otherwise properly permitted, this prohibition shall not apply to furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used for energy recovery purposes only. Said small-scale specialized incinerators must be integral to and part of, but clearly ancillary, secondary, and incidental to, a permitted or conditionally permitted use in the City, and cannot utilize infectious wastes or any fuels derived from infectious wastes. This prohibition shall also not apply to solid waste incinerators lawfully permitted to operate prior to September 5, 1990, but shall apply to any expansion, alteration, or modification of such a use or any applicable permits.

Section 11.9 City Attorney. The City Attorney is an officer of the City. The City Attorney shall be appointed and may be removed by majority vote of all members of the Council. The City Attorney shall perform all professional services incidental to the office and shall, when required, furnish opinions upon any subject pertaining to the affairs of the City. He or she shall also advise with and counsel all City officers in respect to their official duties and attend the regular meetings of the Council and of such committees and boards as shall request his or her assistance. (Ord. 00-1097 § 1, approved at 11-7-00 election)

Section 11.10 Use of Willamette River for Residential Drinking Water.

Use of Willamette River water as a residential drinking water source within the city is prohibited except when such use has been previously approved by a majority vote of the city's electors.

Measure A: TERM LIMITS-Councilors

Jan 30, 2014 Charter Review Comm
Date Gov. Body
5- Staff Reports C
Agenda Item Exhibit #

Committee Findings:

- a. Few other Metro area city governments have adopted term limits. Cities that have term limits include Hillsboro, Tigard, Lake Oswego, Oregon City and Milwaukie.
- b. Enacting Term Limits can help bring fresh perspective and energy to the City Council by limiting the length of time that citizen volunteers can serve consecutively.
- c. With the introduction of term limits, there is the risk of losing effective, knowledgeable citizen volunteers from City Council.
- d. Consideration of Mayor term limits were discussed by committee, but with a two year mayoral term, the committee found ample opportunity for citizens to vote to retain or remove the mayor.

Committee Conclusions:

1. Committee concludes that three consecutive four-year terms is a reasonable length of time to limit service by one individual City Councilor.
2. The decision whether to enact term limits for City Councilors should be decided by Sherwood citizens at the ballot box.
3. Committee concluded not adding term limits to mayor position.

Committee Recommendations:

Submit to the people of the City of Sherwood at the May 20, 2014 election a proposed measure adding language to Section 24 of the city charter to enact term limits for City Councilors.

Sylvia Murphy

From: NEIL SHANNON <neilshnn@msn.com>
Sent: Thursday, January 30, 2014 11:31 AM
To: Sylvia Murphy; Patrick Allen
Subject: RE: Documents & Info Requested at Jan 16th Mtg.

Hi Sylvia and Chair Allen,

Thanks for the updates! I am going to have to miss the January 20th meeting as I am out of town on vacation.

I have received Sylvia's last submittal and red line document changes and do have a few comments that I hope can be carried before the committee tonight.

First, Sylvia, I think that there is a scrivener error on the last line of page 9 of the minutes, I believe that the intent was to say "except" instead of "accept".

Pat, I like the changes to section 11 but my preference would be to give the council a little more direction (or less discretion). I would like to include at the end of the sentence "prior to the start of business" to make it clear that public opinion is to be heard prior to the decision making process.

The other thing that I noted was Section 24 regarding the term limits of the City Council. I know the intent but I am just not sure that the words are there yet. It does not address the issue of partial terms (someone completing the term from a previous election). I would prefer to see the limits set to continuous elections although I have not figured out the wording I would use for that.

Sorry I missed the meeting but you can be assured I will be at the next one!

Neil Shannon

From: MurphyS@SherwoodOregon.gov
To: CharterReview@SherwoodOregon.gov
Date: Tue, 28 Jan 2014 14:17:34 -0800
Subject: Documents & Info Requested at Jan 16th Mtg.

Committee Members,

Jan 30, 2014 Charter Review Comm.
Date Gov. Body
5-Staff Reports D
Agenda Item Exhibit #

Attached you will find the following documents:

- The REDLINED Charter Amendments from discussions at the Jan 16th Mtg., including the discussion bullet points for Sections 31 & 32 still to be discussed.
- Requested Document: Sherwood City Charter as of May 3, 2005, prior to the 2005 adopted Charter when "by position" language was implemented. The City held an election on May 17, 2005 adopting

Approved Minutes



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
January 30, 2014**

REGULAR MEETING

- 1. Call to Order:** Chair Pat Allen called the meeting to order at 6:32 pm.
- 2. Committee Members Present:** Citizen at Large Chair Pat Allen, Library Advisory Board Representative Jack Hoffbuhr, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, and SURPAC Representative Charlie Harbick. Citizen at Large Jennifer Kuiper arrived at 6:50 pm. Absent Members: Budget Committee Representative Vice Chair Neil Shannon, Planning Commission Representative Beth Cooke, and Cultural Arts Commission Representative Alyse Vordermark.
- 3. Staff and Council Liaison Present:** City Manager Joseph Gall and City Recorder Sylvia Murphy. City Council Liaison Linda Henderson arrived at 7:08 pm.

Chair Allen reviewed the agenda business and recapped the prior work of the committee. He stated the committee elected to focus their work initially on the areas of the charter that would have a direct impact to the election in November so the committee could get proposed changes on the May ballot. He said the committee has come across charter language or structure that seems weird or language that they would say differently and decided in the interest of putting forward a clear package of changes to the voters, they would save that work for later, work that was non-substantive, cleanup type of work and focus on work that would make substantive changes to the structure. He gave an example of a recommendation, to elect from a single list of candidates City wide for councilors as opposed to by position.

He said the committee's plan at their next session on February 13th is to hold a meeting that is half public workshop and half public hearing, with a format of open tables where the public can come and talk to the committee members and other members of the public regarding the sections of the charter that they have worked on related to elections. He said after an hour of this format, the committee would hold a traditional public hearing to receive public testimony on the record. He said the next step would be to come back and hold a final public hearing and final mark up to look at the committee's recommendations to the Council on February 27th.

Chair Allen asked the committee if they have reviewed the draft minutes and stated Vice Chair Shannon provided feedback on a typographical error in the minutes and other information that would be addressed later in the meeting.

The City Recorder informed the committee of the correction to page 9 of the minutes.

Mr. Silverforb pointed out a correction to page 3 and page 5 of typographical errors. With no other comments received, Chair Allen asked for a motion to approve the January 16, 2014 meeting minutes as amended:

4. Approval of January 16, 2014 Meeting Minutes

MOTION: from Bob Silverforb to approve the minutes as corrected, seconded by Jack Hoffbuhr. Motion passed 5:0, all present members voted in favor. (Ms. Kuiper was not present for approval of minutes).

5. Public Comments

Kurt Kristensen 22520 SW Fair Oaks Ct. came forward and stated he's been thinking of the committee and how it became to being and said he wanted to express concerns. He said three Councilor's, Henderson, Butterfield and Grant elected the at large people and said when he looks at the composition of the committee members he is seeing that Henderson selected Patrick Allen and Middleton appears to have selected Neil Shannon and Jennifer Kuiper appears to have been originally appointed by Mays and Mr. Silverforb was appointed by Mays and Beth Cooke was appointed by Middleton and Mr. Harbick was appointed by Mays originally and Mr. Hoffbuhr was appointed by Middleton and Mr. Stecher was appointed by Mays and Ms. Vordermark was appointed by Mays on the original decision. He said the reason he has been thinking and writing about this is because it distresses him as a voter that we have such a system that for most voters, it appears to be a closed loop. He said there is no one on the committee that is not beholden or owes their position on the board to somebody that is already within the power block of the City. He said he believes the perception in general amongst a lot of us is that it is not an open process and he is concerned about this. He said he is hoping that the committee members will be of goodwill and they will come up with constructive and meaningful changes. He said he is not hopeful for meaningful changes and believes that minor issues will be addressed and said it's always good to get the language perfect. He said in order for this City to work, we need to get people involved and it isn't going to happen if we keep doing it the way we have been. He said now we are seeing a few issues that have been brought about by Ms. Henderson filing for Mayor and said the current charter doesn't provide for when you have a council member running for mayor that she automatically loses that position if elected to be mayor and that means the voters lose out on electing another person on the council because the existing council will end up reappointing that person. He said that is a concern of his and would like the committee to take a look at this. He said he is also concerned that the next mayor will be elected with about 25% of the voters because there will be at least three people running for mayor. He said there is no run-off election provisions provided for the council or for the mayor to ensure that if none of the candidates get 50% of the voters in the election that we have a run-off and he thinks that would be a smart thing to have for both the mayor and the council. He said it doesn't make any sense that someone is elected with 20% on our most important board. He said he is a bit concerned and in his research Mr. Harbick has been on the urban renewal advisory committee and as part of being on that committee even though he excused himself, he became the beneficiary of a \$15,000 grant for improving his business and said he knows that Mr. Harbick took the proper steps of excusing himself but is still concerned about that being not the best ethical way for a person in a public position and doesn't know if Mr. Harbick has any intentions of excusing himself from this board, but he believes that most people, if they knew this would find Mr. Harbick's service on the committee to be a bit self-serving.

Chair Allen commented regarding people excusing themselves and said we are covered by Oregon's Ethics Laws and said what that usually deals with is conflicts of interest and if we get to those types of

topics here, he would expect that committee members would do what they need to. He said it seems to be an unusual thing that would happen in a charter discussion.

6. Staff Report (materials requested by the Committee)

The City Recorder introduced the following documents into the record. The documents were distributed to the Committee and made available to the public.

Exhibit A-City Charter with track changes to Chapter 3 and Chapter 7 as proposed at the prior meeting, including bullets and notes from prior discussions for Sections 31 and 32.

Exhibit B-City Charter from May 3, 2005, the charter language that existed prior to changes to “by position”, as requested by the committee at their prior meeting.

Exhibit C-Draft Measure Summary Briefing Reports, as requested by the committee at the prior meeting. The reports contain proposed language based off meeting records and is up to the committee to amend the language or direct staff otherwise.

Chair Allen stated the committee would readdressed the Issue Briefs and how to handle moving forward.

Chair Allen addressed the next agenda item.

7. Continued consideration of election related charter provisions

Chair Allen addressed Section 31-Vacancies and Section 32-Filling Vacancies. He asked for committee discussion and said the committee spent time discussing missing meetings and meetings during a particular time or a certain number of meetings and said the committee did not land on the discussion.

Mr. Silverforb addressed Section 31.b.2 and stated he thought the committee settled on removing “from three consecutive regular council meetings” and add “all meetings in a 60 day period”. He said he thought the committee conceded that this was the language they wanted. No objections were received and Chair Allen said and this takes the place of “absence from the City for 45 days without council consent”. Comments were received that no, it’s an add on to that language.

Chair Allen confirmed and said it’s the 45 days and it’s the second half of the sentence. The committee confirmed. He said this is the notion that someone gets sent on a work assignment for 2 months and plans on returning and wants to remain on the council and were not able to make arrangements to participate via phone and this is what would cause a vacancy. He asked if the committee was comfortable with this, no objections were received.

He said there was discussion about City limits and said he recalls prior conversations that there were issues with limits and boundaries and putting this in a category of cleanup as it was not substantive changes. The committee confirmed and City Manager Gall added that Chapter I, Section 3 has language that defines the City boundaries.

Chair Allen addressed section b.8 and language of filing a vacancy “pro tem” and said this is a circumstance when someone would be gone for a set period of time and having the ability to provide an “acting” council member pro tem. He said he is not sure how he feels about this.

Mr. Harbick said he doesn't like this. Chair Allen said he doesn't recall the energy behind this and City Manager Gall said there is language in other charters and referred to West Linn and gave the example of someone being in their term early on and needing to be out of town for a few months due to work or a temporary disability due to illness. He said the language indicated the council "may", not "shall" and said the council currently doesn't have this ability without the language.

Mr. Hoffbuhr stated what saves it for him is the language "may" and said if the council feels 3 months isn't bad and they decide to wait, but if it's 4 or 5 months and the council decides they need someone in the position due to issues, they can then put in a pro tem. He said he doesn't have a problem with the language.

Mr. Stecher said he is okay with "may" language and said it gives the council the option and they can choose to elect a new member.

Mr. Silverforb said in addition to the reasons, someone being out of town due to a sick child needing treatment in another City or it could be an elderly parent that needs help or has passed away. He said there could be a lot of reasons and the intent, if they are going to come back after a certain amount of time and if they have been elected to the position on the council, then he thinks they have the right to get that position back if they want to. He said he is okay with "may".

Ms. Kuiper arrived at 6:50 pm.

Mr. Harbick asked if this is something we are adding and Chair Allen confirmed. Mr. Harbick stated he is not in favor.

Chair Allen briefed Ms. Kuiper on the discussion.

Mr. Harbick clarified if the position would be appointed by the remaining council members. Chair Allen confirmed the language would say, "by a majority of the remaining council members". Mr. Harbick replied a majority could pick somebody possibly that would favor their position over where this council is missing, might be known to probably not support that position. He said it sounds like, rather than being elected by the citizens, now we have somebody that is appointed and that skews the makeup. Chair Allen said although, if they resigned within a small amount of time left in their term, the same thing would happen.

Ms. Kuiper asked for a recap of the discussion so far and Chair Allen replied he and Mr. Harbick are leaning towards not thinking this is a good idea and everyone else is okay with it.

City Manager Gall stated this is not addressing a problem we have had and the lack of language has not been problematic, we've just seen it in other charters. Mr. Gall said to address Mr. Harbick's issue, it is not addressing a problem we have seen, it is in anticipation of something that may never happen, to try to give the council some flexibility in that situation.

Ms. Kuiper asked if this is something that needs to happen at the May election or is it something that can be pushed out to the fall. Comments were received that it could wait and Chair Allen said he would be interested in carrying the issue into the public workshop and public hearing to get some feedback. He confirmed holding off on this issue and gathering public feedback, the committee conceded.

Chair Allen asked for discussion on other issues pertaining to vacancies. He said one of the issues brought forward by Kurt Kristensen might fit here, which is a notion of a vacancy caused by a councilor running for another office in the City or by running for any other office. He said he is not sure he followed Mr. Kristensen exactly in terms of what he was saying in terms of that it would cause something that could not be solved and believes a person would resign their position on the council. He gave an example of a person being midterm of a 4 year term and the person runs for mayor and get's elected as mayor, what happens to the remainder of the 4 year term. He asked staff if the charter was silent on that issue. The City Recorder replied she believes the charter is silent.

City Manager Gall added that he would argue that the old position, which may need to be clarified, is now vacant as someone can't hold 2 positions. He said he has been asked this question and said it's a likely "what if". Chair Allen said it is also dealt with in item 6, and said because you're not allowed to hold multiple positions you would have to resign one position to take the other position. Mr. Gall added his understanding is that the vacant seat, if it's beyond 13 months or more, there would be an election.

Chair Allen replied if it were honestly midterm, there would be an election and said the only thing we might want to consider doing in response to that input is call out under item 8, election to another office and make that irrespective of whether you resign or not, avoid the argument of whether you have to, and call that out as, if you get elected to something else your position becomes vacant.

Ms. Kuiper asked at what cost to run another special election to fill that vacancy. Chair Allen stated that would occur in any case, even in the implied language you would have to resign your position that would be vacant for more than 13 months because it's midterm and there would be an election. He said that change, he doesn't believe, would drive any additional costs and the existing system has a cost.

Ms. Kuiper reiterated, if someone wanted to run for another position, they would have to give up their position on the council, make that vacant early enough so that other people can...Chair Allen interjected and said no and gave the example of an Oregon State Senator running for Congress midterm and getting elected and it now leaves a vacancy.

City Manager Gall gave the example of Councilor Henderson running for mayor and then wins, she would need to resign her seat, leaving the seat vacant and because there is more than 13 months left in the term, there would be an election for that vacancy.

Ms. Kuiper asked how much does an election cost and the City Recorder replied anywhere from \$3,000 to \$10,000 depending on the number of participating jurisdictions in that election.

Mr. Silverforb said he doesn't see this as being any different if someone dies midterm of being on the council, you're going to have to have an election to fill the seat or if somebody resigns. Comments were received regarding controlled circumstances, and issues still needing to be resolved.

City Manager Gall gave the example of Multnomah County's system.

Chair Allen asked if the committee wanted to continue down the path of "resign to run" and the committee conceded not to go in this direction. He asked do we want to call out a new item 8, that is election to a separate City office. No comments were received and Chair Allen said we think the issue raised by Mr. Kristensen is already dealt with in the charter.

Mr. Silverforb asked the City Recorder if there has been a situation similar to what we are discussing and referred to former Mayor Mays and when he ran, opting to run for mayor, was he on the council at that time. Ms. Murphy replied, yes he was a council member and said she wasn't the clerk at the time and isn't sure of the dynamics, but Mayor Cottle was the Mayor and Keith Mays was possibly the Council President and he ran, but she is unsure if he ran unopposed. Brief discussion occurred recalling the circumstances.

Mr. Hoffbuhr asked where the language was that pertained to holding other offices. Chair Allen replied the committee spoke of it and said he believes the discussion occurred in Section 27-Qualifications and said there is language that states, "no person may be a candidate at a single election for more than one City office". He said we spoke of saying other things at that point, such as soil and water conservation and we ended up with electing not to say more about that.

Mr. Hoffbuhr said he would say that you could not run for council and mayor at the same time. Chair Allen replied, unless he is missing it somewhere else, that doesn't clearly say that if you're a councilor and have 2 years left and run for mayor and get elected, then you don't. He said we may have to add an item 8, "is elected to a different City position".

Ms. Kuiper referenced section 27.b and Chair Allen said we would add it to Section 31, item 8.

Mr. Harbick asked why do we have to have it? Chair Allen replied because all 27.b says is you can't run for more than one, it doesn't say you can't be more than one. Mr. Harbick replied, but you can't really be more than one, because if you're elected to a new position you're automatically out of the old one. Chair Allen asked where does it say that? Chair Allen said he thinks it may actually need to say that.

City Manager Gall asked the City Recorder if she knew if there were any state election laws that cover that, Ms. Murphy replied not off the top of her head.

Chair Allen said we all want this to be the case and Mr. Hoffbuhr referenced section 31.a.4, as the area to add the language. Chair Allen confirmed language of, "election to a different City office".

Chair Allen addressed Section 32-Filling Vacancies and said we have three things that we have preliminarily spoken about and that is the 13 month standard for election versus appointment, a time limit for appointment, which is the language of "within 45 days", and change in the 3rd sentence, language from "may be" to "shall". Mr. Stecher confirmed the language should state, "shall be" and the committee agreed.

Chair Allen stated the committee fiddled a bit with the language of "majority of the council making the appointment".

Chair Allen indicated Council Liaison Henderson joined the meeting at 7:08 pm.

City Manager Gall said it seems like these are two areas that staff should draft issue briefs on as there seems to be consensus to add language in both sections.

Chair Allen addressed the language of "45 days" and said he thinks the notion and previous discussion was that we did not want the council, for lack of action to consume a bunch of time that people were left

unrepresented, and we wanted to include a time limit so the council would have to act. He said the change on 13 months, and said 13 months is already the standard, and that looks more like cleanup language around, "by appointment of the majority". He said we may actually want to leave that part out at this point as we are not changing the 13 month standard.

Mr. Stecher replied if you're going to address it anyways why not clean it up? He said the cleanup isn't to confuse the electorate. Discussion followed and the committee conceded to consider all three items as proposed in the exhibit with a correction to the third item with a change to "may be" to "shall be".

Chair Allen asked for anything else on filling vacancies No comments were received. He said the Issue Briefs on filling vacancies is we have some cleanup to the language, but the main point to discussion is to force the council to act quickly to ensure adequate representation for the citizenship.

Chair Allen addressed another issue as raised by Mr. Kristensen and the notion of whether we want to add run-off provisions in the event of a multi-way race. He said he raises a good point and referenced the City of Portland. He asked the committee for their thoughts.

Mr. Stecher asked what are we thinking, majority then? Chair Allen replied the idea, if you had a run-off, what you would ordinarily do is you would have the top 2 vote getters and then if you had more than 2, you would take the top 2 from that election and they would go onto the next election and whoever wins that election, you would not necessarily say a "majority" because you could have write-ins.

Mr. Harbick asked if that would be a special election? Chair Allen replied we would have to change the timing of the mayoral election as well, so we would have to make the mayoral election a spring election with an opportunity....he said this is where there could be trouble with this system, which is you could have a spring election called for and if the person in that election gets 51% then they are the mayor elect for the next seven months, or if they don't get 51% the top two go on to the November election and whoever wins that election becomes the mayor elect for seven months.

Mr. Stecher asked if there were no provisions if we wanted to leave it November, to do a run-off after the November election? Chair Allen replied he supposes it could be done this way.

City Manager Gall replied and said Beaverton has this system and explained they have a spring primary and there could be multiple candidates for mayor and if it's 51% or more whoever that winner is in the spring is on the ballot in the fall but he/she is the only one. Discussion followed.

Chair Allen asked if the two year term resolves the plurality issue. Chair Allen confirmed there was not a lot of energy behind run-off language, the committee conceded it was not needed.

Chair Allen stated the committee did a high level run through of everything they wanted to discuss that was election related and said they went through a medium altitude run through to get their bearing's on what we thought the answers were and have now done a line-by-line run through to get what we want the language to be. He said we are going to get a few opportunities to received public feedback and asked the committee members, prior to this, is there anything significant they have missed that needs to be on the table.

All members confirmed they were good and Mr. Harbick asked if these were the only two issue reports they had.

Chair Allen addressed Exhibit C (see record) and said these are two of several reports and the idea was to provide the committee an opportunity to review in terms of tone and nature of content, whether the committee thought the reports would suffice. He said that is different than whether we agree with the exact points in the draft reports.

Ms. Kuiper asked if these reports would be used as a template for every proposed change. Chair Allen replied he would say for every major topic they have dealt with.

City Manager Gall stated the intent is for when the committee holds their public open house, people that may not have been following the committees work, this report is a one page summary of that work and key areas that may end up on the ballot.

Chair Allen asked the committee structurally and looking at the level of detail, what they thought of the reports.

Mr. Stecher asked if they thought to add the actual committee's recommendation and actual workings to the sections. Ms. Kuiper added the thought of indicating what the issue is, what the language says and what we found. She said we would add verbatim the language that currently exists in the charter and then what the issues were.

Mr. Silverforb said even if it's not addressed in the charter, we would just have a comment. Ms. Kuiper explained and Chair Allen said we could have existing charter language and if there wasn't any, it would say "none", and it would say "proposed charter language" and have the language we proposed, or conversely it might have existing charter language and proposed language being none.

Chair Allen asked if the committee wanted to have an issue report available in two weeks for the work shop. Discussion followed and if it was feasible.

City Manager Gall asked what the list of briefing reports were and getting consensus tonight. He said then it's the committee determining if the language was accurate as the reports are currently in draft form and if a committee consensus can be obtained in two weeks or not.

Discussion followed on how to get these reports to the committee if they don't meet again until the open house.

Chair Allen commented on the list of topics and referred to Chapter 3 and said we talked about: Issues on term limits for Councilors and term limits for mayor and said he believes the term limits for mayor could be incorporated into this document fairly easily as we chose to make no changes.

Chair Allen said elsewhere in Chapter 3 we spoke of Council Rules and public comments at meetings and said if we want to hold to what we have been talking about in terms of what is related to the election, these aren't really related to the election. Mr. Silverforb said he agrees they are not related to the election.

Chair Allen said on the other hand the public comment topic will be a popular one.

Mr. Stecher said Council Rules kind of are related as we are forcing the Council to review their rules every time a new council is elected, and Chair Allen replied starting with this election.

Chair Allen replied we could have an issue brief report that folds these two things together as it talks about conduct of council business. City Manager Gall asked if we want people voting on these together or separate. Chair Allen said he doesn't believe how they describe them necessarily is how they would be packaged for voting.

Ms. Kuiper replied if that is the case would it be easier to describe them by Chapter 3 or is that going to be too much for one briefing page, or do we break it down by Chapter 3, section 7.

Chair Allen said he likes the fact that it breaks itself down by 2-4 items that people can look at in a quick glance.

Mr. Harbick replied if we have a briefing paper on all the things we discussed and then only a few things show up in the election won't that be confusing. He said it would be confusing to him if he came to a meeting showing all these different changes and when it came to the election everything else is not there.

Ms. Kuiper replied the report could state "action" and what the action is for a May ballot. City Manager Gall replied the council gets to decide that and said that is a key point to tell people, that just because the committee is recommending it, it doesn't go to the ballot, the council decides this. He said the committee may have 7 items for the May ballot and the council could agree to only do 5. Ms. Kuiper asked could we say language of "proposes for May ballot".

Chair Allen said he thinks we have only four issue briefings we need to do and said two are already written and we can review them tonight. He said we have a report on term limits, which is for the council and mayor and we have one on conduct of council business, which are the rules and public testimony. We have one on system of electing councilors, which is by position versus not and we have one on vacancies.

Mr. Silverforb said he would agree on all four of these as they are all major things and said he is against dazzling everybody with too much stuff and wants to hit on the major things and this is what we want feedback on. He said he doubts people care about when the council must adopt rules and said the majority probably doesn't know the council has rules. He suggested having the major things for the work shop and get good solid feedback on the things that mean something.

City Manager Gall said the two briefings that have been drafted are the two major ones. Chair Allen addressed the reports and asked the committee to review them. He addressed the term limit report and said the only change he would make is deleting the reference to councilors as this issue brief talks about both the councilors and the mayor.

Ms. Kuiper asked if we could add reference to the chapter in the section number at the top. Mr. Hoffbuhr said if we are going to put the existing charter language. Comments were received if language exists, and City Manager Gall added there is no existing language on term limits and said it's easy to put that at

the top indicating “no existing language”. Chair Allen suggested after committee recommendations he would suggest something like, “no existing language” and then “proposed new language” and insert that language.

The City Recorder asked to provide a suggestion and said to think about what Mr. Harbick mentioned that the issue brief is going to be a document that eventually will make it to the council and to the council record of this committees recommendation. She said at the public open house/workshop, is it possible to have a document similar to the document that staff provided to the committee containing discussion bullets that way the committee sees every area that was discussed, why the committee choice not to discuss an item, and that discussion can be separate by all of Chapter 3 and all of Chapter 7. She said somebody might find a certain section important and someone else may not, but the report would indicate the committee discussed it. She said the information would also narrow down what would be proposed for a May election and what items will wait for a November election. She said the community members will know what was discussed and what will wait for November, this allows the community to see all the discussion. She suggested saving the issue briefing reports for the committee’s final reports to the council as they are premature for the public.

City Manager Gall indicated this is a good point as the issue briefing reports could change once the committee hears from the public. The City Recorder stated the committee discussion notes already exists and staff could add language based on the last two meetings and staff could narrow down the time line to provide this document to the committee. Chair Allen confirmed this process worked for the committee members.

Chair Allen stated the committee would have the document that has been ongoing that captures the points of discussion and suggested the open house format consists of two larger tables, designated by a Chapter 3 table and a Chapter 7 table and the committee members are dispersed amongst those tables and we structure the first hour into two-half hours so people can switch tables if they want to and spend an hour in the conversation at the table and then we recess and come back in a public hearing type of format for the second half of the meeting and receive feedback and we then come back on the 27th for another round of public testimony and we basically go over the issue briefs and use these as a vehicle to make our final decisions of what will go into the final recommendations to the council. He said when we come out of that we will have the language that we have proposed to the council, they put it on the ballot, here are the issue briefs with the four topics mentioned and a cover memo that will cover the initial work we did around the principles we followed and the decisions about narrow the scope to the election. He asked for the committees feedback on the format, the members agreed with the plan format.

The City Recorder asked Chair Allen to recap the proposed amendments to Sections 31 and 32.

Mr. Silverforb asked the City Recorder if she planned on getting the draft documents to the committee prior to February 13th to allow time to review and resolve any questions. The City Recorder responded yes and said most of the work is already done and referred to the document provided at the January 16th meeting, Exhibit B and said she would remove the reference to the meeting minutes and video timing and said it’s available on the City website for the public’s reference. She said the document she will provide would list bullets of the committee’s discussions and consensus and she should have something to the committee by the first of next week.

City Manager Gall said if there are changes that the committee get them back to the City Recorder on a timely basis and suggested she specify a deadline to get information back.

Chair Allen suggested the workshop start at 7 pm to allow people to attend who are coming from work. He said this also allows the committee flexibility if they needed to have a brief work session before the workshop.

Chair Allen recapped Section 31-Vacancies and said we will change item b.2 to delete the second half of the sentence, and take the language of “all meetings in a 60 day period” and we do not take the change on City limits because we think it is dealt with elsewhere and we want input...he said we can do potential language or something like that, as our language marker and call this out as an area we want input on, on the issue of the “acting councilor” or “councilor pro tem”.

Mr. Hoffbuhr said we were going to add to item 31.a, an item 4, “an election to a different City office”. Chair Allen confirmed the additional language.

Chair Allen recapped Section 32-Filling Vacancies and said we are going to take all three of the changes in this section; Clarifying the language on “13 months” although the standard stays at 13 months. We are going to put the time limit of 45 days and we are going to change the language from “may be” to “shall be”.

Ms. Kuiper asked the City Recorder when she finalizes the document if she could list the discussion points. Ms. Murphy replied yes and said at the committee’s January 16th meeting they were provided with a document, (exhibit B of January 16th record) and she would use this format listing discussion bullets and add additional discussion from tonight’s meeting and bring that document back to the open house.

Chair Allen said we may want to use a different color for the things we elected to change, versus the things we talked about and decided not to change. Ms. Murphy said she would color code the document to make it easy to read.

Chair Allen asked the City Recorder to read the remainder of Vice Chair Shannon’s email, she said Mr. Shannon pointed out a scrivener’s error and stated the follow:

I like the changes to section 11 but my preference would be to give the council a little more direction (or less discretion). I would like to include at the end of the sentence “prior to the start of business” to make it clear that public opinion is to be heard prior to the decision making process.

The other thing that I noted was Section 24 regarding the term limits of the City Council. I know the intent but I am just not sure that the words are there yet. It does not address the issue of partial terms (someone completing the term from a previous election). I would prefer to see the limits set to continuous elections although I have not figured out the wording I would use for that.

Chair Allen said he would suggest two things about Neil’s input. He said the second issue he believes we can save for the committees final deliberation at the end of February as we will need to get the public input on term limit concepts. He said on the first issue, he recalls talking about this in terms of how directive we want to be in the charter on when to take public comment. He said here, we have added it to the end as well and there are arguments for either one; you want to make comments after someone

has heard what has been done or you want to provide comments before they make decisions. He asked for the committees feedback and said now as we have drafted it we're putting it in where it doesn't exist so they have to do it, but we are leaving it up to each council to determine how they want to manage that.

Mr. Silverforb replied he wants to leave it up to the council and Mr. Hoffbuhr said he does as well.

Mr. Harbick said this is what he remembered the intent to be and Mr. Stecher said he agrees and said it's a constitution not a group of laws. He said he believes the committee is getting too specific if they start dictating to the council what/when.

Ms. Kuiper said it seems odd to take public comment after a decision has been made.

City Manager Gall said usually a public comment is they want to address this as council members. He said usually the public comment is on non-agenda items. He referred to the prior Walmart discussion and it being a heated topic and the room was full, public comment on the Walmart issue which was not an agenda item, was not subject to any action by the council, citizens wanted to be heard. He said the council sat and listened for hours and there was business to be conducted and some of that business had legal ramifications if it was a land use decision on a 120 day clock. He commented regarding this is why the council changed it and have not changed it back and said it's up to the council and mayor to change it, it's part of their rules.

Chair Allen replied he believes there is pushback on this and believes there are things that the council can act on that doesn't require a public hearing and then your ability to make comments on something before the council takes it's action becomes moot. He said he thinks that would be the argument for why there should be comment before. He said he thinks the points raised by City Manager Gall illustrates for him, the need for flexibility. He gave examples and said there needs to be the ability to manage this.

Ms. Kuiper said if it's not an agenda item, and they are not taking public comments on an agenda item, it's for non-agenda items, this makes sense to her. Chair Allen said this gets into the comments made by Mr. Stecher and getting prescriptive and getting down from a constitutional level.

Mr. Stecher said he thinks we give them enough flexibility to solve any issues they need, they can meet the intent of section 11 as we have re-written it by giving 15 minutes of public comment at the first of the meeting or at the last of the meeting, he said we don't care, we just want public comment.

Chair Allen said he believes the big thing the committee is doing in the charter is saying the council needs to take public comment, they just can't decide not to. Council Liaison Henderson said, which is not currently required by Oregon law, they have an opportunity to witness and be present, but the council is not required to take public comments.

City Manager Gall referred to business items on the agenda that do not require a public hearing and said his experience has been that this council will usually take testimony.

Ms. Henderson asked if Vice Chair Shannon desire was to take comments at the beginning of a meeting before business is conducted. Chair Allen confirmed and said he doesn't hear that Mr. Shannon is getting traction, but he will be able to make his own argument next time. Mr. Harbick added we had a thorough discussion at that time.

Chair Allen asked for other discussion.

Ms. Henderson asked the City Recorder what were the final dates for the ballot title and explanatory statement for the May election that the committee may recommend and the council may act on. Chair Allen said the committee is expecting to finalize their work on February 27th and said they set this date originally to allow the Council at least one public hearing.

The City Recorder said in working backwards on the calendar, the City deadline to file the SEL802 with the County is March 20th. She said prior to that, if you're looking at the two committee meetings in February, potentially more, once the committee meets in the public open house and the committee comes back to their regular meeting and conclude on their council briefing reports, we then have the following Council meetings of February 4 and February 18. She said and there is the March 4th Council meeting. She said the committee has their two meetings in February to have something concluded by March 4th.

Chair Allen replied he was assuming the committee would hold a work session with the City Council on March 4th and the Council would hold a hearing on the 18th.

The City Recorder replied she is thinking this is not sufficient time as the Council can hold a public hearing to receive community feedback, what timeline is the council going to make a final recommendation. She said upon the Council accepting the committee's briefing reports, they have to motion to accept the reports and this then gives the City Attorney direction to draft the ballot titles and explanatory statements. She said the City Council still has to adopt those documents (ballot title and explanatory statements) and upon adoption she has to post the public notice for the election process. She said the key factor is allowing the council time to consider the committee's recommendations, hold a public hearing to accept community comments, and then have time to discuss and potentially make changes.

Chair Allen replied then this means we need our final meeting on February 20th. Council Liaison Henderson suggested if the committee does their final meeting on the 20th, the committee could have a work session with the City Council on the 27th. He said this is a Thursday and she replied, yes and it's only a work session where the council doesn't make decisions. She said if the City Recorder is worried the council won't get the work done in time to file with the county and for her to post by March 4th we would have a work session with the council.

Chair Allen replied, basically we are adding a meeting and meeting on February 13th, 20th and 27th. He said the 20th would be the meeting where we have a public hearing and finalize our recommendation for the 27th work session with the council and hand off our work to them. Brief comments were received from the committee members that they thought this schedule would work.

The City Recorder asked in reference to "handing off their work" on the 27th, is it the committee's intent to provide the completed briefing reports.

Chair Allen replied yes and said on the 20th we would basically finalizing our recommendations with respect to findings, whatever else we want to say about the work, how we suggest the recommended language be grouped into ballot pieces and said he is thinking the committee would recommend four charter amendments, along those same 4 items we spoke of before and the specific actual language that we are recommending and this is what we hand off to the council at the work session on the 27th.

Council Liaison Henderson suggested maybe having a work session first with the council and the committee then reconvening after meeting with the council for their final language. Chair Allen replied in case we get something from the Council that same night.

City Manager Gall asked if it would be safe to invite the Council to the meeting on the 27th to allow them to get it on their calendars. Chair Allen replied yes.

City Recorder confirmed for the purpose of the records, that the work session on the 27th would be a Charter Review Committee meeting with the council being invited. Chair Allen confirmed.

8. Adjourn

Chair Allen adjourned the meeting at 7:54 pm.

Submitted by:


Sylvia Murphy, MMC, City Recorder


Patrick Allen, Chair