



Home of the Tualatin River National Wildlife Refuge

6:30 pm WORK SESSION

1. Call to order (Chair)
2. Roll call (Chair)

7:00 pm REGULAR MEETING

1. Call to order (Chair)
2. Roll call (Chair)
3. Approval of Meeting Minutes

a) Approval of January 30, 2014 Meeting Minutes

4. Open House/Work Session Format (7:00 pm)

a) To conduct open discussion with the public and receive feedback on Chapter 3 and Chapter 7 of the Sherwood City Charter

5. Public Hearing

a) Receive public comment on Chapter 3

b) Receive public comment on Chapter 7

6. Charter Review Committee Discussion

7. Adjourn

AGENDA

**Charter Review Committee
February 13, 2014**

**6:30 pm Work Session
7:00 pm Open House
Meeting
Community Room**

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

February 13, 2014
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ATTENDANCE SHEET

NAME

ADDRESS

PHONE

NAME	ADDRESS	PHONE
Nancy TAYLOR	ntaylor@aod.com	
Tony BEVEL	SW LYNLEY WAY	(503) 421-3033
JOE SMARA	LADD Hill Road	625-3988

Color Code:

Red: (actual track changes), consensus of the committee to amend

Blue: Discussion notes

Green: Seek legal advice

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.

Feb 13, 2013
Date

Charter Review Comm.
Gov. Body

4.a
Agenda Item

A
Exhibit #

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Discussion notes: Discussed definition of “nominate” and necessity of the language-Seek legal opinion. If not legally necessary, consensus was to delete language.

The committee discussed “by position” versus a “single candidate pool” or “at large”. The committee decided not to use “at large” language and conceded to the amendment as noted in red track changes.

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.

Discussion notes: Discussed relocating “veto power” language to this section to be consistent with the LOC Model Charter. Veto language appears in Chapter 4, Section 16.e & f and Section 17.

Committee discussed not wanting to create special appointment power for the mayor that currently doesn’t exist and they want to revisit appointment language to provide clarity of the process.

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.

Discussion notes: No changes to this section.

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.~~

Discussion notes: Discussed in December not changing, then discussed adding language to allow for periodic review of Council Rules. Committee discussed and conceded to amend as noted in track changes and also discussed adding language of: “prior to the start of business”.

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.~~

Discussion notes: Committee discussed in December not making any changes to this section. After further discussion they conceded to amend as noted above in track changes.

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.

Discussion notes: The committee discussed in December the need to clarify language and have it listed under possible cleanup.

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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.

Discussion notes: The committee discussed and conceded to not amend.

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

Discussion notes: The committee discussed in December language not currently in the charter re: public comments, work sessions and executive sessions and the ability for the public to access. They were informed of public meeting laws. The committee discussed adding language “in accordance to state law and public meeting law” and conceded not to amend as the City must abide by state and public meetings laws.

The committee discussed compensation and possibly adding language , “the council shall not establish or modify compensation for councilors beyond reimbursements of reasonable expenses unless first approved by a majority of voters at a general election”. Consensus was to table until the November Election.

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

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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.

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(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.~~

Discussion notes: The committee discussed “by position” and “at large” and determined “at large” was from more of a geographical standpoint. The committee discussed reverting back to the 2005 Charter prior to the amendment indicating “by position”.

The committee discussed adding term limits and discussed length of terms for councilors and mayor. They discussed importance of member turnover, new ideas and new energy, not pushing volunteerism too far and eliminating the advantage of incumbency. Discussion occurred re: the importance of historical knowledge, time spent learning the position and legislative processes, length of projects, potential for mischief and the lack of candidates.

The committee discussed if adding term limit language the need to consider language pertaining to “consecutive terms” and “partial terms”.

The committee conceded to amend the language as noted above in track changes.

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.~~

Discussion notes: The committee discussed the need to correct the language “every *other* general election” and amend to state, “every general election”.

The committee discussed term limits for the mayor and conceded not to add term limits and leave the term at 2 years. The committee discussed the electorate determining the number of terms a mayor would serve.

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The committee conceded to amend the language as noted above in track changes.

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.

Discussion notes: The committee discussed seeking legal opinion if 1st sentence was necessary as elections must conform to state law. They discussed if state law was silent on an issue then the jurisdiction can speak to it.

The committee conceded not to amend the 2nd sentence.

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.

Discussion notes: The committee considered changing 1 year residency requirement to 18 months and conceded not to amend. The committee discussed “City” and “City limits” and it was decided that the language in Section 3-Boundaries was sufficient to clarify requirement of residing within the City.

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

Discussion notes: The Committee discussed and suggested cleanup language of removing ”no” person and replacing with “a” person may not be...”

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

Discussion notes: Discussed “nepotism” and consensus was to seek legal advice on what language can be considered.

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

- (e) Neither the mayor nor councilor may hold another state or local government elected office.

Discussion notes: The committee discussed the language of “final judge” and what that means and language of “determination” or “verify” was suggested. The committee also discussed language of, “ the final judge of the qualifications of its members *after* election”.

The committee discussed seeking legal advice on language of “final judge” and potentially amending to be “judge of the election and qualifications of its members”.

The committee discussed adding a new section (e) as noted above and concluded that they were not opposed to an elected official holding more than one state or local government elected office and conceded not to add section (e).

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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.

Discussion notes: Discussed definition of “nominate” and necessity of language-Seek legal advice.

See Section 7-Council, nominate language also in this section. Consensus was to delete “nominate” language if not needed.

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.

Discussion notes: The committee conceded not to amend this section.

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) An election to a different City 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~~ all meetings in a 60 day period.
- (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).

Discussion notes: Discussed adding language and creating item (8), “during a council members disability to serve on the council or absence from the City the majority of the remaining council may fill the vacancy pro tem”. The committee discussed getting public feedback.

The committee discussed section b.2 and conceded to amend as noted above in track changes.

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 or by appointment of the majority of the council if less than 13 months remain within 45 days. 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~~ shall be filled by appointment by a majority of the remaining

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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.

Discussion notes: The committee discussed language of “a mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members” and discussed making a distinction based on the remainder of the term and if it should be filled by appointment or election.

The committee discussed adding language after 2nd sentence “or by appointment of the majority of the council if less than 13 months remain”. And it was suggested to add to the end of this proposed language, “within 45 days”.

The committee discussed amending the language in the 3rd sentence of “may be” to “shall be”.

The committee conceded to amend this section as noted above in track changes.

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;

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- (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.

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(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

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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 source within the city is prohibited except when such use has been previously approved by a majority vote of the city's electors. (Approved by voters November 2001)

Section 44. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 45. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 46. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 47. Time of Effect. This charter takes effect July 1, 2005.

Approved Minutes



Home of the Tualatin River National Wildlife Refuge

SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
February 13, 2014

WORK SESSION

- 1. Call to Order:** Chair Pat Allen called the work session to order at 6:35 pm.
- 2. Committee Members Present:** Citizen at Large Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke, and Cultural Arts Commission Representative Alyse Vordermark. Citizen at Large Jennifer Kuiper arrived at 6:39 pm.
- 3. Staff and Council Liaison Present:** City Manager Joseph Gall, City Recorder Sylvia Murphy and City Council Liaison Linda Henderson. Mayor Bill Middleton present in the audience.

Chair Allen explained the committee was provided with a document from staff (see record, Exhibit A) for their review during the work session prior to unveiling it to the community members at the open house portion of tonight's meeting. He reminded the committee of the meeting format for the workshop and public hearing that would follow.

Chair Allen asked for discussion on Exhibit A and Mr. Shannon referred to Section 10, blue discussion notes and said the language in the last line, "prior to start of business" should be in Section 11. He referred to Section 14 and said we had discussions about the possibility of adding language to compensation.

Chair Allen referred to Sections 10 & 11 and the language of "prior to start of business" and said he recalled the committee agreeing that all they were going to put in the charter was the constitutional notion that there needed to be public comment and we were not deciding on when it needed to occur. Comments were received that the reference made by Mr. Shannon was the entire discussion notes should be in Section 11, and not necessarily his concern with the specific language.

Mr. Shannon asked regarding compensation and asked if that language was going to go into Section 3 and asked if we wanted to include that as a total package or leave that for discussion at a later date. Chair Allen said at this stage, he would prefer to leave it for discussion at another date. Comments were received from some committee members that this was their recollection to discuss at a future date.

Chair Allen referred to a style format in Exhibit A and the reference in the document to the language of "the committee conceded" and said he did not believe this word was quite right as opposed to "the committee elected" or "decided". He said "conceded" means the committee reluctantly agreed too and asked to change the text of "conceded" to "decided", the City Recorder stated she would change that language in the document if the document is brought forward and used again in the future.

Chair Allen asked for other thoughts or observations of the document format and said he liked the format. Comments were received that it was easy to follow. Chair Allen asked in reference to the green text of "seeking legal advice" and said he believed all items ended up in the technical correction category as opposed to anything we need to submit a policy change that we are waiting to legal advice on.

City Manager Gall informed the committee that staff confirmed with the Council on the use of outside legal counsel and they agreed with that. He said Pam Beery with the City Attorney's office offered to help find outside expertise in local government and charters when the time comes.

4. Adjourn to Open House

Chair Allen asked for anything else from the committee, with no comments received he adjourned the work session at 6:40 pm and said the committee meeting would reconvene to the open house at 7:00 pm, followed by a public hearing.

Open House started at 7:00 pm and concluded at 7:35 pm. Chair Allen reconvened the regular session at 7:35 pm.

REGULAR MEETING

5. Public Hearing

Chair Allen thanked participates for participating in the workshop and opened the public hearing to receive testimony on the proposed charter amendments as noted in Exhibit A.

No public comments were received and he closed the public hearing.

He said the committee's calendar calls for another formal opportunity for public comments at their February 20th meeting. He confirmed Exhibit A would be available on the City website and confirmed the committees meeting on February 27th would be a joint work session with the City Council. He asked for other committee questions.

Mr. Hoffbuhr reminded the committee needed to approve the minutes.

Chair Allen asked for any changes or corrections to the minutes from **January 30, 2014**. With none received he asked for a motion to approve.

MOTION: from Jack Hoffbuhr to approve the January 30, 2014 Meeting Minutes, seconded by Mr. Silverforb. Motion passed 9:0, all members voted in favor.

6. Adjourn:

Chair Allen adjourned the meeting at 7:38 pm.



Sylvia Murphy, MMC, City Recorder



Patrick Allen, Chair